Appendix G
C.G.S. 16a-31(b) OPM Advisory Request Correspondence
July 18, 2013

Benjamin Barnes
Secretary
Office of Policy and Management
450 Capitol Avenue
Hartford, CT 06106-1379

Re: University of Connecticut Potential Sources of Water Supply Project
University Project #901662
Request for Advisory Report

Dear Secretary Barnes:

The University of Connecticut is conducting an evaluation of potential sources of supplemental water supply for its campus in Storrs and areas of the surrounding town of Mansfield ("Project"). The evaluation process is being conducted pursuant to the Connecticut Environmental Policy Act ("CEPA") (C.G.S. § 22a-1 et seq.). This letter is submitted pursuant to C.G.S. §16a-31(b) as a request for an advisory report with respect to the preparation of the environmental impact evaluation ("EIE") and the record of decision pursuant to CEPA.

Consideration of Alternative Source Infrastructure Impacts

One element of the CEPA analysis is an evaluation of the use of each of the water supply alternatives for consistency with the state plan of conservation and development. (C.G.S.§ 22a-1b (e)).

The alternative solutions being considered to address the water needs of the University and the town of Mansfield include: i) the relocation of a certain existing University groundwater supply well, ii) the development of new ground water supply wells, and, iii) connection with one of three water supply provider systems. The water supply providers are the Connecticut Water Company ("CWC"), the Metropolitan District Commission ("MDC") and the Windham Water Works ("WWW"). Connection with any of the water supply provider systems will require the construction of miles of pipeline from the selected system for the Project.

The WWW water supply pipeline would follow one of several alternate routes all located solely within the town of Mansfield. The CWC water supply pipeline would follow one route through Tolland, and one of two alternate routes through Coventry and Mansfield. There are two alternate MDC pipeline routes: one follows a route through East Hartford, Manchester, Bolton, Coventry and Mansfield, and the other follows a route through East Hartford, Manchester, South
Windsor, Vernon, Tolland, Coventry, and Mansfield. MDC’s route segment through Tolland would follow the same route as CWC’s routes through Tolland, Coventry and Mansfield. Connection with any of the three water supply provider systems would require pipeline construction through various areas that presently have no public water supply service. One concern expressed during the CEPA public comment period is the potential for inducing development along the various water supply pipeline routes.

Commenters also expressed concerns for impacts arising during pipeline construction in areas having the “conservation” classifications of Existing Preserved Open Space, Conservation Areas, Preservation Areas, and Rural Areas in the Conservation and Development Policies Plan for Connecticut, 2005-2010 (“2005 Plan”). All CWC, MDC and WWW water supply pipeline route alternatives, in each town, are located along varying distances within or adjacent to conservation areas designated in the 2005 Plan.

The 2005 Plan has been superseded by the Connecticut General Assembly’s adoption of the Conservation and Development Policies: The Plan for Connecticut, 2013-2018 (“2013 Plan”). The 2013 Plan designates conservation areas based on nine criteria. These are Core Forest Areas, Water Supply Watersheds, Aquifer Protection Areas, Wetland Soils, Agricultural Lands, Hurricane Inundation Zones, 100 year Flood Zones, Critical Habitats, and Locally Important Conservation Areas. All CWC, MDC and WWW water supply pipeline route alternatives, in each town, are located along varying distances within or adjacent to conservation areas designated in the 2013 Plan.

Advisory Report Request

The University of Connecticut requests that OPM provide an advisory report with respect to the following questions concerning the Water Supply Project and the preparation of the record of decision:

1. Please confirm that the University should analyze the Project’s consistency with the state conservation and development plan as required by C.G.S. §22a-1b(c) (5) with reference to the 2013 Plan, and that the 2005 Plan need not be addressed.

2. Please advise the University whether potential induced development via connections to the pipeline leading from the supply source to the University must be restricted in those areas designated as Priority Funding Areas.

3. Please advise the University whether a new public comment period must be opened to receive comments regarding the consistency of the Project with the 2013 Plan.
Next Generation Connecticut

The Project’s last public hearing regarding the EIE was held on January 22, 2013 in Farmington, and the public comment period closed on January 31, 2013.

The state’s “Next Generation Connecticut” initiative was proposed in Governor’s Bill No. 840 of the January 2013 legislative session. The Bill was referred to committee on February 7, 2013, and a legislative public hearing was held on March 4, 2013. The Bill was signed into law by Governor Malloy on June 19, 2013, as P.A. 13-233.

In part, this legislation will result in an increased student population, additional faculty, and new residential and classroom/laboratory construction at the University. The additional water demand projected for the Next Generation Connecticut uses ranges from an average daily demand volume of 24,000 gallons per day in 2015 to 138,000 gallons per day in 2060. These additional volumes are approximately 1.5% and 4.9% of total demand (without margin of safety volumes) for the years 2015 and 2060, respectively. The additional peak day demand projected for Next Generation Connecticut uses is estimated to range from approximately 43,000 gallons per day in 2015 to 240,000 gallons per day in 2060. These additional volumes are approximately 2.0% and 6.6% of total demand (without margin of safety volumes) for the years 2015 and 2060, respectively.

