



# Town of Truro

P.O. Box 2030, Truro, MA 02666  
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## ZONING BOARD OF APPEALS Agenda

**DATE OF MEETING:** Thursday, October 8, 2020  
**TIME OF MEETING:** 5:30 pm  
**LOCATION OF MEETING:** Remote Meeting  
[www.truro-ma.gov](http://www.truro-ma.gov)

### Open Meeting

This will be a remote meeting. Citizens can view the meeting on Channel 18 in Truro and on the web on the "Truro TV Channel 18" button under "Helpful Links" on the homepage of the Town of Truro website ([www.truro-ma.gov](http://www.truro-ma.gov)). Click on the green "Watch" button in the upper right corner of the page. Please note that there may be a slight delay (approx. 15-30 seconds) between the meeting and the television broadcast/live stream.

Citizens can join the meeting to listen and provide public comment via the link below, which can also be found on the calendar of the Board's webpage along with the meeting Agenda and Packet, or by calling in toll free at [1-877-309-2073](tel:1-877-309-2073) and entering the following access code when prompted: [289-824-429](tel:289-824-429). Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing the Town Planner at [planner1@truro-ma.gov](mailto:planner1@truro-ma.gov).

Meeting link: <https://global.gotomeeting.com/join/289824429>

Hearing materials can be found at the following web address:

[www.truro-ma.gov/zoning-board-of-appeals/pages/cloverleaf-40b-application](http://www.truro-ma.gov/zoning-board-of-appeals/pages/cloverleaf-40b-application)

**Public Comment**

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

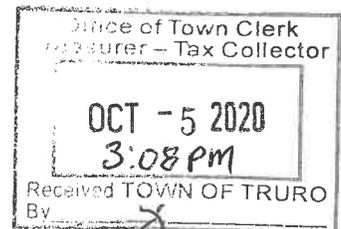
- Public Comment letter from Bill Golden
- Public Comment packet from Residents of Pond Village regarding water quality

**Public Hearing – Continued**

**2019-008 ZBA – Community Housing Resource, Inc.** seeks approval for a Comprehensive Permit pursuant to G.L. c. 40B, §§20-23 to create 40 residential rental units, of which not less than 25% or 10 units shall be restricted as affordable for low or moderate income persons or families, to be constructed on property located at 22 Highland Road, as shown on Assessor's Map 36 and Parcel 238-0 containing 3.91 acres of land area.

- Cloverleaf Update Jarrod Cabral, DPW Director
- Waivers
- Discussion of proposed Cloverleaf meetings

**Adjourn**



**Bill Golden  
3 Blueberry Lane  
Truro, MA 02666**

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Zoning Board of Appeals  
Town of Truro  
PO Box 2012  
Truro, MA 02666

October 5, 2020  
sent by email

Re: Cloverleaf Project Financing

Dear Colleagues,

I would like to acknowledge the fine work the ZBA has done so far on the Cloverleaf Project. Having served on other regulatory boards, I appreciate how complicated a very large project can be. Trying to make good decisions after perusing mountains of data, much of which is controversial in the eyes of the public, is not for the fainthearted.

I am hesitant to add to the pile before you, but I think that an important matter about the Cloverleaf deserves another - and very careful - review to make sure nothing has been overlooked before the ZBA members reach a decision and sign your names to any approvals for the project. Key financial data concerning the Cloverleaf has recently come to light that, in my view, is disturbing and I believe you deserve to know about this new information.

I refer you to the recording of the Truro Housing Authority meeting of September 10, 2020, available on Truro TV. This recording reveals several facts of note: first, in a casual part of the discussion, the Chair asked another member "How much did Malone say he needed from the town?" The answer was "\$600,000" The question alone is stunning. THA meeting discussion continues to reveal an apparent plan to obtain what Ted Malone "said he needed" for the Cloverleaf Project. Another brief discussion involved explicit assertions that \$150,000 from Free Cash was pre-approved and would be moved upon authorization from the Town Manager, on the presumption that the funds would be allocated by voters. It was then known she would be retiring immediately after ATM. There is no ambiguity in this meeting that Ted Malone needs \$600,000 and that plans to do this through ATM were in play by September 10<sup>th</sup>. But nowhere in the warrant or at ATM was it acknowledged by any official that funds requested for the Affordable Housing Trust (AHT) were for Ted Malone to use in his private for-profit Cloverleaf project.

At ATM on September 26, many people tried to raise questions about the lack of specific answers on the need for and uses of the funds for a private development project using taxpayer funds for undisclosed purposes. To say we were denounced, shamed, and hassled would be an understatement. But folks who support affordable housing, including me, are very concerned about two aspects of this specific project - water safety and financing - so we pressed on as best we could. The answers we got offered no insight or relief from our worry that something is not right with what was stated at the THA meeting on 9/10, and I expect the ZBA will be concerned as well.

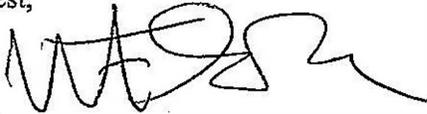
Upon direct questioning about the uses of funds for AHT, the Select Board Chair misrepresented that any use of these funds would have to come before the voters, implying "in the future" though Town Counsel corrected him to say he "misspoke," and only uses for real property acquisitions would have to go before voters; any other uses could be made by the Trustees of the fund (the Select Board) at will. The Town Manager indicated that these funds would be used for mortgage and rent relief and other unnamed purposes, even though no "mortgage and rent relief" initiative was contained in the budget or the Warrant.

After I specifically raised the THA meeting of Sept 10, the chair of that Committee simply got up and railed at those who raised questions, saying we are opposed to affordable housing, which is untrue. We are opposed to poisoning the neighbors and "picking the pockets" of taxpayers for a private project without telling taxpayers what they are paying for. That is what ATM is for.

I am asking the ZBA to watch the replay of the Sept. 10<sup>th</sup> meeting of the Truro Housing Authority and take into account in your deliberations the whole picture of financial non-disclosure and accountability for the Cloverleaf. I feel like we have been pick-pocketed before we have even begun. Sorry to ask at this late date but it seems important. I really only understood what was going on when we got manipulation and misleading information at ATM in response to the question: "How much of this AHT money is going to take care of Ted Malone's need for \$600K?"

The ZBA members should know when and if this project is approved that their names are attached to a whistle clean project, not one whistling in the wind. Thanks for your time and consideration - and for your hard work.

Best,

A handwritten signature in black ink, appearing to read "Bill Golden", with a stylized, cursive flourish extending to the right.

Bill Golden

PS: See THA meeting video at <http://trurotv.truro-ma.gov/CablecastPublicSite/show/4546?channel=1>.

Dear Colleagues,

As the ZBA approaches a decision on granting waivers for density and water contamination standards for the Cloverleaf project, the undersigned residents of Pond Village/North Truro, a community of some 150 homes, are writing to express our concerns about the threat that nitrate contamination resulting from high density and insufficient wastewater treatment on the proposed site pose to our drinking and natural water quality and our health. We are also concerned about opaque financial disclosures and insufficient public scrutiny during related Cloverleaf negotiations. After individual emails and phone/video calls, we are writing collectively to ensure that our requests and concerns have been heard, acknowledged and given all due consideration.

Our requests to the ZBA are straightforward:

1. Review the DOCS report, ***Private Wells and Truro Safe Water***,<sup>1</sup> to understand that the science on drinking water safety since 1996 is incontrovertible and uniform at setting **5 mg/L or less as a safe limit for nitrate in drinking water**. No scientific evaluation relies upon a nitrate contamination standard above 5 mg/L.
2. **Defer granting any waivers** until and unless the developer can return with a plan, independently verified by modeling, that will achieve a 5 mg/L standard either by reductions in numbers of bedrooms or by expanded wastewater treatment systems or both;
3. **Refer these matters** to other appropriate Town bodies, including but not limited to the Board of Health, **before taking any decisions on waivers pending**. Given the impaired water quality already in existence in the Pond Village/North Truro area, we also believe the Town should conduct a **thorough and rigorous hydrogeology study of that area**, including analysis and modeling of nitrate contamination impacts to down gradient wells in this area in drought and in normal rainfall years. In the future, such studies should be required for any project proposing nitrate and/or nitrogen loading levels above 5 mg/L.
4. **Guarantee that the wastewater treatment system proposed is an effective solution to achieve 5 mg/L cap**. The proposed wastewater treatment system at Cloverleaf is not on the Mass DEP's list of accepted systems<sup>2</sup>, and is a pilot, largely untested system.<sup>3</sup> Its margin of error is razor thin and there is no remediation possible if it fails. There will be no proof of its efficacy until it is installed and operational. As proposed, this system poses an unacceptable risk to the 150 families of Pond Village. Our health and safety depend on better than this; we hope the ZBA will require better than what has been provided.
5. **Require a pro forma review** including but not limited to ALL financial transactions and operational and regulatory relationships among the principal parties delivering the project, funding sources, business agreements and partnerships, long-term income projections and distribution agreements, title, sale and transfer conditions, and liabilities. The recent meeting of the Truro Housing Authority (Sep 10, 2020)<sup>4</sup> raises

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<sup>1</sup> See Appendix B attached and can be found at <https://docstruro.org/>. Appendices are also attached for factual support.

