

**Hearing Report  
July 7, 2014**

**Clean Water Fund  
Financial Assistance Programs  
Municipal Water Pollution Control  
State Fiscal Years  
2014 - 2015**

**Hearing Officer:**

**George V. Hicks  
Bureau of Water Protection & Land Reuse  
Municipal Facilities Section**

**Hearing Date:**

**April 15, 2014**

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## **I. Introduction**

The award of financial assistance from the Clean Water Fund (CWF) to municipalities and state agencies for wastewater infrastructure is governed by Sections 22a-439, 22a-439a, and 22a-475 through 22a-483 of the Connecticut General Statutes (CGS); and Sections 22a-482-1 through 4 of the Regulations of Connecticut State Agencies (RCSA), otherwise known as “the CWF regulations”. In accordance with the CWF regulations, the Department of Energy and Environmental Protection (DEEP or the Department) shall prepare an ordered priority listing of projects for which funding assistance is available for the fiscal year. Since the State of Connecticut adopts a biennial budget, the Department is adopting a biennial priority list for fiscal year 2014 (July 1, 2013 – June 30, 2014) and fiscal year 2015 (July 1, 2014 – June 30, 2015) based upon previous fiscal year authorizations and the 2014 and 2015 budget authorizations.

## **II. Administrative Requirements**

On August 13, 2013, a call for project requests for fiscal years 2014 and 2015 was issued in a memorandum (Exhibit 1) that was transmitted to the chief elected officials of all 169 municipalities; the water pollution control authority (WPCA) of every municipality in which a WPCA exists and to their superintendent; consultants that commonly work in the municipal wastewater field; and the thirteen regional planning agencies.

Deputy Commissioner Macky McCleary appointed George V. Hicks as the hearing examiner (Exhibit 2). In conformance with federal regulations governing the capitalization grant that the Department receives from the federal Environmental Protection Agency and Section 22a-482-1(c)(4) of the RCSA, the Department issued a notice of public hearing on March 14, 2014 (Exhibit 3). Such notice appeared in the following Connecticut regional newspapers (Exhibit 4):

- Connecticut Post
- Hartford Courant
- New Haven Register
- New London Day
- Waterbury Republican
- Willimantic Chronicle

The Department emailed copies (or mailed copies if the Department did not have a valid email address) of the Department’s memorandum (Exhibit 5) which provided notification of the time, date and location of the public hearing; the location on the Department’s web site where the draft priority list could be found; and the date that written comments were due at the Department. This email was sent to the chief elected officials of all 169 municipalities, the water pollution control authority of every municipality in which a WPCA exists and to their superintendent, consultants that commonly work in the municipal wastewater field and the thirteen regional planning agencies. In addition, the Department listed the Priority List public hearing in its Calendar of Events.

A public hearing was conducted on April 15, 2014 in the Phoenix Auditorium of the Department’s Headquarters at 79 Elm Street, Hartford, Connecticut. The hearing was

convened at 9 am and was concluded at 9:45 am. Approximately twenty people (including Department staff) attended the hearing, and five individuals from the public testified (Appendix C).

Prior to the hearing, three letters were received (Exhibits 8, 9, and 18) and eleven emails (Exhibits 10 – 17, 19 – 21). Of the five individuals who testified, four provided letters at the hearing. Three of those letters that were entered into the record as Exhibits 22, 24, and 25; and the fourth letter replaced an earlier email (which was similar in content) as Exhibit 18. One letter was also submitted at the hearing without testimony (Exhibit 23).

The public comment period closed on April 21, 2014. One email and two letters were submitted after the hearing and before the close of the comment period, and were entered into the record as Exhibits 26 – 28. Two additional letters were submitted after the hearing period, and was entered into the record as Exhibits 29 and 30.

Following the public hearing, the hearing examiner considered all written comments received in response to the notice of public hearing as well as written and verbal comments during the hearing and has prepared this hearing report.

### **III. Specific Project Comments and Responses**

#### **Town of Thompson**

Comment: Tighe and Bond, the consultant for the Town of Thompson, provided an update on the status of the Water Pollution Control Facility (WPCF) Phosphorus Removal Upgrade (Exhibit 8).

Response: We appreciate the project update.

Recommendation: Update Table 1 so that this project is listed as a current project, and delete from Table 2.

