IN THE MATTER OF	:	*APPLICATION NO. 200600475*
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WESTPORT/WESTON FAMILY Y	:	*AUGUST 3, 2007*

FINAL DECISION

This final decision addresses the exceptions the intervening party, Y Downtown, Inc. ("YDI"), filed in response to the hearing officer's proposed final decision; affirms such proposed decision; and adopts, with additional modifications, the hearing officer's recommendation to issue the draft permit to applicant Westport/Weston Family Y ("WWFY"). This permit allows WWFY to construct and operate a subsurface wastewater renovation system ("system") to treat wastewaters discharged from a planned YMCA to be constructed on property owned by WWFY on Sunny Lane in Westport and from a day camp that WWFY also operates at the site. Each of YDI's exceptions to the hearing officer's proposed final decision is unsupported either by the law or by the evidence in the record. Further, the evidence in the record amply shows that the applicant has complied with the applicable statutory and regulatory criteria – section 22a-430 of the Connecticut General Statutes and sections 22a-430-1 through 22a-430-8 of the Regulations of Connecticut State Agencies – and, by meeting such criteria, has met its burden of proving that, if the system is constructed and operated as proposed, the system will protect the waters of the state from pollution.

I. Procedural History

The staff of the Department of Environmental Protection ("DEP"), Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division, gave notice that it would issue a tentative permit to the applicant WWFY on May 10, 2006. YDI properly intervened as a party[1] on July 11, 2006 and the notice of public hearing was published on August 7, 2006. After hearing sessions in Westport (September 14, 2006) and Hartford (September 19, 21 and 25, 2006), after briefs and response briefs were filed by the DEP, WWFY and YDI, the hearing officer issued her proposed final decision on this application on February 23, 2007, recommending that the permit requested by WWFY be granted. YDI, the intervening party, filed its exceptions to this proposed final decision on March 7, 2007 and oral argument, with additional briefing by all parties as to the exceptions, was heard on May 3, 2007.

II. YDI's Exceptions

A. Intervening Party YDI Could Not Show That the Proposed Final Decision Was In Error Due to the Denial of its Motion to Reopen the Hearing

YDI was not able to demonstrate in its filed exceptions, in its brief in support of its exceptions, or at oral argument that the proposed final decision was in error because of the hearing officer's denial of YDI's motion to reopen the hearing. YDI had ample opportunity during one night and three days of hearing and occasion thereafter to request a continuance of the hearing (*see, e.g.,* Tr. 94-5, Sept. 14, 2006; Tr. 192-93, 197-98, 202, 268, 377-78, Sept. 21, 2006; Tr. 497, 501-2, 515, 534, Sept. 25, 2006), to contribute to the evidentiary record or to rebut applicant's and DEP staff's position that WWFY's proposed system will be protective of our state waters. *See Rosa v. State*, No. HHBCV054007974S, 2007 Conn. Super. LEXIS 590, at *31 (Conn. Super. Ct. Mar. 1,

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[1] Though the courts and participants of administrative proceedings, as seen in this final decision, often use the terms *intervening party* and *intervenor* interchangeably, under the DEP's Rules of Practice and the Connecticut Environmental Protection Act, an intervening party is conferred full party status. *See* Regs., Conn. State Agencies § 22a-3a-6(k)(1); Conn. Gen. Stat. § 22a-19. The hearing officer, "to the extent necessary to promote justice and the orderly conduct of the proceeding," may restrict the participation of an intervenor. Regs., Conn. State Agencies § 22a-3a-6(k)(7).

2007) (held that the Connecticut Siting Council "did not deny plaintiffs' due process rights by rejecting their request to reopen the proceedings to consider an issue that the parties had a full opportunity to address during the hearing"); *see also* Regs., Conn. State Agencies § 22a-3a-6(y)(3)(A) ("Exceptions … may not raise legal issues or … factual issues which could have been, but were not, raised at the hearing."). Based upon the evidentiary record for this application, if the subsurface wastewater renovation system is constructed and operated by WWFY as proposed, the system will protect the waters of the state from pollution. *See* Final Decision II.B below. Hence, there was no error in the proposed final decision.

