

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



Raul Pino, M.D., M.P.H.
Commissioner

Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

August 29, 2017

VIA CERTIFIED MAIL AND EMAIL

Christopher J. Smith, Esq.
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919

CM RRR #91 7199 9991 7035 3416 3929
& First Class Mail

Commissioner Robert Klee
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

CM RRR #91 7199 9991 7035 3416 3912
& First Class Mail

RE: Woodridge Lake Sewer District's Proposed Regional Sewer Connection Project

Dear Attorney Smith and Commissioner Klee:

Please find enclosed the Department of Public Health's Findings and Order in the above-referenced matter.

Sincerely,

Raul Pino, MD, MPA
Commissioner

cc: Yvonne T. Addo, MBA, Deputy Commissioner, DPH (yvonne.addo@ct.gov)
Antony A. Casagrande, Esquire, General Counsel, DPH (antony.casagrande@ct.gov)
Frederic L. Klein, Esquire, Pullman & Comley LLC (fklein@pullcom.com)
Ms. Betsey Wingfield, Bureau Chief, Bureau of Water Protection and Land Reuse, DEEP
(betsey.wingfield@ct.gov)
Ms. Jennifer Perry, Assistant Director, Water Planning and Standards Division, DEEP
(jennifer.perry@ct.gov)



Phone: (860) 509-7566 • Fax: (860) 509-7553
410 Capitol Avenue, P.O. Box 340308
Hartford, Connecticut 06134-0308
www.ct.gov/dph

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Hon. Elinor Carbone, Mayor, City of Torrington (elinor_carbone@torringtonct.org)
Mr. Jay Bate, Jr., Chairman, Inland Wetland Commission, City of Torrington
Ms. Rista Malanca, Zoning and Wetlands Enforcement Officer, City of Torrington
(rista_malanca@torringtonct.org)
Hon. Robert Valentine, First Selectman, Town of Goshen (1stselectman@goshenct.gov)
Mr. Thomas R. Stansfield, Chairman, Inland Wetland and Water Courses Commission, Town
of Goshen
Ms. Stacey Sefcik, Land Use Commissions Clerk, Town of Goshen (ssefcik@goshenct.gov)
Mr. Johan Strandson, Area Director, USDA Norwich Service Center
(johan.strandson@ct.usda.gov)
Connecticut Water Planning Council (wpc@ct.gov)
Mr. Robert Rubbo, Director of Health, Torrington Area Health District (rrubbo@tahd.org)

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ORDER

Pursuant to *Conn. Gen. Stat.* § 25-34, the Department of Public Health (hereinafter "the Department") conducted an investigation to determine whether Woodridge Lake Sewer District's (hereinafter "WLSD") proposed regional sewer connection project (hereinafter "the Proposed Project") is polluting or threatening the pollution of a source of public drinking water supply that in the Department's judgment is prejudicial to public health. The Proposed Project will run through a portion of the Allen Dam Reservoir watershed, which is a public drinking water supply watershed¹ of the Torrington Water Company (hereinafter "TWC").

1. The Department's Jurisdiction and Authority:

- a. The Department has jurisdiction over all matters concerning the purity and adequacy of public drinking water supplies pursuant to *Conn. Gen. Stat.* § 19a-2a and *Conn. Gen. Stat.* §§ 25-32 *et seq.*
- b. The Department has jurisdiction and authority to issue this Order pursuant to *Conn. Gen. Stat.* §§ 19a-2a, 25-32 and 25-34.

2. Torrington Water Company and the Allen Dam Reservoir:

- a. TWC is a water company, as defined in *Conn. Gen. Stat.* § 25-32a. It serves 40,000 people in Torrington, Litchfield and parts of Burlington, Harwinton, and New Hartford. *See* Letter from Mr. Stephen K. Rupar, P.E., Vice President, Tata & Howard, Inc., to Ms. Susan M. Suhanovsky, TWC, dated August 16, 2016, p. 4. TWC also provides a wholesale supply of water to Aquarion Water Company of Connecticut's Litchfield system. *See* TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, chapter III, p. 13.
- b. The Allen Dam Reservoir, which is one of TWC's two distribution reservoirs, is located in Torrington and is owned and used by TWC as an active source of water supply. Pursuant to § 19-13-B102(c) of the Regulations of Connecticut State Agencies, TWC conducts routine water quality monitoring on the raw water of the Allen Dam Reservoir, as required for all active sources of water

¹ A watershed is the land from which water drains into a public drinking water supply. It is important because the purity of the water in a public drinking water supply is affected by activities, human-induced or not, happening in the watershed.



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supply. See [The Department's Public Drinking Water Section Water Quality Monitoring and Compliance Schedule for TWC](#).