<sup>2</sup> Approved Title 5 innovative/alternative technologies. <https://www.mass.gov/guides/approved-title-5-innovativealternative-technologies#-general-use---secondary-treatment-units->

<sup>3</sup> See <https://www.mass.gov/doc/biobarrier-mbr-wastewater-treatment-system-by-bio-microbics-inc-piloting-use-approval/download>

<sup>4</sup> See <http://trurotv.truro-ma.gov/CablecastPublicSite/show/4546?channel=1>

pressing questions about whether the developer (CHR), management partners (CDP and others), and the Town have appropriate arms' length relationships and sufficient disclosures and controls to ensure that transparent action and appropriate taxpayer support are subject to proper public scrutiny.

**We residents of Pond Village/North Truro are uniformly in favor of affordable housing in Truro including in the Pond Village area.** In no way should the concerns we express about the potential negative impacts to water quality in the Pond Village area be construed as opposition to affordable housing. At the same time, we believe that safe drinking water in our community and throughout Truro is an equally important priority. **It is not “either/or” for us; it is “both/and.”**

The Energy Committee has shown how Truro can accomplish affordable housing AND achieve a clean energy solution. The same must be accomplished for clean water. We have legitimate and serious scientifically supported concerns about the direct threats Cloverleaf poses to our drinking water, to our health and to public health and safety. We are equally concerned with what current Board of Health water contamination standards portend for other parts of Truro. We assert that clean water and affordable housing are mutually achievable, but the current plans fall far short and raise serious public health concerns that have not been explored, vetted, or disclosed.

A study commissioned by the Town and reported by Weston & Sampson in 2014 found that water quality in Pond Village is one of three areas of concern in Truro. Given that the Town has already recognized the precarious nature of drinking water quality in the Pond Village area, it seems imprudent at best to move forward absent further study with a project that has the serious potential to further degrade water quality in Pond Village.

Realizing that the Town is not yet taking our concerns seriously, we initiated our own water sampling project. Recent tests performed since August 2020 at nearly two dozen properties in the Pond Village/North Truro area show alarming rates of nitrate contamination at present and confirm past trends found by W&S and by WROC. These current results are aggregated in Appendix A. Any further nitrogen loading to the groundwater feeding our wells will exacerbate that degradation in water quality.

Furthermore, **Pilgrim Pond is a site of national historic significance** – “It was here that a group of 16 Pilgrims, led by Myles Standish and William Bradford, spent their second night on the shores of Cape Cod.” Pilgrim Pond is not only an irreplaceable cultural asset for Truro, but one of national historic significance. The Cloverleaf project as proposed will almost certainly lead to increased nitrogen loading into the pond, further eutrophication, the potential for serious algal blooms, odor problems, and significant ecosystem disruptions and degradation to the detriment of the health and historic value of the community.

The proposed Cloverleaf Project has been a wake-up call for us about the potential impacts of development on Truro's water quality. Moving forward, we urge the Town of Truro to make water quality and its attendant health impacts a paramount issue in its decision-making processes. We are already deeply troubled and cannot accept the situation getting worse for us. Nor should the ZBA, whose remit is to ensure that nothing “detrimental to the neighborhood” is granted and whose authority and responsibility includes denying waivers to any project that jeopardizes public health and safety.

We appreciate your serious consideration of our concerns and requests for action.

Sincerely,

Members of the Pond Village Community  
(Signatories on next page)

## LIST OF POND VILLAGE SIGNATORIES

(Pond Village signatories only at time of submission to ZBA; more to be added, including residents of other areas in Truro)

<u>Name</u>	<u>Street</u>	<u>Name</u>	<u>Street</u>
Claire Aniello	Bay View Dr	Carolyn Hutchings	Sage Ridge Rd
Mauro Aniello	Bay View Dr	Gwen Kazlouskas-Noyes	Pond Rd
Harry Bogdos	Pond Rd	Scott Kazlouskas-Noyes	Pond Rd
Nancy Boyles	Bay View Rd	Hank Keenan	Highland Rd
Ronald Boyles	Bay View Rd	David Kirchner	Twine Field Rd
James Brown	Bay View Rd	Mary Ann Larkin	Pond Rd
Julie Brown	Bay View Rd	Julia Bergmark Lester	Pilgrims Path
Luther Bumps	Bay View Dr	Dan Maddalena	Merryfield Path
Lora Bumps	Bay View Dr	Jill Mays	Priest Rd
Barbara Cardinal	Pond Rd	Eric Mays	Priest Rd
Robert Cardinal	Pond Rd	Matthew McCue	Bay View Rd
Camille Cardinal	Twine Field Rd	Paula Passi McCue	Bay View Rd
Raymond Clark	Priest Rd	Jack McMahan	Professional Hts
Jil Clark	Bay View Rd	Marilyn Miller	Pond Rd
Sheila Coleman	Pond Rd	Brigid Moynahan	Priest Rd
Barbara Connolly	Bay View Rd	Chris Nagle	Pond Rd
William Connolly	Bay View Rd	Patric Pepper	Pond Rd
Steve Corkin	Merryfield Path	David Perry	Pond Rd
Janine Cote	Priest Rd	Louise Fournier Perry	Pond Rd
Bryan Cote	Priest Rd	Gigi Porges	Hughes Rd
Theresa Daigle	Bay View Dr	Janice Redman	Shore Rd
Glenna Descy	Bay View Dr	Jane Rudd	Priest Rd
Don Descy	Bay View Dr	Karen M. Ruymann	Bay View Dr
Damian DeWolf	Bay View Dr	Frederick W. Ruymann	Bay View Dr
Shelly DeWolf	Bay View Dr	Mallory A. Ruymann	Bay View Dr
Roger Dias	Pond Rd	Kathy Sharpless	Bay View Dr
Barry Donahoe	Paines Way	Gary Sharpless	Bay View Dr
Rob DuToit	Shore Rd	Ellyne Skove	Bay View Dr
Laura English	Pond Rd	Santina Smith	Bay View Dr
Andy English	Pond Rd	Frank Smith	Bay View Dr
Pamela Fichtner	Pilgrims Path	Barry Tendler	Pond Rd
Ronald Fichtner	Pilgrims Path	Suzanne Tendler	Pond Rd
Michael Gagne	Pond Rd	Scott Warner	Twine Field Rd
Kathy Gagne	Pond Rd	Lesley Weller	Bay View Dr
Jeanne Gaarder	Hughes Rd	Lynn Williamson	Priest Road
Eric Goss	Pond Rd	Lee Williamson	Priest Road
Amy Graves	Francis Rd	Barbara Wohlgemuth	Twine Field Rd
Elizabeth Hulick	Shore Rd	Diana Worthington	Pond Rd
Charles Hutchings	Sage Ridge Rd		

## APPENDIX A

### SUMMARY OF NEW RESULTS

#### Well Water Testing

Pond Village Area | N Truro MA

August 2020 to Present

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#### BACKGROUND

- **Ongoing Water Testing Stops As the Cloverleaf Project Starts**

At the ZBA hearing of Dec 12, 2019 Truro residents learned that ongoing water testing - begun in 2007 and operating until 2016 - was no longer being conducted by the Town. This program ended about the same time that the original Cloverleaf project was approved by the voters.

At the next week's Board of Health meeting on Dec 17, 2019 concerns were discussed relative to ground water protection and storm/wastewater, yet it was also noted that

“According to discussions at the Zoning Board of Appeals meeting, the next step is a peer review of the project by a private engineering company.”

Throughout the early part of 2020 residents of Pond Village and other areas of Truro waited for assurances of Pond Village residents' water quality and safety. The peer review consulting firm was hired, and reports and presentations prepared. But as we read and listened to those reports, we realized that the focus remained almost exclusively on water contamination within the property lines of the 3.91-acre Cloverleaf site and not on impacts to abutters or the larger down gradient neighborhood.

- **Data Suggesting Pond Village is an Area of Concern Dismissed**

The Board of Health received a presentation from the former chair of the Water Resources Oversight Committee (WROC) in February 2020 that focused on the Pond Village water test results, where over 50 properties had been tested. The conclusion of the presentation was that Pond Village water quality was poor and presented an alarming baseline. However, the Board of Health at that time said it was “premature to make any conclusions... we're waiting for the peer review of the project.”

Some ZBA members challenged the data from the WROC water studies, alleging they were “9 ½ years old” as if this data afforded no baseline value or impetus for the Town to refresh the data. Rather, Cloverleaf consultant review processes provided estimates of nitrogen loading in projected effluence – estimating 10 mg/L for effluence within the Cloverleaf parcel groundwater with 9 mg/L “at the property boundary” and near Rt 6, but that's where the analysis ended. It appeared that the impact of contaminated drinking water on the 150 family homes down gradient was no longer of concern, or at least was no longer the focus of inquiry by the Board of Health, the consultant review process or the ZBA.

The peer review provided an estimate of nitrogen loading at the up-gradient project site location. But without an insight into the baseline state of the water down gradient (in Pond Village) and the amount of additional nitrogen loading that would be expected to reach those down gradient wells, we continued to be unable to assess our health risks well into 2020.

