

**Hearing Report
July 12, 2022**

**Clean Water Fund
Financial Assistance Program
Municipal Water Pollution Control
Priority List, State Fiscal Years
2022 - 2023**

Hearing Date:

May 16, 2022

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I. Introduction

The award of financial assistance from the Clean Water Fund (CWF) to municipalities for wastewater infrastructure is governed by Sections 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 each fiscal year. Since the State of Connecticut adopts a biennial budget, the Department is adopting a biennial Priority List for fiscal year 2022 (July 1, 2021 – June 30, 2022) and fiscal year 2023 (July 1, 2022 – June 30, 2023) based upon previous fiscal year authorizations and the 2022 and 2023 capital budget authorizations.

II. Administrative Requirements

A memo dated October 28, 2021 regarding a call for project requests (Exhibit 1) for fiscal year 2022 (FY22) and FY23 was distributed through DEEP’s Municipal Wastewater Listserv requesting towns submit a project request form to DEEP so that their projects can be considered for the Priority List.

In conformance with the federal regulations governing the capitalization grant that the Department receives from the Environmental Protection Agency and Section 22a-482-1(c)(4) of the RCSA, the Department issued a notice of public hearing on April 27, 2022 (Exhibit 2).

On April 26, 2022, the Department notified subscribers of the Municipal Wastewater Listserv (Exhibit 3) of the availability of the Draft FY20 Priority List dated April 21, 2022 and associated Table 1 (Exhibits 4 & 4a) and the public notice (Exhibit 2). In addition, the Department placed Exhibits 2, 4, and 4a on the Department’s Municipal Wastewater webpage.

Technical Corrections (Exhibit 5) were made to the draft Priority List (Exhibit 4). Technical corrections are minor changes to the Priority List discovered after the draft Priority List had been distributed for public comment.

Evidence of publication of the public notices for the public hearing was provided by Graystone Group Advertising (Exhibit 6). The public notices appeared in the Connecticut Post, Hartford Courant, New Haven Register, The New London Day, Waterbury Republican-American, Willimantic Chronicle on April 27, 2022. The Graystone Group Advertising invoice dated June 8, 2022 included the affidavits of publication from each of the newspapers referenced above.

A public hearing was conducted on May 16, 2022 via teleconference and was open to individuals that registered to attend the public hearing and to those that requested to provide oral testimony on the draft Priority List. The hearing was convened at 1:00 pm and was concluded at 1:28 pm. Approximately 15 people (including Department staff) attended the hearing, and no individuals testified.

At the public hearing, the public attendees were notified that the comment period for the Draft FY22 and FY23 Priority List would remain open until the close of business on May 27, 2022.

During the public comment period, 11 letters were received (Exhibits 7 – 17).

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 made during the public hearing, and has prepared this hearing report.

III. Specific Project Comments and Responses

Chris Riley, Norwich Public Utilities

Comment: NPU discusses three important projects (NPU Wastewater Treatment Plant upgrade, Two CSO Force Main repair/replacement projects (Rose Alley and South Thames Street pump station)). They show excitement to begin these transformational projects with continued guidance, leadership, and collaboration with DEEP, that will significantly improve water quality in the rivers in their community.

Response: The Department appreciates the support by Norwich Public Utilities and is looking forward to the construction of these projects.

Anthony Manfre, Superintendent at South Windsor Pollution Control Department

Comment: Improvements to South Windsor's three largest pump stations estimated to be \$9M. Original intent was to submit one clean water fund application for a low interest Clean Water Fund loan and complete all three rehabilitation projects under one project. However, because of the \$4M cap for pump station construction projects, this will require the town to break this project into three separate projects essentially tripling the efforts of the engineering team, the Water Pollution Control Authority's office, and DEEP in terms of review/resources. Specifically, this will require individual applications, plan reviews, approvals, bid specifications, etc. Additionally, they feel contractors are more likely to furnish more competitive bids for larger contracts. With current staff levels and budget constraints, The Town of South Windsor would like CT DEEP to consider eliminating the \$4M pump station construction cap.