Furthermore, this final decision adopts the hearing officer's January 5, 2007 ruling denying YDI's motion to reopen the hearing on this matter because YDI was not able to demonstrate, pursuant to DEP's Rules of Practice (*see* Regs., Conn. State Agencies § 22a-3a-6(w)), that (1) YDI's evidence was relevant and material *and* (2) there was good cause for YDI to fail to offer such evidence at the time of the hearing. YDI, disregarding DEP's Rules of Practice (i.e., Regs., Conn. State Agencies § 22a-3a-6(w)) that timeliness is a factor that must be considered by the hearing officer when determining whether to allow a party to introduce evidence *after* the hearing, argues in its April 16, 2007 Brief in Further Support of its Exceptions – almost seven months after the hearing had concluded and despite the almost three-month passage of time between the last hearing session held on September 25, 2006 and YDI's motion to reopen filed on December 21, 2006 – that "[t]he timeliness of Y Downtown's motion should not have been a consideration" (YDI's Brief in Further Support of its Exceptions, p. 12). YDI made no attempt, beyond mere conclusory statements, to show how the evidence it wanted to present was relevant and material and, moreover, YDI had every opportunity to do so during the hearing, after the hearing but before the record was closed, or even after the record was closed but during the preparation of post-hearing briefs and replies. As such, there was no error in the proposed final decision resulting from the

hearing officer's denial of YDI's motion to reopen the hearing and admit further evidence on this application.

B. Two Burdens of Proof are Required in this Application: Since Applicant Met its Burden of Proof and the Intervening Party Did Not, this Application is Granted

At issue in this final decision is the interplay of two burdens of proof: (1) the burden that applicant must bear in showing that its proposed system will protect the waters of the state from pollution; and (2) the burden that an intervening party under the Connecticut Environmental Protection Act must bear in showing that, if applicant's application is granted, unreasonable pollution, impairment, or destruction of the public trust in the air, water or other natural resources will likely result. The former is required by Regs., Conn. State Agencies § 22a-3a-6(f), which places "the burden of going forward with evidence and the burden of persuasion with respect to each issue which the Commissioner is required by law to consider" on the applicant, and Conn. Gen. Stat. § 22a-430(b) and its corresponding regulations, Regs., Conn. State Agencies §§ 22a-430-1 through 22a-430-8, which provide the required law – essentially, whether applicant WWFY showed that its proposed system will protect the waters of the state from pollution – that the Commissioner is to consider. *See Town of Newtown v. Keeney*, 234 Conn. 312, 322 (1995) (held that the applicant bore the burden of proof throughout the DEP proceedings on its application). The second burden of proof, born by the intervening party, is required by the Connecticut Environmental Protection Act of 1971 ("CEPA"), Conn. Gen. Stat. §§ 22a-14 through 22a-20, the Supreme Court in *Manchester Envtl. Coal. v. Stockton*, 184 Conn. 51, 57-8 (1981), and further clarified by its later decision in *City of Waterbury v. Town of Washington*, 260 Conn. 506, 549-551 (2002), which held that "'unreasonable impairment [or pollution or destruction]' must be evaluated through the lens of the entire statutory scheme, if any, that the legislature has created to regulate the conduct underlying the impairment [or pollution or destruction]." Here, the legislature via Con. Gen. Stat. § 22a-430 *has* created a statutory scheme to regulate the conduct at issue in this final

decision: whether a proposed system will protect the waters of our state from pollution. Accordingly, both burdens of proof will be addressed in this final decision.[2]