- **Pond Villagers Request Time to Replace Town Water Testing with Their Own Water Testing**

Disturbed that our concerns about the very real threat to the health and safety of Pond Village were both dismissed and erroneously miscast as “anti-affordable housing,” a number of Pond Village residents wrote in July 2020 to the ZBA saying:

“Alarm bells that were quietly ringing in the background are now loudly peeling for our community. The more we have learned of this [Cloverleaf] proposal, the bylaw and health regulation waivers it requires, and the dangers of water contamination, the more concerns we began to have, primarily about the potential impact on the drinking water in our neighborhood and the threat that might pose to our health and safety, not to mention our equity.

At this time, Pond Village property owners are conferring with one another, moving to get our well water tested, familiarizing ourselves with the issue of nitrogen/nitrates in drinking water and its consequences for health, and trying to understand why many experts say that even levels as low as 1 ppm<sup>5</sup> are a health threat in drinking water. We are trying to understand why the Cape Cod Commission recommends no more than 5 ppm, and the EPA accepts a standard of 10 ppm, while also saying that it doesn’t apply to private wells (for which the risks seem greater).”

The Board of Health memo to the ZBA in its July 30 packet did present a sub-sample of data gathered between 2007 and 2016 as part of the Weston & Sampson study, but we read that it was inconsistent property-to-property or year-to-year, and that:

“With the limited data that is available it is difficult to frame an accurate picture of the nitrate levels in this area.”

Apparently after a wait of over six months, all that would be forthcoming was an inconclusive analysis of nitrate levels in the Pond Village area, with no new testing.

**POND VILLAGERS DO THE TOWN’S JOB: CONDUCT NEW WATER TESTS**

Realizing that the Town was not intending to alleviate some ZBA members’ concerns about the perceived age and quality of the data, yet still acutely aware that current down gradient baseline data from Pond Village was also essential to understand the magnitude of the health risk to us, we proceeded with our own water testing program. Test kits were made available to all residents of Pond Village, beginning August 2020. Since then 27 residents sampled their water and had it tested for the level of nitrate.<sup>6</sup>

The results are tracked in a database and categorized into discrete levels of contamination in mg/L: >10, 10 to 5, 5 to 3, 3 to 2, 2 to 1, and <1. The results by frequency in each category are tabulated below.

Nitrate ppm	>10	10-5	5-3	3-2	2-1	<1	Total
# of Tests	2	4	5	9	7	0	27
% of Total	7%	15%	19%	33%	26%	0%	100%

**Figure 1 - Water Test Summary (N=27, ongoing)**

<sup>5</sup> The metrics “ppm” [parts per million] and mg/L [micrograms per liter] are interchangeable.

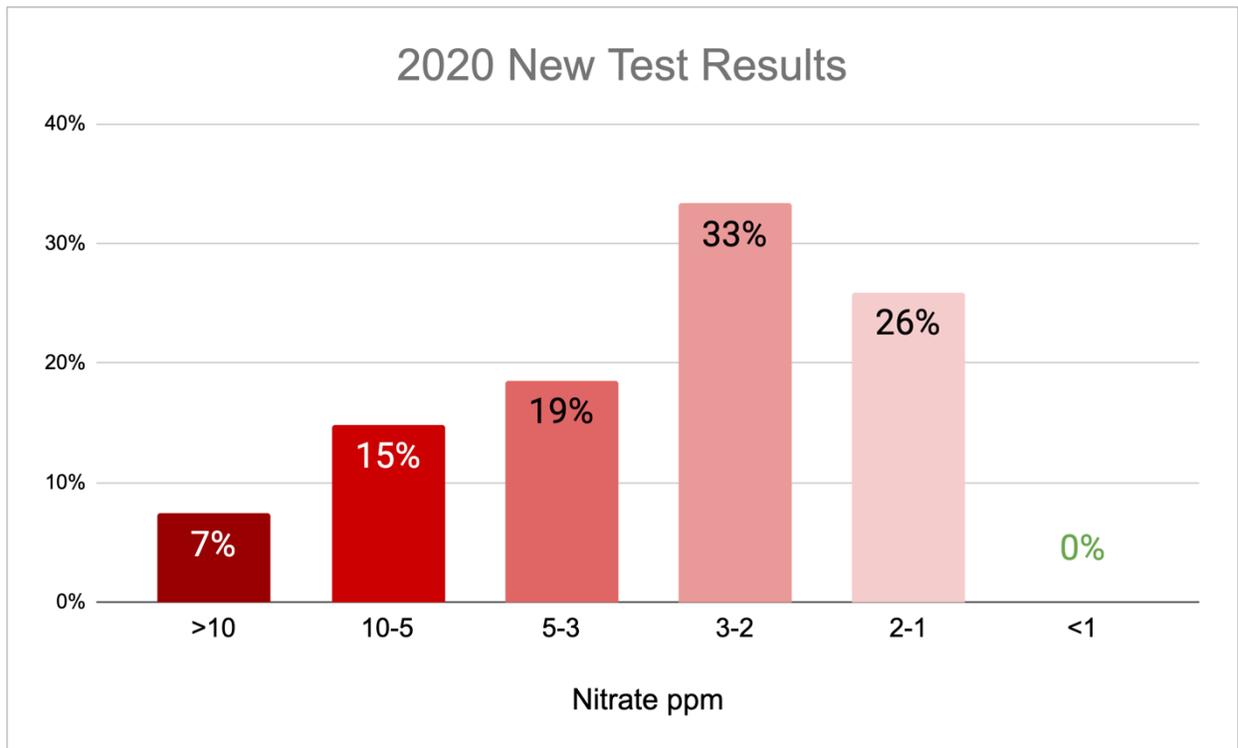
<sup>6</sup> Any test result with a nitrate level in excess of 5 mg/L was retested at an independent state-certified lab to ensure the integrity of the testing process. These 27 samples were collected using the same methodology and lab for comparability and reliability. Results collected using other methods and protocols are not included in this report. Collection continues and results will be reported in the future.

## CURRENT WATER TESTS RESULTS AND ANALYSIS

Compared to benchmark thresholds, these results reveal a critical area where:

- ⇒ **7%** exceed **10 ppm**, EPA's Maximum Contamination Limit (unchanged since 1962)
- ⇒ **22%** exceed **5 ppm**, the Cape Cod Commission's guideline
- ⇒ **41%** exceed **3 ppm**, the level the EPA refers to water as "Contaminated" and the Truro BoH sends an alert to the owner about the elevated reading
- ⇒ **ALL samples exceed 1 ppm** - a clear signal of human waste in well water.

The histogram chart below shows the frequency of test results measuring nitrate levels at varying ranges of milligrams per liter (mg/L), interchangeable with parts per million (ppm)



**Figure 2**  
**Pond Village Water Test Results - August 2020 to now**  
**(N=27 samples, ongoing to be added)**

Sample collection and testing will continue, and analysis of this data is being conducted by the residents and will be provided at a subsequent date.

APPENDIX B

*Private Wells and Truro Safe Water*

A Report by  
**Docs For Truro Safe Water**  
September 11, 2020

Full Report with Report Appendices

## Executive Summary

This report compiles and synthesizes research related to the conditions and standards that affect potable water quality in Truro and in areas with similar geophysical and water use profiles in the Outer Cape area.<sup>1</sup> It does not analyze well water data and relies on extant reports to establish these levels.

In presenting the scientific evidence available we have relied upon three sources of data:

- Scientific data drawn from research reported in legitimate, peer-reviewed journals and publications
- Regulatory data where official agencies at various levels of government set regulations and, in many instances, maintain data related to same
- Consultative and Policy reports, usually prepared by experts, who may collect original data but who all interpret scientific and empirical evidence for policy- and decision-makers.

A lead indicator of water quality and water supply contamination is the levels of nitrates found in well water, the predominant source of domestic and commercial water in Truro. Drinking water contamination takes the form of nitrates and other organic wastewater compounds and chemicals that are mostly undetectable by taste and smell; nitrates are both easier and less costly to measure than other compounds and chemicals. Additionally, nitrates are found to be an “early detection” marker for other contaminants and serve as an effective warning sign of additional contaminants in drinking water supplies. Nitrate levels are measured in terms of milligrams per liter of water (mg/L) interchangeably with parts per million (ppm). This report uses “mg/L” but both metrics are referenced below.

## Truro’s Water Supply Sources

Most of Truro’s drinking water comes from private wells drilled from the Cape Cod aquifer which consists of two “lenses” - or underground pools of ground water - that float between the ground and the saltwater beneath the aquifer. The Pamet River, flowing from Ballston Beach to Cape Cod Bay, divides the lens into the **Pamet Lens** to the north and the **Chequesset Lens** to the south.

Because the aquifer is fairly close to the surface in many parts of Truro and thus easily reachable by drilling, these groundwater lenses can and do provide potable water resources. Ponds throughout Truro provide a good indication of the top of the aquifer, which at its highest is about 5 feet above sea level and is generally about 200 feet deep.

Groundwater in the aquifer is mostly the result of rainfall that slowly filters down to the aquifer with every rain. Other contributors to groundwater include **runoff from hard surfaces such as roofs and paved areas** which contribute salts, petrochemicals and other solvents in the runoff; **on-ground open-air storage of toxic materials** such as asphalt, brick, concrete and pressure-treated wood; and **wastewater from septic tanks and cesspools and their overflow**, which “leach” into the soil and likewise filter into groundwater over time, contributing organic (human) and chemical waste mixed in residential and commercial effluence and wastewater. Cesspool leaching finds its way easily into the aquifer and at proportionately greater densities. It is estimated that 10% of Truro homes still have outdated cesspools or otherwise failed septic systems.