#### **Bridgeport Water Pollution Control Authority**

Comment: The Bridgeport WPCA restated their request for funding a planning study to develop a storm water authority under the newly created reserve for Green Infrastructure (Exhibit 9).

Response: Planning studies are funded under the general planning reserve, which is available on a first-come, first-serve basis. Requests for planning studies are used to develop the size of the planning reserve and gauge project progress, but are not individually reflected on the Priority List.

Recommendation: To clarify which funding reserves are intended for construction only, add the words “Construction of” to the names of funding reserves listed in Sections 3b and 3c.

### **Coventry Water Pollution Control Authority**

Comment: The Route 44 Sewer Extension project was submitted as a request for the Priority List, but was not listed in the scoring table (Exhibit 10).

Response: We regret the omission of this project request to our scoring table.

Recommendation: Since this project is anticipated to begin after June 30, 2015, it is listed as a future project on Tables 1 and 2.

### **Westbrook Water Pollution Control Commission**

Comment: The Decentralized System project was submitted as a request for the Priority List, but was not listed in the scoring table (Exhibit 11).

Response: We regret the omission of this project request to our scoring table.

Recommendation: Since this project is anticipated to begin after June 30, 2015, it is listed as a future project on Tables 1 and 2.

### **Naugatuck Water Pollution Control Authority**

Comment: The Naugatuck submitted new requests for the following construction projects: Sewer Interceptor Rehabilitation, Sewer Sludge Incinerator Rehabilitation, and Infiltration and Inflow (I/I) Rehabilitation; and for a future WPCF Upgrade (Exhibit 12).

Response: Thank you for the submission.

Recommendation: Add all projects to Table 1, and add the future WPCF Upgrade to Table 2. The Sewer Interceptor Rehabilitation, Sewer Sludge Incinerator Rehabilitation, and I/I Rehabilitation projects do not score high enough to appear as current “Fundable” construction projects in Section 3a. However, the Sewer Interceptor Rehabilitation and I/I Rehabilitation projects qualify for a funding reserve.

### **East Windsor Water Pollution Control Facility**

Comment: The East Windsor WPCA inquired whether the new Pump Station Reserve on in Section 3b would allow for the replacement of specific components, as opposed to a full-scale rehabilitation or rebuild of a pump station (Exhibit 13).

Response: This funding reserve is available on a first-come, first-serve basis. Funding eligibility will be determined after a review of the engineering study and recommendations for improvements at the pump station.

Recommendation: No action is required.

### **Town of Trumbull**

Comment: On behalf of the Town of Trumbull, Wright-Pierce submitted questions regarding funding reserves (Exhibit 14). The consultant asked the following questions: 1) whether a municipality is required to accept the loan portion of any project; 2) if construction administration (CA) services are eligible for the I/I Rehabilitation

Construction Reserve; and 3) if a design contract that has not been pre-approved is eligible for the Design Reserve.

Response: 1) Any municipality that does not wish to accept the CWF loan that is offered as part of their funding package may opt out of the loan, and still receive the grant portion.

2) CA services are considered to be part of the construction phase, and are therefore eligible for the I/I Rehabilitation Reserve.

3) Design services contracts that have not been approved before design is initiated are ineligible for CWF assistance. Per RCSA Section 22a-482-2 (d) (3), no financial assistance will be allowed for any engineering work performed before award without the prior written approval of the Commissioner.

Recommendation: No action is required.

### **Town of Cheshire**

Comment: The Town of Cheshire expressed interest in the new Pump Station Rehabilitation Reserve (Exhibit 15) for two pump station projects that have already been designed but lacked available funding. The Town asked if the CWF application(s) for any projects requesting funding from this reserve must include the Certification of Construction Bonding Resolution when submitted.

Response: Per Section 22a-482-2 (c)(3)(A) of the RCSA, construction applications must include all the requirements for design funding assistance as specified in Section 22a-482-2 (c)(2). One of the aforementioned design application requirements is the adoption of a resolution which authorizes the execution of a construction agreement.

Recommendation: No action is required.

### **Woodlake Tax District**

Comment: GeoInsight Inc., the consultant for the Woodlake Tax District (WTD), asked why the WTD WPCF Upgrade is not listed as a future project on Table 2; or as a project eligible for the Small Community Reserve (Exhibit 16).

