



December 17, 2024

Town of Old Lyme Water Pollution Control Authority
Miami Beach Association Water Pollution Control Authority
Old Colony Beach Club Association Water Pollution Control Authority
Old Lyme Shores Beach Association Water Pollution Control Authority

Re: Town of Old Lyme Wastewater Management Project (Project)

Dear Water Pollution Control Authority representatives,

The Department appreciates your efforts in recent months to make progress on the Project. We understand the Town of Old Lyme (Town) has finalized an intermunicipal agreement with the City of New London for receipt of wastewater flows from the Project and understand that the Miami Beach and Old Colony Beach Club Associations (MBA and OCBCA, respectively) have approved increased bond authorizations. We understand that Old Lyme Shores Beach Association (OLS) has yet to approve an increased bond authorization and such effort continues.

The Department understands that OLS' lack of approval has raised questions given OCBCA, MBA, and the Town are preparing the Project to go out to bid before the end of the year. This correspondence serves to provide information on key elements to guide all parties on next steps and critical decision making.

1. Without OLS' approval, may the Town, OCBCA and MBA move forward with a bid for the work within each association as well as the shared infrastructure?

Yes, these can go out to bid once the Department completes its technical review and issues an approval. The Department expects to issue the approval in time for a bid to be issued by the end of 2024.

2. Will the Associations be able to extend the current agreements' Interim Funding Obligation (IFO) for Design while the project is out to bid?

Yes, given that DEEP and the Office of the Treasurer (OTT) have seen progress over recent months, we are agreeable to extending the Scheduled Completion Date once more and last time for one (1) additional year to allow the parties additional time to complete the final design and bid processes. With such an extension, the new Permanent Loan Obligation (PLO) date is expected to be 7/1/2026. Furthermore, once a bidder is selected and the parties enter into a

Clean Water Fund agreement for Project construction, the design costs may be rolled into the construction costs for payment later (i.e.i.e., a PLO date which is six (6) months after the scheduled completion date of the Project construction phase).

3. What are the implications if OLS does not approve a bond authorization and move forward with the Project?

For the Town, MBA, and OCBCA:

- a. OCBCA, Miami Beach, and the Town's costs for their individual projects would not be impacted but each entity's cost share of the shared infrastructure will increase to offset the portion for which OLS would have been responsible. The exact increase will not be known until the project is bid but based on estimates at this time, it's likely ~8-9% increase for each party (OCBCA, Miami Beach, and the Town). Even with this increase, estimates indicate the project costs should be below MBA and OCBCA's increased bond authorizations.
- b. Based on the plan to bid the Project by the end of 2024, DEEP expects to continue to offer additional funding through a forgivable loan of up to \$15 million (up to 50% of the total Clean Water Fund eligible project cost).

For OLS:

- a. Pursuant to the conditions of the Clean Water Fund agreement for design services, OLS will be required to commence pay back of the loan portion at the current PLO due date of September 30, 2025.
- b. As noted by the Department previously, additional funding for the Project through a forgivable loan is expected to be available only in the short term. Should OLS fail to proceed with this Project in the same timeline as and in partnership with the Town, MBA, and OCBCA, this additional funding will be jeopardized and will not be available in the future.
- c. OLS will be in violation of Consent Order No. COWRMU18001 issued on February 14, 2018 and the Department will evaluate its enforcement tools and if necessary, pursue further enforcement action to address the pollution. Please note that such action will require corrective action to resolve the pollution and may include assessment of penalties (up to \$25,000 per day per violation).

Due to the factors above and given the uncertainty of federal funding in the future, the Department strongly advises OLS to obtain its bond authorization as soon as possible, and ideally before the Town, OCBCA and MBA move forward with a bid for the shared infrastructure, but no later than March 15, 2025 or the close of the bid period, whichever date comes earlier.

We appreciate your collective efforts to make progress on this Project. The Department will continue to provide assistance and support necessary to move the Project forward and address the pollution risk to your communities. Please contact Carlos Esguerra at Carlos.Esguerra@ct.gov with any questions.

Sincerely,

A handwritten signature in blue ink, reading "Katherine S. Dykes".

Katherine S. Dykes, Commissioner
Connecticut Department of Energy and Environmental Protection

cc: William Tong, Connecticut Attorney General
Kim Masson, Office of the Treasurer

