

STATE OF CONNECTICUT :
V. :
THE OLD LYME SHORES BEACH ASSOCIATION :

Date of Issuance 10/1/12

Order No. CO WR MU 12-002

CONSENT ORDER

- A. With the agreement of The Old Lyme Shores Beach Association (“OLSBA”), the Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:
1. OLSBA is a specially chartered municipal corporation located in the Town of Old Lyme. OLSBA was established in 1947 by Special Act of the Legislature. OLSBA has the power to levy and collect real estate taxes. By virtue of these powers, OLSBA qualifies for the funding of a sanitary sewer construction project from the State of Connecticut’s Clean Water Fund Program.
 2. OLSBA submitted for the Commissioner’s review a Wastewater Management Plan dated January 2012 prepared by the consulting firm Fuss & O’Neill, Inc., and subsequently amended by the same firm in of June 2012. This plan identified numerous areas within the boundaries of OLSBA that could not support onsite wastewater treatment due to the overall density of development, lack of adequate space or to adverse on-site subsurface conditions, such as shallow groundwater, bedrock, and rapidly draining soils. The report identified as the most technically and economically feasible alternative the conveyance of the wastewater to an offsite facility for treatment and disposal.
 3. OLSBA has not implemented any structural solutions to address the wastewater disposal problems identified in the Plan.
 4. After review of the Plan, staff of the DEEP concurs with the assessment of the conditions regarding wastewater disposal problems and the recommendations for conveyance of the wastewater off-site for treatment and disposal.

5. The implementation of the remedial actions specified in the Plan requires that OLSBA procure capacity in the regional sewerage system serving New London, Waterford, and East Lyme; and design and construct sanitary sewers to collect sanitary sewage within the boundaries of OLSBA and convey it through portions of the Town of Old Lyme, to the regional sewer system.
 6. By virtue of the above, a community pollution problem exists and OLSBA is causing pollution of the waters of the State.
 7. By agreeing to the issuance of this Consent Order, OLSBA makes no admission of fact or law except with respect to the matters addressed in paragraphs A.1 through A.6.
- B. OLSBA shall undertake the following actions which the Commissioner, acting under Sections 22a-6, 22a-424, 22a-427, 22a-428 and 22a-458 of the Connecticut General Statutes, orders:
1.
 - a. On or before sixty (60) days following the effective date of this Order, OLSBA shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this order and shall, by that date, notify the Commissioner in writing of the identity of such consultants. OLSBA shall retain one or more qualified consultants acceptable to the Commissioner until this order is fully complied with, and, within ten days after retaining any consultant other than one originally identified under this paragraph, OLSBA shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained shall be a qualified professional engineer licensed to practice in Connecticut and shall be acceptable to the Commissioner. OLSBA shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
 - b. Unless another deadline is specified in writing by the Commissioner, on or before eight hundred and fifty (850) days after approval of the Plan, OLSBA shall (1) submit for the Commissioner's review and written approval contract plans and specifications for the approved remedial actions, a revised list of all permits and approvals required for such actions, and a revised schedule for applying for and obtaining such permits and approvals, and (2) submit applications for all permits and approvals required under the Connecticut General Statutes for such actions. OLSBA shall use best efforts to obtain all required permits and approvals.

c. OLSBA shall perform the approved remedial actions in accordance with the approved schedule(s), but in no event shall the approved remedial actions be completed by later than June 30, 2016. Within fifteen days after completing such actions, OLSBA shall certify to the Commissioner in writing that the actions have been completed as approved.

d. OLSBA may request that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.

2. Progress reports. On or before the last day of January, April, July and October of each year after issuance of this order and continuing until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner, OLSBA shall submit a progress report to the Commissioner and the Town of Old Lyme First Selectman and Water Pollution Control Authority Chairman describing the actions which OLSBA has taken to comply with this order to date and an anticipated schedule of events to occur over the next 3 months.
3. Full compliance. OLSBA shall not be considered in full compliance with this order until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner.
4. Approvals. OLSBA shall use best efforts to submit to the Commissioner all documents required by this order in a complete and approvable form. If the Commissioner notifies OLSBA that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and OLSBA shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this order. Nothing in this paragraph shall excuse noncompliance or delay.
5. Definitions. As used in this order, "Commissioner" means the Commissioner or an agent of the Commissioner.
6. Dates. The date of submission to the Commissioner of any document required by this order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner,

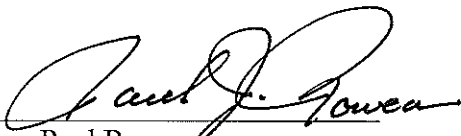
whichever is earlier. Except as otherwise specified in this order, the word "day" as used in this order means calendar day. Any document or action which is required by this order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.