- c. Pursuant to § 19-13-B102(e)(7)(T) of the Regulations of Connecticut State Agencies, from August 2007 to March 2008, TWC conducted the first round of monthly monitoring of the raw water at the water treatment plant intake of the Allen Dam Reservoir for *Cryptosporidium*, as required by the federal Long Term 2 Enhanced Surface Water Treatment Rule (hereinafter "federal LT2 Rule"). TWC began the second round of monthly monitoring of the raw water, as required by the federal LT2 Rule, in October 2016 and will complete such monitoring in September 2018. The results of the first round of monitoring and the results submitted to date in the second round of monitoring indicate that the raw water at the water treatment plant intake of the Allen Dam Reservoir contains no *Cryptosporidium* oocysts. See TWC sampling results in the Department's Safe Drinking Water Information System (hereinafter "SDWIS").
- d. Water from TWC's Whist Pond located in Goshen, one of TWC's two storage reservoirs, is released to the Allen Dam Reservoir, which is downstream of Whist Pond, through a pipeline. Water is then pumped from the Allen Dam Reservoir to a filtration plant for treatment and distribution to TWC's customers. See Letter from Frederic L. Klein, Esq., to Commissioner Pino, the Department, dated November 21, 2016, p. 2; see also TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, Appendix I-7. If TWC is unable to use the Allen Dam Reservoir as a source of water supply, then TWC is unable to use Whist Pond as a source of water supply See Letter from Frederic L. Klein, Esq., to Commissioner Pino, the Department, dated November 21, 2016, p. 2.
- e. The Allen Dam Reservoir, including the water released into it from Whist Pond, represents 27 percent of the total safe yield of TWC's sources of water supply. See *Id.* TWC uses the Allen Dam Reservoir as a source of water supply during periods of drought and high demand. See *Id.*; see also TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, chapter II, p. 6. It also uses the Allen Dam Reservoir as a source of water supply for fire protection. See TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, chapter II, p. 6.
- f. Loss of the Allen Dam Reservoir would impact TWC's ability to provide an adequate supply of drinking water to TWC's customers in the future under TWC's long-term maximum day demand projections. See Letter from Frederic L. Klein, Esq., to Commissioner Pino, the Department, dated November 21, 2016, p. 2; see also Memorandum from Mr. Peter Galant, P.E., President, Tighe and Bond, to Ms. Susan Suhanovsky, President, TWC, dated March 14, 2014.
- g. Under certain conditions, which are documented in TWC's Emergency Contingency Plan, the Allen Dam Reservoir would be the sole source of water supply for TWC. See TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, Appendix II.8.b.
- h. No municipal sanitary sewer lines are located within the Allen Dam Reservoir watershed. See [Interactive Locational Guide Map of the State of Connecticut's Conservation and Development Policies Plan 2013-2018](#) (hereinafter "C and D Plan").

3. WLSD:

- a. WLSD is an independent municipal tax district located in Goshen. It is a private residential development located around the 385-acre Woodridge Lake and is comprised of 691 existing, and between 170 and 186 potential future, residential dwellings. See WLSD Regional Sewer

Connection Project, Facilities Plan Summary Report, May 19, 2016, p. 4; *see also* WLSD Regional Sewer Connection Project, Project Update Report, dated November 21, 2016, p. 5.

- b. WLSD's sewer service area is located entirely within the Shepaug Reservoir watershed, a source of public drinking water for the customers of the Waterbury Water Department. *See* [Interactive Locational Guide Map of the C and D Plan](#).
- c. WLSD's existing water pollution control facility is located within an area identified in the Interactive Locational Guide Map of the C and D Plan as the state potential future potable watershed of the Shepaug River. WLSD's existing water pollution control facility discharges into the Class GAAs² ground water associated with the Bantam River watershed, which is tributary to the section of the Shepaug River that is identified in the Interactive Locational Guide Map of the C and D Plan as a state potential future potable watershed. *See* Id.

4. Consent Order and Alternatives Considered by WLSD:

- a. On June 27, 1989, the Department of Energy and Environmental Protection (hereinafter "the DEEP"), formerly the Department of Environmental Protection, issued a consent order to WLSD that required WLSD to address its sanitary sewer collection and wastewater treatment and disposal needs. The consent order is still in effect. *See* WLSD Regional Sewer Connection Project, Project Update Report, dated November 21, 2016, p. 1.
- b. In July 2013, Woodard & Curran, Inc. (hereinafter "Woodard & Curran"), WLSD's consultant, prepared a Preliminary Summary Report (hereinafter "July 2013 Preliminary Summary Report"), which provided a step-by-step framework to define the conditions of the existing wastewater infrastructure, determine WLSD's needs and identify recommended solutions. The purpose of the Preliminary Summary Report was to be "used to facilitate discussions with DEEP prior to completing the [Facilities Plan Update], and submitting the final Report prior to implementation of the Recommended Plan." In the July 2013 Preliminary Summary Report, the WLSD evaluated five alternatives to resolve its sanitary sewer collection and wastewater treatment and disposal needs: the Local Alternative and Regional Alternative T1³, as well as three other alternatives.
- c. In a letter to WLSD dated April 10, 2014, the DEEP told WLSD that, based on the information provided to the DEEP to date, it cannot concur with the construction of an on-site wastewater treatment and disposal alternative. It also stated that, in the DEEP's opinion, the connection to the city of Torrington's Water Pollution Control Authority (hereinafter "WPCA") still remains a technically and economically feasible alternative that must be explored further. *See* Letter from Mr. Oswald Inglese, Jr., Director, Water Permitting and Enforcement Division, Bureau of Materials Management and Compliance Assurance, the DEEP, to Mr. Raymond Turri, President, WLSD, dated April 10, 2014.
- d. On January 20, 2016 in its Planning and Zoning Commission meeting, pursuant to a *Conn. Gen. Stat.* § 8-24 review, the city of Torrington's Planning and Zoning Commission made a favorable recommendation to the Mayor of Torrington and the city of Torrington's WPCA regarding

² The water quality classification is a tool that is used to set an overall policy for management of Connecticut's surface and ground waters. All surface waters and ground waters in the state are classified and there are designated uses and waste water discharge restrictions associated with each classification. Surface water and ground water associated with existing or future potential public drinking water supplies are designated AA, GAA or GAAs. One purpose of the water quality classifications is to ensure the segregation of drinking water supplies from waters used for waste assimilation.

³ The Regional Alternative T1 is the Proposed Project, which will run through approximately 4,550 linear feet of the TWC's Allen Dam Reservoir watershed. *See Infra* Paragraph 5.b.

WLSD's "proposed wastewater transmission system to Torrington Municipal sewer system with the provision that Torrington's Sewer Service Area remains the same, the Zoning designation for properties along the pipe route are not changed, WLSD pays its fair share of capital costs and associated operating and maintenance expenses and Torrington and the WPCA agrees that there is adequate capacity to accept the flow at Torrington's [Water Pollution Control Facility (hereinafter "WPCF")]". *See* City of Torrington Planning and Zoning Commission Minutes, January 20, 2016 Commission Meeting.

