

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

**Hearing Report
Federal Fiscal Year 2010
July 9, 2010**

Hearing Officer:

**Kathryn Keenan
Department of Public Health**

**Hearing Date:
June 2, 2010**

For more information, visit the following website:

- **CT DPH Drinking Water Section: www.ct.gov/dph/publicdrinkingwater**

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FFY2010 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 (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 public water systems (PWS). The amount of funds available for projects for Federal Fiscal Year (FFY) 2010 includes the allotments from FFY2009 and FFY2010. Approximately \$32 million is available for drinking water infrastructure projects meeting the eligibility requirements of the base DWSRF Program and provisions of the FFY2010 federal appropriations bill (Public Law [P.L.] 111-88).

On March 2, 2010, the DPH Drinking Water Section (DWS) announced the availability of these funds and solicited eligibility applications, with a deadline of March 31, 2010, from PWSs for drinking water construction projects meeting the eligibility criteria. By the close of business on March 31, 2010, the DWS received a total of 83 eligibility applications that combined total approximately \$142 million in drinking water infrastructure projects.

The DWS 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 DWSRF were ranked and prioritized using public health criteria established for the DPH's DWSRF Program, including the new green project goals established under P.L. 111-88. Using these criteria outlined in the IUP, a Draft Project Priority List (PPL) was developed prior to the public hearing, 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 Commissioner 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 Commissioner is required to indicate his or her 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 29, 2010, the DPH provided legal notice of a June 2, 2010 public hearing in two minority periodicals: La Voz Hispana and Northeast Minority News and on April 30, 2010 in the Hartford Courant, New Haven Register, and Waterbury Republican American. Starting April 30, 2010, the DPH made the Draft IUP and PPL available for public review and comment.

On May 3, 2010, the DPH sent an electronic copy of the public notice (Attachment A, #12) to all PWSs that submitted an eligibility application that included an email address. The notice contained a link to the DWS website where the Draft IUP and PPL could be found.

A public hearing was held on June 2, 2010, at 470 Capitol Avenue, adjacent to the DPH's offices at 410 Capitol Avenue, Hartford, CT. Commissioner J. Robert Galvin had appointed Kathryn Keenan as the hearing officer (Attachment A, #4). The public hearing was intended to allow for public comment on the Draft IUP and PPL. The hearing was convened at 10:11 am and was concluded at 11:00 am. Approximately 36 people attended the hearing. Six individuals 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 on June 8, 2010. Written testimony, in its entirety, submitted during the public comment period is provided in Attachment A.13.

Following the conclusion of the public hearing, all oral and written testimony was reviewed, incorporated into the public hearing record and taken into consideration in preparing a Final IUP, Final PPL, 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 PPL was completed accordingly. All projects appearing on the Final PPL were ranked according to the priority ranking points awarded to each project using the Priority Ranking System criteria. Based on the amount of funding available, the top 6 projects on the Final PPL are proposed to receive DWSRF funds. The remaining projects on the Final 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.B of DPH's Intended Use Plan (Attachment B).

Based on the oral testimony heard at the public hearing and the written testimony received during the public comment period, adjustments were made to 3 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. Southeastern Connecticut Council of Governments (SCCG)

Testimony consists of a letter dated April 27, 2009 and resubmitted on May 26, 2010, from James S. Butler, Executive Director of the SCCG, which expressed support for the Town of East Lyme's regional interconnection project. Mr. Butler also provided oral testimony during the June 2, 2010 public hearing. Mr. Butler's oral testimony reinforced his April 27, 2009 written testimony and provided further details on the benefits the project would have for communities in southeastern Connecticut.

DPH response to all testimony:

Thank you for your testimony. While DPH appreciates SCCG's support of this project and it is acknowledged that this project is important to the region, appropriate points were awarded to this project based on the DPH's priority ranking system criteria. Accordingly, the project does not qualify for additional priority points based on the testimony provided.

b. Town of Preston

Testimony consists of a letter from Robert Congdon, Preston First Selectman, dated May 24, 2010, indicating support for the Town of Ledyard's Aljen Heights water main extension project and providing details of the benefits the project would have for the Town and local residents.

