

CAPE COD COMMISSION

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DATE: JULY 23, 1992
TO: KATHLEEN GREGROW AND JUDY WIMER
23 CONANT STREET, PROVINCETOWN, MASSACHUSETTS 02657

FROM: CAPE COD COMMISSION

RE: DEVELOPMENT OF REGIONAL IMPACT HARDSHIP EXEMPTION REQUEST
CAPE COD COMMISSION ACT, SECTION 23

APPLICANT: KATHLEEN GREGROW AND JUDY WIMER
PROJECT #: TR92036
PROJECT: TAVES FARM BED AND BREAKFAST AND WINERY
ROUTE 6, ROUTE 6A AND SOUTH HOLLOW ROAD INTERSECTION
TRURO, MASSACHUSETTS 02666

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Kathleen Gregrow and Judy Wimer for a Development of Regional Impact Hardship Exemption under Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Bed and Breakfast and Winery in Truro, MA. The decision is rendered pursuant to the vote of the Commission on July 23, 1992.

PROJECT DESCRIPTION

The project is located at the corner of the Route 6, Route 6A and South Hollow Road Intersections in Truro Massachusetts. Historically used as a farm and single family residence, the 9 bedroom home will be turned into a bed and breakfast and an approximate 3 acre portion of the 5.08 acre site will be devoted to a vineyard. A barn and shed on the site will be used to support the vineyard and winery operation. The applicants intend to use an integrated pest management system of farming that includes organic and chemical techniques. A wine tasting area and retail wine sales operation will be located in the barn.

The project is located in a MA Department of Environmental Protection (DEP) Zone II and lies upgradient of, and approximately 1000 feet from, the South Hollow Well Field. This wellfield supplies the Town of Provincetown with 85% of their water supplies and 35% of the water supplies for the Town of Truro. The project site is located in the one half to one year time of travel

zone to the well field.

PROCEDURAL HISTORY

This project was referred to the Commission by Mr. Stephen Williams, Building Inspector from the Town of Truro as a discretionary referral on May 21, 1992. The full Commission accepted the referral on May 28, 1992 under Section 12 (e) of the Act. A duly noticed public hearing was conducted by the Commission pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on June 23, 1992 at the Truro Town Hall, Truro, MA. The hearing was closed on June 23, 1992 and the record was held open for submission of written materials until July 7, 1992. The subcommittee held a public meeting on July 7, 1992, in Rooms 11 and 12 at the Barnstable Superior Court House in Barnstable MA to deliberate on the project and voted at that time to approve the hardship exemption with conditions. The subcommittee held a public meeting on July 9, 1992 at the Chamber of the Assembly of Delegates in Barnstable, MA to finalize conditions on the project. The subcommittee presented their subcommittee report to the full Commission on July 9, 1992 at which time the full Commission voted to approve the subcommittee recommendation for approval of the hardship exemption with conditions.

MATERIALS SUBMITTED FOR THE RECORD

Materials submitted by the Applicant include:

- Letter from Kathleen Gregrow to Truro Board of Appeals, re: withdrawal of specific petition requests, May 27, 1992.
- Documentation from Kathleen Gregrow and Judy Wimer in support of their project for the full Commission Discretionary Referral hearing, May 28, 1992.
- Development of Regional Impact Application Form, June 22, 1992.
- Hardship Exemption Application Form, June 22, 1992.
- Documentation submitted at the June 23, 1992 public hearing discussing the farm operation, revised nitrogen loading calculations and letters from Soil Conservation Service, Cornell University and the MA Dept. of Food and Agriculture supporting the project, June 23, 1992.

Materials submitted by the Cape Cod Commission:

- Letter to Kathleen Gregrow and Judy Wimer informing them of their status as a DRI, May 13, 1992.
- Letter to Kathleen Gregrow and Judy Wimer informing them of the notice of a public hearing, June 4, 1992.
- Letter from Alix Ritchie to the Provincetown Board of Selectmen discussing dual role of Commission member and Provincetown Planning Board member.
- Letter to Ms. Perry of N. Truro informing her of the amended proposal of applicants to not sell vegetable produce to the public, June 8, 1992.
- Staff Report, June 23, 1992.
- Minutes from June 23, 1992 hearing.
- Excerpts from the Farm chemicals Handbook '91' detailing information concerning the proposed chemicals to be used on the farm June 23, 1992.
- Letter to Matthew Broderick, Permits Engineer for MA Dept. of Highways, July 1, 1992.
- Draft Subcommittee Report, July 3, 1992.
- Subcommittee Report, July 9, 1992.

