

Meeting Minutes
Eastern WUCC Meeting #6
Southeastern Connecticut Council of Governments – 5 Connecticut Avenue, Norwich, CT
November 9th, 2016 1:00 p.m.

The Eastern Water Utility Coordinating Committee (WUCC) met on November 9th, at 1:00 p.m. The meeting was held at the Southeastern Connecticut Council of Governments offices at 5 Connecticut Avenue, Norwich, Connecticut. Prior notice of the meeting was posted on the DPH website, Eastern WUCC webpage: <http://www.ct.gov/dph/wucc/>

The following WUCC member representatives were in attendance (listed in alphabetical order of affiliation):

WUCC Member Representative	Affiliation
Kenneth Skov	Aquarion Water Company
Joe Lanzafame	City of New London WWPCA
David Radka	Connecticut Water Company
Brad Kargl	East Lyme Water & Sewer
Brendan Avery	Jewett City Water Company
John Avery	Jewett City Water Company
Chris Clark	Mohegan Tribal Utility Authority
Samuel Alexander	Northeastern Connecticut Council of Governments
Eric Sanderson	Northeastern Connecticut Council of Governments
Mark Decker	Norwich Public Utilities
Jim Butler	Southeastern Connecticut Council of Governments
Josh Cansler	Southeastern Connecticut Water Authority
Tom Seidel	Town of Franklin/SCCOG
Mike Cherry	Town of Ledyard WPCA
Bob Congdon	Town of Preston
Patrick Bernardo	Town of Putnam/SUEZ
Neftali Soto	Town of Waterford Utility Commission
Jim Hooper	Windham Water Works

The following non-WUCC member representatives were in attendance (listed in alphabetical order of affiliation):

Non-WUCC Member Representative	Affiliation
Melissa Czarnowski	CT DEEP
Lori Mathieu	CT DPH
Justin Milardo	CT DPH
Scott Bighinatti	Milone and MacBroom, Inc.

A copy of the meeting agenda is attached. A copy of the presentation given at the meeting will be available for download from the Eastern WUCC webpage.

The following actions took place:

1. Welcome & Roll Call

The meeting was called to order at 1:05 PM by Tri-chairs Bob Congdon (Town of Preston) and Mark Decker (Norwich Public Utilities).

All in attendance stated their names and affiliations.

2. Approval of September Minutes

Mr. Decker asked for comments and changes to the October Meeting minutes. There were none.

Mr. Congdon made a motion to accept the October Meeting minutes as presented. Mike Cherry of the Town of Ledyard WPCA seconded the motion. The motion carried unanimously.

3. Formal Correspondence

Samuel Alexander of the Northeastern Connecticut Council of Governments (NECCOG) described the formal correspondence sent and received by the Eastern WUCC.

- Mr. Alexander stated that Exclusive Service Area (ESA) Declaration Forms were distributed via email on 10/13/16.
- Mr. Alexander stated that a memo including comments and questions relative to the ESA process was received on 10/18/16 from Rivers Alliance.
- Mr. Alexander stated that multiple additional letters were received from citizens relative to the ESA process and that these would be incorporated as public comments for the Preliminary Water Supply Assessment (WSA).
- Mr. Alexander stated that comments on the Preliminary WSA were received from the Connecticut Department of Energy and Environmental Protection (CT DEEP).
- Mr. Alexander stated that ESA Affirmations and ESA Declaration Forms were received from utilities.

- Mr. Alexander stated that a letter was sent to NECCOG chief elected officials summarizing the ESA process.

There was no other formal correspondence.

Mr. Decker asked Lori Mathieu of the Connecticut Department of Public Health (CT DPH) about the agency's plans for clarifying the ESA process and for municipalities, other state agencies, and the public.

