

**Connecticut Department of Public Health (DPH)  
Drinking Water Section (DWS)  
Drinking Water State Revolving Fund (DWSRF)**

**Hearing Report  
Federal Fiscal Years 2011 & 2012  
June 12, 2012**

**Hearing Officer:**

**Kathryn Keenan  
Department of Public Health**

**Hearing Date:  
May 21, 2012**

**For more information, visit the following website:**

- **CT DPH Drinking Water Section: [www.ct.gov/dph/publicdrinkingwater](http://www.ct.gov/dph/publicdrinkingwater)**

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**FFY2011 & 2012 Hearing Report**

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## **I. Introduction**

The award of financial assistance from the Drinking Water State Revolving Fund (DWSRF) to eligible public water systems (PWS) for drinking water projects is governed by Section 1452 of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300j-12), 40 CFR Part 35, Sections 22a-475 through 22a-483, inclusive, of the Connecticut General Statutes and Sections 22a-482-1 through 4, inclusive, of the Regulations of Connecticut State Agencies. In accordance with these statutes and regulations, the Department of Public Health (DPH) is required to prepare a priority listing of projects for which funding assistance is available for the fiscal year.

The DPH DWSRF Program receives an annual allotment of funds from the United States Environmental Protection Agency (EPA) in the form of a Capitalization Grant to administer the program and provide subsidized low-interest loans to eligible PWSs. The amount of funds available for projects for State Fiscal Years (SFY) 2012 and 2013 includes the allotments from Federal Fiscal Years (FFY) 2011 and 2012 capitalization grants. Approximately \$125 million is available for drinking water infrastructure projects meeting the eligibility requirements of the base DWSRF Program and provisions of the FFY2011 federal appropriations bill (Public Law [P.L.] 112-10) and FFY2012 appropriations bill (P.L. 112-74), and for carryover projects from FFY2010 which are actively progressing.

On October 19, 2011, the DPH announced the availability of these funds and solicited eligibility applications from PWSs for drinking water infrastructure projects meeting the eligibility criteria. Two separate significant storm events in Connecticut during the fall of 2011 left over 200 small PWSs without power to operate their water systems for several days. As a result of these storms, on November 22, 2011, the DPH announced a new DWSRF Small System Emergency Power Generator Program. At this time, the DPH also extended the initial deadline of November 30, 2011 to December 15, 2011. By the close of business on December 15, 2011, the DPH had received 118 eligibility applications, 63 of which were generator project eligibility applications, from PWSs during the solicitation period at an estimated \$165 million in total requested funding.

The DPH completed a systematic review of all DWSRF eligibility applications consistent with the DPH's Intended Use Plan (IUP). Projects eligible to receive financial assistance through the DWSRF were ranked and prioritized using public health criteria established for the DPH's DWSRF Program, including the green project goals. Using these criteria outlined in the IUP, two Draft Project Priority Lists (PPL) were developed prior to the public hearing, one for SFY2012 and one for SFY2013, based on information provided in the applicants' DWSRF eligibility applications and associated records on file with the DPH.

## **II. Statutory Requirements**

In conformance with 40 CFR 35.3555(b), the DPH sought meaningful public review and comment during development of the IUP. The DPH will include a description of the public review process and an explanation of how it responded to major comments and concerns in the Final IUP.

In conformance with RCSA Section 22a-482-1(c)(4), the DPH is required to hold an annual public hearing and distribute the Draft PPL to appropriate local officials at least 30 days in advance of the hearing. The DPH is required to consider all written and oral testimony presented at the hearing and may elect to modify the Draft PPL on the basis of such testimony. The DPH is required to indicate reasons for accepting or rejecting any suggested revisions as part of the hearing record. Following notice of any changes to the Draft PPL which may result from the hearing, the PPL shall be deemed final except for minor revisions allowable under RCSA Section 22a-482-1(c)(5).

On April 20, 2012, the DPH provided legal notice of a May 21, 2012 public hearing in the Hartford Courant, New Haven Register, and Waterbury Republican American and on April 26, 2012, in two minority periodicals: La Voz Hispana and Northeast News. Starting on April 20, 2012, the DPH made the Draft IUP and PPL available for public review and comment.

On April 27, 2012, the DPH sent an email to all PWSs that submitted an eligibility application that included an email address, informing them of the public notice and date of the public hearing. The email included an electronic copy of the Draft IUP (Attachment A. 10) and contained a link to the DWS website where the public notice, Draft IUP, and Draft PPLs could be found.