## Standards and Regulations for Truro’s Water Supply

Eighty-five percent (85%) of Truro’s homes get their water from private wells. Yet private wells are not regulated by the Cape-wide, state or federal authorities, including the EPA. The Cape Cod Commission issues policy guidelines and recommendations, but the local Board of Health determines acceptable levels of drinking water contamination.

According to Truro’s Board of Health, water quality in certain areas in the Town of Truro is degraded. Excessive nitrogen loading in our watersheds has been identified as a major cause of this degradation. The primary source of excess nitrogen is reported to be wastewater from on-site septic systems.

Although the federal EPA does not regulate private wells and Truro’s largest supply of potable water is obtained through private wells, **Truro’s Board of Health currently relies on the EPA standard of 10 mg/L for municipal water**

<sup>1</sup> The Outer Cape includes the towns of Provincetown, Truro, Wellfleet, and Eastham.

systems (not wells) as the safe upper limit of nitrates in drinking water. The EPA standard was adopted in 1962 based on a federal study of nitrates and other contaminants in reliance on data from 1951 to determine nitrate level contribution to methemoglobinemia (“blue baby syndrome”). This standard, unchanged since 1962, cited 10 mg/L as the threshold for blue baby syndrome; at no time has the EPA stated that this level is safe for private wells.

Extensive research, most notably since 1996, shows serious health consequences at levels of 5 mg/L - half the EPA’s 10 mg/L - and less. To illustrate but not exhaust the known impact, research associates levels of 5 mg/L with non-Hodgkins lymphoma, bladder and thyroid cancer, and birth defects, and some of these consequences are associated with nitrate levels as low as 0.9 to 3.87 mg/L; other cancers (e.g., colorectal cancer) have been found at and around a nitrate loading level of 1 mg/L. Many other serious health impacts have been identified in the research. The evolution in the scientific understanding of the adverse effects of nitrate contamination has significantly advanced since 1962, with notable changes since 1996: the trend is clear that low levels of nitrates in groundwater have adverse effects on health and that nitrate levels above 5mg/L present unacceptable and multiple challenges to public health.

In the intervening almost 60 years since the EPA adopted its 10 mg/L standard, numerous entities and studies, including by the University of Massachusetts, have recommended that standard be reduced to 5 mg/L. More recent research has looked at the long-term effect of nitrates and related contaminants and found significantly more risks to health. In the most recent decade, non-profit research firms including the *Environmental Work Group* and *Silent Spring Institute*, have recommended nitrate standards be reduced to 1 mg/L. Other than the EPA and those who adhere to its high tolerance level, no longer do studies recommend levels as high as 10 mg/L.

Truro’s current Local Comprehensive Plan calls for continuing review by the Board of Health of nitrate concentration standards to ensure they adequately address potential groundwater pollution problems. As recently as 2014 and 2018, the Town of Truro hired the consulting firm of Weston & Sampson to study Truro’s water and to understand the cumulative effects of nitrogen (nitrate) loading on groundwater quality. Sampling data obtained in 2010-2011 shows that 1181 samples were taken identifying 45 lots with nitrate concentrations above 5 mg/L and 2 lots revealing concentrations above 10 mg/L. In 2012-17 another 1400 samples were tested, generally corroborating earlier findings and trends. As a result, W&S identified parts of North Truro and the Pamet River basin as particular areas of concern. Their results, guidance on safety and mitigation, and recommendations are summarized later in this paper.

### **Other Effects of Excessive Nitrate Levels**

Once drinking water is contaminated by excess levels of nitrates or other health-harming agents, the remedies are costly and irreversible: to construct a public water supply system, including large wells for supply, water filtration plants, water towers, underground water mains, and wastewater treatment facilities.

As expensive as a city-like water infrastructure is to build and maintain, and as much as it needs to be funded by significantly increased taxes, another economically devastating consequence is the decrease in property values due to polluted drinking water. Per the Cape Cod Commission, a 1% increase in nitrogen is associated with a decrease in home prices of 0.6% on average. In Truro’s case, the total value of its homes is on the order of \$2.3 billion. A mere 2% increase in nitrogen would then, according to this model, reduce home values by about \$28 million. Allowing the current Board of Health standard of 10 mg/L doubles the level science now establishes as a threshold for multiple health impacts: 5 mg/L. The corresponding rise in allowable nitrate levels could have adverse economic impacts of considerable magnitude.

### **Conclusion**

Since 1996, increasing evidence of harmful effects of nitrate concentrations on human health are found at ever lower levels; the arc of this trend has been consistent and irrefutable, finding significant health consequences at and below nitrate levels of 5 mg/L. Well below current EPA and Truro Board of Health standard of 10mg/L, these findings warrant consideration and possible revision to reset local standards consistently with current scientific evaluations for nitrate and nitrate loading levels at or under 5 mg/L as a pressing local matter. In addition, it is now evident that nitrates serve as a marker for human activity, the source of other harmful organic and chemical contaminants, many of which are not easily reducible and pose serious risks of cancer and other health problems to residents.

### Abstract

This paper reviews and presents a compilation of 75 years of scientific research collected on private well water and its safety, primarily focused on evolving standards and new research on the health effects of nitrates in drinking water. It has been undertaken by *Docs for Truro Safe Water*<sup>2</sup> to present and highlight the scientific evidence available to residents and decision makers in the Town of Truro, MA who are concerned with drinking water safety in a variety of settings. To the extent that current standards rely on geo-specific and/or historic data, consideration has been given to circumstances particular to the Outer Cape, as well as to more recent research conducted and reported in the past two decades.

### Introduction

Most of Truro's drinking water comes from private wells which are drilled down into the Cape Cod Aquifer in order to pump up groundwater, providing water for domestic use. Most importantly well water is the predominant source of drinking water, serving more than 85% of current residential properties in Truro. The majority of public-serving commercial entities also rely on well-water to serve their clients. Unlike other systems and appliances that can be maintained for optimum performance, private wells are passive, delivering whatever exists in the aquifer, regardless of how safe it is for human consumption. Thus, the quality of Truro's drinking water is largely dependent on the quality of its groundwater.

A primary and indicative contaminant in Truro's drinking and groundwater is nitrates. Currently, no explicit standards exist at federal, state or local levels to establish safe levels on nitrate contamination in well water. Federal standards apply to municipal water systems and environmentally sensitive areas and states and local governments have generally adopted these or developed regulations consistent with Federal standards. In the case of well water - passive systems that have none of the source protections (e.g., reservoir controls) or the supply protections (e.g., water treatment systems), the standards are not comparable.

In addition, the level of nitrate concentration considered to be safe in these public and natural systems is evolving – and decreasing – rapidly and most notably in the past 20 years based upon multiple scientific studies. Similarly, the variety and types of health conditions adversely impacted by low levels of nitrates in water is also expanding. This report attempts to look at evolving standards for safe nitrate concentrations and appropriate standards for safe well water in a rural community largely dependent upon this source of drinking water.

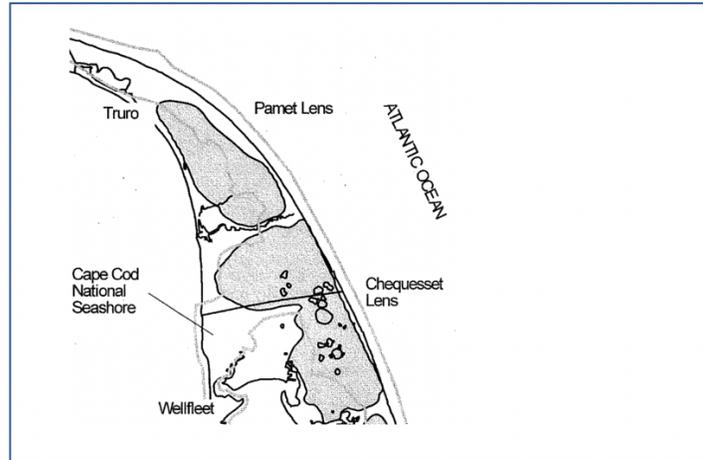
### Truro's Water Supply Sources

The Cape Cod aquifer consists of two "lenses" - or underground pools of ground water - that float between the ground and the saltwater beneath the aquifer. The Pamet River, flowing from Ballston Beach to Cape Cod Bay, divides the lens

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<sup>2</sup> *Docs for Truro Safe Water* is a group of medical and scientific professionals - all holding M.D. or Ph.D. degrees - who reside in Truro, MA and the Outer Cape region who bring their expertise and scientific perspective to the evaluation of data related to specific issues affecting the region. In this case, the focus is on local drinking water safety. Brief bios of affiliates can be found at <https://docstruro.org>.

into the **Pamet Lens** to the north and the **Chequesset Lens** to the south, as depicted below in **Figure I** and in **Appendix A**.



**Figure I: Aquifer Lenses in Truro, MA**

Because the aquifer is fairly close to the surface in many parts of Truro and thus easily reachable by drilling, these groundwater lenses can and do provide potable water resources to the large majority of residents and businesses – as well as their visitors – throughout Truro. Ponds throughout Truro provide a good indication of the top of the aquifer, which at its highest is about 5 feet above sea level and is generally about 200 feet deep.