- e. On February 19, 2016, the United States Department of Agriculture's Rural Development⁴ (hereinafter "the USDA-RD") found that, based upon its review of WLSD's description of the Proposed Project in its Environmental Report dated February 11, 2016 and prepared for WLSD by Woodard & Curran (hereinafter "February 11, 2016 Environmental Report"), the Proposed Project was categorically excluded because it did not have any extraordinary circumstances⁵ or individually or cumulatively have a significant effect on the human environment. The USDA-RD therefore concluded that neither an environmental assessment nor an environmental impact statement was required under the federal National Environmental Policy Act of 1969, 42 USC §§ 4321 to 4347. The USDA-RD also concluded that public notice of such Proposed Project was not required. *See* Exhibit H—Environmental Checklist for Categorical Exclusions Form for WLSD's Proposed Project, fully-executed by the USDA-RD on February 19, 2016.
- f. In April 2016, the USDA-RD approved WLSD's Preliminary Engineering Report, dated February 10, 2016 and prepared for WLSD by Woodard & Curran (hereinafter "February 10, 2016 PER"), and its Environmental Report, dated March 16, 2016 and prepared for WLSD by Woodard & Curran (hereinafter "March 16, 2016 Environmental Report"), for the Proposed Project. *See* WLSD Regional Sewer Connection Project, Project Update Report, November 21, 2016, p. 2. Neither the February 10, 2016 PER nor the March 16, 2016 Environmental Report acknowledged that the Proposed Project would cross a public drinking water supply watershed.
- g. In April 2016, the USDA-RD offered a loan to WLSD to fund its Proposed Project. *See Id.*
- h. In a letter dated May 17, 2016, the DEEP approved WLSD's Facilities Planning Summary Report, dated May 9, 2016 and prepared for WLSD by Woodard & Curran (hereinafter "May 9, 2016 Facilities Planning Summary Report"). *See* WLSD Regional Sewer Connection Project, Project Update Report, November 21, 2016, Appendix B. In the May 9, 2016 Facilities Planning Summary Report, WLSD evaluated four alternatives to resolve its sanitary sewer collection and wastewater treatment and disposal needs: the Local Alternative and Regional Alternatives T1, T2 and L1. *See* May 9, 2016 Facilities Planning Summary Report.
- i. In a letter dated June 13, 2016, TWC notified the Department of the Proposed Project. *See* Letter from Ms. Susan M. Suhanovsky, President, TWC, to Ms. Lori Mathieu, Public Health Section Chief, Drinking Water Section, the Department, dated June 13, 2016. Prior to receiving TWC's June 13, 2016 letter, the Department was not aware of the Proposed Project.
- j. In a letter dated July 5, 2016, WLSD told the president of TWC that, in light of concerns TWC recently expressed to WLSD both verbally and in writing, WLSD has considered the elements of the Proposed Project and provided to TWC a summary demonstrating that the Proposed Project will ensure the continued protection of TWC's public drinking water supply and infrastructure. In that letter, WLSD also discussed the alternative route that TWC had suggested, the use of the proposed and alternative piping, and post-construction monitoring. *See* Letter from Mr. James L.

⁴ The WLSD submitted its Environmental Report dated February 11, 2016 to USDA-RD for review and approval because USDA-RD is providing funding for the Proposed Project and required such submission.

⁵ *See* 40 CFR. 6.204(b) for the list of extraordinary circumstances.

Mersfelder, Vice President, WLSD, to Ms. Susan M. Suhanovsky, President, TWC, dated July 5, 2016.

- k. In a letter dated August 4, 2016, the Public Health Section Chief of the Department's Drinking Water Section provided comments to the Town of Goshen's Inland Wetland and Watercourses Commission pursuant to *Conn. Gen. Stat. § 25-32f* regarding WLSD's Proposed Project. *See* Letter from Ms. Lori Mathieu, Public Health Section Chief, Drinking Water Section, the Department, to Mr. Thomas R. Stanfield, Chairman, Inland Wetland and Watercourses Commission, Town of Goshen, dated August 4, 2016. In the August 4, 2016 letter, the Department indicated that no one, including WLSD, delineated the Allen Dam Reservoir watershed during the decision-making process. WLSD was in front of the town of Goshen's Inland Wetland and Watercourses Commission as it applied to it for an Inlands Wetlands Permit for the portion the Proposed Project located in the Town of Goshen.
- l. In a letter dated August 15, 2016, the Public Health Section Chief of the Department's Drinking Water Section provided comments to the City of Torrington's Inland Wetland Commission pursuant to *Conn. Gen. Stat. § 25-32f* regarding WLSD's Proposed Project. *See* Letter from Ms. Lori Mathieu, Public Health Section Chief, Drinking Water Section, the Department, to Mr. Jay Bate, Jr., Chairman, Inland Wetlands Commission, City of Torrington, dated August 15, 2016. In the August 15, 2016 letter, the Department indicated that no one, including WLSD, delineated the Allen Dam Reservoir watershed during the decision-making process. WLSD was in front of the City of Torrington's Inland Wetland Commission as it applied to it for an Inland Wetland and Watercourse Permit for the portion of the Proposed Project located in the City of Torrington.
- m. On September 1, 2016, TWC requested that the Department institute an investigation and order WLSD to "pursue its alternative route for a proposed force main in lieu of [the Proposed Project] which would route the force main through TWC's Allen Dam Reservoir watershed and threaten the water supply to 40,000 people in the Torrington area". *See* Letter from Frederic L. Klein, Esq., to Commissioner Raul Pino, the Department, dated September 1, 2016.
- n. On September 1, 2016, the Town of Goshen's Inland Wetland Commission issued WLSD an Inlands Wetlands Permit for the Proposed Project. *See* Town of Goshen Inlands Wetlands Permit Number 16-09-03W.
- o. On September 20, 2016, the City of Torrington's Inland Wetland Commission issued WLSD an Inland Wetland and Watercourse Permit for the Proposed Project. *See* City of Torrington Inland Wetland and Watercourse Permit Number WC 16-09-01.
- p. On November 2, 2016, the Commissioner of the Department sent a letter to TWC and WLSD notifying them that, pursuant to *Conn. Gen. Stat. § 25-34*, the Department has instituted an investigation to determine whether WLSD's Proposed Project may cause the pollution or threatened pollution of a source of public drinking water supply and requesting additional information. *See* Letter from Commissioner Raul Pino, the Department, to Frederic Lee Klein, Esq., Pullman & Comley LLC, and Christopher J. Smith, Esq., Shipman & Goodwin LLP, dated November 2, 2016.
- q. On November 21, 2016, WLSD submitted to the Department a Project Update Report, dated November 21, 2016 and prepared for WLSD by Woodard & Curran (hereinafter "November 21, 2016 Project Update Report"). The November 21, 2016 Project Update Report includes an update regarding the alternatives analysis. Specifically, WLSD updated its alternatives analysis to reflect the fact that a portion of the Proposed Project is in TWC's Allen Dam Reservoir watershed. *See* WLSD Regional Sewer Connection Project, Project Update Report, November 21, 2016, p. 2.