A public hearing was held on May 21, 2012, at 470 Capitol Avenue, adjacent to the DPH's offices at 410 Capitol Avenue, Hartford, CT. Commissioner Dr. Jewel Mullen had appointed Kathryn Keenan as the hearing officer (Attachment A.3). The public hearing was intended to allow for public comment on the Draft IUP and PPLs. The public hearing was convened at 10:05 am and was concluded at 10:21 am. Approximately 17 people attended the hearing. One individual testified at the hearing and their oral testimony, in its entirety, can be found in the public hearing transcript (Attachment A.14). The public comment period closed at noon on May 22, 2012. Written testimony, in its entirety, submitted during the comment period is provided in Attachment A.13.

Following the conclusion of the public hearing and comment period, all oral and written testimony was reviewed, incorporated into the public hearing record and taken into consideration in preparing a Final IUP, Final PPLs, and this hearing report. DPH's responses to the testimony that was submitted during the public comment period and during the public hearing are provided in Section III.

### **III. Project Testimony and Responses**

A review of all testimony was completed and any warranted adjustments were made to projects, and re-ranking of the PPLs was completed accordingly. All projects appearing on the Final PPLs were ranked according to the priority ranking points awarded to each project using the Priority Ranking System criteria, including the small system and green project funding goals established by EPA. Based on the amount of funding available, all projects on the Final SFY2012 PPL and the top 19 projects on the Final SFY2013 PPL are proposed to receive DWSRF funds. The remaining projects on the Final SFY2013 PPL are not proposed to receive DWSRF funds at this time but may be considered for funding if a project for which funding is proposed is by-passed or

if additional funding becomes available. By-pass procedures are explained in Section VII.C of DPH's IUP (Attachment B).

Based on the oral testimony provided at the public hearing and the written comments received during the public comment period, and a technical correction, as explained in Section IV., adjustments were made to 8 projects. The following subsections summarize the oral testimony heard and the written testimony received and the DPH responses thereto. Copies of the actual written testimony are provided in Attachment A.13. Oral testimony provided during the public hearing was recorded in the hearing transcript, which is provided in Attachment A.14.

### **A. The Metropolitan District**

Michael Mancini, Director of Engineering for The Metropolitan District (MDC), provided oral testimony during the May 21, 2012 public hearing. Mr. Mancini's testimony provided background information regarding the MDC and its asset management and capital improvement programs. Mr. Mancini also noted that MDC submitted 16 DWSRF applications totaling \$90.9 million for various infrastructure projects. Mr. Mancini thanked DPH for support of MDC projects. Following his testimony, Mr. Mancini submitted a letter dated May 22, 2012 for the hearing record, which elaborated on the MDC asset management and capital improvement programs and total projected system needs through the year 2053. The written testimony also stated support for increased state funding for the DWSRF program and encouraged DPH to make adjustments to the priority ranking system to recognize and compensate water utilities that have undertaken measures to improve water system management.

*DPH response to all testimony:*

*Thank you for your testimony. DPH believes that comprehensive asset management plans are a critical component of water utility sustainability programs, along with capital improvement plans. Following testimony received during the FFY2010 public hearing process and prior to the Call for Projects in October 2011, the DPH made an adjustment to the Priority Ranking System for this current funding cycle to award additional points for projects that are included in a PWS Water Supply Plan or Asset Management Plan. The DPH will review the DWSRF priority ranking system for future funding cycles to determine if any additional adjustments are warranted for asset management and/or water supply planning incentives and can effectively be incorporated.*

### **B. Woodlake Tax District**

Written comments consisted of a letter dated May 22, 2012 from Evan Jones, President of Woodlake Tax District (WTD). The letter requested that DPH reconsider the priority ranking assigned to the Atmospheric Storage Tank project submitted by WTD. According to WTD, DWSRF is a critically important funding source for this PWS. In its letter, WTD noted that only 25 points were awarded for the project from the original request of 50 points identified on the eligibility application. WTD submitted additional information and background about the project, along with justification for the requested points. WTD asked that DPH review the additional information and the points awarded for this project. The letter also provided comments regarding

the Tie-Breaking Procedure as outlined in the Draft IUP. Specifically, WTD stated that having the first tie-breaker be based on the project population served, small systems such as WTD will almost always fall low on the list and likely below the funding line. WTD requested that the first tie-breaker be based on the percentage of population impacted by the project and the second tie-breaker be the total population served by the project.