Groundwater in the aquifer is mostly the result of rainfall that slowly filters down to the aquifer with every rain. Other contributors to groundwater include:

- **Runoff from hard surfaces such as roofs and paved areas** which contribute salts, petrochemicals and other solvents in the runoff. This includes paved surfaces in roadways, driveways, sidewalks and all types of impermeable surfaces such as non-porous patios and decks
- **On-ground open-air storage of toxic materials** such as asphalt, brick, concrete, pressure-treated wood, aggregated construction debris, as well as any storage containers holding toxic materials (e.g., salts, petrochemicals, engine oils and other solvents) that leak or drip
- **Wastewater from septic tanks and cesspools and their overflow**, which “leach” into the soil and likewise filter into groundwater over time, contributing organic (human) and chemical waste mixed in residential and commercial effluence and wastewater. Cesspool leaching finds its way easily into the aquifer and at proportionately greater densities. It is estimated that 10% of Truro homes still have outdated cesspools.

Truro’s water supply is plentiful on the one hand and fragile on the other, highly susceptible to the expanding use of toxic and environmentally sensitive chemicals introduced into the aquifer by human activity and products. In this respect nitrates pose a direct challenge to water quality and human health and serve as a barometer and catalyst for the presence of other contaminants that can also be harmful. According to the **Cape Cod Commission**:

*The Cape Cod Aquifer is extremely susceptible to contamination from various land uses and activities.*

*Nitrate, a major component of human wastewater, passes through septic systems virtually untreated and is introduced to the underlying groundwater.*

*Nitrate can serve as an indicator of other wastewater contaminants, such as disease-causing organisms, solvents, cleaners, petroleum compounds, pharmaceuticals and personal care products and other emerging contaminants.*

- *Water Quality Management Plan (2015)*

Access to clean water is first and foremost a public health issue, but it is also an economic and environmental issue as well. The **US Geological Survey** cautions us about the centrality of adequate water supply to our future well-being.

*Population growth and increasing demands for water make the availability of that water, measured in terms of quantity and quality, even more essential to the long-term sustainability of our communities and ecosystems.*

- *National Water Quality Assessment Program (2010)*

### **Standards and Regulations for Truro's Water Supply**

All drinking water for Truro homes and businesses comes from the Cape Cod aquifer lenses located in whole or in part under the Town of Truro. The vast majority of these users rely on private wells for their water supply for home and business uses.

The EPA is often cited as the standard setter for water quality in public water systems and natural environments, but since its inception the **EPA has not regulated private wells**. Federal authorities instruct well owners to be responsible for water quality in their own wells.



Figure 2: Current EPA Message to Private Well Owners

*EPA does not regulate private wells nor does it provide recommended criteria or standards for individual wells. EPA offers information regarding the importance of testing private wells and guidance on technologies that may be used to treat or remove any contaminants. Private well owners are responsible for the safety of their water.*

<https://www.epa.gov/sites/production/files/2018-02/documents/epa-ogwdw-private-wells-v4.pdf>

While Federal authorities often establish thresholds on water safety for use by other levels of government, in the absence of EPA standards for private wells it is notable that **private wells are also not regulated by the Massachusetts Department of Environmental Protection (Mass DEP)**. The Commonwealth points to local Boards of Health to act as regulators, as stated on their Mass DEP website:

*MassDEP does not regulate private wells. Your local board of health or health department regulates them....The local BOH is empowered to adopt a Private Well Regulation that establishes criteria for ...water quality.*

<https://www.mass.gov/orgs/massachusetts-department-of-environmental-protection>

The Truro Board of Health has expressed concern about degradation of drinking water quality in Truro:

*Water quality in certain areas in the Town of Truro is degraded and excessive nitrogen loading in our watersheds has been identified as a major cause of this degradation. The primary source of excess nitrogen is wastewater from on-site septic systems.*  
- Truro Board of Health Regulations

## Sources of Drinking Water Contaminants in Well Water

Contaminants in well water come primarily from septic systems. Those septic systems contain both **organic nitrogen (nitrates) from human waste as well as organic wastewater compounds (OWCs)** and may contain other toxins that are flushed or washed into septic systems or dropped on the ground to leach into groundwater. OWCs are ingredients and by-products of common agricultural, industrial, and household substances that can contaminate our groundwater through sources like hard surface runoff and septic systems, as noted above. **Appendix B** gives more examples, such as solvents, disinfectants, detergent, and human drugs. To a lesser degree, nitrates also come from the use of fertilizer applied to plants, including animal waste. An illustration of the Environmental Nitrogen Cycle is found in **Appendix C**.

In a residential community such as Truro, nitrates and OWCs both primarily originate from human activity. Because it is much simpler and less expensive to test for nitrate than it is to test for chemical compounds, actual OWC levels are less frequently reported - but that does not mean they are absent. To determine nitrate levels, water tests are available through the Barnstable County testing laboratory. An example test result is shown in **Appendix D**.

As regulators analyze water safety, a high correlation has been shown to exist between nitrate levels and OWC levels. This means that health risks exist at lower nitrate levels than previously understood, in part due to the co-presence of OWC contaminants. This is in part due to lower levels of tolerance for OWC contamination and to the cumulative effect of these in combination.

Researchers are also giving more attention to longer duration exposures at reduced levels of nitrate concentrations. Originally, pursuant to the EPA formulating its standards in the early 1960s, nitrate toxicity in infants was based on exposure of just a few months duration. High levels would be needed to show impact in a short time span. But exposure to a reduced nitrate level over several years, when that cumulative exposure also includes OWCs present as well, has been increasingly linked to health risks in humans of all ages. This exposure has been coined by Kevin Kuechler, former chair of Truro's Water Resource Oversight Committee, as the **nitrogen footprint which, like a carbon footprint, can benefit from substantial reduction in concentration and volume.**

## “Safe” Levels of Contamination

A “safe level of contamination” is an oxymoron; contamination is never safe, but it is sometimes tolerable if contaminants have a negligible impact on human, animal or environmental health. In this respect, there is agreement about the sources of well water contamination. Consensus as to what levels of contaminants are safe in drinking water, and especially well water, is evolving. In recent years, research and scientific evidence has mounted that shows “safe” levels - that is, the level at which no known adverse consequences to health are triggered - are lower than originally understood.

The first known report of potential effects of nitrate poisoning in infants was made in 1945. In 1962, the EPA adopted a standard of 10 mg/L originally as the threshold for blue baby syndrome based on a federal study of nitrates and other contaminants in reliance on data from 1951 to determine nitrate level contribution to methemoglobinemia (“blue baby syndrome”). This standard, unchanged since 1962, currently applies an MCL (maximum contamination level) of 10 mg/L for municipal water systems (not wells) as the safe upper limit of nitrates in drinking water; at no time has the EPA stated that this level is safe for private wells.<sup>3</sup> Yet, in the face of growing and consistent research which indicate this standard may be too high, the EPA has begun to re-assess its recommendation. For example:

- In 2017, the EPA acknowledged (a) a growing body of literature indicating potential associations between nitrate/nitrite exposure and other serious noncancer health effects, and (b) epidemiological studies also suggesting an increased risk of cancer, the EPA began undertaking a reassessment of the health effects of nitrate and nitrite.

Based on their own independent research:

- **University of Massachusetts Dartmouth** recommends a nitrate level no higher than 5 mg/L. Its seminal study states, inter alia:

*Ingestion of drinking water with nitrate concentrations in excess of 10 mg/L may be fatal to infants. Concentrations in excess of 5 mg/L indicate a severe degradation of groundwater quality. In order to guard against nitrate concentrations reaching danger levels, if you have a nitrate concentration exceeding 5 mg/L in your well, you should monitor the nitrate for a trend of increasing concentrations.*

*A potential cancer risk from nitrate in drinking water and food has been reported. The possibility exists that nitrate can form nitrosamine, which is known to cause cancer.*

*Nitrate-nitrogen concentrations above 1.0 mg/L indicate potential land use impacts to water quality. You should try to identify the potential land use source that is causing the elevated levels in your drinking water. Drinking water with nitrate-nitrogen concentrations greater than 5.0 mg/L should not be used to prepare infant formula.*

- The **Cape Cod Commission** recommends a nitrate level no higher than 5 mg/L. Further to this, it has published some minimum guidelines as to level of discharge from septic systems to protect the aquifer in general and the private wells that pump from it. More follows below on the Commission’s insights.
- The **Environmental Working Group**, a nationally recognized non-profit, non-partisan organization dedicated to protecting human health and the environment, recommends a nitrate level “10 times lower” than EPA 10 mg/L, that is, 1 mg/L, stating inter alia:

*Private drinking water wells in the vicinity of animal farms and intensively fertilized fields, or in locations where septic tanks are commonly used, can also have unsafe levels of nitrate.*

*The federal limit of 10 milligrams per liter, or mg/L, equivalent to parts per million, for nitrate in drinking water was set in 1962 and has never been updated. This standard was developed to prevent acute cases of methemoglobinemia, known as blue baby syndrome, which can occur when an infant’s excessive ingestion of nitrate leads to oxygen deprivation in the blood.*

*Epidemiological research suggests that the federal nitrate limit does not sufficiently protect public health. Studies conducted in the U.S. and in other countries found greater incidence of colorectal, ovarian, thyroid, kidney and bladder cancers among people exposed to nitrate in drinking water. Researchers in Europe have found elevated risk of colorectal cancer associated with drinking water concentrations more than 10 times lower than the federal limit. Epidemiological studies also report that nitrate contamination of tap water can harm the developing fetus.*

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<sup>3</sup> At recent public meetings in Truro, it has been reported that the Board of Health currently relies on the EPA standard of 10 mg/L.