Materials submitted by Municipal Agencies:

- Development of Regional Impact Referral Form, from the Truro Building Inspector, Stephen Williams, May 12, 1992.
- Document to support Discretionary Referral from Stephen Williams, Truro Building Inspector, May 28, 1992.
- Letter from the Truro Assessors Office concerning the certified abutters list, June 1, 1992.
- Letter from Norman Pope, Chairman, Board of Appeals in Truro, objecting to Cape Cod Commission timing of review, June 8, 1992.
- Letter from Irene Rabinowitz, Chairman, Board of Selectmen Provincetown, requesting that she vote on the Taves Farm Project, June 9, 1992.
- Letter from the Truro Board of Selectmen to Ken Brock, requesting that he participate in the Taves Farm review in his capacity as a Commission member, June 22, 1992.

Materials submitted by State Agencies:

- Letter from the MA Historical Society requesting additional information, June 30, 1992.
- Brochure concerning Regulation of Pesticides in MA, MA Dept. of Food and Agriculture, June 30, 1992.
- Brochure concerning Groundwater Protection from Pesticides, MA Dept. of Food and Agriculture, June 30, 1992.
- Brochure concerning Pesticide Enforcement, MA Dept. of Food and Agriculture, June 30, 1992.
- Information Bulletin concerning Groundwater Protection Programs in MA, MA Dept. of Food and Agriculture, June 30, 1992.
- Pesticide Guidebook, Regulation, Registration and Resource Directory, MA Dept., issued January 1992, June 30, 1992.

Materials submitted by Federal Agencies:

- Document re: National Pesticide Survey, issued Fall 1990. Soil Conservation Service (SCS) July 6, 1992.
- Document re: Pesticides Properties Data Base, SCS, July 6, 1992.
- Document re: NPURG. National Pesticide User Risk Assessment of Ground and Surface Water Contamination. SCS, July 6, 1992.
- Document re: NPURG Rating Supplement, SCS, July 6, 1992.

Materials submitted by private citizens:

- Letter in support of the project from Diane B. LaFrance, June 23, 1992.
- Excerpts from the document the Natural Farmer submitted by Robert Olsen, June 23, 1992.

The application and notices of public hearings relative thereto, the Commission's staff notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

JURISDICTION

The proposed Taves Farm Bed and Breakfast and Winery was referred to the Commission as a discretionary referral under Section 12 (e) of the Act by Stephen Williams, Truro Building

Inspector on May 21, 1992. The Commission accepted jurisdiction over the project by a vote on May 28, 1992.

FINDINGS

The Commission has considered the application of Kathleen Gregrow and Judy Wimer for the proposed Taves Farm Bed and Breakfast and Winery, and based on consideration of such application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

1. The Commission finds that a hardship exemption does exist because the viability of the project could be jeopardized by an extended review time frame; since agricultural uses are season-specific as opposed to other land uses, timeliness of review provides relief to the hardship. The Commission also finds that through the imposition of conditions, the hardship can be granted without derogating from the intent and purposes of the Act.
2. The project meets Goal 1.2 of the Regional Policy Plan emphasizing agriculture that is environmentally compatible with the Cape's natural resources. Organic farming/vineyard methods will be employed to the greatest extent possible using the integrated pest management system and non organic methods when there is no viable alternative.
3. The proposed project would be located in a DEP approved Zone II on 5.08 acres in Truro approximately 1000 feet from and upgradient of the South Hollow Wellfield. This wellfield supplies 85% of the water supply to Provincetown and 35% of the water supply for Truro.
4. The soils in the surrounding area are coarse sands that are low in organic matter, are excessively drained and droughty. The water table under the proposed project site is between 14 and 30 feet from the soil surface.
5. The proposed project lies within the 180 day and 1 year time of travel zones to the wellfield.
6. The applicants propose a 9 unit bed and breakfast in addition to the winery. The combined uses of the bed and breakfast and the winery present potential nitrogen loading concerns and problems associated with the use of chemicals in an integrated pest management system for the farming operation.
7. Nitrogen loading calculations performed for the site in full seasonal operation was below 5.0 ppm as required by the Regional Policy Plan's Minimum Performance Standards.
8. The Commission found that there are 2 types of applications for pesticides in a integrated pest management system. Those chemicals that are foliar applied and chemicals that are applied to the soil. Through the use of mulches and organic additives to the soil, foliar applied pesticides are less of a risk to groundwater because they are usually trapped in the mulch/organic layer and are able to break down prior to reaching the groundwater table. Pesticides applied to the soil are less likely to be trapped and therefore, the applicants must institute a monitoring system on site to detect for the possible presence of those soil applied pesticides in the groundwater if such pesticides are used.
9. The Soil Conservation Service (SCS), representatives from the County Extension Service and representatives from the Massachusetts Department of Food and Agriculture have provided information and support for the applicant's use of pesticides in their farming/vineyard operation. In addition, these groups have supplied information and testimony at public hearings stating that