Based on the evidentiary record: (1) applicant WWFY met its burden of proof by providing substantial evidence showing that the state's waters would be protected from pollution by the treatment of the discharge from WWFY's proposed system (*see, e.g.,* Proposed Final Decision ¶¶ 6, 21-42, 49, 60-68) and YDI provided no evidence to rebut this (*see id.* at ¶ 7, pp. 31-2); and (2) intervening party YDI, under the misguided belief that it only had to ask questions during the proceedings,[3] did not meet its burden of proof because it failed to make out a prima facie case of unreasonable pollution.[4] Moreover, since applicant WWFY met its own burden of proof, even if YDI had made out a prima facie case, WWFY would have substantial evidence in the record

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[2] Conn. Gen. Stat. § 22a-19 does not override existing administrative procedures or existing statutes. Instead, this section simply adds to the DEP's existing statutes governing discharges to waters of the state; thus, both burdens of proof apply in this application. *Nizzardo v. State Traffic Comm'n*, 259 Conn. 131, 155 (2002), citing to Black's Law Dictionary, notes that a "supplemental act" such as CEPA "adds to or completes, or extends that which is already in existence *without changing or modifying the original*. Act designed to improve an existing statute by adding something thereto *without changing the original text*." Black's Law Dictionary (6th ed. 1990) (emphasis in *Nizzardo*; internal quotations omitted); *see also* Conn. Gen. Stat. § 22a-20 (CEPA "shall be *supplementary* to existing administrative and regulatory procedures provided by law…") (emphasis added).

[3] In YDI's Response to WWFY's Objection to the Motion to Reopen the Hearing, YDI explicitly explained its role as a § 22a-19 intervening party as one who *questions*, instead of one who should be providing evidence to demonstrate how the proposed system would lead to unreasonable pollution:

> This [administrative permitting proceeding] was initiated by a citizen petition pointing to the need for open airing of the numerous questions which exist with regard to the proposed system, and [YDI's] participation, under C.G.S. § 22a-19, was for the *purpose of presenting such questions and asking relevant questions.* In particular, intervenor *questions* whether there is sufficient evidence that the multi-component package treatment system would function, long term, without producing unreasonable pollution to groundwater and other public trust water resources.

(YDI Response to WWFY Objection to the Motion to Reopen the Hearing, p. 1, Jan. 3, 2007; emphasis added.) Indeed, as explained, the law is clear that a § 22a-19 intervening party, if it is to prevail, must do more than question; the intervening party must present evidence that makes out a prima facie case showing unreasonable pollution.

[4] *Quarry Knoll II Corp. v. Planning & Zoning Comm'n*, 256 Conn. 674, 736 n.33 (2001) (held that unless the intervenor had made the requisite showing under § 22a-19(a), i.e., provided some evidence to make out a prima facie case, then the commission had no obligation to consider alternatives to the proposed application pursuant to § 22a-19(b)); *see also* Conn. Gen. Stat. § 22a-17 (prima facie showing by plaintiff/intervenor). Even though intervenor YDI did not meet its burden of showing unreasonable pollution, the hearing officer's proposed final decision nonetheless considered the alternatives and concluded that there were no feasible and prudent alternatives to WWFY's proposed system. Proposed Final Decision, pp. 31-32.

showing that the discharge from its proposed system would not unreasonably pollute, impair or destroy the public trust in the water and natural resources of the state.[5]

Next, YDI's contention that applicant had the burden of producing comparable systems that achieved drinking water-quality discharges is without merit because the real issue is whether the specific system proposed by the applicant WWFY, for its specific location, met all applicable requirements and would protect the waters of the state (*see* paragraph above); furthermore, similar systems were examined during the hearing proceedings. The applicant met its burden to show that its specific system would meet state requirements and protect the state's water by demonstrating in its application that an extensive site investigation was conducted and that sound engineering practices were applied in its design report and plans. The DEP is not required to use an analysis that satisfies YDI nor is the DEP obligated to answer YDI's questions. *See Fromer v. Greenspace of Salem*, No. 51 19 77, 1991 Conn. Super. LEXIS 1279, at *23-8, 38-40 (Conn. Super. Ct. May 28, 1991) (town conservation commission not required to use an analysis or calculations that satisfied the intervenor). Instead, YDI, if it thought an analysis of monitoring data from other comparable systems were relevant, had the opportunity to enter evidence on its behalf, present its own expert witnesses or cross-examine both DEP's and applicant WWFY's expert witnesses during the hearing proceedings; YDI did none of this. As this final decision must be based on the evidence in the record, and YDI chose not to submit any evidence on the issue of comparable systems and neither the applicant nor the DEP had an obligation to do so,[6] this decision finds that applicant WWFY met its burden of proof as required by law. WWFY's application is granted.

