



**FINAL LANGUAGE AND STATEMENT OF REASONS:
REVISIONS TO THE GROUND WATER CLASSIFICATIONS OF CERTAIN AREAS
OF THE STATE OF CONNECTICUT**

**HEARING ON THE RECLASSIFICATION OF GROUND WATER
HEARING DATE: December 1, 2016**

Overview:

Section 22a-426-7(k)(2) of the Regulations of Connecticut State Agencies (RCSA) allows the Commissioner of the Department of Energy & Environmental Protection (Commissioner) to consider an application to lower a ground water classification from Class GA to Class GB subject to the public participation requirements of Section 22a-426 of the General Statutes. The proposed amendment to the classification map has been submitted pursuant to Section 22a-426-7(k)(2)(B)(iii)(I) of the Regulations of Connecticut State Agencies and would lower the ground water classification from an existing classification of GA to a classification of GB at the proposed site. The application was reviewed and a tentative determination to approve the requested ground water quality reclassification was made. A public hearing was scheduled and noticed in accordance with Section 22a-426 of the General Statutes. After conducting the hearing and considering the evidence presented in the application, it is recommended that the Commissioner grant the request to lower the ground water quality classification from Class GA to Class GB at this site.

Criteria for lowering a water quality classification from Class GA to Class GB:

RSCA Section 22a-426-7(k)(2)(B) (Exhibit 1) sets out three criteria that all applications for lowering a water quality classification must meet in order for the Commissioner to consider a change in ground water classification. The application was submitted for consideration under RSCA Section 22a-426-7(k)(2)(B)(iii)(I), which sets out two additional criteria. Therefore, all five criteria apply to the application, and the criteria are as follows:

(B) A ground water classification shall not be lowered to GB unless the applicant has satisfactorily demonstrated that:

(i) any person within or downgradient of the area to be reclassified and extending to an area previously classified as GB or to a surface water body to which the ground water discharges will be provided with an adequate public water supply¹;

¹ Criterion No. 1

(ii) lowering of a ground water classification will not prevent attainment of adjacent surface water quality goals² or present unacceptable health risks³; and

(iii) any of the following:

(I) That the ground water to be reclassified is polluted as a result of intense urban, commercial, or industrial development which occurred prior to 1981⁴, and the hydrologic conditions of the subject area are not suitable for the development of a significant public water supply⁵... (*RSCA 22a-426-7(k)(2)(B), effective October 10, 2013*)

Findings:

- 1) The applicant petitioned the Commissioner to lower the ground water classification from Class GA to Class GB. The area under consideration is in Montville, in the vicinity of 42 Pink Row, extending to Oxoboxo Brook to the north, the Thames River and an existing GB area to the east, and approximately Dock Road to the south. (Exhibit 9)
- 2) On September 9, 2016, in accordance with Section 22a-426 of the General Statutes, the Commissioner intended to publish notice (Exhibit 4a) in the *New London Day* of a public hearing to receive oral and written testimony on the proposed amendments to the ground water classification at the site. The public notice was published on the Department's web site and the Commissioner provided notice to the Chief Executive Officer of Montville with a copy to the Director of Health (Exhibits 6a and 6b). However, it was subsequently learned that the notice was not published in the *New London Day*.
- 3) A letter in support for the Proposed Groundwater Reclassification was received from Ronald McDaniel, Mayor, and Marcia Vlaun, Town Planner. The letter (Exhibit 8) was dated September 19, 2016.
- 4) A public hearing was conducted on the requested reclassification on October 13, 2016. The applicant attended the public hearing. No members of the general public attended, and no oral or written testimony was offered at the hearing. The hearing record was closed on October 13, 2016.
- 5) Once it came to the Department's attention that notice had not been published in the *New London Day* on September 9, 2016, the Commissioner scheduled a second hearing for December 1, 2016. Notice of the hearing (Exhibit 4b) was published in the *New London Day* on November 1, 2016 (Exhibit 5) and a second letter notifying the Chief Executive Officer of Montville, with a copy to the Director of Health, was sent (Exhibit 6c and 6d).