DPH response:

Thank you for your testimony. While DPH appreciates your support of this project and it is acknowledged that the project is important to the region, appropriate points were awarded to this project based on the DPH's priority ranking system criteria. Accordingly, the project does not qualify for additional priority points based on the testimony provided.

c. Town of Haddam (Brainard Memorial Library)

Testimony consists of the following 5 letters of intent from existing PWSs indicating the PWSs' intent to connect to the water main extension project in Tylerville, CT once the project is complete, which were submitted to DPH by Liz West, Town Planner for the Town of Haddam: a May 14, 2010 letter of intent to connect to the water main extension project submitted to the Town by Steven Rocco of The Riverhouse at Goodspeed Station; a May 14, 2010 letter of intent to connect to the water main extension project submitted to the Town by Jonathan Sibley of Bridge Street Associated; a May 17, 2010 letter of intent to connect to the water main extension project submitted to the Town by Michael Epright of Dunkin Donuts; a May 20, 2010, a letter of intent to connect to the water main extension project submitted to the Town by Kathy Ryan of The Saybrook at Haddam; and a May 20, 2010, a letter of intent to connect to the water main extension project submitted to the Town by Edward Vesdal of LukOil.

In addition, Ms. West submitted a letter dated June 2, 2010 from Thomas E. Marsh, Chester First Selectman, to Ms. West in support of Haddam's project for a water main extension in the Tylerville area of the town and expressing the benefits that the project would also have for the Town of Chester.

Ms. West also provided oral testimony during the June 2, 2010 public hearing.

DPH response to all testimony:

Thank you for your testimony. The DPH's priority ranking system awards 15 points for each PWS consolidation accomplished by a project funded under the DWSRF Program. Based on the project information included in the testimony, an adjustment to the number of priority points is warranted. According to both the written and oral testimony provided, the project will consolidate at least 5 PWSs upon completion. Accordingly, the DPH awarded 75 additional priority points to the original point value of 20 that appeared on the Draft PPL. The DPH appreciates the Town of Chester's support of this project and it is acknowledged that this project has public health benefits to the Towns of Chester and Haddam. This project now receives 95 ranking points on the Final PPL.

d. Town of Ledyard

Testimony consists of a letter from Amory Engineers, P.C. on behalf of the Town of Ledyard dated May 27, 2010, providing additional project information, including a request for additional ranking points. Included was a letter of intent from the Town of Ledyard to interconnect Avery Hill Water Association's PWS upon completion of the project. In this testimony, Amory Engineers, P.C., on behalf of the Town, was seeking additional priority points for the consolidation of Avery Hill Water Association's PWS. Amory Engineers, P.C., on behalf of the Town, was also seeking priority points for the following categories under the DPH priority ranking system: "Source Deficit or Insufficient Margin of Safety", "System Capacity Benefits", "Source/Distribution Violations", "Source Protection Improvements", "Main Extension to Existing Private Wells with Public Health Code Violations" and "Proactive Infrastructure". The testimony provided information for each of these priority point categories for DPH to consider.

Testimony also consists of a letter from Ledyard WPCA, dated May 28, 2010, enclosing a copy of the DPH's May 26, 2010 inspection report from DPH's April 9, 2010 sanitary survey of the Avery Hill Water Association's PWS in which the DPH identified three (3) regulatory violations associated with this PWS.

Finally, Mayor Fred Allyn Jr. of the Town of Ledyard provided oral testimony during the June 2, 2010 public hearing. In his testimony, Mayor Allyn stressed the important public health benefits that would be accomplished through this project, the importance of the project to the Town's drinking water infrastructure and the ability for the Town to proceed to construction quickly. Mayor Allyn also reinforced the contents of the written testimony submitted on May 27, 2010 by Amory Engineers, P.C.

DPH response to all testimony:

Thank you for your testimony. The DPH's priority ranking system awards 15 points for each PWS consolidation accomplished by a project funded under the DWSRF Program. The testimony showed that the project will consolidate the Avery Hill Water Association's PWS upon completion and, as such, the DPH has awarded 15 additional priority points to the original point value of 20 that appeared on the Draft PPL.

The consolidation of Avery Hill Water Association with Ledyard's Gales Ferry System would eliminate Public Health Code violations and deficiencies associated with the Town of Ledyard's current water system. The DPH, however, does not award additional priority points in other categories where water system improvements or regulatory compliance is achieved by virtue of the consolidation. Therefore, additional priority points were not awarded in the categories of "Source Deficit or Insufficient Margin of Safety", "System Capacity Benefits", "Source/Distribution Violations" or "Source Protection Improvements" for Avery Hill Water Association's current PWS.

The DPH had already awarded the maximum 20 priority points in the category of "Main Extension to Existing Private Wells with Public Health Code Violations" in the original Draft PPL.

The DPH could not award additional priority points in the category of "Main Replacement/Improvement" because the project is a new section of water main and does not replace or improve existing infrastructure.

The DPH could not award additional priority points under the category of "Main Extension for Interconnection" because the project only allows a stub for the future interconnection of the Ledyard water system to the Preston/Norwich system at Route 12. The project must result in an actual interconnection to qualify for these points.