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[5] The water to be discharged from the WWFY facility would be of the highest quality, suitable for drinking. Proposed Final Decision ¶¶ 60-68. Also, the discharge from WWFY would be cleaner than the discharge coming from surrounding residences. *Id.* at ¶ 68.

[6] YDI cites to *Secondino v. New Haven Gas Co.*, 147 Conn. 672 (1960), in support of its contention that an adverse inference should be drawn from applicant WWFY's failure to submit evidence on comparable systems. This adverse inference, known as the *Secondino* rule, has been abandoned by the Supreme Court in *State v. Malave*, 250 Conn. 722 (1999), for criminal cases and severely limited by the General Assembly in Conn. Gen. Stat. § 52-216c for civil cases. In any event, this rule has limited to no bearing on administrative proceedings.

Finally, comparable systems were addressed at the hearing. One of WWFY's expert witnesses, Mr. Chuck Miller (*see* qualifications of experts below at II.C), testified that he could not recall any upsets at the Westbrook Y or the Gunnery School (respectively, a 10,000 and 30,000 gallons per day ("gpd") system; WWFY's proposed system is 34,000 gpd). Tr. 135-6, 144, Sept. 19, 2006. Mr. Miller also testified about a component of the Fixed Activated Sludge Treatment ("FAST") system known as the media, the part of the treatment system that removes nitrogen from discharge. *Id.* at 138-9. He noted that this media had broken down fifteen to twenty years ago but ever since the manufacturer of the media component was replaced, no other problems have occurred with it. *Id.* Another massive failure of the FAST system occurred at a Maryland housing development, but the cause of this failure was the introduction of inhibitory chemicals and industrial-type solvents, such as quaternary ammonia compounds, toluene and phenols, which had been introduced into the system from an illegal drug (i.e., methamphetamine) lab.[7] *Id.* at 113-5; *see also id.* at 132-3. Overall, there are five FAST Connecticut installations, ranging from 7,000 to 30,000 gpd, and about eighty such installations throughout New England. *Id.* at 101-3. YDI did not impeach Mr. Miller's credibility or testimony, present contrary evidence, or make further inquiries of other witnesses on any of these issues.

C. The Applicant's Experts Were Qualified to Testify as to the Future Compliance of the System

The hearing officer is authorized to admit or exclude evidence, to rule on objections to evidence, and to determine whether a lay or expert witness is credible. Regs., Conn. State Agencies §§ 22a-3a-6(d)(2)(E), 22a-3a-6(s); *see also Huck v. Greenwich*, 203 Conn. 525, 540-2 (1987) (an

[7] The Maryland failure is easily distinguished from WWFY's system: the applicant's system is a single user system and the applicant can control what goes into it. *See* Proposed Final Decision ¶ 31; Tr. 110-15, 130-31, Sept. 19, 2006. Further, WWFY's system has monitoring, operation and maintenance requirements, as well as a licensed operator to run the system. Proposed Final Decision ¶¶ 43-50; *see also City of New Haven v. Pac*, No. CV 83-0279985, 1990 Conn. Super. LEXIS 1557, at *8 (Conn. Super. Ct. Aug. 28, 1990) (The court held that Regs., Conn. State Agencies §§ 22a-430-3 and 22a-430-4 "empower the [DEP] to[] upgrade *any* outstanding approval or permit to meet *current* or *amended* environmental standards; the regulatory design process suggests a fluid process. Because DEP has continuing jurisdiction over all permits, the agency can impose conditions to reflect any significant development in environmental law or facts.") (emphasis in original).

