

**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 9, 2020**

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. Six 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 six 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) Six 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) Greenwich: 54.46 acres encompassing the subject site at 10 Hillside Road and extending south to the existing GB area and Greenwich Creek; submitted by Amy Siebert, Commissioner of Public Works, on behalf of The Town of Greenwich (Exhibit 2 and 2a);
 - b) New Milford: Approximately 7 acres encompassing the subject site at 41-47 Main Street and extending to Main St to the East, Bank St to the south, the property boundary to north and an existing GB area and Railroad tracks to the west; submitted by Edward Falkenberg on behalf of Acme 2 Realty LLC (Exhibit 3 and 3a);
 - c) Plainville: Approximately 14.76 acres of property encompassing the subject site at 1 and 63 West Main St which is bounded to the north by the Pequabuck River, extending east to the Railroad line and connecting to the existing GB area to the northeast; submitted by Robert E. Lee on behalf of The Town of Plainville (Exhibit 4 and 4a).
 - d) Plymouth (Terryville): 18 acres, encompassing the former O-Z Gedney Company, bordered on the north by Rt 72. The Class B Pequabuck River flows west to east through central part of property, then forms the east and southeastern border of the proposed GB area; submitted by Walter Galacki on behalf of the SPX Corporation (Exhibit 5 and 5a);
 - e) Torrington: Approximately 8 acres encompassing the property at 293 New Litchfield St., extending south to Gulf Stream and east to the Railroad tracks and the adjacent existing GB area; submitted by Martin Marola on behalf of Belleview LLC (Exhibit 6

² Criterion No. 2

³ Criterion No. 3

⁴ Criterion No. 4

⁵ Criterion No. 5

and 6a); and

- f) Wethersfield: Approximately 2.02 acres encompassing the property at 214 Church St., and extending to the existing GB area to the north, west and south; submitted by Peter Kelly on behalf of Kell-Strom Tool Co., Inc. (Exhibit 7 and 7a).
- 2) On November 4, 2020, in accordance with Section 22a-426 of the General Statutes, the Commissioner published notice in the *Greenwich Time*, *The News-Times*, *Norwich Bulletin*, *Bristol Press*, *Register Citizen (Torrington)*, and *The Hartford Courant* (Exhibit 8) 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 Greenwich, New Milford, Plainville, Plymouth (Terryville), Torrington and Wethersfield, with a copy to the Director of Health of each municipality (Exhibits 9, 10 and 11-16, respectively).
- 3) A public hearing was conducted on the requested reclassifications on December 9, 2020. Representatives of the applicants attended the public hearing. No members 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 Greenwich, New Milford, Plainville, Plymouth (Terryville), Torrington and Wethersfield sites (Exhibits 2, 2a, 3, 3a, 4, 4a, 5, 5a, 6, 6a, 7 and 7a) 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 six 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:

Greenwich: Pollutant levels at the Greenwich site 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.

New Milford: Pollutant levels at the New Milford site meet the RVC, direct exposure and SWPC before ground water intersects the property boundary.

Plainville: Pollutant levels at the Plainville site exceed the SWPC, RVC and direct exposure criteria. The site is in the Abandoned Brownfield Assessment Program which requires a remediation plan that will include an ELUR in order to meet SWPC, RVC and direct exposure criteria.

Plymouth (Terryville): This site is an Establishment under Transfer Act and is under LEP lead and an ELUR application that will restrict residential activity and prevent exposure to inaccessible soil in order to meet RVC and direct exposure criteria. A Request for Approval for Alternative SWPC was submitted in 2011.

Torrington: Pollutant levels at the Torrington site exceed SWPC, and the site is enrolled in a 133x voluntary program with LEP oversight. RVC and direct exposure criteria are met.

Wethersfield: Pollutant levels at the Wethersfield site exceed SWPC and direct exposure criteria. The RVC is met. The site is the subject of a CTDEEP Consent Order No. COWSUST 11-002 which requires that SWPC, RVC and direct exposure criteria levels are met.

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 six sites (Greenwich, New Milford, Plainville, Plymouth (Terryville), Torrington and Wethersfield).

Conclusion:

The applicants, Amy Siebert, Commissioner of Public Works, on behalf of The Town of Greenwich (Exhibits 2 and 2a); Edward Falkenberg on behalf of Acme 2 Realty LLC (Exhibits 3 and 3a); Robert E. Lee on behalf of The Town of Plainville (Exhibits 4 and 4a), Walter Galacki on behalf of the SPX Corporation (Exhibit 5 and 5a); Martin Marola on behalf of Belleview LLC (Exhibit 6 and 6a); and Peter Kelly on behalf of Kell-Strom Tool Co., Inc. (Exhibit 7 and 7a) have demonstrated that the areas in Greenwich, New Milford, Plainville, Plymouth (Terryville), Torrington and Wethersfield 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 six sites.

January 5, 2021

Date

Teresa K 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.

January 13, 2021

Date

Betsy Wingfield

Betsy Wingfield
Deputy Commissioner
Environmental Quality Branch

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The Honorable Michael L. Rell
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List of Exhibits

- Exhibit 1: Water Quality Standards & Classifications, *RSCA Section 22a-426-1 to 22a-426-9*
- Exhibit 2a: Application for Ground Water Classification Change, Greenwich, Town of Greenwich
- Exhibit 2b: Supporting Materials, Greenwich, Town of Greenwich
- Exhibit 3a: Application for Ground Water Classification Change, New Milford, Acme 2 Realty
- Exhibit 3b: Supporting Materials, New Milford, Acme 2 Realty
- Exhibit 4a: Application for Ground Water Classification Change, Plainville, Town of Plainville
- Exhibit 4b: Supporting Materials, Plainville, Town of Plainville
- Exhibit 5a: Application for Ground Water Classification Change, Plymouth, SPX Corporation
- Exhibit 5b: Supporting Materials, Plymouth, SPX Corporation
- Exhibit 6a: Application for Ground Water Classification Change, Torrington, Belleview, LLC
- Exhibit 6b: Supporting Materials, Torrington, Belleview LLC
- Exhibit 7a: Application of Ground Water Classification Change, Wethersfield, Kell-Strom Tool Co., Inc.
- Exhibit 7b: Supporting Materials, Wethersfield, Kell-Strom Tool Co., Inc.
- Exhibit 8: Authorization to Conduct a Public Hearing, 10/23/2020

- Exhibit 9: Public Notice of Hearing for Ground Water Reclassification and Tentative Determination of the Commissioner 10/27/20
- Exhibit 10: Affidavit of Publication of public notice, 10/28/20
- Exhibit 11-16: Notification letters to chief Elected Officials of Greenwich, New Milford, Plainville, Plymouth (Terryville), Torrington and Wethersfield, respectively, 10/29/20
- Exhibit 17: Speakers List: No Speakers
- Exhibit 18: Notes for Public Hearing 2020