Response: The Department specifies the \$4M cap in order to maximize the use of this reserve by as many municipalities as possible. However, in the absence of high demand for this funding reserve, the Department has added language in Section 3C that will allow the town of South Windsor to request removal of this cap for its projects so that it may complete all three rehabilitation projects under one Clean Water Fund agreement.

Thomas Sgroi, Director of Engineering, Greater New Haven Water Pollution Control Authority

Comment: After reviewing the priority list, it was noted that the East Street Pump Station upgrade was omitted from the Fundable Construction Projects List shown in the text portion of the Priority List. Greater New Haven was also curious of how the 10% match of the new Federal Funding (BIL) will be applied, who specifically is eligible, and how that eligibility will be determined.

Response: The Department has added the East Street Pump Station project on the Fundable Construction list. In the Priority List, there is also a new language in Section 4 explaining how BIL funds will be dispersed and what categories of projects will be eligible. Please note that the 10% state match requirement refers to CT's minimum requirement to allocate state funding in order to receive federal state revolving fund grants. Grant and loan percentages for recipients of Clean Water Funds will continue to be dictated by Connecticut General Statutes Section 22a-478 and applicable BIL requirements.

Laura Tessier, Funding Manager, Woodard & Curran

Comment:

1. With regard to the Reserve for Cost Increases, can you clarify whether that will only apply to projects that have already applied for financing or can it apply to projects on the Priority Construction List that expect to go to financing in FY22?

2. In addition, we are noting that guidelines from some other state SRF programs have mentioned that projects that will receive grant funds from BIL supplemental allocations will be subject to Federal Procurement guidelines (2CFR200). Will that be the case for CT SRF?

Response: With regard to the Reserve for Cost Increases, please see the language within Reserve for Cost Increases section stating "this reserve is intended for construction cost increases on currently funded projects". The Department will look into the Federal Procurement guidelines (2CFR200) and assess if that will be the case for CT SRF. Information on the applicability of these guidelines will be communicated to stakeholders through the Department's municipal list-serve.

Peter Hughes, WPCA Administrator, Town of Marlborough

Comment: The Town of Marlborough is submitted shovel ready projects for inclusion in the 2022-2023 CWF Priority List. The Marlborough Town Center/Lake Terramuggus Sewer project (Phase IV and V). The MWPCA will seek local authorization for these phases for additional CWF by November 2022 and again in 2023 after notice of CWF Priority List designation for the remaining shovel ready phase or phases. CWF construction application will occur within ninety (90) days after. The Town will have a complete project bid package ready to advertise for construction quickly. DEEP has approved previous design plans and specs for previous phases as well as previous bid documents, so a lengthy review by DEEP is not anticipated. Therefore, these shovel ready project(s) can be ready to advertise within a fifteen (15) to thirty (30) day period after receipt of DEEP approval for the revisions to bid documents and availability of CWF. The Town looks forward to continue working with DEEP in moving toward the final completion of the construction of the remaining Town Center/Lake Terramuggus Sewer District projects.

Response: The Department will continue to work with the Town to advance these sewer projects. Funding under the Reserve for Construction of Small Community Projects which would be available for the shovel ready projects that serve a population of 5,000 or less, and subject to submittal of a complete Clean Water Fund application. Based on information provided on July 13, 2022 by Mr. Hughes on construction readiness (Phase IV Town authorization in November of 2023 and Phase V in 2024), these projects are not listed since they are beyond the timeframe of the FY22-23 CWF Priority List. DEEP notes that these projects are more appropriate for consideration under the FY24-25 CWF Priority List and recommends the town submit an updated project proposal when DEEP initiates the associated Call for Projects.