- r. In the November 21, 2016 Project Update Report, Woodard & Curran evaluated three of WLSD's original alternatives to resolve its sanitary sewer collection and wastewater treatment and disposal needs, which are the Local Alternative and Regional Alternatives T1 and T2, plus three new alternatives, which are Regional Alternative T3, which is the alternative suggested by TWC in discussions with WLSD, *see* Letter from Mr. James L. Mersfelder, Vice President, WLSD, to Ms. Susan M. Suhanovsky, President, TWC, dated July 5, 2016, and Regional Alternatives T4 and L1. *See* WLSD Regional Sewer Connection Project, Project Update Report, November 21, 2016, pp. 6-20.
- s. The Local Alternative, which Woodard & Curran first evaluated in WLSD's July 2013 Preliminary Summary Report, would replace WLSD's existing WPCF at its current location on Brush Hill Road in Goshen with a new WPCF that would discharge into the Class GAAs ground water of the Bantam River, a tributary to the Shepaug River future potential public water supply area. The WLSD tabled the Local Alternative due to regulatory challenges associated with the separation to groundwater and travel time for the effluent disposal system. Woodard & Curran's opinion of probable cost for the Local Alternative is \$18,945,000, in 2016 costs, and its estimated Year 1 operation and maintenance costs is \$768,000, in 2016 costs. *See Id.*, pp. 6-7.
- t. Regional Alternative T1, the Proposed Project, which Woodard & Curran first evaluated in WLSD's July 2013 Preliminary Summary Report, would route a force main along Brush Hill Road, Old Middle Street (Route 63), Pie Hill Road, East Street South and Torrington Road (Route 4), with interconnection to the Torrington sewer system near the intersection of Lover's Lane and Goshen Road (Route 4) and consist of 34,370 feet of pipe. Woodard & Curran's opinion of probable cost for Regional Alternative T1 is \$15,612,000, in 2016 costs, and its estimated Year 1 operation and maintenance costs is \$590,486, in 2016 costs. *See Id.*, pp. 8 and 9.
- u. Regional Alternative T2, which Woodard & Curran first evaluated in WLSD's March 16, 2016 Environmental Report, would route a force main along Brush Hill Road, Old Middle Street (Route 63), through Litchfield along Deming Road, to Weed Road and Highland Avenue, with the interconnection to the Torrington sewer system west of Birney Brook Road and consist of 36,015 feet of pipe. Woodard & Curran's opinion of probable cost for Regional Alternative T2 is \$20,010,000, in 2016 costs, and its estimated Year 1 operation and maintenance costs is \$605,486, in 2016 costs. *See Id.*, pp. 8 and 9.
- v. Regional Alternative T3, which Woodard & Curran evaluated for the first time in the November 21, 2016 Project Update Report, would route a force main along Brush Hill Road, Old Middle Street (Route 63), along Deming Road through Litchfield, to Weed Road and then to Goshen Road (Route 4), with interconnection to the Torrington sewer system at Lover's Lane and Goshen Road (Route 4) and consist of 36,140 feet of pipe. Woodard & Curran's opinion of probable cost for Regional Alternative T3 is \$18,200,000, in 2016 costs, and its estimated Year 1 operation and maintenance costs is \$600,486, in 2016 costs. *See Id.*, pp. 8 and 9.
- w. Regional Alternative T4, which Woodard & Curran first evaluated in the November 21, 2016 Project Update Report, would route a force main along Brush Hill Road, then south along Old Middle Road (Route 63) and Goshen Road (Route 63) to West Street (Route 202) and then Torrington Road (Route 202), where it would connect to the Torrington sewer system on Torrington Road in Litchfield. WLSD did not evaluate Alternative T4 further because it would be a connection to a low pressure sewer system and the hydraulics of the system would not accommodate an 8-inch force main pipe. Therefore, WLSD eliminated Regional Alternative T4 from the alternatives analysis. *See Id.*, p. 8.
- x. Regional Alternative L1, which Woodard & Curran first evaluated in WLSD's March 16, 2016 Environmental Report, would route a force main south from the WLSD plant pump station along

Town Hill Road to the Litchfield town line and then along Beach Street and Constitution Way in Litchfield, where it would connect to the existing Litchfield sewer system at the intersection of Constitution Way and Whites Wood Road and consist of 23,890 feet of pipe. Woodard & Curran's opinion of probable cost for Regional Alternative L1 is \$23,909,000, in 2016 costs, and its estimated Year 1 operation and maintenance costs is \$797,514, in 2016 costs. *See Id.*, pp. 8 and 9.