agency "is not required to believe any witness, even an expert, nor is it required to use in any particular fashion any of the materials presented to it so long as the conduct of the hearing is fundamentally fair"). There is no merit to YDI's exception that Chuck Miller or Michael Bartos were not qualified as experts to testify as to applicant's future compliance because there is substantial evidence in the record to support the hearing officer's reliance on these witnesses. Mr. Miller graduated in 1983 with an engineering degree from the University of Oklahoma, has worked as an engineer since graduation, and has worked at Smith and Loveless, Inc., the manufacturer of the system proposed by applicant, for the last nineteen years, moving up the ranks from application engineer, regional sales engineer, regional sales manager, and municipal sales manager, to his present position as vice president of municipal sales and marketing. Tr. 71-3, Sept. 19, 2006. Mr. Bartos received his bachelor's and master's degree in civil engineering, has been in practice as a civil engineer since 1972, and is presently a senior associate at Land Tech Consultants, where he has designed, among other things, subsurface wastewater renovation systems. *Id.* at 38-41. In fact, during the hearing proceedings, YDI's attorney admitted that Mr. Bartos' detailed testimony answered many of his questions, had resolved satisfactorily issues raised by his own expert witness, intended not to proceed with his expert witness and, indeed, YDI's attorney never called *any* expert witness. Tr. 268, 377-8, Sept. 21, 2006. The testimony from both Mr. Miller and Mr. Bartos is well within each expert witness' area of competence.

D. By Statute, the State Plan of Conservation and Development Does Not Apply to this Application and Can Not be Considered in a Decision to Grant the Permit

Administrative agencies are limited creatures of the legislature and can only act pursuant to the powers expressly conferred to them by statute. *See, e.g., Celentano v. Rocque*, 282 Conn. 645, 654 (2007) ("[A]n administrative body must act strictly within its statutory authority, within constitutional limitations and in a lawful manner…. It cannot modify, abridge or otherwise change the statutory provisions … under which it acquires authority unless the statutes expressly grant it

that power.") (internal citations omitted). Conn. Gen. Stat. § 22a-430(k) is unambiguous in precluding the DEP from denying WWFY's application because of possible inconsistencies with the State Plan of Conservation and Development:

> The commissioner shall *not* deny a permit under this section if the basis for such denial is a determination by the commissioner that the proposed activity for which application has been made is inconsistent with the state plan of conservation and development adopted under section 16a-30.

(Emphasis added.) Intervening party YDI's contention that such State Plan must be considered in this application is without merit.

E. The Hearing Officer Considered Public Comments in this Proceeding

There is no basis for YDI's position that the hearing officer did not consider all public comments, when the hearing officer, in her proposed final decision, stated that she has "reviewed the entire contents of the extensive record, including public comments made at or submitted after the September 14, 2006 hearing in Westport." Proposed Final Decision, p. 1, fn. 2. Moreover, oral or written statements from a person who is not a party or intervenor to the proceeding, or a witness called by a party or intervenor, is not to be given the weight of evidence by the hearing officer unless the statement is made under oath and the parties and intervenor are permitted to cross-examine or rebut the statement. Regs., Conn. State Agencies § 22a-3a-6(t). Finally, as noted by both the DEP's and applicant's brief, the intervening party's example of a public comment, a statement by the Rivers Alliance of Connecticut to the effect that the site of WWFY's proposed system *might* one day be designated a watershed is irrelevant because this possibility has no impact on what the DEP must decide *today*. WWFY's Response to Exceptions of YDI, pp. 21-22, Apr. 17, 2007; DEP Staff's Response to Exceptions Filed by YDI, p. 6, Apr. 17, 2007; *see also* Applicant Exhibit 20 (letter dated August 28, 2006 from Aquarion Water Company of Connecticut to the

Town of Westport Conservation Department, which notes that applicant WWFY's proposed system is not located within a surface water supply watershed).

