

**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:
SEPTEMBER 9, 2021**

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 RCSA Section 22a-426-7(k)(2)(B)(iii)(I), 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 three 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) New Britain: 15.28 acres encompassing the subject site at 23 St. Clair Avenue and bounded by St. Clair Avenue to the north, extending to the GB area to the west, south and east; submitted by J. George Podlasek on behalf of Winslow Automatics, Inc. (Exhibit 2);
 - b) Derby: 9.11 acres encompassing the subject site at 61-71 Minerva Street and bounded by Fourth Street to the north, extending to the GB area to the west, south and east; submitted by Andrew Baklik on behalf of the City of Derby (Exhibit 3);
 - c) Norwalk: Approximately 6.4 acres that encompass the subject site and nearby parcels bounded by Meadow Street and Wilson Avenue to the west and extending to the existing Class GB areas to the north, south, and east; submitted by Michael Ferro on behalf of M&J Meadow, LLC. (Exhibit 4).
- 2) On August 4, 2021, in accordance with Section 22a-426 of the General Statutes, the Commissioner published notice in the *Connecticut Post*, *New Britain Herald - Bristol Press*, and *Norwalk Hour* (Exhibit 5) 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 New Britain, Derby and Norwalk, with a copy to the Director of Health of each municipality (Exhibits 6, 7 and 8-10, respectively).

² Criterion No. 2

³ Criterion No. 3

⁴ Criterion No. 4

⁵ Criterion No. 5

- 3) A public hearing was conducted on the requested reclassifications on September 9, 2021. Representatives of the applicants attended the public hearing. One member of the public attended.
- 4) No comments were made, nor further materials submitted, and the hearing record was subsequently closed.
- 5) The applications received for the New Britain, Derby and Norwalk sites (Exhibits 2, 3, and 4) 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 each respective site:

New Britain: Pollutant levels at the New Britain site exceed the SWPC; applicable residential volatilization criteria (RVC) and direct exposure criteria are met. The site is in process of characterization and intends to enter into the Voluntary Program following the Reclassification process.

Derby: Pollutant levels at the Derby site exceed the SWPC, RVC and direct exposure criteria. A Significant Environmental Hazard notification was issued in 2019. The site is in the Abandoned Brownfield Assessment Program which will include investigation and completion of soil and groundwater remediation to comply with the CT Transfer Act and the Remediation Standard Regulations (RSRs).

Norwalk: Pollutant levels at the Norwalk site exceed the SWPC and RVC; not a significant environmental hazard. The site intends to enter into the Voluntary Program following the Reclassification process.

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 (New Britain, Derby and Norwalk).

Conclusion:

The applicants, J. George Podlasek, on behalf of Winslow Automatics, Inc. (Exhibit 2); Andrew Baklik, Chief of Staff on behalf of the City of Derby (Exhibits 3); and Michael Ferro on behalf of M&J Meadow, LLC (Exhibits 4) have demonstrated that the areas in New Britain, Derby and Norwalk 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.

October 5, 2021

Date

Teresa Gagnon

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.

Date

Betsey Wingfield
Deputy Commissioner
Environmental Quality Branch

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List of Exhibits

- Exhibit 1: Water Quality Standards & Classifications, *RSCA Section 22a-426-1 to 22a-426-9*
- Exhibit 2: Application and Supporting Materials for Ground Water Classification Change, New Britain, Winslow Automatics
- Exhibit 3: Application and Supporting Materials for Ground Water Classification Change, Derby, City of Derby
- Exhibit 4: Application and Supporting Materials for Ground Water Classification Change, Norwalk, M&J Meadow, LLC
- Exhibit 5: Authorization to Conduct a Public Hearing, 7/29/2021
- Exhibit 6: Public Notice of Hearing for Ground Water Reclassification and Tentative Determination of the Commissioner 7/29/2021
- Exhibit 7: Affidavit of Publication of public notice, 7/29/2021
- Exhibit 8-10: Notification letters to chief Elected Officials of New Britain, Derby and Norwalk, respectively, 8/3/2021
- Exhibit 11: Notes for Public Hearing 2021