- y. Wastewater from the Torrington sewer system is treated at the city of Torrington's WPCF. The city of Torrington's WPCF discharges into the Naugatuck River, which is designated as a Class B river⁶. *See* Final Draft of the Facility Plan for the City of Torrington, CT WPCF, dated October 2012, pp. 1-1 and 6-37.
- z. Wastewater from the Litchfield sewer system is treated at the town of Litchfield's WPCF. The town of Litchfield's WPCF discharges into the Bantam River, which is a Class AA surface waterbody⁷. *See* Letter from Mr. Paul Dombrowski, P.E., B.C.E.E., Vice President, Woodard & Curran, to Mr. Paul Stacey, Director, Planning and Standards Division, Bureau of Water Protection and Land Reuse, the DEEP, dated October 13, 2010, p. 2. The Bantam River is also tributary to the Shepaug River, which is identified in the Interactive Locational Guide Map of the C and D Plan as a state potential future potable watershed. *See* [Interactive Locational Guide Map of the C and D Plan](#).
- aa. The portion of the Proposed Project that would run through the Allen Dam Reservoir watershed is designated by the city of Torrington as a Watershed Protection Zone in the Water Resources Plan of the City of Torrington's Plan of Conservation and Development⁸. *See* [City of Torrington's Plan of Conservation and Development, Adopted on January 13, 2010 and Effective on January 19, 2010, p. 4-3](#); *see also* [City of Torrington's Zoning Map, Version 14, as amended September 22, 2016](#).
- bb. As part of the Proposed Project and Regional Alternative T3, WLSD would replace existing pipe that runs through TWC's Crystal Lake Reservoir watershed. *See* Letter from Ms. Denise Ruzicka, Director, Water Planning and Management Division, Bureau of Water Protection and Land Reuse, DEEP, to Ms. Lori Mathieu, Public Health Section Chief, Drinking Water Section, the Department, dated May 1, 2017, p. 3. Crystal Lake Reservoir is an inactive source of supply. *See* Interactive Locational Guide Map of the C and D Plan.
- cc. Of the six alternatives that WLSD considered, the Proposed Project is the only alternative that would cross an active public water supply watershed. *See* [Interactive Locational Guide Map of the C and D Plan](#).

5. Proposed Project:

⁶ The designated uses of a Class B river are for swimming and recreation, healthy aquatic habitat, industrial supply, and agricultural use. Some discharges allowed in a Class B river are clean water, drinking water treatment systems, dredging and dewatering, discharges from industrial and municipal wastewater treatment facilities.

⁷ The designated uses of Class AA surface waterbody are for an existing or potential public supply, swimming and recreation, healthy aquatic habitat, industrial supply, and agricultural use. The only wastewater discharges that are allowed in a Class GAA surface waterbody are discharges from public or private drinking water treatment systems dredging and dewatering and emergency and clean water discharges.

⁸ The Water Resources Plan of the City of Torrington's Plan of Conservation and Development shows the limits and boundaries of minor watersheds within the city of Torrington. It also delineates larger tributaries, water bodies and rivers. Watershed Protection Zones are delineated on the Water Resources Plan.

- a. According to WLSD, it chose the Proposed Project over the other alternatives based on reduced uncertainty due to the lack of any easements required, the ease of construction and cost. *See* WLSD's Phase 1 and 2 Environmental Report, issued on December 26, 2015 and updated on February 10, 2016, p. 7.
- b. Under the Proposed Project, the force main will run through approximately 4,550 linear feet of the Allen Dam Reservoir watershed. *See* Letter from Mr. James L. Mersfelder, Vice President, WLSD, to Ms. Susan M. Suhanovsky, President, TWC, dated July 5, 2016, p. 1; *see also* Letter from Frederic L. Klein, Esq., to Commissioner Pino, the Department, dated September 1, 2016, Exhibit 2, p. 2.
- c. Under the Proposed Project, the force main would be constructed within existing Department of Transportation (hereinafter "the DOT") rights-of-way in Goshen and Torrington. *See* November 21, 2016 Project Update Report, p. 13. Such rights-of-way in the Allen Dam Reservoir watershed are bounded on either side by TWC's class I⁹ and II¹⁰ water company-owned land. *See Id.*; *see also* Letter from Mr. James L. Mersfelder, Vice President, WLSD, to Ms. Susan M. Suhanovsky, President, TWC, dated July 5, 2016, Attachment A; *see also* TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, chapter II, p. 4 (Reference Map).
- d. The route of the Proposed Project would cross nine different storm drain or culvert crossings in the Allen Dam Reservoir watershed. *See* Letter to Mr. Ray Drew, Administrator, city of Torrington WPCA, from Mr. Jay G. Sheehan, P.E., Senior Vice President, Woodard & Curran, and Mr. David R. Prickett, P.E., David Prickett Consulting, LLC, dated February 6, 2017.
- e. Under the Proposed Project, a roughly 200 linear foot section of the force main that runs through the Allen Dam Reservoir watershed would be in the vicinity of one of the culvert crossings, which contains a tributary stream that feeds into the Allen Dam Reservoir and is bounded on either side by TWC's class I water company land. *See* Letter from Mr. James L. Mersfelder, Vice President, WLSD, to Ms. Susan M. Suhanovsky, President, TWC, dated July 5, 2016, Attachment A.
- f. In July 2016, after acknowledging that, under the Proposed Project, a 4,550 linear foot section of force main would run through the Allen Dam Reservoir watershed, WLSD added additional design features to that section of the force main (hereinafter "Additional Design Features"). Specifically, WLSD replaced the proposed piping in the 200 linear foot section that would be in the vicinity of the culvert crossing containing a tributary stream that feeds into the Allen Dam Reservoir with two 8-inch PVC C900 DR18 pipes (primary and spare force main) with a pressure rating of 160 pounds per square inch (hereinafter "psi"), and sleeved both pipes in 18-inch HDPE SDR11 carrier pipes,