Dr. Richard Parnas, REA Resource Recovery Systems

Comment: REA is a Connecticut Corporation based in New Haven that has developed a patented system to remove Fats, Oils, and Greases (FOG) from wastewater treatment plants to convert FOG to high-grade biodiesel with no residual waste. The REA system was patented and incubated at UCONN and the first iteration of this process was funded by the State of Connecticut for use by the Torrington wastewater system. REA is seeking assistance for communities from the State so municipalities can benefit from this advanced technology.

Response: The Department appreciates REA's submission of a comment related to its patented technology. The Clean Water Fund Regulations prohibit dedication of Clean Water Funds to private entities – the Department encourages REA to partner with a municipality that is eligible to receive such funding, subject to submission of a Clean Water Fund application. Potential funding opportunities may exist under the Green Infrastructure/Energy Efficiency Reserve category. Please see EPA guidance on the types of projects that may be funded under the Green Infrastructure/Energy Efficiency reserve. More detailed information on green project types can be found at [Green Project Reserve Guidance for the Clean Water State Revolving Fund \(CWSRF\) | US EPA](#). Upon receipt of a CWF application, the Department will conduct a review to determine eligibility.

Christopher Tymniak, Chief Administrative Officer, Town of Stratford

Comment: Being a coastal town, Stratford has three pump stations. Stratford's stormwater pump stations are decades old and well past their expected service life. Currently, there is no mechanism for State funding for stormwater pump stations. If the Clean Water Fund was to provide grant funding for new or rehabilitation of stormwater pump stations and infrastructure, it would enable significantly improved protection from flooding of the community.

Response: In order to best direct finite state funding resources to the pollution sources which have the greatest negative impact, CT has and will continue to prioritize the use of the CWF for wastewater projects. The Department agrees that flooding is a significant concern and notes that AN ACT CONCERNING CLIMATE CHANGE ADAPTATION provides municipalities with the authority to implement a stormwater utility program, a dedicated funding source for addressing stormwater quantity and quality issues. The Department is evaluating financial assistance opportunities to assist with establishing stormwater authorities. For more information, please contact Rebecca.French@ct.gov.

Jeff LeMay, CTWEA Vice President

Comment: CTWEA would like to thank CT DEEP for their continued support of Clean Water Projects. First item to discuss is the \$4M Cap on pump station projects. For many municipalities it is financially beneficial to upgrade multiple pump stations as part of one large project rather than parceling them out at 1 or 2 per year. This would save a lot of time and money for both the POTWs and CT DEEP as bids from contractors are more likely to come in favorably if these projects are grouped together. The second item to discuss is consideration of a grant portion in the Reserve for Construction of Collection System Improvement Projects which are currently loan only. Another alternative would be some sort of Infrastructure Renewal Grant to encourage municipalities in need to do this critical work. Finally, CTWEA believes it would be advantageous to look towards biosolids improvements at facilities for the future, since this would go a long way towards municipalities meeting the demands of the future.

Response: In response to the \$4M cap on pump station projects, please refer to the Department's response to Mr. Manfre's comment above. The Department did discuss consideration of a grant portion in the Reserve for Construction of Collection System Improvement Projects, however, at this time, in an effort to direct finite grant dollars to the project categories with the most negative impact, the Department will be keeping the reserve as loan only. The Department's focus for grant funding in previous priority lists has been on CSOs, and nutrient removal, such as Nitrogen and Phosphorous removal. However, as new wastewater issues such as PFAS or biosolids, which you also mention, arise, we are actively working to find ways to meet these demands of the future. We look forward to working with CTWEA on these emerging issues.

Nelson Malwitz, Chairman, Brookfield WPCA

Comment: In Section I, Federal IJA funds does not seem correct. Second, Brookfield had submitted a project proposal for the sewers of Candlewood Peninsula, but the project request form is simplistic and does not really allow a way to make a proper case for assignment of points. While the health issues have merited points, issues of nutrients and other pollutants are not represented in the initial point assignment for the Candlewood project. The Town requests that both the CWF Priority List process, and the Brookfield sewer project assignment be revisited.

