

Susan J. Huybensz & John D. Kennedy  
38 Fairview Avenue  
Deep River, CT, 06417

December 17, 2013

To Richard Smith, First Selectman, Members of the Board of Selectmen, Members of the Board of the Deep River Water Pollution Control Authority, and all Deep River property owners

We are writing this letter and presenting our objections tonight regarding the \$5,000 one time "unique benefit assessment" fee proposed to be assessed to all property owners adjacent to the currently planned expansion of the Deep River Sanitary Sewer System. We, as owners of the above indicated address, will be included among those charged for this fee.

As you know, we both are on record as supporting our Deep River Sanitary Sewer Treatment System, from day one, as well as this particular expansion. As we have said a number of times, we believe the decision to create, and then expand this system sets Deep River ahead of many towns around us. In fact, it is clear to us that this system has helped us to expand as we have desired, as well as to avoid some serious calamities that some of our neighbor towns have encountered.

However, we must state our objection to the proposed one time \$5,000 individual property owner fee to be levied uniquely only to all property owners adjacent to this current expansion line. We understand that this fee is charged in consideration of an assumed unique benefit that adjacent property owners will receive from this project. We do not suggest that a one time benefit assessment is not legal, nor even that a fair assessment on an individual property owner in return for actual benefits is unreasonable. However, we believe that this amount is clearly excessive, but perhaps most importantly given the paucity of a reasonably objective process to arrive at this assessment, approving this fee-- at any amount-- this evening is simply premature, and frankly plainly unfair to approve, for these reasons:

1. We understand that the town ordinance and state statutes support a one time assessment to recover costs from a property owner who will obtain a tangible benefit from a particular project, unlike all other non-project area property owners in town. It is also clear though, that the state statute did not suggest throwing darts at a board with numbers on it as a way to pick the fee to assess the property owners. This however is how this fee appears to have been arrived at. The only evidence of any process I found for how the Water Pollution Authority arrived at this amount was in the minutes of the authority's November 4, 2013 meeting. At that time Peter Lewis, Manager of the Water Treatment Plant, presented his opinion on this fee, as follows: Lewis stated that municipalities in Connecticut utilize various methodologies to assess properties, but that the vast majority of municipalities place an equal benefit assessment on each property regardless of lot size, frontage, number of bedrooms, etc. Lewis added that, in general the "per property" cost is in the \$5k-\$40k range." The members of the authority then voted, without further discussion or fact finding, to approve unanimously levying an assessment of \$5,000. I note that after Mr. Lewis' advice, the Authority's attorney, Bruce Chudwick advised that "...it is imperative for the assessment to be defensible, ie, ensuring that the assessment doesn't exceed the value of the benefit derived." It is obvious that the actual benefits, as well as any purported value for the benefit, have never even been raised, let alone equalized, by the authority. Is that defensible? Perhaps we will find out if this assessment is approved this evening.

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We believe it is quite clear that no real analysis has so far been conducted that can support the conclusion that a property owner adjacent to this expanded system line will receive a unique \$5,000 benefit. I suggest it is only fair that any assessment, especially one applied to select group of property owners, needs to be fully supported by facts. We believe this requires a true analysis that will factually support what comprises the assumed unique benefit that any individual property owner will receive from this project, and will establish-- on an objective basis-- a fair cost that will be assessed in return for that benefit.

We would like to add that a levy of any one time assessment will in and of itself disproportionately treat property owners adjacent to this sewer system. There are a number of sewer line extension project for which the similar property owners were charged no one time fee for their assumed "unique benefits". This included the initial major project in 1988, which served the major users properties in the center of our town. Did these property owners, including many commercial properties, not receive any "unique benefit" from this sewer system? I do not believe, although my research has been limited, that the authority levied a one time fee in 1996 as part of the major system extension that included Elm Street, Spring Street, etc., and parts of route 80. In 2003, the board of selectmen suggested a one time assessment be levied for the expansion project of \$3,000. The authority voted on March 3, 2003 to recommend an assessment of \$2,000 immediately after adjourning a public hearing on the project.