⁹ Class I water company-owned land, which is the most significant land for maintaining the purity and adequacy of a public drinking water supply, includes all land owned by a water company that is either: (1) Within two hundred and fifty feet of high water of a reservoir or one hundred feet of all watercourses as defined in agency regulations adopted pursuant to this section; (2) within the areas along watercourses which are covered by any of the critical components of a stream belt; (3) land with slopes fifteen per cent or greater without significant interception by wetlands, swales and natural depressions between the slopes and the watercourses; (4) within two hundred feet of groundwater wells; (5) an identified direct recharge area or outcrop of aquifer now in use or available for future use, or (6) an area with shallow depth to bedrock, twenty inches or less, or poorly drained or very poorly drained soils as defined by the United States Soil Conservation Service that are contiguous to land described in subdivision (3) or (4) of this subsection and that extend to the top of the slope above the receiving watercourse. *See Conn. Gen. Stat. § 25-37c(a).*

¹⁰ Class II company-owned land includes all land owned by a water company that is either: (1) on a public drinking supply watershed which is not included in class I or (2) completely off a public drinking supply watershed and which is within one hundred and fifty feet of a distribution reservoir or a first-order stream tributary to a distribution reservoir. *See Conn. Gen. Stat. § 25-37c(b).*

with pressure ratings of 160 psi. The HDPE pipes would be fusion welded, resulting in no joints. In addition, WLSD located valve vaults both up-gradient and down-gradient of the culvert crossing containing the tributary stream that feeds into the Allen Dam Reservoir, which would enable system operators to manually switch the flow path between the two pipes. WLSD also added a supervisory control and data acquisition (hereinafter “SCADA”) system to the down-gradient vault that, in the event of a leak, would shut off the pumps that pump the raw sewage into the force main from the Brush Hill Road pumping station approximately 21,000 feet away and notify “on-call” staff to investigate and repair the leak or break. Finally, with respect to the remaining 4,350 linear feet of force main that runs through the Allen Dam Reservoir watershed, WLSD replaced the force main proposed piping with 8-inch PVC C900 DR18 pipe. *See* Letter from Mr. Donald P. Iannicelli, P.E., Senior Client Manager, Woodard & Curran, and Mr. David R. Prickett, P.E., President, David Prickett Consulting, LLC, to Ms. Patricia Bisacky, Environmental Analyst 3, the Department, dated July 30, 2016.

- g. Neither the Proposed Project’s construction costs nor its annual operation and maintenance costs include the costs associated with the Additional Design Features added by WLSD in July 2016 to the 4,550 linear foot section of the force main that runs through the Allen Dam Reservoir watershed. *See* May 9, 2016 Facilities Planning Summary Report, p. 11, and November 21, 2016 Project Update Report, p. 17.
- h. The Proposed Project is designed to pump and transport raw sewage at a rate of approximately 500 gallons per minute with an average annual flow rate of 110,000 gallons per day (hereinafter “gpd”) and a future peak hourly flow rate of 540,000 gpd. *See* November 21, 2016 Project Update Report, p. 8.
- i. Under the Proposed Project, there are weak points in the sewer system through which raw sewage may discharge directly onto the Allen Dam Reservoir watershed and into the Allen Dam Reservoir. Such weak points include the two valve vaults that WLSD added in July 2016 as Additional Design Features, one clean out manhole, pipe joints and welds, structural connections, and valves, all of which would be located in the Allen Dam Reservoir watershed. *See* Letter from Mr. Stephen K. Rupa, P.E., Vice President, Tata & Howard, Inc., to Ms. Susan M. Suhanovsky, President, TWC, dated August 16, 2016, pp. 7-8.
- j. Tata & Howard, Inc. (hereinafter “Tata & Howard”), TWC’s consultant, estimated a travel time of six months to a year for a slow volume subsurface leak to reach the Allen Dam Reservoir. Tata & Howard stated, however, that a break, either due to external pressures, fatigue, lack of proper maintenance or contractor damage, could potentially release thousands of gallons of raw sewage into the Allen Dam Reservoir through culvert or storm drain piping in the area. According to Tata & Howard, a failure of an air release or clean out valve could also result in a large volume of raw sewage entering the Allen Dam Reservoir. The travel time of a spill of raw sewage onto the watershed or into a stream tributary to the Allen Dam Reservoir would be variable and dependent on external environmental factors such as rainfall and watercourse slope. *See* Letter from Mr. Stephen K. Rupa, P.E., Vice President, Tata & Howard, to Ms. Susan M. Suhanovsky, President, TWC, dated August 16, 2016, p. 7; *see also* USDA Natural Resources Conservation Services, Conservation Engineering Division’s Urban Hydrology for Small Watersheds, Technical Release 55, 210-VI-TR-55, Second Ed., dated June 1986.
- k. The SCADA system as currently designed may not detect a force main break in the 4,350 linear foot section of the force main located in the Allen Dam Reservoir watershed as the SCADA system is only in the valve vault down-gradient of the culvert crossing containing the tributary stream that feeds into the Allen Dam Reservoir. A break in 4,350 linear foot section of the force main would result in discharge of raw sewage onto the Allen Dam Reservoir watershed, including TWC’s class I and class II water company land.