F. There is Evidence to Support the Factual Findings in the Proposed Final Decision

In the hearing officer's proposed final decision, the findings of fact are supported by the record, including intervening party YDI's exception to the following seven factual findings.

1. Proposed Finding ¶ 31: Monitoring, Operating and Maintenance Requirements

Substantial evidence in the record exist illustrating the monitoring, operating and maintenance aspect of the proposed system, including what could happen in case of a failure. Proposed Final Decision ¶¶ 43-7, 71, 73. The purpose of the monitoring requirements, which include monitoring the intermediate effluent from the FAST system, the final effluent from the treatment system, and down gradient monitoring wells, is to ensure that WWFY's system will be and is operating properly. Oral Arg. Tr. 31-32, May 3, 2007. Also, once the system is operational, a licensed operator will be hired to operate the system pursuant to the DEP's draft permit. *See* Draft Permit Section 4(E)(4), as modified by this Final Decision in Attachment A; *see also* WWFY's Response to Exceptions of YDI, pp. 23-4; DEP Staff's Response to Exceptions Filed by YDI, pp. 6-7.

2. Proposed Finding ¶ 37: YDI Does Not Oppose This Finding

YDI does not oppose this finding; instead, YDI merely reiterates its argument that it should be allowed to introduce evidence at this late stage of the administrative proceeding. As discussed in Section II.A of this Final Decision, YDI could not and did not show that the evidence it seeks to introduce was material and relevant or that there was good cause for YDI to fail to offer such evidence at the time of the hearing.

3. Proposed Finding ¶ 41: Controlling for Constant Temperature

YDI does not cite any evidence in the record to support its contention that the proposed system will not work in cold temperatures. What is available in the record, however, shows that the proposed system as designed will be effective in controlling the temperature: the system will be constructed underground; be insulated; and its discharge will travel a short distance, thereby lessening cooling. Proposed Final Decision ¶ 41. Even in case of a shutdown due to freezing, the wastewater flow would continue to enter the FAST tanks, where there is the capacity for long-term storage. *Id.*

4. Proposed Finding ¶¶ 51-52: Soil Variability and Groundwater Tests

Given the soil quality at the proposed location for WWFY's system, evidence – based upon empirical site investigations and credible expert testimony – in the record show that the soil is capable of handling the discharge. *Id.* at ¶ 52. The record also showed that Mrs. Elizabeth Flint's property would not be impacted by the proposed discharge. *Id.* at ¶¶ 76-77. Finally, YDI does not explain why it considers groundwater tests relevant for this application and, moreover, groundwater quality testing is not a requirement for the applicant. DEP Staff's Response to Exceptions Filed by YDI, pp. 8-9.

5. Proposed Finding ¶ 53: Groundwater/Surface Water Connection

Substantial evidence supports the hearing officer's finding that the groundwater is not connected to the surface water. Proposed Final Decision ¶ 53; Tr. 437-9, Sept. 25, 2006. YDI can point to no relevant evidence that supports otherwise.

6. Proposed Finding ¶ 67: Phosphorus Adsorption after Six Months

YDI does not object to the finding that six months worth of phosphorus production would be adsorbed within 48 feet of the leaching field, which means that the nearest residence, the Flint property located 250 feet away, would not be impacted. Proposed Final Decision ¶ 67. Instead,

YDI sought to reopen the hearing as to what would happen after this six-month time period. As discussed previously, YDI's attempt to reopen the hearing is denied. Finally, applicant WWFY's expert witness, Mr. Russell Slayback, a hydrogeologist, did testify as to what would happen to phosphorus after this six-month period: phosphorus would be transformed into other salts, such as aluminum, iron and calcium. Tr. 349-351, Sept. 21, 2006.

