



**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:

JULY 11, 2018

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. Three such proposed amendments to the classification map were submitted pursuant to Section 22a-426-7(k)(2)(B)(iii)(I) of the Regulations of Connecticut State Agencies, which would lower the ground water classification from an existing classification of GA to a classification of GB at the proposed sites. The applications were reviewed and tentative determinations to approve the requested ground water quality reclassifications were 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 applications, it is recommended that the Commissioner grant the request to lower the ground water quality classification from Class GA to Class GB at the five sites.

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 applications were 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 applications, 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) Three applicants petitioned the Commissioner to lower the ground water classification from Class GA to Class GB (each application is accompanied by detailed maps that precisely identify the areas which are the subject of these applications), as follows:
 - a) Cromwell: Approximately 74.99 acres extending west of Sebeth Dr. from an existing GB area to the northeast to the Mattabesset River, submitted by David G. Clymer, on behalf of Safeway Products Inc. (Exhibit 2 and 2a);
 - b) Middletown: Approximately 5.28 acres of land on the south side of Washington St. encompassing properties at 543, 545, 593 and 613 Washington St., and abutting an existing GB area to the north, submitted by Joseph J. Klimas, Jr. on behalf of Klimas Realty, LLC (Exhibit 3 and 3a); and
 - c) Winchester: Approximately 1.8 acres of land at 10 White St. located adjacent to the south side of the Still River (Class B), submitted by Jonathan Thompson on behalf of Fairchild Auto-Mated Parts, Inc. (Exhibit 4 and 4a).
- 2) On June 4, 2018, in accordance with Section 22a-426 of the General Statutes, the Commissioner published notice in the *Hartford Courant*, *The Middletown Press*, and the *Register Citizen (Torrington)* (Exhibit 7) of a public hearing to receive oral and written testimony on the proposed amendments to the ground water classification at the sites. The public notice was published on the Department's web site and the Commissioner provided notice to the Chief Elected Official of Cromwell, Middletown and Winchester, with a copy to the Director of Health of each municipality (Exhibits 8, 9 and 10, respectively).
- 3) A public hearing was conducted on the requested reclassifications on July 11, 2018. Representatives of the applicants attended the public hearing. No members of the general public attended.

² Criterion No. 2

³ Criterion No. 3

⁴ Criterion No. 4

⁵ Criterion No. 5

- 4) No further materials were submitted, and the hearing record was subsequently closed.
- 5) The applications received for the Cromwell, Middletown and Winchester sites (Exhibits 2, 2a, 2b, 3, 3a, 4 and 4a) 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 three 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.

Criterion No. 2 (adjacent surface water goals) and Criterion No. 3 (unacceptable health risks): The applications presented results of investigations to determine the level of pollution of ground water at the site. Pollutant levels at the Middletown and Winchester sites do not exceed surface water protection criteria (SWPC), applicable residential volatilization criteria (RVC) nor applicable direct exposure 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. Pollutant levels at the Cromwell site meet the SWPC before ground water intersects the Mattabesset River. Pollutant levels at the Cromwell site exceed the RVC, and Sub-Slab Depressurization (SSD) Systems have been installed at 3 properties to eliminate the potential pathway for migration of soil vapors into the buildings on these properties. The Cromwell site is the subject of a CTDEEP Order (SRD-118) which requires that the SSD Systems be managed in place with an Environmental Land Use Restriction until RVC levels meet compliance criteria.

Criterion No. 4 (pollution of ground water as a result of historic development): The applicants provided a reasonable body of ground water monitoring information that indicates that the sites' ground water has been degraded. The pollutants present include petroleum hydrocarbons, volatile organic compounds, breakdown products and metals. The applications document urban, industrial or commercial uses on these sites which predate the adoption of the first ground water quality standards in 1981. It is reasonable to associate the ground water pollution at the sites with the documented historic industrial or commercial activities.


Criterion No. 5 (site suitability for a significant public water supply): The sites are 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 applications indicate the overburden materials are thin and/or low permeability at the sites, and therefore not suitable for significant public water supply development.

