

Pearson, Jon

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From: Hicks, George <George.Hicks@ct.gov>  
Sent: Wednesday, October 17, 2018 11:12 AM  
To: Pearson, Jon  
Cc: Chelton, Don; Formica, Matt; Fan, Maxwell  
Subject: RE: Ridgefield Wastewater Facilities Upgrade

In response to your email below, I offer four scenarios with expected outcomes based upon the past practice of DEEP. I hope this discussion will help the town to understand potential funding and enforcement outcomes depending on the direction this project takes.

Scenario #1 – Voters approve funding and construction contract executed by June 30, 2019.

The passage of the referendum vote is critical for Ridgefield's Water Pollution Control Facility (WPCF) upgrade. If the vote passes, then Ridgefield will be eligible for funding from the Clean Water Fund (CWF) since the current Priority List for fiscal year 2019 identifies Ridgefield as a fundable construction project for \$49M. In addition, Ridgefield also qualifies for a 50% grant under Public Act 16-57 (PA) for the phosphorus removal process provided the town enter into a construction contract by June 30, 2019. In summary, if the vote passes and the PA deadline is met, the town will be in a position to receive the maximum amount of grant money for this project.

Scenario #2 – Voters do not approve funding in November, however voters approve funding in a subsequent vote. The construction contract is executed after June 30, 2019 but before the adoption of the next Priority List.

If the November vote fails, DEEP recommends the town immediately conduct additional public workshops to address voter's concerns, have another public hearing and hold a second referendum for funding. If this delays entering into a construction contract by June 30, 2019, but prior to the adoption of a new Priority List (see next paragraph), then the only funding change will be the grant on the phosphorus removal process. Unless there is a legislative change to the PA, the 50% phosphorus grant will expire. However, Ridgefield will still be eligible for a 30% grant for nutrient removal. This change in grant percentage (50% to 30%) translates into a reduction in grant funding of approximately \$1.3M based upon a phosphorus removal project cost of \$6.4M. That \$1.3M grant loss will be financed through the CWF as a 2% interest rate loan over 20 years.

As previously mentioned, Ridgefield is on the Priority List for state fiscal year 2019, which ends on June 30, 2019. However, the current Priority List continues to remain in effect until the next Priority List is adopted. There are many factors that contribute to the adoption date of the next Priority List. Some of those factors are within DEEP's control while other factors are outside of our control. In recent years, the adoption date of the Priority List was delayed nearly twelve months, however, Ridgefield should not plan on such a lengthy delay this time. It is in Ridgefield's best interest to submit a complete CWF application to DEEP as soon as possible to secure funding. That application will not be deemed complete until after the project has been bid.

Scenario #3 – Project is delayed until the next CWF Priority List.

There is no guarantee that Ridgefield will be on the next Priority List for funding. There are three primary factors to having your project being identified for funding on the next Priority List. First, is the available funding in the state's capital budget for the CWF program. Second, is the number of priority points for your project. And third, the readiness to proceed to construction of other projects with a higher number of priority

points than your project. Your project has 33 priority points, which in fiscal year 2019 placed Ridgefield toward the bottom third of the fundable list. With the upcoming state election, the change in Governor and likely change in members of the state legislature, there is considerable uncertainty regarding their priority for funding infrastructure improvement programs like the Clean Water Fund. If the state legislature limits the amount of CWF money available, and there are other higher priority point projects ready to proceed to construction during the funding period, then Ridgefield may not be listed as a fundable construction project in the next Priority List.

#### Scenario #4 – Voters do not support funding the project.

Your current National Pollutant Discharge Elimination System (NPDES) permit for the 22 South Street WPCF contains a new and much lower phosphorus limit that can only be achieved through the installation of a phosphorus removal treatment process. If that treatment process is not installed, Ridgefield will be in violation of their NPDES permit.

If the voters do not support the funding authorization, then the phosphorus removal project will not be built. The town's lack of funding support will result in continuous seasonal permit violations of the phosphorus limit starting on April 1, 2021. In situations like this, past practice of DEEP has been to issue the town an Administrative Order (Order) requiring the construction of the necessary facilities in order to comply with the town's NPDES permit. Orders do not guarantee the project will receive CWF financing nor does the schedule in the Order take into consideration when funding may be available. Sometimes, enforcement actions are issued after the permit violation occurs. In other cases, enforcement actions are issued based upon a reasonable expectation that pollution of the waters of the state may be anticipated. Should a town ignore the Order, then DEEP refers this matter to the Attorney General's office for further enforcement action in Superior Court. In most cases, the town is issued a Stipulated Judgment from Superior Court to construct the project. The Stipulated Judgment usually contains an upfront financial penalty to be paid by the town, as well as financial penalties for missing interim and the final deadline. The penalties for missing those deadlines are assessed for each day the town is in violation with the Stipulated Judgment and those penalties typically increase in value over time. Like DEEP's Order, the schedule contained in the Stipulated Judgment is not predicated on the availability of CWF financing for the project.

#### Summary

As you can see from the discussion above, the order of the scenarios goes from the most favorable to the least favorable. The longer your project is delayed, the risk of not receiving CWF financing increases. DEEP hopes the town voters recognize the financial and environmental benefits of building this project and show their support to fund this project on November 6<sup>th</sup>.

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From: Pearson, Jon [mailto:Jon.Pearson@aecom.com]  
Sent: Friday, October 12, 2018 2:36 PM  
To: Hicks, George <George.Hicks@ct.gov>  
Cc: Chelton, Don <Don.Chelton@aecom.com>; Formica, Matt <Matthew.Formica@aecom.com>; Fan, Maxwell <Maxwell.Fan@ct.gov>  
Subject: Ridgefield Wastewater Facilities Upgrade

Hi George:

As we discussed, the WPCA has asked that we contact you regarding the upcoming referendum vote for the funding for the \$48 million for construction of the planned Wastewater Facilities Upgrade. The referendum vote is scheduled for November 6<sup>th</sup>, and the WPCA has scheduled several public information meetings in advance of the vote to provide information on the project. The first public meeting was held on September 22, 2018, and the second public meeting is scheduled for next Wednesday October 17, 2018. Attached is a copy of the presentation slides from the Sept. 22<sup>nd</sup> meeting for reference.

During a conference call with the WPCA members today, the WPCA asked if we could get input from the DEEP on the ramifications on both project funding, and any potential regulatory actions that the DEEP would consider taking, if the referendum vote to fund the project to upgrade the South Street WWTF to meet the new phosphorus limits (and to consolidate the Route 7 WWTF at the South Street WWTF) were to fail. They want to be able to answer the question that will likely come during the meeting of "what happens if this does not pass".

We would appreciate any input that you or others at the DEEP can provide on this question, and would greatly appreciate a response if possible by mid-day on Wednesday Oct. 17<sup>th</sup>, to give the WPCA time to consider the information you can provide before the evening public meeting that day

If you have any questions on this request, please feel free to contact us.

Best Regards,

Jon

**Jon R. Pearson, P.E.**

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