- Ms. Mathieu stated that CT DPH believes that it is important to ensure that utilities making ESA claims carefully consider the importance of considering the responsibility of holding and ESA and responsibly assess their ability to provide service to that area. Ms. Mathieu continued, explaining that utilities will need to update Water Supply Plans to explain plans to serve certain areas after claiming new ESAs. Ms. Mathieu recommended that utilities work with towns and Councils of Governments (COGs), and that state agencies will consider that when commenting on new ESA boundaries.
- Mr. Decker (speaking about towns without ESAs) stated that certain communities have no intention of having a Public Water System (PWS) and questions have been raised about how establishing ESAs in those towns will be handled. Mr. Decker stated that CT DPH has shown willingness to present additional information to towns.
 - Ms. Mathieu used an example of a small Community Water Systems (CWSs) in a rural town coming under the control of a utility company holding an ESA. Ms. Mathieu stated that laws governing ESAs are intended to prevent a proliferation of small CWSs without the capacity to reliably serve. Ms. Mathieu continued, stating the CT DPH is willing to host a webinar later in November to further clarify the ESA process.
- David Radka of Connecticut Water Company, speaking to the issue of a Certificate of Public Convenience and Necessity (CPCN) being approved in areas without an ESA holder, stated that the potential developer seeking the CPCN must prove to CT DPH that they have the financial, technical, and managerial capacity to reliably provide water. Mr. Radka also noted that if a CWS is allowed to be constructed by a municipality, and that development does not receive a CPCN, but is instead allowed by the municipality through local land use processes, the town may be liable for issues with that CWS.
 - Ms. Mathieu clarified this requirement is codified under Connecticut General Statutes (CGS) Section 8-25a.
 - Mr. Avery asked if the town would be liable for non-community water systems.
 - Ms. Mathieu stated that she would need to look at CGS §8-25a.

Tri-chair Pat Bernardo of the Town of Putnam/SUEZ was seated.

4. Public Comment

Mr. Decker asked for public comment.

There was no other public comment.

5. Preliminary Water Supply Assessment Public Comments

Mr. Bighinatti began a PowerPoint presentation explaining the public comments received on the Preliminary WSA.

- Mr. Bighinatti stated that a survey for municipal officials is currently available online and that there have been six participants to date. Mr. Bighinatti asked if the WUCC would like to keep the survey open for the time being.
 - Mr. Decker stated that he did not see a problem with keeping the survey open.
 - Mr. Bighinatti stated that the WUCC can keep the survey open and incorporate any comments into future documents.
 - Mr. Cherry asked if this created a conflict with the finalization of the Final WSA.
 - Mr. Bighinatti stated that any comments received after the close of comments on the WSA could be incorporated into the ESA document.
- Mr. Bighinatti stated that editorial comments were received from three water utilities during the formal comment period, and that comments related to the content and organization of the Preliminary WSA were also received from Rivers Alliance and CT DEEP.
- Mr. Bighinatti reviewed specific comments received from utilities, municipalities, Rivers Alliance, CT DEEP, and residents of the Town of Old Lyme and Wilton.
- Mr. Radka asked about the process for updating data in the WSA.
 - Mr. Bighinatti stated that the WSA is a “snapshot” of conditions that largely reflects the years 2015 and 2014. Mr. Bighinatti explained that additional information will be available once the Integrated Report is started and that that document will be updated with any new Water Supply Plans and other data water utilities would like to provide such as 2016 demands which will be available at the end of the year.

6. Review of First Draft Final Water Supply Assessment

Mr. Bighinatti began a PowerPoint presentation describing First Draft Final WSA.

- Mr. Bighinatti stated changes addressed in the First Draft Final WSA are in colored text in the distributed document. Mr. Bighinatti stated that changes to the Final WSA were: updated tables and text with water utility comments and survey responses; updates to table 4-2 to discuss source towns and sub-regional basins and recipient towns and sub-regional basins for large systems; certain tables were sorted by town for clarity; names were added for towns and CWSs to Appended Figure 2; recent average day transfers through active interconnections were added to Table 2-9, and sorted by supplier; Table 2-10 was updated to discuss future interconnections; terms were added to Definitions page; 15% margin of safety calculation and population projections were clarified; a section was added on Level A Aquifer Protection Program; and brief responses to additional comments were included in Appendix E.
- Mr. Bighinatti stated that additional comments from consulting state agencies will be incorporated or addressed up until November 23rd. A final draft of the final ESA will be distributed to active members for final review around December 1st. Mr. Bighinatti continued stating that the Final WSA will be approved at the December 14th meeting and submitted to DPH following the meeting.