*The federal legal limit for nitrate in drinking water fails to address the growing concerns about chronic, low-level exposure to nitrate and potential cancer risk.*

- The **Silent Spring Institute**, a non-profit research institute, recommends a nitrate level no higher than 1 mg/L. Silent Spring's mission is preventing cancer by reducing people's exposure to harmful chemicals. It is explicit and firm, inter alia, that based on the current EPA standard of 10 mg/L of nitrates in drinking water:

*Our results suggest that current regulations to protect domestic wells from pathogens in septic system discharges do not prevent OWCs [organic wastewater compounds] from reaching domestic wells.*

*We found that nitrate concentrations of 1 mg/L NO<sub>3</sub>-N, which are tenfold higher than local background and tenfold lower than the US federal drinking water standard, were associated with wastewater impacts from OWCs. Since nitrate is a commonly measured drinking water contaminant, it is a useful screening tool for OWCs in domestic wells.*

- **Cape Cod's [Area Wide Water Quality Management Plan Update](#)**, developed pursuant to Section 208 of the Clean Water Act, was certified by Governor Charlie Baker in June 2015 and approved by the U.S. Environmental Protection Agency on September 15, 2015. It states, inter alia:

*Cape Cod has a water problem. The saltwater border that has defined our peninsula is being poisoned by nitrogen. The rapid decrease in the water quality of Cape Cod's marine ecosystems is plain to see. The problem is nitrogen and the largest controllable source is the septic systems used every day.*

*Nitrogen is impacting coastal water quality. About 80% of the nitrogen that enters Cape Cod's watersheds is from septic systems.*

*The Cape Cod seasonal economy relies on the water that surrounds the region and the degraded water quality is negatively impacting important economic drivers including coastal property values.*

- The **Cape Cod Regional Policy Plan** established a nitrogen loading concentration of 5 ppm (i.e., 5 mg/L) to ensure that nitrate levels in drinking water will not approach the 10 mg/L federal standard for public water supplies.

*Five-ppm Nitrogen Loading Standard: All development and redevelopment shall not exceed a 5-parts per million (ppm) nitrogen loading standard for impact on groundwater...*

## The Evolution of Safe Drinking Water Standards Over Time (1945 to now)

In order to understand how nitrate safety standards have evolved over the past 75 years, **Figure 3** depicts the main moments in time where "safe levels" of nitrates changed over time. This allows us to get a perspective on how long it has taken policy to catch up with science on water contamination and at the same time, to see how rapidly consensus and revised policy recommendations are being developed more recently. Starting with the first query in 1945 about "blue-baby syndrome" and the few small sample studies that followed on this topic in the 1950s to the early establishment of the EPA standard in 1962 that resulted, and on to more recent research focusing on various diseases resulting from well-water nitrates and other contaminants.

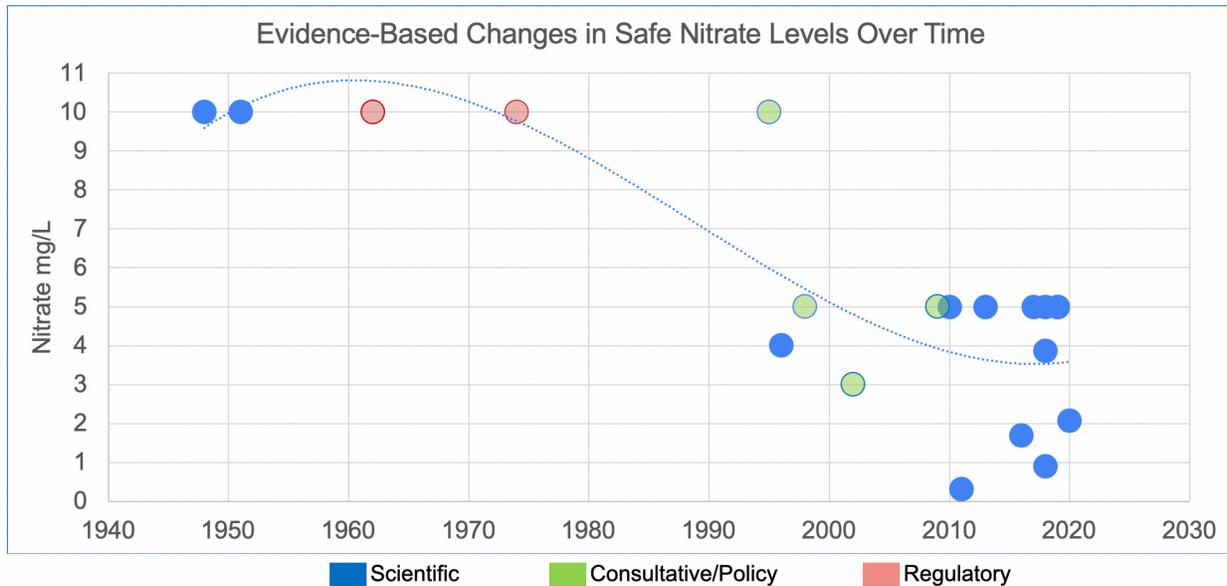


Figure 3: Evidence-Based Decreases in Safe Nitrate Levels (1945-2020)

### Snapshot of Key Findings on Determinants of Health-Compromising Nitrate Levels Over Time

- 1945 (year 1)

**Dr. Hunter Comly** of Iowa reported on two cases of a "previously unrecognized" condition that "may occur anywhere in rural areas where well-water is used in infant feeding." Dr. Comly suspected that the nitrates in the family's well-water were at fault.

- 1947-1950 (years 2-5)

#### **Journal of the American Water Works Association**

The first scientific reported study is conducted in 1947-49 by clinical and sanitary experts of 139 cases of methemoglobinemia ("blue baby syndrome") resulting from the consumption of well-water reported in Minnesota between January 1947 and September 1949 in infants under five months of age.

- 1951 (year 6)

#### **American Journal of Public Health and the Nation's Health**

"Water used in preparing infant's feeding formula should contain no more than 10 (possibly 20) ppm nitrate N."

- 1962 (year 17)

The **U.S. Public Health Service** recommended a national nitrate standard of 10 ppm.

- 1974 (year 30)

The **Safe Drinking Water Act (SDWA)** was passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply. The EPA endorsed a 10 mg/L (ppm) nitrate limit in public drinking water.

- 1996 (year 52)

**Epidemiology**

“Long term consumption of community water with average nitrate levels in the highest quartile ( $>$  or  $=$  4 mg<sup>4</sup> per liter nitrate-nitrogen) was positively associated with health risk [citing non-Hodgkin’s lymphoma].”

“These findings indicate that long term exposure to elevated nitrate levels in drinking water may contribute to the risk of NHL [non-Hodgkin’s lymphoma].”

- 1998 (year 54)

**Lower Cape Water Management Task Force**

“Descriptions of water quality are typically expressed by using an acceptable standard value. In this study, we report the number of wells that exceed 5 mg/L as a measure of water quality.”

- 2002 (year 58)

**The Journal of Preventive Medicine**

“By mandating a safety factor of two, which would reduce the current MCL and HAL for nitrate to 5.0 mg/L NO<sub>3</sub>- N, and by promulgating a MCLG of 3.0 mg/L of NO<sub>3</sub>-N; the United States regulatory approach for nitrate in drinking water would become consistent with other European countries and would encourage the prudent public health strategy of limiting human nitrate exposure.”

**Cape Cod Commission**

“This Regional Policy Plan continues to support the 5-ppm limit on nitrogen loading.”

“The maximum nitrogen loading standard for Potential Public Water Supply Areas shall be 1 ppm for development.”

- 2005 (year 61)

**Truro Local Comprehensive Planning Committee**

“The Board of Health is asked to: Continually review the Board of Health nitrogen loading standards to ensure that such standards adequately address potential groundwater pollution problems.”

- 2009 (year 65)

**Cape Cod Commission**

“Five-ppm Nitrogen Loading Standard: The maximum nitrogen loading standard for impact on groundwater shall be 5 ppm for development and redevelopment unless a cumulative impact analysis indicates a more stringent loading standard is necessary.”

- 2010 (year 66)

**Epidemiology**

“We found an increased risk of thyroid cancer with higher average nitrate levels in public water supplies and with longer consumption of water exceeding 5 mg/L nitrate-N (for  $>$  or  $=$  5 years at  $>$ 5 mg/L.”

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<sup>4</sup> The symbols ( $>$  or  $=$ ) and ( $\geq$ ) mean “greater than or equal to” the stated number. The symbol ( $<$  or  $=$ ) and ( $\leq$ ) mean “less than or equal to” the stated number.

- 2013 (year 69)

**Environmental Health Perspectives**

“Women who had babies with NTDs [neural tube defects], limb deficiencies, and oral cleft defects were significantly more likely than control mothers to ingest  $\geq 5$  mg of nitrate per day from drinking water.”