Response: The amounts indicated in Section 1 for the Federal Capitalization Grant are correct. In addition to the annual federal base grant identified in Section 1, Section 4 identifies additional federal funding expected due to the Bipartisan Infrastructure Law (as known as IJA). The Department has received, reviewed, and assessed priority points for the Brookfield Sewer Project, as prescribed in the Regulations of CT State Agencies Section 22a-482 (CWF Regulations). Please also note that the Reserve for Construction of Small Community Grant Projects provides a dedicated mechanism for small communities to obtain Clean Water Fund grants and loans. The Department is happy to meet to further discuss the Priority points process, as required by the CWF Regulations, with the Town.

Susan Negrelli, Director of Engineering, The Metropolitan District

Comment: MDC is looking for continued assurances from CT DEEP, that, if CWF is available, the District will remain the State's Top Priority for CSO projects. The District also requests that reserves for Construction of I/I Rehabilitation projects be increased to accommodate the total cost of their I/I projects (\$43.2M), which exceeds the \$36M listed in the Draft Priority List reserve. The District is requesting that its Collection System Sewer Gate Replacement Project (\$4M) be listed as a fundable project. The District did also want to confirm that two Granby Area CSO separation projects would be grant eligible from their respective categories (Planning and Design). Lastly, the District updated project costs due to bidding costs and scope revisions for four of their projects shown on the fundable list.

Response: The Department remains focused on funding CSO projects for all municipalities as long as Clean Water Funds are available. The Department has made a change (an increase from \$36M to \$46M) to the reserve for Construction of I/I Rehabilitation projects in order to be able to fund all of the I/I projects submitted. The Department will look into the two Granby Area projects in order to determine the appropriate grant/loan percentages that would apply. Lastly, The Department has updated the projects costs in the Fundable FY22-23 Projects Construction Table to reflect the increased project costs that were mentioned in the comment letter.

Matthew Jermine, Senior Project Manager, Weston & Sampson Engineers, Inc.

Comment: Weston and Sampson on behalf of the Town of Somers requests the addition of the Somersville WPCF Treatment Process Upgrades to the Clean Water Fund Priority List.

Response: The Department has added the Somersville WPCF Treatment Process Upgrades to Table 1 of the Clean Water Fund Priority List.

Erin E. Stewart, Mayor, Town of New Britain

Comment: The Mayor of New Britain submitted a packet with projects the City of New Britain believes qualifies within the parameters set forth in the Infrastructure Investment and Jobs Act.

Response: The Department will review the projects listed within the packet and determine if any can qualify for Clean Water Funds.

IV. Summary of Recommendations and Revisions

Below is a summary of the recommendation(s) and associated revision(s):

- 1) In response to the comments received by South Windsor and CTWEA, the Department has added language within Section 3C that will allow municipalities to request completion of multiple pump station projects that total more than \$4M under one clean water fund agreement, if necessary and if approved by DEEP.
- 2) In response to the comment received by Greater New Haven, the Department has added the East Street Pump Station project onto the Fundable Projects list as it was mislabeled as a pump station project.
- 3) In response to the comment received by MDC, the Department has revised project costs shown in the Fundable Projects list.
- 4) In response to the comment received by MDC, the Department has increased the reserve for Construction of I/I Rehabilitation projects from \$36M to \$46M.
- 5) In response to the comment received by Weston & Sampson, the Department has added the Somersville WPCF Treatment Process Upgrades to Table 1 of the Clean Water Fund Priority List.

V. Final Recommendation

I recommend that the Bureau Chief of Water Protection and Land Reuse adopt the final CWF FY22/23 Priority List as presented in Appendix B.

7/12/2022
Date

/s/ Syed Bodkari
Syed Bokhari, Hearing Officer