- Mr. Bighinatti explained that potential additional changes to the document are: summarizing known areas of water quality concern; updated building permit table; and survey comments. Mr. Bighinatti continued, stating that the WUCC would be continually involved in the review of the Final WSA which will be posted to the CT DPH webpage following submission to DPH.

Mr. Bighinatti asked if there were questions about the First Draft Final WSA and process. There were none.

7. Review/Approval of ESA Process Document for Work Plan & Scoring Rubric

Mr. Bighinatti began a PowerPoint presentation describing the ESA Process Document and ESA Evaluation Form (scoring rubric) produced by the ESA Process Subcommittee.

- Mr. Bighinatti presented the scoring rubric and stated that the scoring rubric is to be used by individual WUCC members to make determinations on the capacity of potential ESA holders to serve a given area where there is an ESA conflict. The rubric is designed to help members remember their thoughts when ESA presentations span multiple meetings. Mr. Bighinatti continued, describing the contents of the scoring rubric.
- Mr. Decker asked if the form needed to be approved by the WUCC.
- Mr. Bighinatti stated that the form did not need to be formally approved, only confirmed by consensus.
- Mr. Congdon asked if there is a potential issue created by members evaluating potential ESA holders at different meetings and not having an opportunity to see all presentations.
 - Mr. Bighinatti stated that there are multiple ways for WUCC members to gain information about a potential ESA holder's ability to serve an area and that ESA declarations would be made available to WUCC members.
 - Mr. Congdon stated that he was concerned about the process being becoming less objective if a member is not available to see all presentations by prospective ESA holders.
 - Ms. Mathieu stated that there is a concept of "active" and "non-active" WUCC members and that it is important to keep active members involved in the ESA process. She noted that in the former Southeastern WUCC, only active members were allowed to vote.
 - Mr. Radka stated that CT DPH has final decision in ESA assignments.
 - Mr. Cherry clarified that the scoring rubrics are designed for personal use and that will be kept with each person for their own records.
 - Mr. Bighinatti stated that the form is not delineated between active members and non-active members.
- Mr. Congdon asked if items A-H on the scoring rubric are statutorily defined.
 - Mr. Bighinatti stated that items A-G are statutory and that item H was added for miscellaneous information. The format is similar to that used in the former Southeastern WUCC.
 - Mr. Congdon stated that it should be clear that presentations by prospective ESA holders should specifically address items A-H.

- Mr. Cherry agreed, stating that presentations should follow that (A-H) order.
- Kenneth Skov of Aquarion Water Company asked if statutes define how items A-G should be addressed.
- Mr. Bighinatti stated that the ESA Process Subcommittee developed specific questions on the ESA Declaration form to assist prospective ESA holders to address those items.

Mr. Bighinatti moved on, speaking the ESA Process Document.

- Mr. Bighinatti stated that the ESA Process Document was sent to WUCC members and that it will be considered for approval. Mr. Bighinatti explained that the procedures used by the former Southeastern WUCC were updated and made more detailed and that they are designed to guide the current ESA process as well as modifications in future years.
- Mr. Bighinatti explained that the document was formatted into five sections and briefly described each section.
- Mr. Bighinatti described section two (Public Notification Requirements/Meetings), stating that ESA boundaries may only be modified or established at a noticed meeting, and that business involving ESAs can only be acted upon with a quorum present. Mr. Bighinatti continued, describing provisions for conflicts of interest involving with WUCC Officers.
- Mr. Bighinatti described section three (Assignment of Initial ESAs), stating that per regulation, existing utilities maintain their service areas.
 - Mr. Radka asked if the Process Document allows for a 200ft buffer from existing service areas in the case that the state Public Health Code requires a utility to extend to a nearby property.
 - Mr. Bighinatti explained that this was not addressed in the document and that it is likely not an issue in the long term because ESA boundaries may be modified to accommodate.
 - Mr. Radka suggested that it may be beneficial to lay out this presumption in the Process Document.
 - There was general discussion about the implications of the Public Health Code on ESA holders and service areas of existing CWSs. In summary, it was determined that there are often difficulties related to the capacity of smaller CWCs to extend to nearby properties and that ESAs assigned to those existing service areas should not include a 200ft buffer.
- Mr. Congdon asked if the scoring rubric can be appended to the Process Document.
 - Mr. Bighinatti stated that it would be.
- Mr. Skov asked about the instance of an ESA boundary being established along an existing water main, with a property along an ESA holder's water main but in the neighboring ESA wishing to tie into the water main. Mr. Skov asked what the process would be for that property owner to tie into the water main.
 - Mr. Congdon explained that the utility wishing to serve the customer would petition the WUCC to change the ESA boundary.