- 2017 (year 73)

**EPA – The Integrated Risk Information System (IRIS) Program**

“Since 1987, a growing body of literature indicates potential associations between nitrate/nitrite exposure and other non-cancer health effects.”

- 2018 (year 74)

**International Journal of Cancer**

“We found statistically significant increased risks [of cancer] at drinking water levels above 3.87 mg/L.”

**Environmental Health Perspectives**

“Mothers of babies with spina bifida were 2.0 times more likely to ingest  $\geq 5$  mg nitrate daily from drinking water.”

“During one month preconception through the first trimester, mothers of limb deficiency, cleft palate, and cleft lip cases were, respectively, 1.8, 1.9, and 1.8 times more likely than control mothers to ingest  $\geq 5.42$  mg of nitrate daily.”

**International Journal of Public Health/MPDI**

“Risk of specific cancers and birth defects may be increased when nitrate is ingested under conditions that increase formation of N-nitroso compounds. We previously reviewed epidemiologic studies before 2005 of nitrate intake from drinking water and cancer, adverse reproductive outcomes and other health effects. Since that review, more than 30 epidemiologic studies have evaluated drinking water nitrate and these outcomes. The most common endpoints studied were colorectal cancer, bladder, and breast cancer (three studies each), and thyroid disease (four studies). Considering all studies, the strongest evidence for a relationship between drinking water nitrate ingestion and adverse health outcomes (besides methemoglobinemia) is for colorectal cancer, thyroid disease, and neural tube defects. Many studies observed increased risk with ingestion of water nitrate levels that were below regulatory limits.”

“Four of the five published studies of colorectal cancer found evidence of an increased risk of colorectal cancer or colon cancer associated with water nitrate levels that were mostly below the respective regulatory limits.”

“Four of the five studies of thyroid disease found evidence for an increased prevalence of subclinical hypothyroidism with higher ingestion of drinking water nitrate among children, pregnant women, or women only. Positive associations with drinking water nitrate were observed at nitrate concentrations close to or above the MCL (maximum contaminant level).<sup>5</sup>”

“To date, five of six studies of neural tube defects showed increased risk with exposure to drinking water nitrate below the MCL. Thus, the evidence continues to accumulate that higher nitrate intake during the pregnancy is a risk factor for this group of birth defects.”

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<sup>5</sup> This same study reported “the maximum contaminant level (MCL) for nitrate in public drinking water supplies in the United States (U.S.) is 10 mg/L as nitrate-nitrogen (NO<sub>3</sub>-N).”

- 2019 (year 75)

**Silent Spring Institute**

“...recent studies suggest exposure at levels as low as 5 ppm is also associated with several cancers and birth defects, raising the possibility that EPA’s water standard is not sufficiently protective of health.”

**Cape Cod Commission**

“The Cape Cod Commission has a long standing policy that aims to limit project site-wide nitrogen loading to a concentration of 5 mg/L or less in order to protect and preserve the drinking water quality of supply wells and areas that contribute to them: these areas include public drinking water supplies, private wells, and the sole source Cape Cod Aquifer in general. Included in the concentration limit are those controllable sources of nitrogen typically associated with development: wastewater, stormwater and turf fertilization.”<sup>6</sup>

- 2020 (year 76)

**Epidemiology**

“Average drinking water nitrate concentration above the 95th percentile (>2.07 mg/L) compared with the lowest quartile (≤0.21 mg/L) was associated with bladder cancer.”

While this survey of the scientific literature concerning key findings about nitrate concentrations over time is illustrative but not exhaustive, it is substantially representative of the extant research. This research shows that:

- From 1945-1996 the focus on one disease (“blue baby syndrome”) without consideration of other conditions was associated with an MCL of 10 mg/L for nitrates in public water systems.
- From 1996 to today the recommended MCL for nitrates has consistently been cited at or below 5 mg/L.
- Further, research confirms that nitrate levels below 5 mg/L are associated with an increasing number of health consequences.
- These include numerous forms of cancer - thyroid, bladder, colorectal, non-Hodgkins’ lymphoma, and childhood brain tumors - as well as non-cancer health conditions, including birth defects.

Figure 4 presents a brief summary in chart form of the evolution of the basis for changes in the recommended MCL (maximum contamination level) associated with serious cancer- and non-cancer-related health consequences in humans.<sup>7</sup> Key findings with some additional narrative are also presented here in the interest of clarity and brevity. Additional details and supportive citations are provided in **Appendix E**.

<sup>6</sup> Map contained in **Water Resources of Outer Cape Cod, Final Report of the Lower Cape Water Management Task Force**, May 1998, Figure 1

<sup>7</sup> Neither this survey of the scientific literature or this report addresses the adverse impact of nitrogen and OWCs, alone and in combination, on the health of flora, fauna or natural waters and related environmental conditions. That is beyond the scope of this report. However, that research is consistent with this report.

**Timeline Summary | Level of Nitrates in Water and Serious Health Risks**

Year	Nitrate	Reference Source	Type	Health Risk
1948	10	Minnesota Department of Health	S	methemoglobinemia
1951	10	Graham Walton, PhD	S	methemoglobinemia
1962	10	US Public Health Service	R	methemoglobinemia
1974	10	US Safe Water Drinking Act	R	methemoglobinemia
1995	10	US Environmental Protection Agency	C/P	methemoglobinemia
1996	4	Epidemiology/National Cancer Institute	S	non-Hodgkin's lymphoma
1998	5	Lower Cape Water Management Task Force	C/P	general
2002	3	The Journal of Preventive Medicine	C/P	Max Contam Limit Goal
2009	5	Cape Cod Commission Regional Policy Plan	C/P	Nitrogen loading standard
2010	5	Epidemiology	S	thyroid cancer
2011	0.31	Journal of Toxicology and Environmental Health	S	childhood brain tumors
2013	5	Environmental Health Perspectives	S	birth defects
2016	1.7	Spain and Italy	S	colorectal cancer
2017	5	Environmental Health Perspectives	S	bladder cancer
2018	3.87	International Journal of Cancer	S	colorectal cancer
2018	5	Environmental Health Perspectives	S	birth defects
2018	0.9	Denmark	S	colorectal cancer
2019	5	Silent Spring Institute	S	cancers and birth defects
2019	5	Environmental Research	S	colorectal cancer
2020	2.07	Epidemiology	S	bladder cancer

■ Scientific     
 ■ Consultative/Policy     
 ■ Regulatory

Figure 4: Timeline Summary of Changes in Nitrate Levels Associated with Serious Health Risks

**Current Well Safety and Contamination Prevention in Truro**

The safety of private well water in Truro depends on where you live. It also depends on well owners’ personal vigilance, attention, and where needed, mitigation. As Weston & Sampson noted (see Appendix F), some neighborhoods, most notably **Pond Village and other areas in North Truro, have more contaminants in their drinking water than other areas.** Older “pre-Title V” neighborhoods, such as the **Pamet River Valley basin, are also of concern.** Other areas in Truro have lower levels on average but increasing human activity trends toward increasing nitrates wherever it occurs.

The **Truro Board of Health** controls nitrogen loading<sup>8</sup> by setting limits on the density of human activity by limiting development to one bedroom per 10,000 square feet of land up to the limits of total acreage (Section VI, Article 14 of the [Board of Health Local Septic Regulations](#)). See Appendix G for a summary of Truro’s Board of Health regulations.

<sup>8</sup> Nitrogen loading is related to but different from nitrate concentration levels. Where nitrate levels can be assessed in drinking water directly, nitrogen loading is determined through multi-factor calculations. The load (aka, the flux) is the amount (or mass) that passes a given point in groundwater over a given period of time. In Truro, this is determined by gallons per day per bedroom per 10,000 sf for residential applications. More simply, it is the load per unit of drainage area. For a helpful link, see <https://buzzardsbay.org/buzzards-bay-pollution/nitrogen-pollution/nitrogen-tools/bbpnitro-interactive/>. The Cape Cod Commission recommends 5mg/L as a safe nitrogen loading limit.

The **Truro Housing Production Plan**, accepted by the Commonwealth’s Department of Housing and Community Development, states:

“... the town’s resources for absorbing growth are extremely limited ...Truro has limited water and no sewer services, making denser development more costly and difficult. Consequently, residents must rely largely on wells and on-site septic systems. This raises concerns among residents about water supply and quality impacts of any development.”

As seen in **Figure 5**, the EPA advises private well owners to monitor their own wells, ask questions, and understand mitigation options to protect the safety of their well water:



Figure 5: EPA Advisory to Self-Monitor Private Wells

The **Truro Water Resources Oversight Committee (WROC)** and the town’s water consultant **Weston & Sampson** have provided information in this regard, and highlighted areas of concern. It is generally accepted that nitrate levels in excess of 1.0 ppm (i.e., 1 mg/L) are indicative of human activity. The more human activity and waste, the higher the nitrate level. **Figure 6** informs us that on average nitrate levels in Truro based upon voluntary sampling from 2007-2011 that the average nitrate concentration in Truro is 1 mg/L (ppm), while certain areas have levels  $\geq 5$  mg/L, generating designation as areas of concern with regard to drinking water safety.