7. Proposed Finding ¶ 73: FAST Record of Success

As discussed in Section II.A and II.B of this Final Decision, intervening party YDI cannot reopen the hearing and there was substantial evidence in the record showing the FAST system has been successful in its operation. Also, YDI's own exhibit states that applicant WWFY's proposed system "is fairly conventional in its makeup, and if properly sized, designed, operated, and maintained, it should be capable of meeting its permit…." Intervening Party Exhibit 14 (memorandum dated August 30, 2006 from environmental consulting firm Stearns & Wheler, LLC, to the Town of Westport Conservation Commission discussing the firm's review, findings and recommendations). If applicant WWFY constructs and operates the proposed system in accordance with the DEP's permit, and WWFY has represented that it has every intention of doing so (*see* Oral Arg. Tr. 19-20, May 3, 2007), the system will protect the waters of the state from pollution.[8]

[8] WWFY's environmental compliance history shows that it is capable of adhering to its intentions: WWFY has never been convicted of a criminal violation, ordered to pay a civil penalty, or issued any order or adverse judgment by any state or federal court or any state or federal administrative agency. *See* Proposed Final Decision ¶ 8; *see also* Conn. Gen. Stat. § 22a-6m(a) (empowers the Commissioner to consider an applicant's compliance with the environmental laws of Connecticut, any other state and the federal government, when exercising the Commissioner's authority to issue, renew, transfer, modify or revoke any permit).

III. Conclusion

After reviewing the record in its entirety, including the briefs submitted prior to oral argument, and for the reasons above, I affirm and adopt the hearing officer's proposed final decision, with additional modifications to the draft permit, and recommendation to issue the draft permit to applicant WWFY. All modifications are noted in Attachment A to this Final Decision.

8/3/07	/s/ Gina McCarthy
Date	Gina McCarthy Commissioner of Environmental Protection

Attachment A

Modifications to the draft permit attached to the Proposed Final Decision are below:

- **Section 1(I)** shall be replaced with the following:

  "The Permittee shall, within seven (7) days of the issuance of this permit, record a copy thereof on the land records, in the Town of Westport. On or before one (1) month after issuance of this permit, the Permittee shall submit written verification to the Commissioner that this permit has been recorded in the land records in the Town of Westport."

- **Section 1(J)** shall be replaced with the following:

  "The Permittee shall, within seven (7) days of the issuance of this permit, record on the land records of the Town of Westport a document indicating the location of the zone of influence created by the subject discharge, as reflected in the application for this permit. The Permittee shall obtain the Commissioner's written approval of such document before recording it. On or before one (1) month after issuance of this permit, the Permittee shall submit written verification to the Commissioner that the approved document indicating the location of the zone of influence created by the subject discharge as reflected in the application for this permit has been recorded on the land records in the Town of Westport."

- **Section 4(E)(4)** shall be replaced with the following:

  "The Permittee shall ensure that a person with a valid and effective certification, at a minimum, as a facility Class II operator pursuant to Conn. Gen. Stat. § 22a-416(d) and the regulations adopted thereunder is provided an opportunity to review and comment upon the plans for construction of the wastewater treatment facility. The Permittee shall also ensure that when built, the wastewater treatment facility is operated by a person with a valid and effective certification, at a minimum, as a facility Class II operator pursuant to Conn. Gen. Stat. § 22a-416(d) and the regulations adopted thereunder. The Permittee shall ensure that the wastewater treatment facility is operated by such operator with such qualifications throughout the entire life of the wastewater treatment facility."

Appendix A

PARTY LIST

In the matter of Westport/Weston Family Y, Application No. 200600475:

PARTY	REPRESENTED BY
Applicant	Ann M. Catino, Esq. Lawrence Weisman, Esq. Halloran & Sage LLP One Goodwin Square 225 Asylum St. Hartford, CT 06103
Department of Environmental Protection	Antoanela Daha Bureau of Materials Management & Compliance Assurance Water Permitting & Enforcement Division 79 Elm St. Hartford, CT 06106
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