- There was also additional discussion about the implications of the assigning a 200ft buffer to the ESAs of existing CWSs. It was clarified that in the former Southeastern WUCC there was a provision for allowing utilities to tie into properties within 200ft of their existing service area.
 - There was general discussion about the process required for the utility to provide water to the property in question. It was clarified that the ESA boundary change would likely be agreed upon and approved out of practicality.
 - Mr. Avery stated that the aforementioned situation makes it logical to use town boundaries. Mr. Avery continued, stating that the WUCC has the responsibility of acting within the best interests of its regions customers.
 - Mr. Bighinatti agreed, stating that the goal of the WUCC, per regulation, is to provide for orderly and efficient development of the public water supply and part of that effort is to create and modify ESA boundaries.
- Mr. Bighinatti continued the PowerPoint presentation, describing section three of the Process Document. Mr. Bighinatti stated that one of the goals of the ESA process is for the WUCC to avoid duplicating or overlapping service areas. Mr. Bighinatti also discussed meetings and public comment requirements in establishing ESAs, described the need for a majority vote of the WUCC and described conflict resolution procedures when more than one utility claims an ESA in a given area.
- Mr. Bighinatti presented a flowchart describing the procedure for resolving conflicts when establishing new ESAs. Mr. Bighinatti used a hypothetical example to describe how a conflict may be handled by the conflicting parties, the WUCC, CT DPH, and the Connecticut Public Utility Regulatory Authority (PURA).
 - Mr. Avery asked if past conflicts have needed to be addressed by CT DPH, per the process described in the flowchart.
 - Ms. Mathieu stated that in the former South Central WUCC there was an example where the final determination of the ESA holder was made by CT DPH.
 - Mr. Bernardo stated that an example existed in the former Southeastern WUCC as well.
- Mr. Decker asked if the process is similar for resolving conflicts in areas with established ESA boundaries.
 - Mr. Bighinatti transitioned to reviewing section four of the Process Document (Modification of ESAs) and overviewed four different types of ESA boundary modifications (modification between two ESA holders, modification due to creation of a new PWS, modification due to appeal, and modification due to other reasons). Mr. Bighinatti continued, stating that the procedure for a modification due to appeal or other reason would follow a process similar to that of resolving a conflict when establishing new ESAs.
- Mr. Bighinatti continued the PowerPoint presentation, describing section five of the Process Document (Reporting). Mr. Bighinatti described that final ESA documents must be submitted to CT DPH in a timely manner and that a map of the ESA, with a minimum scale of 1:50,000 is required.
 - Mr. Cherry asked about the process requiring from utilities a “Statement of Confirmation” and if that needed to be updated when modifications are made.

