



ORDINANCE NO. 3799

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, PROHIBITING THE USE OF AND CONTACT WITH DESIGNATED GROUNDWATER FROM BENEATH THE PROPERTY DESCRIBED IN EXHIBIT "A" HERETO, TO FACILITATE CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION ("MSD") OF SAID PROPERTY BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY PURSUANT TO THE TEXAS SOLID WASTE DISPOSAL ACT; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED \$2,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 361, Subchapter W, of the Texas Health & Safety Code ("MSD Statute") authorizes the Texas Commission on Environmental Quality ("TCEQ") to certify Municipal Setting Designations ("MSDs") for properties upon receipt and approval of a proper application to the TCEQ; and

WHEREAS, the Texas legislature, in enacting the MSD Statute, found that an action by a municipality to restrict access to or the use of groundwater in support of or to facilitate an MSD advances a substantial and legitimate State interest; and

WHEREAS, as part of the application process for an MSD, an applicant is required to provide the TCEQ with documentation of a resolution or ordinance of support from the municipality in which the MSD is being sought, which ordinance prohibits the use of and contact with groundwater from beneath the designated property for potable purposes; and

WHEREAS, due to limited quantity and low quality, there are areas of shallow groundwater within the City and its extraterritorial jurisdiction that are not valuable as potable water sources and therefore are not utilized for potable water; and

WHEREAS, some property within the City formerly used for certain commercial and industrial purposes are underlain with unusable groundwater that has become contaminated by historical on-site or off-site sources; and

WHEREAS, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to public health; and

WHEREAS, the use of an MSD allows for a State-evaluated corrective action process for groundwater that is directed towards the protection of human health and the environment; and

WHEREAS, the City Council of the City of Farmers Branch, Texas (the "City"), finds it in public interest to submit an application to the TCEQ for certification of an MSD for 14.81± acres of land owned by the City and located within the City's corporate limits generally described by metes and

bounds and depicted in Exhibit "A" attached hereto and made a part hereof (the "MSD Property"); and

WHEREAS, the City has certified that the type of known contaminants that have been documented within the uppermost groundwater beneath the MSD Property at concentrations above potable standards are as set forth in Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the City has certified that:

1. The purpose of the application is to assist the City in obtaining from the TCEQ closure documentation demonstrating the TCEQ's determination, after completion of any remediation requirements and appropriate review by the TCEQ, that no further environmental cleanup or restoration is required by the TCEQ with respect to the MSD Property; and
2. As a part of the application, the City has or will submit to the TCEQ a statement regarding the type of known contamination in the groundwater beneath the MSD Property and has identified that shallow groundwater contains chemicals of concern above Tier 1 groundwater ingestion protective concentration levels, as set forth in 30 Texas Administrative Code, Chapter 350, the Texas Risk Reduction Program; and

WHEREAS, the City has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the MSD Property; and

WHEREAS, a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code Chapter 341 for the MSD Property and property within one-half mile of the MSD Property; and

WHEREAS, the City Council of the City of Farmers Branch, Texas, further finds it to be in the best interest of the public and the City to authorize the City Manager to file an application of an MSD on the MSD Property and to facilitate the City's efforts to secure approval of such MSD and TCEQ closure documentation by passage of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

SECTION 1. The City Council finds the declarations and findings set forth in the preamble of this Ordinance are true and correct and are incorporated herein.

SECTION 2. The City Council finds this Ordinance is necessary because the contaminant concentrations exceed TCEQ potable water standards.

SECTION 3. The City Council supports the designation of the MSD Property as an MSD and hereby authorizes the City Manager, acting on behalf of the City, to prepare and submit, or cause to be prepared and submitted, to the TCEQ an application and all necessary supporting

documentation and take such other action as may be reasonable and necessary to obtain an MSD for the MSD Property.

SECTION 4. The City Council finds it is in the best interest and welfare of the public to facilitate TCEQ's certification of an MSD for the MSD Property as well as the TCEQ closure documentation.

SECTION 5. Upon and after the effective date of this Ordinance, the drilling of wells and use of designated groundwater for any purpose, including, but not limited to, any potable purpose, and excepting only: (i) wells used as monitoring wells for the collection of groundwater samples for chemical or biological laboratory analysis; and (ii) wells used for the purpose of remediation of soil or groundwater contamination, is hereby prohibited on or from any portion of the MSD Property.