7. Notification of noncompliance. In the event that OLSBA becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this order or of any document required hereunder, OLSBA shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, OLSBA shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and OLSBA shall comply with any dates which may be approved in writing by the Commissioner. Notification by OLSBA shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
8. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this order shall be signed by a principal executive officer or ranking elected official or a duly authorized representative of such person, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
9. Noncompliance. Failure to comply with this order may subject OLSBA to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.
10. False statements. Any false statement in any information submitted pursuant to this order may be punishable as a criminal offense under Section 22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.

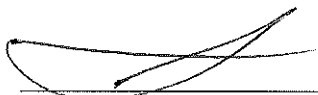
11. Notice of transfer; liability of OLSBA and others. Until OLSBA has fully complied with this order, OLSBA shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations which are the subject of this order, or obtaining a new mailing or location address. OLSBA's obligations under this order shall not be affected by the passage of title to any property to any other person or OLSBA. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
12. Commissioner's powers. Nothing in this order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by OLSBA pursuant to this order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require OLSBA to undertake further investigation or further action to prevent or abate pollution.
13. OLSBA's obligations under law. Nothing in this order shall relieve OLSBA of other obligations under applicable federal, state and local law.
14. No assurance by Commissioner. No provision of this order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by OLSBA pursuant to this order will result in compliance or prevent or abate pollution.
15. No effect on rights of other persons. This order shall neither create nor affect any rights of persons who or municipalities which are not parties to this order. This Consent Order shall not be admissible as evidence of fact or law in any proceeding except one to enforce the terms of this Consent Order.
16. Notice to Commissioner of changes. Within fifteen days of the date OLSBA becomes aware of a change in any information submitted to the Commissioner under this order, or that any such information was inaccurate or misleading or that any relevant information was omitted, OLSBA shall submit the correct or omitted information to the Commissioner.
17. Submission of documents. Any document required to be submitted to the Commissioner under this order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Carlos Esguerra, Sanitary Engineer
Department of Energy and Environmental Protection
Water Management Bureau
Planning & Standards Division
79 Elm Street
Hartford, Connecticut 06106-5127

OLSBA consents to the issuance of this consent order without further notice. The undersigned certifies that he is fully authorized to enter into this consent order and to legally bind OLSBA to the terms and conditions of the consent order.

By 
Paul Rowean
President
The Old Lyme Shores Beach Association
Date: 9/24/12

Issued as a consent order of the Commissioner of Energy and Environmental Protection
on 10/1, 2012.


Macky McCleary
Deputy Commissioner
Department of Energy and Environmental Protection

ORDER NO. CO WR MU 12-002
OLSBA

Note: This sheet is not a part of the order and is only attached to the original order which is retained in separate DEEP files which are accessible to the public with close supervision. The order must be mailed to OLSBA by certified mail, return receipt requested. If OLSBA is a business, send a certified copy of the order to the business alone and a plain copy to the attention of a person at the business.

Certification of Mailing

COWR MU 12-002

On Oct 9, 2012, at 2:00 a.m./p.m. I mailed a certified copy of Order No. A to the following, by placing it in the U.S. mail:

1. Paul Rowean
President
The Old Lyme Shores Beach Association
29 Billow Road
Old Lyme, CT 06371


Certified mail number:

[NOTE: CERTIFIED COPY
TO MUST BE SENT BY
CERTIFIED MAIL]

COWR MU 12-002

On Oct 9, 2012, at 2:00 a.m./p.m. I mailed an uncertified copy of Order No. A to the following, by placing it in the U.S. mail:

1. Honorable Bonnie Reemsnyder
First Selectwoman.
52 Lyme Street
Old Lyme, CT 06371
2. Dimitri Tolchisnki, Chair
Water Pollution Control Authority
52 Lyme Street
Old Lyme, CT 06371


(signature)
[Type name of person who did mailing]
[Type title] Patty Gilmore
[Date] Office Assistant
10/9/12