Based on the project information included in the testimony, an adjustment to the number of priority points given to the project was warranted. Accordingly, this project now receives 35 ranking points on the Final PPL.

e. City of Stamford (Dorothy Heroy Recreational Complex)

Testimony consists of an email sent from Louis Casolo, Stamford Town Engineer, on June 1, 2010. In the e-mail, Mr. Casolo requested that DPH consider awarding additional priority points in the categories of "Pesticides, Herbicides and PCB Violations" and "Source Development".

DPH Response:

The DPH acknowledges that this project would result in replacing existing private wells that have been affected by pesticide contamination with public water service. The maximum number of priority points provided under the DWSRF priority ranking system for the interconnection of private wells with Public Health Code violations to a PWS is 20 points. The DPH has already awarded the maximum number of points to the project and therefore cannot award any more. In addition, the priority point categories for "Pesticides, Herbicides and PCB Violations" and "Source

Development” are categories for PWS infrastructure improvements and do not apply to private wells. The project therefore does not qualify for additional priority points based on the testimony provided.

f. The Metropolitan District

Robert E. Moore, Chief Administrative Officer for the MDC, provided oral testimony during the June 2, 2010 public hearing. Mr. Moore’s testimony provided general support for the DWSRF Draft PPL and an encouragement for the DPH to create incentives and make adjustments to the priority ranking system to recognize and prioritize projects for water utilities that have undertaken comprehensive asset management plans. Mr. Moore also stressed that additional state funding is necessary to meet the drinking water infrastructure needs in Connecticut. Following his testimony, Mr. Moore submitted a letter dated June 2, 2010 for the hearing record, which mirrored his verbal testimony.

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. The DPH will review the DWSRF priority ranking system for 2011 to determine if asset management and/or water supply planning incentives can effectively be incorporated.

g. Southeastern Connecticut Water Authority (SCWA)

Testimony consists of oral testimony provided by Gregory Leonard of SCWA during the June 2, 2010 public hearing. Mr. Leonard spoke in support of DWSRF applications for projects in southeastern Connecticut, specifically project applications filed by the towns of East Lyme, Norwich, Ledyard and Colchester. Mr. Leonard also spoke in support of the application filed by SCWA, which is a \$177,000 application to purchase the final quantity of water meters (1000 meters) to complete their automated meter reading program. Mr. Leonard highlighted the fact that the automated metering project is currently underway and the DWSRF funds could be put to use very quickly. Mr. Leonard also testified that the SCWA would be willing to accept any level of DWSRF funding that may be available for this project.

DPH response:

Thank you for your testimony. The DPH is pleased that SCWA filed this application as the project does qualify as a “green” project under the Green Project Reserve provisions of the DWSRF Program. The DPH did award the full value of priority points that are available to this project, including points available under the Green Project Reserve provisions of the DPH’s priority ranking system in the initial Draft PPL. Accordingly, the project does not qualify for additional priority points based on the testimony provided.

h. Candlewood Trails Water Company

Testimony consists of oral testimony provided by Robert Bernhart of Candlewood Trails Water Company (CTWC) during the June 2, 2010 public hearing. Mr. Bernhart’s testimony provided an

explanation of the work involved in the project and highlighted the fact that the DPH has already approved the work during a previous DWSRF application filed by CTWC for the same project.

DPH response:

Thank you for your testimony. The DPH awarded the full value of priority points (90 points) that are available to this project under the DPH's priority ranking system in the initial Draft PPL. Therefore, the project does not qualify for additional priority points based on the testimony provided.

i. Town of East Lyme

Testimony consists of a letter dated June 8, 2010 from Bradford C. Kargl, Municipal Utility Engineer for the Town of East Lyme. Enclosed with Mr. Kargl's letter was written testimony from Paul E. Formica, East Lyme First Selectman, explaining the importance of the project to residential and commercial water customers of East Lyme Water Department (ELWD) and the seasonal water supply deficits ELWD is experiencing when the shoreline community population grows during the summer months. Also enclosed was a revised DWSRF Eligibility Application requesting additional priority points in the categories of "System Capacity Deficits", "Pressure Violation", "Proactive Infrastructure", "Purchase of Land", and "Green Project Reserve". The revised application also included a "Green Project Information Form" and associated business case required for DPH consideration of priority points under the Green Project Reserve.

Selectman Formica also provided oral testimony during the June 2, 2010 public hearing reinforcing his written testimony.

DPH response to all testimony, including oral:

Thank you for your testimony.

Based on both the oral and written testimony provided, including the revised DWSRF Eligibility Application, the DPH has determined that it has sufficient information to award an additional 10 priority points to the project under the category of "Proactive Infrastructure". This determination is based on infrastructure upgrades associated with the project (pumping facility upgrades and SCADA system automation). It also has sufficient information to award an additional 5 priority points to the project under the category of "Purchase of Land" based on the easements necessary for the new storage tank and pump station, which are part of the project.