SECTION 6. All provisions of the ordinances of the City of Farmers Branch in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 7. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

SECTION 8. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 9. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 10. This Ordinance shall take effect from and after its passage and the publication of the caption of said Ordinance as the law and the City Charter in such case provides.

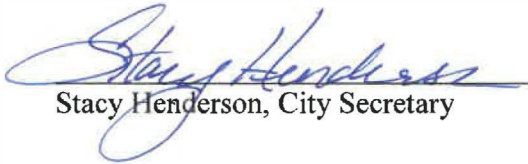
**DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH,
TEXAS, ON THE 10TH DAY OF OCTOBER 2023.**

APPROVED:



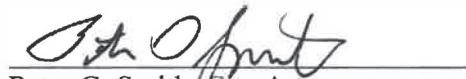
Terry Lynne, Mayor

ATTEST:



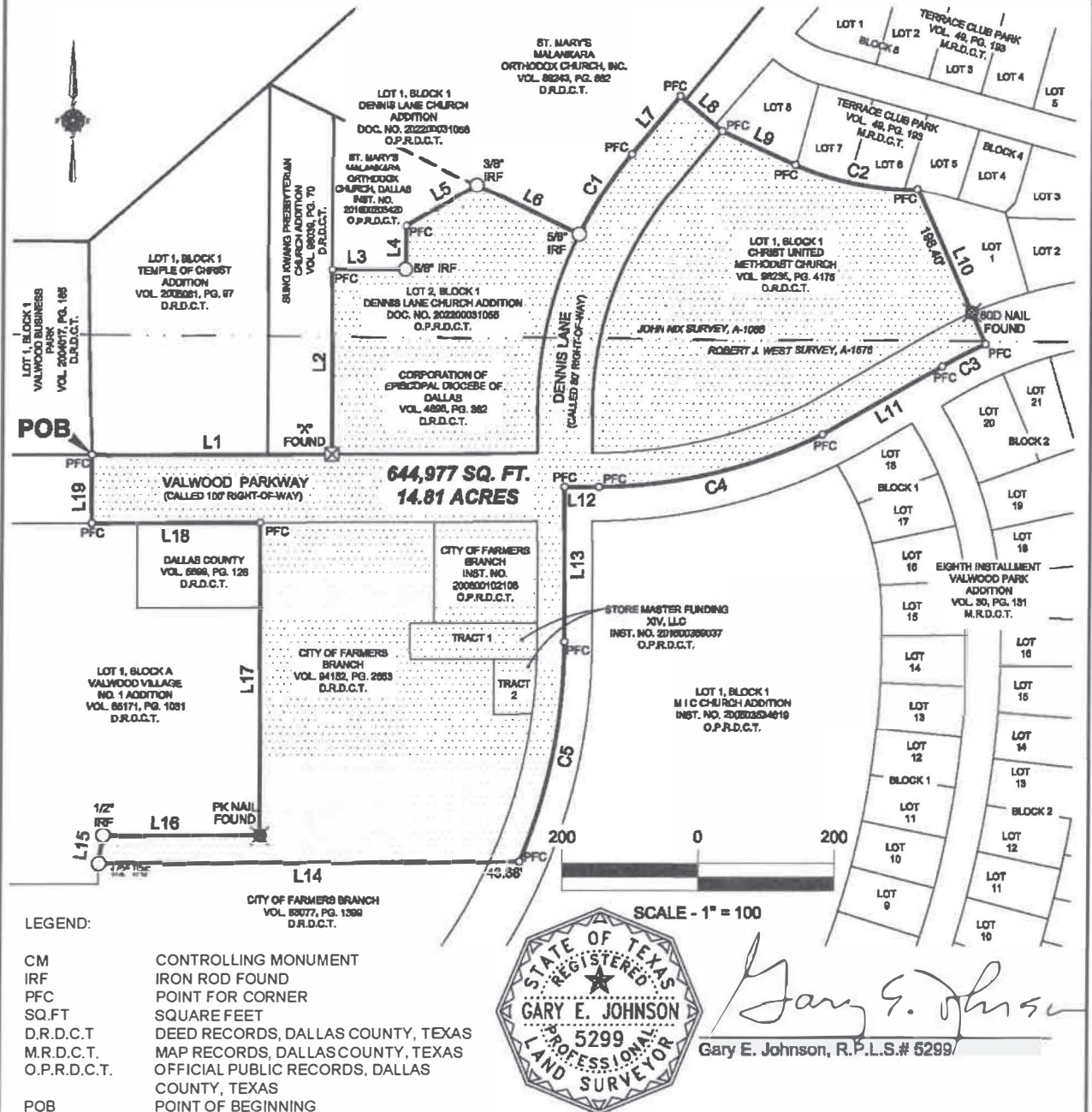
Stacy Henderson, City Secretary

APPROVED AS TO FORM:


Peter G. Smith, City Attorney
(kbl:5/30/2023:135270)

ORDINANCE NO. 3799
Exhibit "A" – Boundary Description and Survey of the MSD Property

MUNICIPAL SETTING DESIGNATION SURVEY
JOHN NIX SURVEY, ABSTRACT NO. 1088 &
ROBERT J. WEST SURVEY, ABSTRACT NO. 1576
CITY OF FARMERS BRANCH, DALLAS COUNTY, TEXAS



BEARINGS ARE BASED ON PLANE STATE COORDINATE SYSTEM, NORTH TEXAS CENTRAL ZONE 4202, NORTH AMERICAN DATUM OF 1983, ADJUSTMENT REALIZATION 2011.

Job# 2300473-1
 Date: 05/26/2023
 Drawn: JAM
 Scale: 1" = 200'
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PARCEL LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	353.20'	N89°48'14"E
L2	270.82'	N0°13'48"W
L3	108.00'	N89°54'25"E
L4	63.98'	N0°05'35"W
L5	118.82'	N58°27'52"E
L6	166.70'	S63°55'46"E
L7	110.28'	N38°47'48"E
L8	80.00'	S60°12'34"E
L9	118.42'	S65°16'30"E
L10	249.27'	S23°48'48"E
L11	201.62'	S60°14'37"W
L12	49.95'	S89°48'14"W
L13	227.28'	S0°13'48"E
L14	616.49'	S89°44'42"W
L15	40.55'	N8°52'48"E
L16	230.12'	N89°44'42"E
L17	460.08'	N0°15'18"W
L18	247.94'	S89°48'14"W
L19	100.00'	N0°11'42"W

PARCEL CURVE TABLE				
CURVE #	LENGTH	RADIUS	DELTA	CHORD
C1	142.03'	589.45'	13°48'21"	N32° 52' 43"E 141.69'
C2	183.86'	453.46'	23°13'52"	S76° 38' 37"E 182.60'
C3	71.65'	634.45'	6°28'15"	S62° 58' 17"W 71.62'
C4	339.19'	748.41'	26°02'13"	S76° 45' 22"W 338.28'
C5	331.53'	824.24'	23°02'44"	S11° 17' 31"W 329.30'




Gary E. Johnson, R.P.L.S. # 5299



TEXAS HERITAGE
SURVEYING, LLC

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CITY OF FARMERS BRANCH, DALLAS COUNTY, TEXAS

Being a 644,977 square feet or 14.81 acre tract of land situated in the John Nix Survey, Abstract No. 1088 and Robert J. West Survey, Abstract No. 1576, in the City of Farmers Branch, Dallas County, Texas, being all of Lot 2, Block 1 of Dennis Lane Church Addition, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Document Number 202200031056, Official Public Records, Dallas County, Texas, also being all of Lot 1, Block 1 Christ United Methodist Church, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 98235, Page 4175, Deed Records, Dallas County, Texas, also being all of that certain tract of land described in Warranty Deed to Corporation of Episcopal Diocese of Dallas recorded in Volume 4696, Page 382, Deed Records, Dallas County, Texas, also being all of that certain tract of land described in Warranty Deed to City of Farmers Branch recorded in Instrument Number 200600102108, Official Public Records, Dallas County, Texas, also being all of that certain tract of land described in Special Warranty Deed to City of Farmers Branch recorded in Volume 94152, Page 2653, Deed Records, Dallas County, Texas, also being a tract of land known as Tract 1 and Tract 2, described in Special Warranty Deed to Store Master Funding XIV, LLC recorded in Instrument Number 201600359037, Official Public Records, Dallas County, Texas, and also being a portion of Valwood Parkway (called 100' right-of-way) and a portion of Dennis Lane (called 80' right-of-way), and being more particularly described by metes and bounds as follows:

BEGINNING at a point for corner, said point being the southeast corner of Lot 1, Block 1, of Valwood Business Park, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat recorded in Volume 2004017, Page 165, Deed Records, Dallas County, Texas, also being the southwest corner of Lot 1, Block 1 of Temple of Christ Addition, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 2005081, Page 97, Deed Records, Dallas County, Texas, lying on the north right-of-way line of said Valwood Parkway;

THENCE North 89 degrees 46 minutes 14 seconds East, along the said north right-of-way line of Valwood Parkway, a distance of 353.20 feet to an "X" in concrete found, being the southwest corner of said Lot 2, Block 1 of Dennis Lane Church Addition, same being the southeast corner of Sung Kwang Presbyterian Church Addition, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 98039, Page 70, Deed Records, Dallas County, Texas;

THENCE North 01 degrees 13 minutes 46 seconds West, departing the said north right-of-way line of Valwood Parkway, along the west line of said Lot 2, Block 1 of Denise Lane Church addition, also being the east line of said Sung Kwang Presbyterian Church Addition, a distance of 270.82 feet to a point for corner, said point being the southwest corner of Lot 1, Block 1 of said Denise Lane Church addition;

THENCE departing the east line of said Sung Kwang Presbyterian Church Addition in a northeasterly direction along the common lot line of said Lot 2, Block 1 of Dennis Lane Church Addition, and said Lot 1, Block 1 of Dennis Lane Church Addition the following courses and distances:

North 89 degrees 54 minutes 25 seconds East, a distance of 108.00 feet to a 5/8 inch iron rod found for corner;
North 00 degrees 05 minutes 35 seconds West, a distance of 63.98 feet to a point for corner;
North 59 degrees 27 minutes 52 seconds West, a distance of 119.82 feet to a 3/8 inch iron rod found for corner;



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THENCE South 63 degrees 55 minutes 46 seconds East, a distance of 166.70 feet to a 5/8 inch iron rod found for corner, said point being the northeast corner of said Lot 2, Block 1 of Denise Lane Church addition, also being the most easterly southerly corner of said Lot 1, Block 1 of Dennis Lane Church Addition, lying on the westerly right-of-way line of said Dennis Lane, said point also being the beginning of a non-tangent curve to the right having a radius of 589.45 feet;

THENCE along said non-tangent curve to the right having a delta angle of 13 degrees 48 minutes 21 seconds, a chord that bears North 32 degrees 52 minutes 43 seconds East, a distance 141.69 feet, and an arc length of 142.03 feet to a point for corner at the end of said curve;

THENCE North 39 degrees 47 minutes 48 seconds East, along the westerly right-of-way line of said Dennis Lane, a distance of 110.28 feet to a point for corner;

THENCE South 50 degrees 12 minutes 34 seconds East, departing the easterly line of said Lot 1, Block 1 of Dennis Lane Church Addition, traversing said Dennis Lane, a distance of 80.00 feet to a point for corner, said point being the north corner of said Lot 1, Block 1 of Christ United Methodist Church, lying on the easterly right-of-way line of said Dennis Lane;

THENCE departing the said easterly right-of-way line of Dennis Lane, along the common lot lines of said Lot 1, Block 1 of Christ United Methodist Church, and Block 4 of Terrace Club Park, an addition to the City of Farmers Branch, Dallas County, Texas, according to the map recorded in Volume 49, Page 193, Map Records, Dallas County, Texas, the following courses and distances:

South 65 degrees 16 minutes 30 seconds East, a distance of 119.42 feet to a point for corner, said point also being the beginning of a tangent curve to the left having a radius of 453.46 feet, along said tangent curve to the left a delta 23 degrees 13 minutes 52 seconds, a chord that bears South 78 degrees 38 minutes 37 seconds East, a chord distance 182.60 feet, and an arc length of 183.86 feet to a point for corner, said point being the end of said curve, said point also being the northeast corner of Lot 1, Block 1 of Christ United Methodist Church;

THENCE South 23 degrees 49 minutes 48 seconds East, passing at a distance of 198.40 feet to a 60d nail found for the southeast corner of corner of said Lot 1, Block 1 of Christ United Methodist Church, continuing along said line for a total distance of 249.27 feet to a point for corner, said point lying in the centerline of said Valwood Parkway, said point also being the beginning of a non-tangent curve to the left having a radius of 634.45 feet;