- Mr. Bighinatti clarified that ESA holders in the Southeastern WUCC were required to sign a document stating that they were responsible for providing water service in their ESA, and that the map attached to that document sometimes did not accurately depict the ESA. He concurred that a new Statement of Confirmation or similar document should be signed when a boundary is modified.
 - Jim Butler of the Southeastern Connecticut Council of Governments (SCCOG) stated that SCCOG has parcel data and an online map viewer for their 22 municipalities which may allow for more accuracy in mapping. Mr. Butler asked Mr. Alexander to confirm that the same was available for NECCOG municipalities.
 - Mr. Alexander confirmed.
 - There was general discussion about the use of maps and geographic data in finalizing ESA boundaries. It was noted that the process should be as consistent as possible between the three WUCCs, although parcel data is not digitally available in some parts of the state. The conclusion was reached that utilities should use the best available data (including parcels) to delineate ESA boundaries and that final maps should be accurate, but that utilities may not want to rely solely on geographic data (Shapefiles or Geodatabase Feature Classes) in place of maps.
 - Ms. Mathieu stated that DPH and MMI will continue to work on the details of final mapping and shapefiles.
- Mr. Radka stated raised a point about rural areas where there would be no perceived need for a PWS in the future. Mr. Radka continued, explaining that the language in the regulation was meant to address areas, such as state forests, with no development potential at all, and does not include large-lot zones and similar rural areas that may potentially be served by a satellite system if the need arises. Mr. Radka stressed that it is important that WUCC members realize this distinction.
- Mr. Radka asked if clarification could be given in the Process Document that the document is referring to Transient Non-Community systems (TNCs) and Non-Transit Non-Community systems (NTNCs) when addressing modifications due to the creation of a new PWS.
 - There was general discussion about the legal obligations for an existing utility to serve a new PWS.
 - Mr. Bighinatti asked if the Procedures Document should address very specific situations.
 - Mr. Radka stated that it is important that the document contain enough detail that there are not any unanswered questions as the WUCC moves forward.
 - Mr. Bighinatti stated that the document was created with the intention of providing the framework for the process and not to address all DPH regulations outside of the statutes and regulations pertaining to ESAs. The WUCC would also be able to consult with CT DPH if more clarification of the procedures in specific situations is needed.
 - Mr. Cherry stated that in the example of a new PWS being established in an existing ESA, it would be best for the ESA holder and DPH to walk the developer of the new PWS through the necessary processes so that that PWS can be created.

- Mr. Bighinatti asked if the Process Document may be approved or if the WUCC would like more time to review.
 - Mr. Butler suggested that the WUCC postpone approval of the document until the beginning of the next meeting.
 - Mr. Cherry stated that this may disrupt the ESA process timeline.
 - Mr. Butler agreed with Mr. Cherry.
 - Mr. Butler made a motion to approve the Process Document as presented. Mr. Cherry seconded the motion. The motion carried unanimously.

8. Summary of ESA Declaration Forms/Schedule Conflict Presentations/Open Public Comment Period

Mr. Bighinatti began a PowerPoint presentation detailing the timeline for affirming existing ESA boundaries and establishing new ESA boundaries.

- Mr. Bighinatti stated that the following day would begin a 30-day public comment period on ESA declarations received. Mr. Bighinatti also explained that the process allows for an additional public comment period before finalizing the ESA Document. Mr. Bighinatti continued, stating that time is budgeted in the December meeting for presentations by prospective ESA holders for whom there are ESA declaration conflicts.
 - Mr. Decker stated that it is important for prospective ESA holders to communicate with municipalities to check for consistency with municipal goals.
- Mr. Bighinatti stated that the assignment process will run through March, when the ESA process will go through a public comment and revisions process before being submitted to CT DPH in June.
- Mr. Bighinatti stated that ESA affirmations were received from Aquarion Water Company, the Town of Colchester, Groton Utilities, Jewett City Water Company, Ledyard WPCA, Norwich Public Utilities, Southeastern Connecticut Water Authority, the Town of Franklin, and the Town of Waterford, and noted that no modifications were made to existing ESA boundaries. Mr. Bighinatti continued, stating that ESA declarations were received from Jewett City Water Company, Aquarion Water Company, and Connecticut Water Company, and that Windham Water Works, Putnam WPCA, and Sterling WPCA are unable to submit declarations at this time pending approval of their respective utility commissions.
 - Mr. Radka stated that, when declaring ESAs, Connecticut Water Company took a preliminary look at the areas they may be able to serve. Mr. Radka clarified that the utility did not have time to fully study the areas they would and would not be able to serve in each municipality in which they declared an ESA. Mr. Radka also stated that there may be large areas in a town that they will not seek to claim an ESA and that their plans are largely dependent on conversations with municipalities.
 - Mr. Bighinatti affirmed that this stated approach is appropriate.
 - Mr. Skov expressed similar sentiments to those of Mr. Radka, and indicated that they have reached out to municipalities but have not yet heard back from all of them.
- Mr. Bighinatti stated that it is intended that more information will be sent to municipalities regarding ESA declarations, updating them throughout the process.