- l. The soils in the section of the Allen Dam Reservoir watershed through which the force main would run are in a family of soils that contain a dense glacial till in the subsoil. This family of soils is not able to mitigate sewage effluent should there be any release of raw sewage onto these soils and into the stream tributary to the Allen Dam Reservoir. *See* Letter from Sean Hayden, Executive Director, Northwest Conservation District, to Commissioner Raul Pino, the Department, dated January 5, 2017, p. 1.
- m. The Allen Dam Reservoir is approximately 2 acres and 3.5 million gallons in size. *See* WLSD Response to TWC Letter of November 21, 2016 prepared by Woodard & Curran, dated January 20, 2017, Appendix B, p. 2; *see also* TWC's Water Supply Plan, dated February 2, 2009, revised on February 2013, and approved by the Department on June 7, 2013, chapter IV, p. 21. The small surface water area and volume of the Allen Dam Reservoir results in a low detention time and poor dilution capacity. *See Id.* Therefore, any raw sewage that enters into the Allen Dam Reservoir would move through it to the water treatment plant intake without significant dilution of such sewage and the contaminants contained therein.
- n. Raw sewage contains *Cryptosporidium*¹¹, fecal coliform¹², *E. coli*¹³, *Giardia Lamblia* and viruses¹⁴ (enteric) for which maximum contaminant levels are established under the federal Safe Drinking Water Act, 42 USC § 300f *et seq.* (hereinafter "the SDWA"), and § 19-13-B102 of the Regulations of Connecticut State Agencies. Acute exposure to *Cryptosporidium*, fecal coliform, *E. coli*, *Giardia Lamblia* and viruses (enteric), or microbes, the presence of which is indicated by these contaminants, can cause gastrointestinal illness and poses special health risks for infants, young children and people with severely compromised immune systems. *See* U.S. Environmental Protection Agency's Envirofacts regarding Drinking Water Contaminants at <https://www.epa.gov/enviro/drinking-water-contaminants>.
- o. Raw sewage contains between 3 and 13,700 *Cryptosporidium* oocysts per liter. Ingestion of a small amount of parasitic protozoa such as *Cryptosporidium* is capable of initiating infection in humans. *See* U.S. Environmental Protection Agency's Report to Congress on the Impacts and Control of CSOs and SSOs, EPA 833-R-04-001, dated August 2004 (https://19january2017snapshot.epa.gov/sites/production/files/2015-10/documents/csosortc2004_full.pdf), p. 6-4.
- p. *Cryptosporidium* is highly resistant to traditional disinfection practices. *See* [EPA Fact Sheet—Long Term 2 Enhanced Surface Water Treatment Rule, EPA 815-F-05-002, dated December 2005](#).
- q. Consuming water with *Cryptosporidium* in it can cause gastrointestinal illness, which may be severe and sometimes fatal for people with weakened immune systems. *See Id.*
- r. The absence of *Cryptosporidium* in the raw water in the Allen Dam Reservoir places the system served by the Allen Dam Reservoir into the "Bin 1" classification under the federal LT2 rule. This means that no additional treatment is necessary for TWC to be in compliance with the federal LT2 Rule. If the average concentration of *Cryptosporidium* oocysts were to increase to 0.075 oocysts per

¹¹ § 19-13-B102(a) of the Regulations of Connecticut State Agencies defines "*Cryptosporidium*" to mean "a protozoan found in the intestines of livestock and in water contaminated by sewage or runoff containing animal waste".

¹² § 19-13-B102(a) of the Regulations of Connecticut State Agencies defines "fecal coliform" to mean "bacteria that grows in the colon of mammals and is transmitted through fecal material".

¹³ § 19-13-B102(a) of the Regulations of Connecticut State Agencies defines "*E. coli*" to mean "a species of fecal coliform that thrives at the body temperature of mammals".

¹⁴ § 19-13-B102(a) of the Regulations of Connecticut State Agencies defines "virus" to mean "a microorganism of fecal origin which is infectious to humans by waterborne transmission".

liter or more, TWC would require additional treatment, such as membrane filtration or ultraviolet disinfection, of the raw water from the Allen Dam Reservoir in order to be in compliance with the federal LT2 Rule. *See* § 19-13-B102(j)(12)(A) of the Regulations of Connecticut State Agencies.

NOW, THEREFORE, pursuant to *Conn. Gen. Stat.* §§ 19a-2a, 25-32 and 25-34, and based on the information above, the Department finds that the Proposed Project threatens pollution of the Allen Dam Reservoir that, in the Department's judgment, is prejudicial to public health. The Department therefore orders WLSD to comply with the following, which the Department deems necessary to protect TWC's Allen Dam Reservoir and render such water safe for domestic use:

1. Submit to the Department **on or before October 2, 2017** for review and approval the most recent draft of the Intermunicipal Agreement between WLSD, Torrington, and any other entity that is a party to the agreement, if any. Such Intermunicipal Agreement shall include, but not be limited to, detailed information regarding the operation and maintenance of the Proposed Project and an inspection and monitoring program for storm water outfalls within the Allen Dam Reservoir watershed, as well as system monitoring and reporting requirements for such project. If the final Intermunicipal Agreement differs from the draft submitted to the Department pursuant to this paragraph, WLSD shall submit such final agreement to the Department for review and approval at least thirty days prior to its execution. If any changes are made to such final agreement in the future, WLSD shall submit such revised agreement to the Department for review and approval at least thirty days prior to its execution.
2. Submit to the Department **on or before November 1, 2017** for review and approval information regarding any change to the route of the Proposed Project, if WLSD changes the route in any way.
3. Submit in writing to the Department **on or before November 1, 2017** confirmation that sewer service along the force main will be prohibited, as stated on page 13 of WLSD's November 21, 2016 Project Update Report.
4. Submit to the Department **on or before November 1, 2017** for review its 80 percent plans for the 4,550 linear foot section of the Proposed Project located in the Allen Dam Reservoir watershed so that the Department may confirm that such plans include the Additional Design Features. Such plans shall include, but not be limited to, detailed information and specifications regarding the Additional Design Features. If the final plans differ from the 80 percent plans submitted to the Department pursuant to this Paragraph 4, WLSD shall submit such final plans to the Department for review and confirmation at least thirty days prior to such project going out to bid.
5. Submit to the Department **on or before November 1, 2017** for review and approval the draft bid documents and construction contracts that include the construction of the section of the Proposed Project located in the Allen Dam Reservoir watershed. The draft bid documents and construction contracts submitted pursuant to this Paragraph 5 shall include, but not be limited to, the environmental controls specifications, erosion and sedimentation control plans and the spill prevention and control plan. The draft bid documents and draft construction contracts shall specifically grant the Department access to and an opportunity to monitor and inspect all construction associated with the section of the Proposed Project that is located in the Allen Dam Reservoir watershed. WLSD shall also submit such final bid documents and construction contracts to the Department for review and approval at least thirty days prior to such project going out to bid and at least thirty days prior to the execution of such contracts.
6. Grant the Department, and ensure that its contractors and subcontractors grant the Department, access to, and an opportunity to monitor and inspect, all construction associated with the section of the Proposed Project that is located in the Allen Dam Reservoir watershed. At least two weeks prior to commencing such construction, the WLSD shall provide the Department with notice of such impending construction.