the use of proper farming methods and techniques will reduce the risk associated with pesticide use and its potential impact on groundwater.

10. The SCS has offered to assist the applicants with a Resource Management System Plan in an effort to offer guidance and increased accountability for the use of the chemicals in the farm/vineyard operation.

11. All of the pesticides listed for potential use are allowed in Zone IIs by the MA Department of Food and Agriculture. The reason these pesticides are allowed is that, after a nation wide test of over 1700 wells, virtually none of these pesticides were found in area ground water.

12. There are 2 curb cuts at the site. One is located on Rte. 6A and the other is on South Hollow Road.

13. The close proximity of the Old South Hollow Road curb cut closest to Route 6 causes a potential safety problem. Use of the Old South Hollow Road site drive would increase the opportunity for northbound Rte 6 vehicles to access the winery via a left turn; a potentially dangerous maneuver. This likelihood of such un-safe left turns could increase if a highly visible entrance was constructed at the Old South Hollow Road site drive in an attempt to capture pass-by tourist traffic. Left turns from Route 6 pose a safety concern because Route 6 is a four lane undivided highway with a 50 MPH speed limit serving almost 20,000 vehicles per day during the summer.

CONCLUSION

Based upon the findings above, the Cape Cod commission hereby concludes:

That a hardship does exist and that granting a hardship exemption to the Applicants will not derogate from the intent and purpose of the Act. This conclusion is supported by the facts that the project will meet Goal 1.2 of the Regional Policy Plan by establishing agricultural practices that are environmentally compatible with the Cape's natural resources, including water resources and will provide an opportunity for traditional occupations through the agricultural/vineyard operation.

The Commission hereby approves with conditions the Taves Farm Bed and Breakfast and Winery for a Hardship Exemption pursuant to Section 23 of the Act. The following conditions are to be attached to this approval:

General Conditions

Herbicides, insecticides and fungicides shall be hereafter referred to as pesticides for the purposes specified in the following conditions.

1) Pesticides shall not be used on the farm/vineyard unless there is no viable alternative, as specified by the Cape Cod Conservation District Resource Management System Plan. That plan and all amendments thereto shall be submitted to the Provincetown Water Department, the Truro Board of Health and the Commission.

2) The supply well on the Taves Farm site shall be registered with the MA Department of Environmental Protection (DEP), Division of Water Supply, and the well shall be tested prior to operation of the farm/vineyard operation to establish base line data on the contaminants identified by the Phase II requirements of the National Primary Drinking Water Regulations. The analysis

shall be performed as for a non-transient, non-community water supply as specified under the compliance monitoring requirements (see attached). In addition, the on-site well shall be tested annually for nitrate/nitrogen and nitrite/nitrogen and these reports shall be filed with the Provincetown Board of Health, the Truro Board of Health, the DEP and the Commission.

3) The storage of commercial fertilizers, soil conditioners as defined by MGL Chapter 128, Sec. 64, and pesticides shall be in an enclosed building. The storage area shall have a sealed, impervious floor surface extending 6 inches up the wall and no floor drain(s). The quantities of stored materials shall not exceed one years supply of the anticipated application, with a carry over from year-to-year not to exceed 50% of the material.

4) A complete list of pesticides, fertilizers and other hazardous or potentially hazardous material to be used or stored on the premises in quantities greater than those associated with normal household use shall remain on file with the Provincetown Water Department, the Truro Board of Health and the Truro Fire Department prior to commencement of the farming/vineyard operation. This list shall be annually updated with the above mentioned departments.

5) Total amount of nitrogen fertilizer used on the site shall not exceed 120 pounds nitrogen per year.