- Mr. Cherry asked if the intent of the process was to have all areas of the Eastern Public Water Supply Management Area, except for those with no potential need (such as state forests) for a PW, in an ESA.
 - Mr. Decker stated that that is the intent.
 - Mr. Bighinatti stated that in the unexpected event of private wells being contaminated, it is beneficial to have an ESA holder available to extend service or create a satellite system to address the issue efficiently.

- Mr. Avery concurred with Mr. Radka that Jewett City Water Company also needs to look closer at the areas they could and could not potentially serve in the towns in which they have declared an ESA.
 - Mr. Bighinatti reiterated that it is important to seek involvement from municipalities.

- Brendan Avery of Jewett City Water Company asked if feedback has been received from municipalities stating that the municipality does not want ESAs established in their town.
 - Mr. Radka asked if feedback was received from every municipality and if this could be facilitated through the COGs.
 - Mr. Butler stated that the SCCOG has addressed the Eastern WUCC and ESA process at meetings and asked Mr. Alexander to confirm that NECCOG has done the same.
 - Mr. Alexander confirmed and stated that he has only answered questions from a couple of municipal officials.
 - Mr. Decker stated that the announcement of ESA declarations may cause concerns within the municipality and that it may be beneficial to send letters stating that water utilities would like to speak with municipalities in the northern portion of the Eastern WUCC.
 - Mr. Butler agreed and suggested that this be done through US Mail as opposed to electronic mail.
 - Jim Hooper of Windham Water Works stated that he has reached out to multiple towns but has only heard from two.

- Mr. Radka asked which municipalities in the northern portion of the Eastern WUCC own and operate CWSs.
 - Mr. Bighinatti stated that there were few.
 - Mr. Radka asked which municipalities in that portion of the region own and operate TNCs and NTNCs.
 - Mr. Bighinatti stated that all but three do.

- Mr. Skov asked if Putnam WPCA, Windham Water Works, and Sterling WPCA plan to claim ESAs.
 - Mr. Bernardo stated that Putnam WPCA does.
 - Mr. Bighinatti reiterated that the delay in declaring is largely due to scheduling issues with WPCA meetings.

- Mr. Butler asked if it would be beneficial to host a WUCC meeting in the northern portion of the region and asked Mr. Alexander if NECCOG could be a possible location.

- Mr. Alexander stated that he would need to check and could not provide an answer at the time.
- Mr. Bighinatti asked if the WUCC would like to extend the ESA declaration deadline for Windham Water Works, Putnam WPCA, and Sterling WPCA.
 - There was consensus that the WUCC should extend the deadline.
- Mr. Bighinatti stated that a letter would be issued detailing the ESA declarations to date and described that the WUCC would be taking comments on declarations received and that it is possible to schedule presentations for conflicting, prospective ESA holders at the December meeting.
 - Mr. Decker asked if a decision on the location of the December meeting is needed before the agenda is finalized.
 - Mr. Bighinatti confirmed that the location of the meeting will need to be known before posting the agenda, which needs to be posted 14 days prior to the meeting.

9. Other Business

Mr. Bighinatti reviewed a draft agenda from the December meeting.

- Mr. Cherry asked if the Final WSA is in its final version.
 - Mr. Bighinatti stated that the current version is near-final and that the Final WSA will be done by December 1st.

There was no other business.

A motion to adjourn the meeting was made by Mr. Bernardo and seconded by Mr. Cherry. The meeting was adjourned at 3:06.

Respectfully Submitted,

Samuel Alexander (Northeastern Connecticut Council of Governments), Recording Secretary