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Affirmative Action/Equal Opportunity Employer

STATE OF CONNECTICUT
V.
TOWN OF OLD LYME

ADMINISTRATIVE ORDER

A. The Commissioner of Energy and Environmental Protection ("the Commissioner") finds:

1. The town of Old Lyme ("Respondent") submitted in draft form for the Commissioner's review and comment an engineering report ("the Plan") entitled: "Coastal Wastewater Management Plan" on December 26, 2013, October 17, 2014 and most recently revised on December 19, 2014. The Plan prepared by the consulting firm Woodard & Curran on behalf of the Respondent, identified Hawks Nest, Miami Beach Association, Sound View, Old Colony Beach Association, Old Lyme Shores Beach Association, and Miscellaneous Town Area B as areas that could not support onsite wastewater renovation on a long term basis.
2. The Plan identifies the shoreline areas described in A(1) above, as areas unsuitable for onsite wastewater renovation due to the overall high density of development, limited lot size, risk of flooding, prevalence of substandard on-site wastewater treatment systems and overall adverse subsurface conditions. The Plan identifies the conveyance of wastewater to the town of East Lyme sanitary sewer system for conveyance to and final treatment at the Pineenti Municipal Wastewater Treatment Plant in the City of New London ("WWTP"), as the most cost effective and technically feasible alternative.
3. The Commissioner via letter dated April 15, 2015 informed the Respondent of his concurrence with the identification of needs, alternatives analysis and recommended alternative pursuant to items A(1) and A(2) above. Said letter included final review comments based on the aforementioned December 19, 2014 draft report.
4. In letter dated June 1, 2015, Respondent informed the Commissioner of their inability to respond to the comments referenced in A(3) above and finalize the Plan due to the unavailability of local funding.
5. Respondent has not implemented any structural solutions to address the wastewater management needs identified in the Plan.

B. The Commissioner, acting under sections 22a-6, 22a-423, 22a-424, 22a-427, 22a-428 and 22a-458 of the Connecticut General Statutes, orders the Respondent as follows:

1. a. On or before thirty (30) days following the effective date of this Order, Respondent 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. Respondent

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, Respondent 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. Respondent 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 timing a previously acceptable consultant unacceptable

b. On or before sixty (60) days following the effective date of this Order, Respondent shall submit for the Commissioner's review an Environmental Impact Evaluation ("EIE") document based on The Plan, and prepared in accordance with Connecticut Environmental Policy Act requirements pursuant to Sections 22a-1(a)-1 to 22a-1(a)-12 of the Regulations of Connecticut State Agencies.

c. On or before ninety (90) days after publication by the Commissioner of the above-referenced EIE, Respondent shall submit to the Commissioner for his review and written approval an updated version of The Plan incorporating responses to both the comments issued by the Commissioner pursuant to A(3) above and comments received during the EIE comment period. The Plan shall state in detail the most expeditious schedule for performing the recommended remedial action, and list all permits and approvals required for implementation of the recommended remedial action including but not limited to any permits or certifications required under Sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, 22a-430 or 25-68 of the Connecticut General Statutes. The schedule shall provide for completion of the recommended remedial action as soon as possible, but in no event later than October 31st, 2018.

d. Respondent 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. Full compliance. The Respondent 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.
3. Approvals. Respondent 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 Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent 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.

4. Definitions: As used in this order, "Commissioner" means the Commissioner or an agent of the Commissioner.
5. 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.
6. Notification of noncompliance. In the event that Respondent 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, Respondent 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, Respondent 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 Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent 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.
7. 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."

8. Noncompliance. Failure to comply with this order may subject Old Lyme to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.
9. 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-131 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.
10. Notice of transfer, liability of Old Lyme and others. Until Respondent has fully complied with this order, Respondent 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, the site or the business, or obtaining a new mailing or location address. Respondent's obligations under this order shall not be affected by the passage of title to any property to any other person or municipality. Any future owner of the site may be subject to the issuance of an order from the Commissioner.
11. 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 Respondent 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 Respondent to undertake further investigation or further action to prevent or abate pollution.
12. Respondent's obligations under law. Nothing in this order shall relieve Respondent of other obligations under applicable federal, state and local law.
13. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the site without prior notice for the purposes of monitoring or enforcing the actions required or allowed by this consent order.
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 Respondent 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.
16. Notice to Commissioner of changes. Within fifteen days of the date Respondent 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, Respondent 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 II
Department of Energy and Environmental Protection
Bureau of Water Protection and Land Reuse
Planning & Standards Division
79 Elm Street
Hartford, Connecticut 06106-5127

Issued as an Order of the Commissioner of Energy and Environmental Protection on _____, 2015.



Michael Sullivan
Deputy Commissioner
Department of Energy and Environmental Protection

Order No. _____