6) A record of pesticide and fertilizer use shall be maintained by the applicant and annually filed with the Provincetown Water Department and Truro Board of Health and the Commission. The record shall include date of application, pesticide applied, method of application, amount applied, weather conditions, and any other hazard related information as identified in the labeling of the product used.

7) Prior to commencement of farming and vineyard operation, a Resource Management System Plan shall be developed by the applicant in conjunction with the Cape Cod Conservation District which is administered through the Soil Conservation Service (SCS). A copy of this Resource Management System Plan, and any amendments thereto, shall be provided to the Commission.

8) As a deterrent to leaching of pesticides and to increase the organic density of the soils mulch shall be applied to the vegetated rows. The depth of mulch to be maintained at all times shall be established by the SCS and specified in the Resource Management System Plan prepared for the site.

9) Pesticides shall only be applied by person(s) with a MA Dept. of Food and Agriculture approved certification and/or licence to apply pesticides.

10) All pesticides that require direct application to the soil shall be identified to the Provincetown Water Department, the Truro Board of Health and the Commission prior to use. Wells on site shall be monitored by testing the water within 30 days of application through an approved laboratory for those pesticides that are soil applied. The water sampling and analysis procedures shall be developed by the Commission staff upon receipt of the SCS Resource Management System Plan and shall be deemed acceptable by the Commission prior to implementation of the farming/vineyard operation. If pesticides are discovered in any concentration in the well or groundwater, all application of that pesticide shall cease until approval is received from the Truro and Provincetown Health Officials that such pesticide application may continue. Disputes concerning the continued use of pesticides may be brought to the Commission or its designee. Monitoring of soil applied pesticides used shall continue for a period of three years following the last application of said pesticides.

following the last application of said pesticides.

11) No off-site improvements, including the removal of vegetation, roadway improvements, and construction of parking areas shall be made.

12) Access/egress for the project shall be from a single curb cut off of Route 6A. All necessary access permits shall be obtained from the Massachusetts Highway Department and/or the Town of Truro. The use of the Old South Hollow Road curb cut which accesses New South Hollow Road shall be discontinued. A gate shall be installed on the property to ensure that public access through the **Old South Hollow Road** curb cut is discontinued.

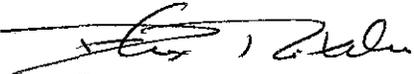
13) Farm animals are prohibited from the operation and shall not be kept on the property due to the potential for increased and unacceptable nitrogen loading. If in the future farm animals are desired, it must be demonstrated to the Commission that a nitrogen loading problem does not exist and that animals kept on the property would not increase nitrogen loading above 5ppm or concentration subsequently established by the Commission.

14) The applicant shall obtain a Certificate of Compliance from the Commission or its designee before the local official responsible for issuing certificates of occupancy may issue a permanent or temporary Certificate of Occupancy for any portion of the proposed development.

15) Any enlargement or substantial modification of the project shall require further Commission review through the public hearing process.

16) **The applicants shall obtain a letter indicating that the Massachusetts Historical Commission has reviewed the site plans and is satisfied that there will be no adverse impact to archaeologically significant resources on site.**

The Cape Cod Commission hereby grants Ms. Kathleen Gregrow and Ms. Judy Wimer an approval, with conditions, for a hardship exemption pursuant to Section 23 of the Act, for a proposed bed and breakfast and winery in Truro, MA.