No written or oral comments were received for these three sites (Cromwell, Middletown and Winchester.)

Conclusion:

The applicants, Mr. David G. Clymer, on behalf of Safeway Products Inc. (Exhibits 2, 2a and 2b); Mr. Joseph J. Klimas, Jr. on behalf of Klimas Realty, LLC, (Exhibits 3, and 3a); and Mr. Jonathan Thompson on behalf of Fairchild Auto-Mated Parts, Inc. (Exhibits 4 and 4a), have demonstrated that the areas in Cromwell, Middletown and Winchester proposed for reclassification from Class GA to Class GB meet criteria established under RSCA Section 22a-426-7(k)(2)(B). I therefore recommend that the Commissioner grant the requests for lowering the ground water quality classifications to Class GB at these three sites.

7/12/2018
Date


Teresa K. Gagnon
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 applications to lower the ground water quality classification from Class GA to Class GB. These changes will be incorporated in the Water Quality Classification Map as new editions are prepared.

7/19/18

Date

Robert E. Kaliszewski

Robert E. Kaliszewski
Deputy Commissioner

List of Participants

David Selgar
Arcadis US Inc.
160 Chapel Rd, Suite 201
Manchester, CT 06042

David G. Clymer, PE, LEP
Safeway Products, Inc. c/o Goodrich Corp
2730 W Tyvola Rd, Four Coliseum Centre
Charlotte, NC 28217

Ralph Coppola, Sr
14 Alcap, LLC
2 Sovereign Ridge
Cromwell, CT 06416

Enzo Faienza
Mayor
Town Hall, 1st FL
Cromwell, CT 06416

J. Wesley Bell
Cromwell Director of Health
31 West St
Cromwell, CT 06416-3424

Sam Haydock
BL Companies
355 Research Pkwy
Meriden, CT 06450

Joseph J. Klimas, Jr
Klimas Realty, LLC
634 Newfield St.
Middletown, CT 06457

Daniel T. Drew, Mayor
City of Middletown
245 deKoven Drive
Middletown, CT 06457

Dr. Joseph Havlicek
Director of Public Health
City of Middletown

Robert W. Simmons, PG, LEP
Chief Hydrogeologist
HRP Associates, Inc.
197 Scott Swamp Rd
Farmington, CT 06032

Jonathan Thompson
Fairchild Auto-Mated parts, Inc.
10 White St.
Winsted, CT 06098

Mayor Althea Candy Perez
Winchester Town Hall
338 Main St.
Winsted, CT 06098

Ms. Julie Prue, Sanitarian
350 Main St., Suite A
Torrington Area Health District
Torrington, CT 06790

List of Exhibits

- Exhibit 1: Water Quality Standards & Classifications, *RSCA Section 22a-426-1 to 22a-426-9*
- Exhibit 2: Application for Ground Water Classification Change, Cromwell, Safeway Product
- Exhibit 2a-b: Supporting Materials, Cromwell, Safeway Products
- Exhibit 3a: Application for Ground Water Classification Change, Middletown, Klimas Realty
- Exhibit 3b: Supporting Materials, Middletown, Klimas Realty
- Exhibit 4a: Application for Ground Water Classification Change, Winchester, Fairchild Auto-Mated Parts
- Exhibit 4b: Supporting Materials, Winchester, Fairchild Auto-Mated Parts
- Exhibit 5: Authorization to Conduct a Public Hearing, 5/18/2018
- Exhibit 6: Public Notice of Hearing for Ground Water Reclassification and Tentative Determination of the Commissioner 6/4/18
- Exhibit 7: Affidavit of Publication of public notice, 6/4/18
- Exhibit 8-10: Notification letters to chief Elected Officials of Cromwell, Middletown and Winchester, respectively, 6/6/18
- Exhibit 11-13: Return Receipts from Chief Elected Officials, respectively
- Exhibit 14: Speakers List: No Speakers
- Exhibit 15: Notes for Public Hearing 2018