The EIE acknowledged that future additional on-campus demands were anticipated to occur even though the Next Generation Connecticut project had not materialized at that time. (EIE, p. ES-3). The prospect of such additional demands was the reason that the alternatives considered in the EIE were evaluated for their ability to accommodate additional future growth in the Project area.

Advisory Report Request

The University of Connecticut requests that OPM provide an advisory report with respect to the following questions concerning the Project:

1. The University proposes to include the estimated additional water demands of the Next Generation Connecticut legislation in the preparation of the record of decision. Please advise the University whether incorporating consideration of Next Generation Connecticut in the record of decision conforms to CEPA requirements in light of the relative timing of the Next Generation Connecticut legislation.

2. Please advise the University whether a new public comment period must be opened to receive comments regarding consideration of water supply alternatives with reference to the Next Generation Connecticut legislation in the record of decision. This question specifically concerns the University of Connecticut Potential Sources of Water Supply Project only as we
recognize that any future University projects (Next Generation Connecticut or otherwise) will be separately evaluated (including for adequacy of water supply) when proposed as required by CEPA and the Generic Environmental Classification Document.

Please contact the undersigned if you have any questions regarding this request or require additional information. We would appreciate your providing the advisory report addressing the questions presented at your earliest opportunity.

Sincerely,

Thomas Q. Callahan

Cc: Susan Herbst, President
July 25, 2013

Mr. Thomas Q. Callahan, Assistant Vice President
Infrastructure Planning and Strategic Project Management
University of Connecticut
3 North Hillside Road Unit 6076
Storrs, CT 06269-6076

Dear Mr. Callahan:

Thank you for your letter dated July 18, 2013 in which you request an advisory report from the Office of Policy and Management (OPM), pursuant to Section 16a-31(b) of the Connecticut General Statutes (CGS). OPM is providing this advisory report to assist the University of Connecticut in finalizing its Environmental Impact Evaluation (EIE) for Potential Sources of Water Supply and subsequent Record of Decision.

UCONN Request #1

"Please confirm that the University should analyze the Project’s consistency with the state conservation and development plan as required by C.G.S. §22a-1b(c) (5) with reference to the 2013 Plan, and that the 2005 Plan need not be addressed."

OPM Response

The University should determine the Project’s consistency with the 2013-2018 Conservation and Development Policies: The Plan for Connecticut (State C&D Plan), which was adopted by the General Assembly on June 5, 2013. This was the sixth such revision of the State C&D Plan, since the original Plan was adopted in 1979. The statutory revision process provides an opportunity every five years for a comprehensive public review of state conservation and development policies, which can result in incremental changes to such policies when warranted by evolving science and technology or new legislative mandates.

OPM understands that the new Priority Funding Area (PFA) requirements of CGS Chapter 297a present some challenges to the University in responding to public comments on the EIE that reference the now obsolete 2005 Locational Guide Map categories. Although the Map categories have been changed to accommodate the PFA requirements, much of the underlying data that helped define Map categories in the past has been carried forward and updated as appropriate to meet the new PFA requirements.

For example, data pertaining to environmental or natural resource values is now reflected as “Conservation Area” on the Map. When a PFA overlaps a Conservation Area, it results in a "Balanced Priority Funding Area". In such instances, the sponsoring agency must consider all relevant information.
and document how any potential policy conflicts will be addressed as part of its determination of consistency with the State C&D Plan.

Please note that the Continuing Legislative Committee on State Planning and Development provided a statement of legislative intent regarding the implementation of PFA requirements when it endorsed the 2013-2018 State C&D Plan. That statement is attached as the cover memo to the Plan and can be viewed at: www.ct.gov/opm/cdplan. In addition, page 34 of the Plan provides supplemental information and guidance on this topic under the section titled, “Summary of Statutory Requirements for State Agency Implementation.”

UCONN Request #2

“Please advise the University whether potential induced development via connections to the pipeline leading from the supply source to the University must be restricted in those areas designated as Priority Funding Areas.”

OPM Response

The CEPA process is designed to address reasonably foreseeable environmental and socio-economic impacts associated with the Project, including those impacts from induced development. Project design elements and local land use controls are among the considerations for limiting the potential impacts from induced development.

PFA boundaries were delineated based on conditions that exist at the Census Block level, and their intended use is to facilitate state agency responsibilities associated with CGS Section 16a-35d. PFAs are not an appropriate vehicle for addressing CEPA mitigation measures, as the new Map categories do not connote any land use policies. In fact, page 32 of the 2013-2018 State C&D Plan states, “Any limitations in the use of Census Blocks in this LGM should not be construed as influencing land use and zoning decisions or municipal plans of conservation and development; nor should it create any expectation for future utility service where none currently exists.”