Alix Ritchie, Chair

7/23/92

Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 23rd day of July 1992

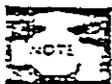
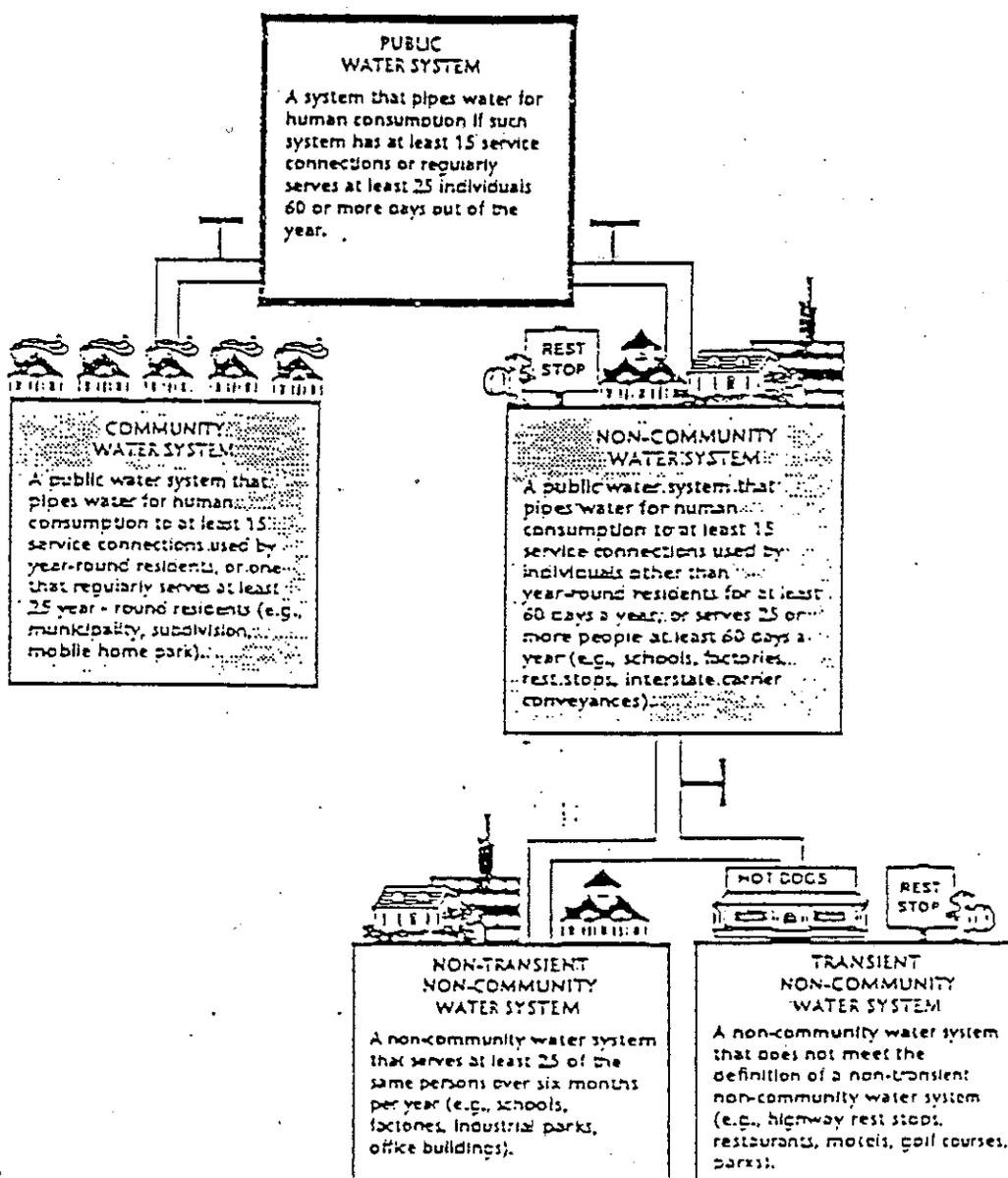
Katharine L Peters

Name, Notary Public

My Commission expires:  My Commission Expires December 9, 1997

Types of Public Water Systems

A "public water system" has 15 or more service connections or regularly serves at least 25 people 60 or more days a year. A system that serves water 60 or more days a year is considered to "regularly serve" water. Public water systems can be publicly or privately owned. Public water systems are subdivided by regulation into two major categories: community and non-community water systems. This division is based on the type of consumer served and the frequency the consumer uses the water. Basically, a community system serves water to a residential population, whereas a non-community system serves water to a non-residential population. The non-community category is further broken down into two categories: non-transient non-community water systems and transient non-community water systems.



Contact your primacy agent if you are not sure what category you are in. The public notification regulations apply based on whether you are a community, non-transient non-community, or transient non-community water system.