THENCE along said non-tangent curve to the left having a delta angle of 06 degrees 28 minutes 15 seconds, a chord that bears South 62 degrees 58 minutes 17 seconds West, a chord distance of 71.62 feet, and an arc length of 71.65 feet to a point for corner, said point being the end of said curve;

THENCE South 60 degrees 14 minutes 37 seconds West, continuing along the centerline of said Valwood Parkway, a distance of 201.62 feet to a point for corner, said point being the beginning of a tangent curve to the right having a radius of 746.41 feet;



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THENCE along said tangent curve to the right having a delta angle of 26 degrees 02 minutes 13 seconds, a chord that bears South 76 degrees 45 minutes 22 seconds West, a chord distance of 336.28 feet, and an arc length of 339.19 feet to a point for corner, said point being the end of said curve;

THENCE South 89 degrees 46 minutes 14 seconds West, a distance of 49.95 feet to a point for corner, said point being the intersection of said Valwood Parkway and said Dennis Lane;

THENCE South 00 degrees 13 minutes 46 seconds East, departing the centerline of said Valwood Parkway, along the centerline of said Dennis Lane, a distance of 227.28 feet to a point for corner, said point being the beginning of a tangent curve to the right having a radius of 824.24 feet;

THENCE along said tangent curve to the right having a delta angle of 23 degrees 02 minutes 44 seconds, a chord that bears South 11 degrees 17 minutes 31 seconds West, a chord distance of 329.30 feet, and an arc length of 331.53 feet to a point for corner, said point being the end of said curve;

THENCE South 89 degrees 44 minutes 42 seconds West, departing the centerline of said Dennis Lane, passing at a distance of 43.68 feet the southeast corner of said City of Farmers Branch tract (94152/2653), same point being the northeast corner of that certain tract of land described in Warranty Deed to City of Farmers Branch recorded in Volume 83077, Page 1399, Deed Records, Dallas County, Texas, continuing along the south line of said City of Farmers Branch tract (94152/2653), a total distance of 616.49 feet to a 1/2 inch iron rod found, said point being the most southwesterly corner of said City of Farmers Branch tract (94152/2653), said point also lying on the easterly line of Lot 1, Block A of Valwood Village No. 1 Addition, an addition to the City of Farmers Branch, Dallas County, Texas, according to the plat thereof recorded in Volume 85171, Page 1031, Deed Records, Dallas County, Texas;

THENCE along the common lot lines of said City of Farmers Branch tract (94152/2653), and said Lot 1, Block A of Valwood Village No. 1 Addition the following courses and distances:

North 08 degrees 52 minutes 48 seconds East, a distance of 40.55 feet to a 1/2 inch iron rod found for corner;
North 89 degrees 44 minutes 42 seconds East, a distance of 230.12 feet to a pk nail found for corner;

THENCE North 00 degrees 15 minutes 18 seconds West, a distance of 460.08 feet to a point for corner, said point being the northwest corner of said City of Farmers Branch tract (94152/2653), said point also being the northeast corner of that certain tract of land described in Warranty Deed to Dallas County recorded in Volume 5699, Page 126, Deed Records, Dallas County, Texas, lying on the south right-of-way line of said Valwood Parkway;

THENCE South 89 degrees 46 minutes 14 seconds West, along the south right-of-way line of said Valwood Parkway, a distance of 247.94 feet to a point for corner;

THENCE North 00 degrees 11 minutes 42 seconds West, departing the south right-of-way line of said Valwood Parkway, traversing through said Valwood Parkway, a distance of 100.00 feet to the POINT OF BEGINNING and containing 644,977 square feet or 14.81 acres of land.




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Exhibit “B” – Summary of Known Contaminants

Contaminants in groundwater that currently exceed, or have historically exceeded, the groundwater ingestion PCL:

Tetrachloroethylene (PCE)

Trichloroethylene (TCE)

Cis-1,2-Dichloroethylene (DCE)

Trans-1,2-Dichloroethylene

1,1-Dichloroethylene

Vinyl Chloride

1,2,3-Trichloropropane

Benzene

Toluene

Methyl-tertiary butyl ether (MTBE)