Therefore, consideration of impacts from induced development should be based on local plans and zoning regulations as they currently exist. The EIE should indicate the extent to which connections to the pipeline are reasonably foreseeable, based on existing uses, local plans and regulations. If the anticipated connections result in potential impacts to the environment, then the University must consider options for avoiding, minimizing or mitigating the impacts. For example, the pipeline could be designed to limit certain sections to transmission purposes only, or a local ordinance could place restrictions on future pipeline connections. (See related issue in OPM’s response to UCONN Request #1 re: Balance Priority Funding Areas.)

OPM understands that each of the preferred alternatives has unique characteristics that will affect the degree to which the University can effectively leverage project design elements and land use controls to address concerns over induced development and other potential impacts to the environment, particularly in light of the independent nature of each preferred alternative’s source(s) of supply, potential area impacted, and vendor characteristics.
UCONN Request #3

"Please advise the University whether a new public comment period must be opened to receive comments regarding the consistency of the Project with the 2013 Plan."

OPM Response

As noted in OPM's response to UCONN Request #1, the State C&D Plan has remained in effect since it was first adopted by the General Assembly in 1979. Each statutorily-required revision since then has provided the public with ample opportunity to comment, and has typically resulted in the continuation of past state policies with accommodations for incremental revisions when warranted. Therefore, there is no requirement for the University to provide a new public comment period as a result of the General Assembly's adoption of the 2013-2018 State C&D Plan.

UCONN Request #4

"The University proposes to include the estimated additional water demands of the Next Generation Connecticut legislation in the preparation of the record of decision. Please advise the University whether incorporating consideration of Next Generation Connecticut in the record of decision conforms to CEPA requirements in light of the relative timing of the Next Generation Connecticut legislation."

OPM Response

OPM understands that the timing of Next Generation Connecticut (NextGenCT) legislation (PA 13-233) has resulted in additional future demands being placed on the University’s water supply, beyond those estimated when the EIE was published. The University’s Record of Decision (ROD) should provide revised information, to the extent possible, which highlights the additional demands for water attributable to NextGenCT (e.g., additional faculty, staff, facilities, etc.). The NextGenCT estimates should be combined with any revised estimates attributable to reasonably foreseeable service connections along the proposed pipeline routes (see OPM response to UCONN Request #2) and incorporated into the total estimated demand for the Project.

Incorporating this information in the EIE/ROD is in accordance with Section 22a-1a-7(d) of the Regulations of Connecticut State Agencies (RCSA), which states that the “EIE shall cover future component actions of a program or sequence of activities provided that there is no substantive change in the action's environmental setting, environmental impacts or alternatives which would merit a revision to the environmental impact evaluation.” In order to satisfy the above requirement, the University should provide such justification in the ROD and state conclusively whether there are any such substantive changes resulting from NextGenCT.

OPM understands that the University may need to conduct further evaluation of certain component actions related to NextGenCT in the future, due to the fact that there is not sufficient information at present to adequately address its broader potential impacts beyond demand for water in this EIE.
UCONN Request #5

"Please advise the University whether a new public comment period must be opened to receive comments regarding consideration of water supply alternatives with reference to the Next Generation Connecticut legislation in the record of decision. This question specifically concerns the University of Connecticut Potential Sources of Water Supply Project only as we recognize that any future University projects (Next Generation Connecticut or otherwise) will be separately evaluated (including for adequacy of water supply) when proposed as required by CEPA and the Generic Environmental Classification Document."

OPM Response

RCSA Section 22a-1a-9(a) states, "A sponsoring agency shall review all comments submitted on an environmental impact evaluation and any other pertinent information it obtains following circulation of an environmental impact evaluation, and conduct further environmental study and analysis or amend the evaluation if it determines appropriate."

This Section goes on to state, "In all cases, the sponsoring agency shall prepare responses to the substantive issues raised in review of the environmental impact evaluation, and shall forward such responses, as well as any supplemental materials or amendments and all comments received on the evaluation to the Office of Policy and Management."

As noted above, the CEPA regulations are silent on the matter of whether a new public comment period is required for the amended EIE. Therefore, a new public comment period is not required.

With regard to the University’s last statement, I would like to reiterate that OPM’s response to UCONN Request #4 is based on the understanding that the Potential Sources of Water Supply EIE does, in fact, represent "an interdependent part of a sequence of planned activities", in accordance with RCSA Section 22a-1a-7(d). This Section also acknowledges that "Subsequent environmental impact evaluations shall be prepared by the sponsoring agency when such actions have environmental impacts not adequately discussed in the initial evaluation." Therefore, NextGenCT certainly must be considered part of the sequence of planned activities for purposes of estimating the cumulative demand for water in this EIE, even though there is currently not enough information available to fully address its broader potential impact on the environment. The ROD should clarify that the University intends to “further” evaluate NextGenCT projects (as opposed to "separately" evaluate) once more details are known.

OPM looks forward to receiving the University’s ROD/EIE for Potential Sources of Water Supply, so that we can determine its adequacy under CGS Section 22a-1(e).

Sincerely,

Karen Buffkin
Deputy Secretary

Cc: Susan Herbst