*DPH response to testimony:*

*Thank you for your comments. Based on the comments provided, DPH has determined that sufficient justification was submitted to award an additional 5 points to the project under the category of "Proactive Infrastructure". This determination is based on clarification of the infrastructure upgrades associated with this project, specifically pumping upgrades. This project will now receive 30 ranking points.*

*Your comments regarding the tie-breaking procedures are appreciated. The DPH will review the DWSRF priority ranking system for subsequent funding cycles to determine if any modifications to those procedures are warranted. With respect to funding for small systems, the SDWA requires that, to the extent that there are sufficient number of eligible project applications, not less than 15% of the available funding shall be dedicated to small systems serving less than or equal to a population of 10,000. Adjustments were made to the Draft PPLs to ensure that we meet this goal and are reflected in the Final PPLs. Those changes are further explained in Sections IV. and V. of this report.*

#### **IV. Technical Corrections**

A technical correction has been made to the Draft PPLs to ensure that the final lists fairly and accurately reflects the small system funding goal requirement. This correction was initiated by DPH staff, and is explained as follows: When DPH prepared the Draft PPLs, the total amount to be made available to PWSs serving fewer than 10,000 persons was calculated based on 15% of the total amount of the FFY2011 and FFY2012 capitalization grants. However, after further clarification, the calculation is to be based on the amount of available funding, as identified in the IUP. This correction does affect the projects proposed to receive funding. Three projects for small PWSs are ranked above the funding line and ahead of projects which received more points. As a result of this correction and other adjustments explained in Section V, 2 projects identified as fundable on the Draft SFY2013 PPL are now below the funding line.

#### **V. Summary of Adjustments to Project Priority Lists**

In summary, based on the oral testimony DPH received at the hearing and written comments received during the comment period, and the technical corrections made, the DPH made adjustments to the Draft PPLs. One project was withdrawn, 4 projects were revised based on current scheduling, and one project was granted additional priority points. In addition, in order to meet the 15% funding goal for small PWSs, funding will be made available to 3 additional projects. These adjustments did result in a change to the ranking of projects proposed to receive DWSRF funding. The specific changes are outlined below:

- The Town of Brookfield submitted a written request to withdraw their project for the Southern Brookfield Water Main and it was removed from funding consideration on the Final SFY2012 PPL. DWSRF funding for this project is being made available to other eligible projects on the Final SFY2012 and SFY2013 PPLs.
- The MDC's Bear Ridge pump station project schedule has been delayed and this project was moved to the Final SFY2013 PPL.
- MDC's Transmission Main Hamilton & Park Phase II project schedule has been delayed and this project was moved to the Final SFY2013 PPL and is currently below the funding line.
- MDC's various water mains project in Hartford schedule changed. As a result the project has been split into two parts. One part of that project is moving forward in SFY2012 and has been moved to the Final SFY2012 PPL. The second part of the project remains on the Final SFY2013 PPL and is currently below the funding line.
- The adjustment for WTD gives the project 30 total points and it has been re-ranked accordingly. This project is now ranked #16 and is above the funding line on the Final SFY2013 PPL.
- The Branchville School, Colchester Commons (pumphouse & storage tank), and Putnam WPCA (construction) projects are now listed above the funding line on the Final SFY2013 PPL in order to meet the 15% funding goal for small PWSs.

As a result, the funding line on the Final SFY2013 PPL has been adjusted to reflect the anticipated funds available. Two projects for the City of Norwich previously above the funding line on the Draft SFY2013 PPL are now below the funding line on the Final SFY2013 PPL (Stony Brook Transmission Main southern & northern segments construction phase), based on the current amount of anticipated funds available and are not expected to receive funding unless higher-ranking projects are by-passed.

## VI. Decision

Based on the oral testimony provided at the public hearing and the written comments received during the public comment period, the DPH will adopt the changes made to the DWSRF PPL as presented in Attachment B.

6/22/2012  
Date

  
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Jewel Mullen, M.D., M.P.H, M.P.A.  
Commissioner

## Attachments

### A. Hearing Record of Documents

1. [Connecticut General Statutes Sections 22a-475 through 22a-483](#)
2. [Regulations of Connecticut State Agencies Sections 22a-482-1 through 22a-482-4](#)
3. [DPH Commissioner Mullen's designation of Kathryn Keenan as Hearing Officer](#)
4. [October 19, 2011 DWSRF Call for DWSRF projects announcement](#)
5. [October 27, 2011 EPA letter of approval of DPH's October 6, 2011 Priority Ranking System changes](#)
6. [November 22, 2011 DWSRF Call for Projects application deadline extension announcement and Small System Emergency Power Generator Program announcement](#)
7. [DWSRF Small System Emergency Power Generator Program Eligibility Application](#)
8. [General Application Form](#)
9. [DWSRF Green Project Information Form](#)
10. [DPH Draft Intended Use Plan for FFY2011 & FFY2012 \(includes Draft PPLs\)](#)
11. [DWSRF Public Hearing Legal Notice](#)
12. [April 24, 2012 letter from the Town of Brookfield](#)
13. Written testimony
  - i. [May 22, 2012 letter from The Metropolitan District](#)
  - ii. [May 22, 2012 letter from Woodlake Tax District](#)
14. [Written transcript of May 21, 2012 Public Hearing](#)

### B. [Final DWSRF Intended Use Plan \(includes Final PPLs\)](#)