Perhaps most confusing, and certainly inconsistent, inequitable, arbitrary, and confusing, was the assessment levied by this authority to a few property owners just last April. This same authority determined at their regular meeting on April 15, 2013 to levy seven property owners on Lords Lane a benefit assessment of \$2,000 for their "unique benefit" from the expansion of this system down their street. I dare not ask how that was arrived at—or what the bathroom habits of my friends on Lords Lane might be, for them to "benefit" much less than ourselves and our neighbors who live within this current expansion project area.

We also must point out that in May of this year, during the public hearing to review and approve this project, the authority's proposed document for approved by vote that evening included a one time benefit fee of \$2,000. Why this amount leapt 2.5 times in the last 6 months would be interesting to hear.

We would add to Attorney Chudwick's good advice that the assessment must not just be defensible as fairly related to a real benefit, but that this must be applied fairly and equitably to all property owners in Deep River. The widely divergent fees, and lack of same, clearly indicate this assessment has not been handled in that way.

We believe that it is only "defensible" that the costs that all property owners adjacent to our sanitary sewer line have—or will pay—for any unique benefits they may receive, must now be made equitable. As a part of this project, all properties along the sewer system should be analyzed to determine if the owners have paid more or less than the "equitable" amount for the unique benefit they receive from this system. They then should be assessed, or reimbursed, as the case may be, so that, in the end, every property owner will have paid fairly for any benefits they may have received.

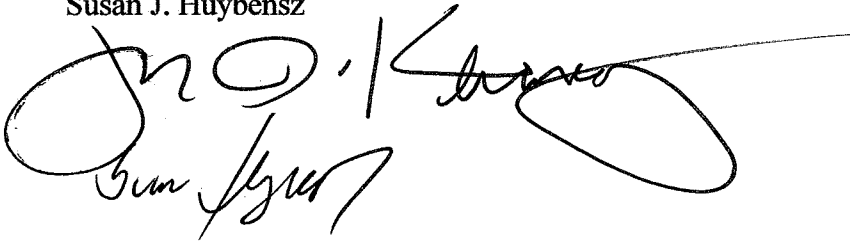
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2. We believe assigning the same proposed \$5,000 assessment to ALL property owners adjacent to this sewer expansion line could not possibly fairly represent the benefit that each individual property owner would receive. We refer to the aforementioned rationale given for this methodology by Mr. Lewis in May. However, we suggest this method will obviously unfairly benefit some property owners. We believe it is obvious that the any sort of benefit a property owner might receive from the availability of a sanitary sewer system could not possibly be the same for owners of very types and sizes of properties. It seems obvious that properties zoned for very different uses would use, and benefit from, a system like this in very different ways. This would apply whether the assumed "benefit" is defined in financial or other terms. We note that owners of a marina, a multi use entertainment facility, a commercial business, a restaurant, or a multi family residential property would benefit differently than a single family residential property owner. It seems obvious that those benefits would be greater, although this assessment does not take that into consideration.

The \$5,000 fee proposed for approval this evening would clearly treat the property owner's adjacent to this current project in a disadvantaged and entirely inequitable manner relative to many other property owners in similar proximity to this system in our town. We submit that a "unique benefit" fee of \$5,000 certainly can't be justified in any rational way, simply in the light of these past assessments—and non-assessments—and must be disapproved.

We believe that what we suggest is required in order to be fair to all property owners in our town, and this effort will neither jeopardize nor delay this important project.

Sincerely,  
John D. Kennedy  
Susan J. Huybensz

The block contains two handwritten signatures. The top signature is for John D. Kennedy, written in a cursive, stylized script. The bottom signature is for Susan J. Huybensz, also in a cursive script, appearing more fluid and less formal than the one above it.