Response: The WTD WPCF Phosphorus Removal Upgrade is listed as a FY15 project for the Small Community Reserve for treatment plant upgrades. Since the project is scheduled to start before the FY14 – 15 Priority List cycle ends on June 30, 2015, it is not considered to be a “future” project. Table 2 only lists “future” projects that are anticipated to start after June 30, 2015.

Recommendation: No action is required.

### **Town of New Canaan**

Comment: The Town of New Canaan submitted a new request for a future WPCF Upgrade (Exhibit 17).

Response: Thank you for the submission.

Recommendation: Add the WPCF Upgrade as a future project on Tables 1 and 2.

### **New Hartford Water Pollution Control Authority**

Comment: The New Hartford WPCA requested the option of using the Small Community Reserve for New Hartford to fund either the Cottage Street or the Pine Meadow sewer project (Exhibit 18).

Response: The Pine Meadows sewer project is similar in nature to the Cottage Street sewer project, each scoring eight (8) points and both qualifying for the Small Community Reserve. The Pine Meadows project was not considered for the Small Community Reserve for the FY14 – 15 Priority List because it was previously indicated that the Pine Meadows project would not begin until after June 30, 2015.

However, if the Pine Meadows project is ready to proceed before the June 30, 2015 deadline, it is acceptable to substitute it for the Cottage Street sewer project.

Recommendation: Modify Small Community Reserve for sewers to read: "...and \$3,700,000 has been reserved for a sewer extension project in New Hartford."

### **East Lyme Water and Sewer**

Comment: The East Lyme Water and Sewer submitted a request for a planning study for Saunders Point (Exhibit 19). The study will cost \$75,000.

Response: We have added your request to our records.

Recommendation: No action is required.

### **Town of Marlborough**

Comment: On behalf of the Town of Marlborough, the first selectperson expressed support for the adoption of the FY14 – 15 Priority List (Exhibit 20). In particular, the Town endorses the reserves established for small communities. An update on the Town Center Lake Terramuggus Sewer Project was provided, which will receive funding from the FY14 – 15 Priority List under a small community reserve.

Response: We are grateful for the support of the Town of Marlborough.

Recommendation: No action is required.

### **City of Waterbury**

Comment: After a meeting with the Department, the City of Waterbury followed up with an email to document its intention to withdraw its request for \$3,500,000 to complete an interim phosphorus upgrade at the Waterbury WPCF; and to request an additional \$500,000 for the construction of a Fats Oil and Grease (FOG) facility (Exhibit 21).

Response: Thank you for the update.

Recommendation: Delete WPCF Phosphorus Removal project from Fundable FY15 Projects List in Section 3a and in Table 1; update cost and increase FOG reserve in Section 3b and in Table 1.

**Connecticut Construction Industries Association, Inc. (CCIA)**

Comment: The CCIA expressed their support of the CWF (Exhibit 22), and its prioritization of wastewater projects related to Long Island Sound and combined sewer overflow (CSO) improvements. It praised the General Assembly and the Governor for increasing revenue bond authorizations and general obligation bond funds to the CWF in recent years. The CCIA notes that this will increase Connecticut's ability to meet state wastewater infrastructure needs and provide a stimulus to a sagging economy by creating jobs.

Response: We greatly appreciate the continued support of the CCIA.

Recommendation: No action is required.

**The Metropolitan District (MDC)**

Comment: The MDC expressed their appreciation of the overall funding identified for MDC (Exhibit 23). The MDC expressed its commitment to implement the future projects identified in a letter to the Department in January 2014.

In its letter, the MDC requested that the Department do the following:

- 1) Identify the design and construction of the Wet Weather Expansion Project (WWEP) as separate Category I projects. Decrease the WWEP construction total for FY14 from \$126,000,000 to \$123,000,000.
- 2) Clarify how the I/I Rehabilitation project(s) annual limit of \$4,000,000 per municipality would be interpreted for the MDC. Increase the I/I Rehabilitation project(s) annual limit per municipality from \$4,000,000 to at least \$6,000,000. Increase the MDC's I/I Rehabilitation projects request for both FY14 and FY15 to total \$64,000,000.
- 3) Add a request for a \$12,000,000 Pump Station project for any of the MDC member towns, and another \$7,900,000 for two other Pump Station upgrades.
- 4) Re-evaluate the priority point scoring for the Rocky Hill WPCF upgrade to account for the sewered population coming into that system from Wethersfield, in addition to the Rocky Hill sewered population.