7. Submit to Department **on or before November 1, 2017** for review and approval evidence that the Proposed Project is designed to accommodate the increased sewage flows anticipated when WLSD's sewage service area is fully developed from the existing 691 to the potential future 877 residential dwellings.
8. Submit to the Department **on or before November 1, 2017** for review and approval WLSD's Inflow and Infiltration Reduction Program.
9. Submit to the Department **on or before November 1, 2017** evidence that WLSD has notified the DOT that the DOT is required to classify in its Illicit Discharge Detection and Elimination Program Protocol of the (Draft) General Permit for the Discharge of Stormwater from Department of Transportation Separate Storm Sewer Systems that the storm water sewer catchment area of Route 4 located within the Allen Dam Reservoir watershed is a High Priority Catchment.
10. Submit to the Department **annually on or before March first** for review and approval a report that documents the average daily flow and peak flow of the Proposed Project for the previous calendar year. Such report shall also include the projects WLSD completed in that year and those it proposes to complete in the next calendar year to reduce inflow and infiltration.
11. Submit to the Department **annually on or before March first** for review and approval evidence of liability insurance for such Proposed Project satisfactory to the Department. Such liability insurance shall provide coverage in the event of a spill, including, but not limited to, coverage for all cleanup costs associated with such spill event and any labor, water quality monitoring or infrastructure improvements that TWC may require to comply with the requirements of the SDWA as a result of such spill.
12. Conduct **annually on or before December thirty-first** mock spill response drills for a spill in the 4,550 linear foot section of force main that would run through the Allen Dam Reservoir watershed. Prior to conducting such drills, WLSD shall provide to the Department for review and approval the design of the drill. Prior to conducting such drills, WLSD shall also notify the Department and TWC in writing of the date on which WLSD will conduct the drill so that the TWC and the Department may observe it and participate in the hotwash. WLSD shall include the After Action Review for such drills in the annual report submitted under paragraph 10 of this Order.
13. WLSD shall submit to the Department all the documents required by this Order in a complete and approvable form. If the Department notifies WLSD that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and WLSD shall correct the deficiencies and resubmit it within the time specified by the Department in its notice of deficiencies. However, the Department may in its sole discretion elect not to provide WLSD an opportunity to cure such deficiencies and instead seek remedies for breach of this Order. In approving any document or other action under this Order, the Department may impose such conditions or modifications as it deems necessary to assure the purity and adequacy of the Allen Dam Reservoir. Nothing in this paragraph shall excuse noncompliance or delay in meeting any compliance date specified in the Order.
14. In the event WLSD requires, for good cause, an extension of time with which to comply with a paragraph or paragraphs of the Order, WLSD may submit in writing a request to the Department for modification of a date or dates in the Order. Such request shall include an explanation as to why such extension is required. The Department may, in its sole discretion, grant such request and modify the dates in the Order.
15. In carrying out its obligation under this Order, WLSD shall abide by all requirements of law. Nothing in this Order shall relieve WLSD of its duty to comply with applicable federal, state and local law to the extent it does not conflict with the requirements of this Order.

16. WLSO's obligations under this Order shall not be affected by the passage of title to any property to any other person, corporation, municipality or other legal entity. The terms of this Order shall be binding upon and enforceable against WLSO's successors and assigns, as provided by law.
17. This Order shall be effective on the date on which it is signed by the Commissioner of the Department. The Department may at any time take any and all legal, administrative and equitable action necessary to assure the purity and adequacy of the Allen Dam Reservoir. The Department may take any other such action as provided by federal or state law on all matters not covered specifically in this Order. Failure to comply with any provision of this Order may subject WLSO to a court order pursuant to *Conn. Gen. Stat.* § 25-36(b) to aid in the enforcement of the provisions of this Order.
18. All submissions required shall be sent to:

Mr. Gary Johnson, Supervising Environmental Analyst
Department of Public Health, Drinking Water Section
410 Capitol Ave, MS#51WAT, P.O. Box 340308
Hartford, CT 06134-0308



Raul Pino, MD, MPH
Commissioner



Date

RIGHT TO A HEARING

If WLSD wishes to contest this Order, a written request for an administrative hearing must be received by the Commissioner of Public Health within thirty days of the date of mailing of this Order pursuant to *Conn. Gen. Stat.* § 25-34(b). Any such request should be made in writing and addressed to: Commissioner, Department of Public Health, 410 Capitol Avenue, MS#13COM, P.O. Box 340308, Hartford, Connecticut 06134-0308.

At such administrative hearing, it will be the responsibility of WLSD to show why the findings in the Order are not based on substantial evidence or that the issuance of the Order constitutes an abuse of discretion pursuant to *Conn. Gen. Stat.* § 25-34(b).

The hearing will be conducted in accordance with the Connecticut General Statutes and the Department's Rules of Practice, §§ 19a-9-1 *et seq.* of the Regulations of Connecticut State Agencies.

Submitting a request for a hearing does not delay your obligation to comply with the requirements of this Order. You must also submit in writing a request to stay the Order to the Commissioner of Public Health at the address above. Your request must set forth reasons for granting your request.