² Criterion No. 2

³ Criterion No. 3

⁴ Criterion No. 4

⁵ Criterion No. 5

- 6) A second public hearing was conducted on the requested reclassification on December 1, 2016. No members of the general public attended, and no oral or written testimony was offered at the hearing. The hearing record was closed on December 1, 2016.
- 7) The application received for the site (Exhibits 2a, 2b and 2c) provided adequate information to determine that the five criteria required by RSCA Section 22a-426-7(k)(2)(B) were met:

Criterion No. 1: (Potable Water) All properties within and downgradient of the proposed reclassification areas are entirely served by public water supplies drawn from outside the areas. The applicants used utility maps, billing records and examined local health department records to confirm this and to ensure that no drinking water wells are present. It is noted that one residential property, at 42 Dock Road, was the final property to be connected to the public water system by the applicant. Notice was received from the Town of Montville verifying connection of this property on June 7, 2016 (Exhibit 7).

Criterion No. 2 (adjacent surface water goals) and Criterion No. 3 (unacceptable health risks): The application presented results of investigations to determine the level of pollution of ground water at the site. Additional site remediation activities through the Federal Resource Conservation and Recovery Act (RCRA) Corrective Actions program and a State Consent Order, and in accordance with the Site Remediation Standards Regulations will bring concentrations of pollutants in the ground water at the site below applicable surface water protection criteria and volatilization criteria. Since the Commissioner established these criteria to protect surface water quality and public health, the reclassification should not compromise either water quality or public health.

Criterion No. 4 (pollution of ground water as a result of historic development): The applicant provided a reasonable body of ground water monitoring information that indicates that the sites ground water has been degraded. The pollutants present include the solvents TCE and PCE and their breakdown products. The application documents urban, industrial or commercial uses on this site which predate the adoption of the first ground water quality standards in 1981. It is reasonable to associate the ground water pollution at the site with the documented historic industrial or commercial activities.

Criterion No. 5 (site suitability for a significant public water supply): The site is unsuited for the development of significant public water supply wells due to the nature of the on-site earthen and bedrock materials. Borings and geologic mapping information presented in the application indicates the overburden materials are thin at the site, and although the saturated thickness increases toward the Thames River, there is a high potential for salt water intrusion from the river, as mapped by the U.S. Geological Survey. Therefore the site is not suitable for significant public water supply development.

Conclusion:

The applicant, Mr. David Hickey on behalf of Faria Beede Instruments, has demonstrated that the area proposed for reclassification from Class GA to Class GB in Montville meets the criteria established under RSCA Section 22a-426-7(k)(2)(B), and the town of Montville is supportive of this change. I therefore recommend that the Commissioner grant the request for lowering the ground water quality classification to Class GB at this site.

12/5/16

Date



Corinne R. Fitting
Hearing Officer

DECISION

Having reviewed the hearing officer's report and recommendation, I affirm her findings and conclusions and adopt her recommendation to GRANT the above-referenced application to lower the ground water quality classification from Class GA to Class GB. This change will be incorporated in the Water Quality Classification Map as new editions are prepared.

December 8, 2016

Date



Michael Sullivan
Deputy Commissioner

List of Participants

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List of Speakers at the Public Hearings

(None)

List of Exhibits

Exhibit 1: Water Quality Standards & Classifications, *RSCA Section 22a-426-1to 22a-426-9*

- Exhibit 2a: Application for Ground Water Classification Change, Faria Beede Instruments, Inc.,
7/20/16
- Exhibit 2b: GB Reclassification Request 5/5/15
- Exhibit 2c: Revised Remedial Action Plan Submittal
- Exhibit 3: Authorization to Conduct a Public Hearing
- Exhibit 4a: Public Notice of Intent to Reclassify Groundwater and Hearing October 13, 2016
- Exhibit 4b: Public Notice of Intent to Reclassify Groundwater and Hearing December 1, 2016
- Exhibit 5: Affidavit of publication of public notice, New London Day, November 1, 2016
- Exhibit 6a: Notification of Proposed Reclassification and Hearing to Ronald McDaniel, Mayor
- Exhibit 6b: Return Receipt from Ronald McDaniel
- Exhibit 6c: Notification of second hearing date to Ronald McDaniel, Mayor
- Exhibit 6d: Return Receipt from Ronald McDaniel
- Exhibit 7: Notification of connection of 42 Dock Rd. to public water from Town of Montville
Water Pollution Control Authority
- Exhibit 8: Letter of Support from Ronald McDaniel, Montville and Marcia Vlaun, Town Planner
- Exhibit 9: Map of Proposed Area for Reclassification, Montville