The DPH also reviewed the business case provided by ELWD for consideration of priority points under the category of "Green Project Reserve" and determined that the business case was not sufficient to award any additional priority points under this category.

There was also insufficient documentation to support ELWD's request for additional priority points under the categories of "System Capacity Deficits" and "Pressure Violation". Based on the project information included in the testimony, an adjustment to the number of points given to the project was warranted. Accordingly, this project will now receive 55 ranking points.

IV. Technical Corrections

A number of technical corrections have been made to the Draft PPL to ensure that the final list fairly and accurately reflects the ranking order, taking into account the tie-breaker provision outlined in the IUP. These technical corrections were initiated by DWS staff and are explained as follows. Projects tied in the number of points in the Draft PPL were sorted by population served by the project, with the project serving the greatest number of people appearing highest. The order in which they appear on the Final PPL is the order in which these projects will be offered funds, should any become available. In addition, two Green Project Reserve projects have now been identified as “categorical” based on additional guidance provided by EPA. None of the technical corrections made have affected the projects proposed to receive funding.

V. Summary of Adjustments to Project Priority List

In summary, based on the testimony DPH heard during the public hearing and received during the public comment period, adjustments were made to the Draft PPL. Specifically, three projects received adjustments to their priority point totals in the Draft PPL based on testimony that DPH heard during the public hearing and received during the public comment period. These adjustments did result in a change to the ranking of projects proposed to receive DWSRF funding. These changes are as follows: the Town of Haddam’s project (Brainard Memorial Library) is now #2, the Town of East Lyme’s project is now #6, and the Ledyard WPCA Aljen Heights project is now #11. The point adjustments to the Haddam and East Lyme projects did result in a change to the availability of funds for some projects on the Draft PPL. Three projects that were above the funding line on the Draft PPL are now below the funding line and are not expected to receive funding unless higher-ranking projects are by-passed.

Other adjustments include: two projects which appeared above the funding line on the Draft PPL (United Water Co. and East Haddam Elementary School) have withdrawn from consideration, at each applicant’s written request, and have been moved to the bottom of the list; three projects in which eligibility was “to be determined” on the Draft PPL have been determined to be ineligible; and the amount of funds requested for the City of Meriden’s Broad Brook project has been adjusted to reflect the estimated cost for activities to occur during the current DWSRF funding cycle.

The technical corrections in Section IV did result in a number of adjustments; however they have no effect on those projects’ eligibility to receive funding.

VI. Decision

Based on the testimony heard at the public hearing and received during the public comment period, the DPH will adopt the changes made to the DWSRF Project Priority List as presented in Attachment B.

9 Jul 10
Date



J. Robert Galvin, M.D., M.P.H., M.B.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. [Public Act No. 10-117 \(Section 34 – Section 41 DWSRF related\) effective October 1, 2010](#)
4. [DPH Commissioner Galvin's designation of Kathryn Keenan as Hearing Officer](#)
5. [March 2, 2010 DWSRF Call for DWSRF projects announcement](#)
6. [DPH Draft Intended Use Plan \(includes Draft PPL\)](#)
7. [DWSRF Priority Ranking System For Projects](#)
8. [United States Environmental Protection Agency's approval of revised priority ranking criteria](#)
9. [DWSRF Project Eligibility Application](#)
10. [General Application Form](#)
11. [Green Project Information Form](#)
12. [April 30, 2010 Legal Notice announcing June 2, 2010 Public Hearing](#)
13. Written testimony
 - i. [April 27, 2009 letter from Southeastern Connecticut Council of Governments \(resubmitted May 26, 2010\)](#)
 - ii. [May 24, 2010 letter from the Town of Preston](#)
 - iii. [May 24, 2010 from the Town of Haddam \(5 Letters of Intent dated May 14, 17, and 20, 2010\)](#)
 - iv. [May 27, 2010 letter from Amory Engineers, P.C., on behalf of the Town of Ledyard and Copy of the May 26, 2010 DPH Sanitary Survey Inspection Report for Avery Hill Water Association \(submitted to DPH by Ledyard WPCA on May 28, 2010\)](#)
 - v. [June 1, 2010 email from the City of Stamford](#)
 - vi. [June 2, 2010 letter from the Town of Chester](#)
 - vii. [June 2, 2010 letter from The Metropolitan District](#)
 - viii. [June 8, 2010 letter from the Town of East Lyme](#)
14. [Written transcript of June 2, 2010 Public Hearing](#)

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