Response:

- 1) Construction for the WWEP in FY14 should be reflected as a Category I project.

In the draft FY14 – 15 Priority List, Category I projects were erroneously defined as projects “*for which [a] financing application for **design and construction** was submitted to the DEEP...*” Under Section 22a-482-1 (c) (2) of the RCSA, Category I projects are defined as “*...projects for which a **construction** application was submitted for review...*” Therefore, Category I projects should not include design projects. Funding for the design of the WWEP will come from the CSO Design Reserve.

- 2) For I/I Rehabilitation projects, the Department will allow the MDC \$4,000,000 per member town times eight (8) member towns, for a total annual limit of \$32,000,000. The annual municipal limit for I/I projects has been increased from \$2,500,000 to \$4,000,000. Recently, I/I projects have received loan only. The FY14 – 15 Priority List offers the additional incentive of a 20% grant and a total I/I reserve of \$80,000,000. The Department elects to keep the increased annual municipal limit for I/I projects as noted on the draft Priority List.

Recommendation:

- 1) Add \$123,000,000 WWEP Construction project to the Category I Fundable Projects List in Section 3a, and remove \$126,000,000 WWEP Construction project from the Fundable FY14 Projects List. The Department will correct the definition of a Category I project in the Final FY14 – 15 Priority List so that it reads as follows: “*for which [a] financing application for **construction** was submitted to the DEEP...*”
- 2) Update Table 1 to reflect the \$64,000,000 request for I/I Rehabilitation projects.
- 3) Update Tables 1 and 2 to reflect the \$12,000,000 and \$7,900,000 Pump Station projects requested.
- 4) Rescore Rocky Hill WPCF Upgrade to include 8 points for category IV, so that the total point score for this project is increased to 28 points.

**Woodridge Lake Sewer District (Town of Goshen)**

Comment: The Woodridge Lake Sewer District (WLSD) requested an increase in the Small Community Reserve to fund its proposed WPCF Upgrade (Exhibit 24). This upgrade is one alternative that was identified to address its sanitary sewer collection and wastewater disposal needs.

Response: Based on information at the time the Priority List was drafted, the Department listed this WPCF Upgrade as a future project beyond FY15. However, based on a recent project meeting since the Priority List hearing, the Department has decided that this upgrade qualifies for the FY15 funding.

Recommendation: Add WLSD project to the Fundable FY15 Projects List.

**Save the Sound**

Comment: Save the Sound offered its general support of the CWF (Exhibit 25), complimenting the addition of the new Green Infrastructure and Resiliency funding reserves. Save the Sound also expressed its concern about extending the new 50% incentive grant for the “First Three” phosphorus upgrades to all eleven facilities that will be required to meet a 0.20 mg/l phosphorus limit. Save the Sound believes the 50% grant should be reserved for sewage issues that have immediate public health impact such as CSO abatement, and questions what fiscal impact such a decision would have on the CWF.

Response: We greatly appreciate the continued support of Save the Sound and the Connecticut Fund for the Environment.

Since the Priority List hearing, Public Act 14-13 was passed. Public Act 14-13 narrowly expanded the number of projects eligible for the 50% phosphorus grant from the initial three projects identified by Public Act No. 13-239, but it did not expand the 50% phosphorus grant to all eleven projects.

Recommendation: No action is required.

#### **Middletown Water Pollution Control Authority**

Comment: The Middletown WPCA testified that a total of \$40,000,000 has been authorized for the costs of the Force Main and Pump Station projects associated with the abandonment of the Middletown WPCF.

A separate email was sent by the Middletown WPCA after the hearing, which clarified that the Old Mill Road Sewer Separation Project should be increased from \$2,000,000 to \$2,300,000.

Response: The project costs will be adjusted as noted for the Force Main and Pump Station projects, and for the Old Mill Road Sewer Separation Project.

Recommendation: Update Fundable FY14 Projects List and Table 1 for the above-mentioned projects.

#### **Park Watershed**

Comment: The Park Watershed expressed its concern for the lack of green infrastructure projects in MDC Long Term Control Plan projects (Exhibit 27). The Park Watershed recommended that the CWF create a \$3,000,000 funding reserve exclusively for the MDC to implement green infrastructure into its projects.