Compliance Monitoring Requirements

Contaminant	Base Requirement		Trigger that Increases Sampling	Waivers for Base Requirements
	Ground water	Surface water		
Asbestos	1 Sample every 9 years		> MCL	YES Based on VA ¹
Nitrate	Annual	Quarterly	≥ 50% MCL	NO
	After 1 year < 50% of MCL, SWS may reduce to an annual sample			
Nitrite	1 Sample: If < 50% of MCL, state discretion		≥ 50% MCL	NO
5 Inorganics	1 Sample every 3 years	Annual sample	> MCL	YES Based on analytical results of 3 rounds
18 VOCs	4 Quarterly samples every 3 years Annual after 1 year of no detects		> 0.0005 mg/L	YES Based on VA ¹
17 Pesticides and PCBs	4 Quarterly samples every 3 years After 1 round of no detects: systems >3300 reduce to 2 samples per year every 3 years; systems ≤ 3300 reduce to 1 sample every 3 years		Method Detection Limit (MDL)	YES Based on VA ¹
Unregulated - 6 IOCs - 24 SOCs	1 Sample	4 Consecutive quarterly samples	N.A.	YES Based on VA ¹

¹ VA = Vulnerability Assessment

Regulated Contaminant	
<u>Contaminant</u>	
Asbestos	
<u>MCL</u>	
7 Million Fibers/Liter (MFL)—(longer than 10 micrometers)	

Regulated Contaminants	
INORGANIC Contaminant	MCL (mg/L)
Barium	2
Cadium	0.005
Chromium	0.1
Mercury	0.002
Selenium	0.05

Regulated Contaminants	
Eight Original VOCs	MCL (mg/L)
Benzene	0.005
Carbon tetrachloride	0.005
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
para-Dichlorobenzene	0.075
1,1,1-Trichloroethane	0.20
Trichloroethylene	0.005
Vinyl chloride	0.002
Ten New VOCs	MCL (mg/L)
cis-1,2-Dichloroethylene	0.07
1,2-Dichloropropane	0.005
Ethylbenzene	0.7
Monochlorobenzene	0.1
o-Dichlorobenzene	0.6
Styrene	0.1
Tetrachloroethylene	0.005
Toluene	1
Trans-1,2-Dichloroethylene	0.1
Xylenes (total)	10

NOTE: The method detection limit (MDL) for all 18 volatile organics is 0.0005 mg/L.

Regulated Contaminant	
MCL	NITRATE
10 mg/L	(as Nitrogen)
<u>Trigger</u>	
5 mg/L	(as Nitrogen)

Regulated Contaminant	
MCL	NITRITE
1 mg/L	(as Nitrogen)
<u>Trigger</u>	
0.5 mg/L	(as Nitrogen)

Unregulated Contaminants	
Organics (Pesticides)	
Aldrin	
Benzo(a)pyrene	
Butachlor	
Carbaryl	
Dalapon	
Di(2-ethylhexyl)adipate	
Di(2ethylhexyl)phthalates	
Dicamba	
Dieldrin	
Dinoseb	
Diquat	
Endothall	
Glyphosate	
Hexachlorobenzene	
Hexachlorocyclopentadiene	
3-Hydroxycarbofuran	
Methomyl	
Metolachlor	
Metribuzin	
Oxamyl (vydate)	
Picloram	
Propachlor	
Simazine	
2,3,7,8-TCDD (Dioxin)	
Inorganics	
Antimony	
Beryllium	
Nickel	
Sulfate	
Thallium	
Cyanide	

Regulated Contaminants			
Contaminant	ORGANICS	MCL ¹ (m/L)	MDL ² (mg/L)
Alachlor		0.002	0.0002
Aldicarb		0.003*	0.0005
Aldicarb sulfoxide		0.004*	0.0005
Aldicarb sulfone		0.002*	0.0008
Atrazine		0.003	0.0001
Carbofuran		0.04	0.0009
Chlordane		0.002	0.0002
Dibromochloropropane (DPCP)		0.0002	0.00002
2,4-D		0.07	0.0001
Ethylene dibromide (EDB)		0.00005	0.00001
Heptachlor		0.0004	0.00004
Heptachlor epoxide		0.0002	0.00002
Lindane		0.0002	0.00002
Methoxychlor		0.04	0.0001
Polychlorinated biphenyls (PCBs)		0.0005	0.0001
Pentachlorophenol		0.001*	0.00004
Toxaphene		0.003	0.001
2,4,5-TP (Silver)		0.05	0.0002

¹MCL=Maximum Contaminant Level
²MDL=Method Detection Limit
 *MCLs for aldicarb, aldicarb sulfoxide, aldicarb sulfone and pentachlorophenol were promulgated July 1, 1991 and will take effect January 1, 1993. The MCLs for the other contaminants were revised or promulgated January 30, 1991 and will take effect July 30, 1992.