Response: The Department appreciates the enthusiasm of the Park Watershed group for green infrastructure, which is exactly why the new green infrastructure funding reserve was created. We note that the MDC is fully eligible to receive funding to implement green infrastructure into any of its CSO projects.

Recommendation: No action is required.

#### **The Nature Conservancy**

Comment: The Nature Conservancy expressed its appreciation of how the CWF has implemented its program, and for the support Governor Malloy and the General Assembly have provided to the program (Exhibit 28). It commended the inclusion of projects directed at climate change, green infrastructure, and resiliency.

Response: We are grateful for the support of the Nature Conservancy.

Recommendation: No action is required.

### **The City of Farmington**

Comment: The City of Farmington submitted a letter requesting an increase to its WPCF Upgrade from \$52,000,000 to \$55,000,000 (Exhibit 29).

Response: The Department appreciates the update.

Recommendation: Update the Fundable FY15 Projects List and Table 1 for the above-mentioned project.

### **The Town of Old Lyme, Old Lyme Shore, Old Colony & Miami Beach**

Comment: The stakeholders from the Old Lyme wastewater management region, the Town of Old Lyme and three of its independent beach community associations, submitted a letter requesting an adjustment to the Priority List (Exhibit 30). The Draft Priority List includes four separate projects within Old Lyme: (1) the Town's local wastewater management program; (2) Old Lyme Shores regional sewer connection; (3) Old Colony Beach regional sewer connection; and (4) Miami Beach regional sewer connection. However, with the support of the Department, these entities decided that a single collaborative program, comprised of individual projects, for interconnection of sewer infrastructure to New London via East Lyme and Waterford is in their best interest.

The consultant for the Town argued that the proposed \$55 M regional infrastructure alignment will together serve a much larger population (which would include Towns like East Lyme), well in excess of 10,000. Based on this, it was requested that the Department increase the points (+4) allocated to these projects.

Response: The Department appreciates the update to the cost estimates. However, each of these projects can only receive points for the population served by that individual project, and cannot include future associated projects. Since each project shall serve less than 5,000 people, the population points for each project shall remain the same (2 points).

Recommendation: Update Tables 1 and 2 for the above-mentioned projects to reflect the updated cost estimates.

## **IV. Technical Corrections and General Comments**

A number of technical corrections are made to the draft priority list to ensure that the final list fairly and accurately reflects all of the funding requests from municipalities. These technical corrections have been initiated by Department staff and are fully discussed in Appendix D. It is important to recognize that none of the technical corrections listed in Appendix D have affected the fundable projects list for either FY14 or FY15.

## **V. Summary of Major Recommendations**

Below is a summary of the recommendations:

- 1) List or update the following projects as ready for the FY14 – FY15 Priority List cycle: Thompson WPCF Phosphorus Upgrade; Sewer Interceptor Rehabilitation, Sewer

Sludge Incinerator Rehabilitation, and I/I Rehabilitation in Naugatuck; two MDC Pump Station projects for \$12,000,000 and \$7,900,000; and WLSO WPCF Upgrade in Goshen.

- 2) Add the following projects as future projects: Route 44 Sewer Extension in Coventry; Westbrook Decentralized System; Naugatuck WPCF Upgrade; and New Canaan WPCF Upgrade.
- 3) Modify Small Community Reserve so that \$3,700,000 may be used for either the Cottage Street or Pine Meadows sewer extension project in New Hartford, as long as that project is ready to go to construction in FY15.
- 4) Update costs of following projects: Decrease Hartford MDC WWEP construction to \$123,000,000 for FY14 and list as Category I project; Increase MDC I/I Rehabilitation projects request to \$64,000,000 for FY14 and FY15; decrease Middletown Pump Station Upgrade to \$18,000,000; increase Middletown Old Mill CSO Sewer Separation project to \$2,300,000; increase Farmington WPCF Upgrade to \$55,000,000; increase Waterbury FOG Upgrade to \$2,500,000; and decrease Old Lyme Shoreline Wastewater Management Project from \$65,000,000 to \$26,750,000.
- 5) Rescore Rocky Hill WPCF Upgrade priority points and update Fundable FY15 Projects List.
- 6) Delete Waterbury Interim WPCF Phosphorus Upgrade from Fundable FY15 Project List.

## **VI. Final Recommendation**

I recommend that the Commissioner adopt the final CWF FY14/15 Priority List as presented in Appendix E.

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Date

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George V. Hicks, Hearing Officer