As recently as 2014 and 2018, the Town of Truro hired the consulting firm of **Weston & Sampson** to study Truro’s groundwater and to understand the cumulative effects of nitrogen (nitrate) loading on groundwater quality. Sampling data obtained in 2007-2011 shows that 1181 samples were taken identifying 45 lots with nitrate concentrations above 5 mg/L and 2 lots revealing concentrations above 10 mg/L. From 2012-2017 another 1400 samples were tested, generally corroborating earlier findings and trends. As a result, **W&S identified parts of North Truro and the Pamet River basin as particular areas of concern.** Local water sample tests provided voluntarily to the **Town’s WROC and Board of Health** showed consistent results.

A summary of Weston & Sampson’s two reports can be found in **Appendix G**.

**Figure 7** shows where well monitoring took place in Phase 1 of the W&S study (2007-2011). Phase 2 (2012-2017) focused on identified areas of concern.

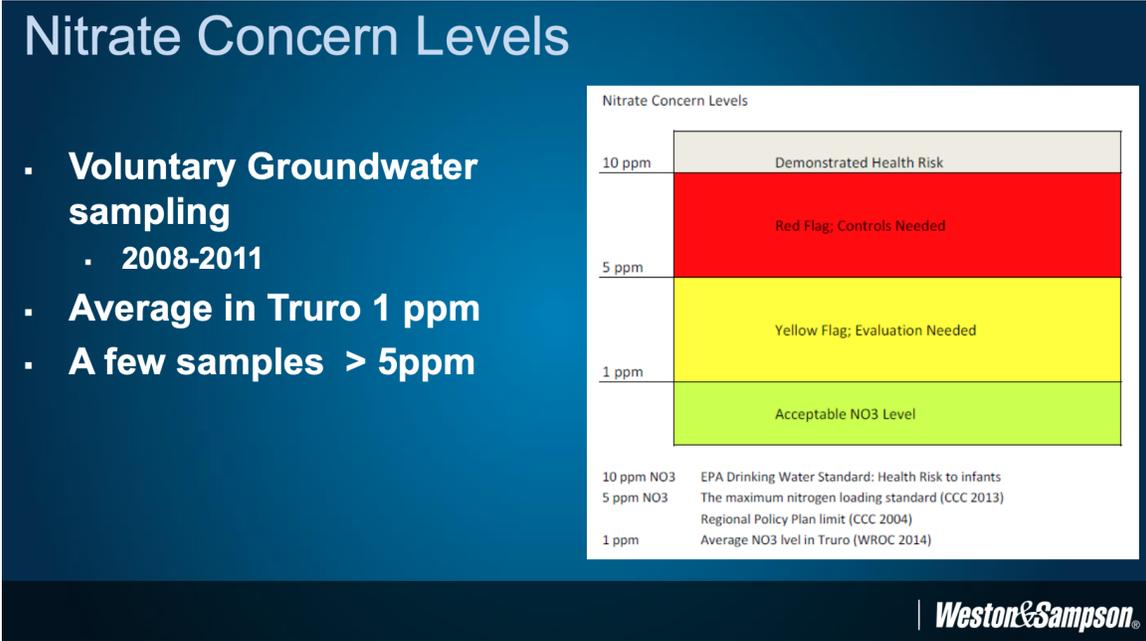


Figure 6: W&S Water Sampling Results and Impact 2008-2011

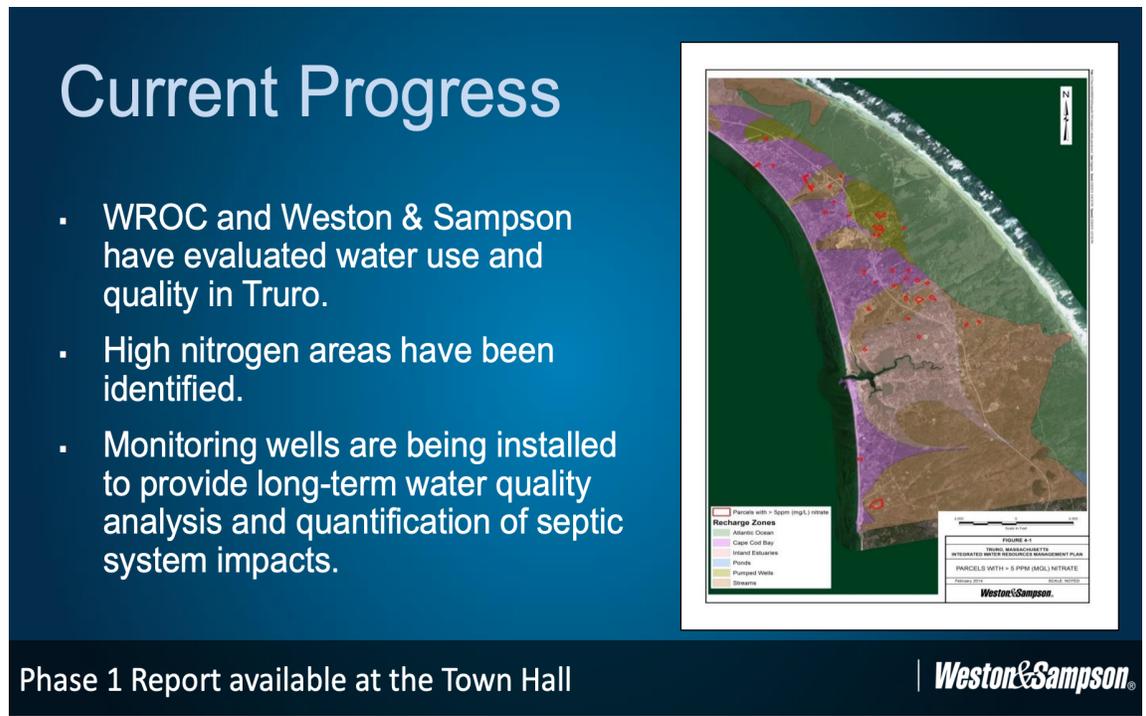


Figure 7: W&S Water Sampling Areas and Status 2008-2011

### Other Effects of Excessive Nitrate Levels

- Property Values

Once drinking water is contaminated by excess levels of nitrates or other health-harming agents, the remedies are **costly and irreversible: to construct a public water supply system**, including large wells for supply, water filtration plants, water towers, underground water mains, and wastewater treatment facilities.

As expensive as a city-like water infrastructure is to build and maintain, and as much as it would be funded by significantly increased taxes, another economically devastating consequence is the **decrease in property values due to polluted drinking water**. Per the Cape Cod Commission, a **1% increase in nitrogen is associated with a decrease in home prices of 0.6% on average**. In Truro's case, the total value of its homes is on the order of \$2.3 billion. A mere 2% increase in nitrogen - below the rate of increase observed by the Inner Pamet Harbor monitoring project - would then reduce home values by about \$28 million per year. Allowing the current Board of Health standard of 10 mg/L **doubles the level science now establishes as a threshold for multiple health impacts: 5 mg/L**. The corresponding rise in allowable nitrate levels could have adverse economic impacts of considerable magnitude.

#### Case Study: Three Bays

##### THREE BAYS: ESTIMATED IMPACT OF NITROGEN ON PROPERTY VALUES

A study evaluating home prices in the Three Bays area in the Town of Barnstable was conducted to test the hypothesis that water quality degradation resulting from nitrogen pollution impacts single-family home sale prices negatively. Single-family properties within 1,000m or about 10 minutes walking distance from the waterfront comprise the study area. The model estimates the impact of water quality – nitrogen levels – on home sale prices, controlling for property attributes, macroeconomic influences, proximity to public beaches, distance to water. The time period of the analysis is between 2005 and 2013.

Initial findings demonstrate a 1% increase in nitrogen is associated with a decrease in single-family home sale prices in the range of 0.407% to 0.807% (average 0.61%), with a 95% confidence level. During the study period the water quality in Three Bays degraded by 15.8%. The above range of estimated decrease translates into a noticeable fiscal impact on the community, both in terms of decrease in sale price and consequent impact on the assessed value.

#### Case Study: Three Bays cont.

For example, if the discharge of nitrogen into Three Bays waters was lessened resulting in a 3% decrease in total nitrogen level, average single-family home sale prices in the study area would have been \$16,774 to \$32,957 higher than in 2013. That translates into potential sale value loss (and consequent assessed value loss) in the range of \$49 to \$86 million in the study site alone (1,000m or ten-minute walking distance to the waterfront). No action in 2015 will bring additional loss of home value to Cape Cod due to degrading water quality from nitrogen.

Cape Cod's environment is linked directly to its economy. The nitrogen problem is a significant threat to both. Continued degradation of the coastal resources on Cape Cod will negatively impact the seasonal and year-round economies, affecting property values for year-round residents and second homeowners, and shifting property tax burdens away from higher value seasonally occupied coastal properties on to middle class year-round residents.

Figure 8: Case Study | Estimated Impact of Nitrates on Cape Cod Property Values

- Commercial Safety Concerns

The potential impact of contaminated water is not limited to residential property owners. Commercial operations, and especially those who serve the tourists and seasonal visitors who drive business success in Truro, must also rely on

safe groundwater supplies. Contamination comes from human activity. If there is increased human activity, of the same or expanded scale as we see now, then we will experience increased contaminants and safety and health of the tourist and seasonal clientele will accordingly be at risk. All of the potential effects on property values as well as the impact on consumer-serving business could proportionately affect Truro's limited retail and restaurant businesses that serve or rely on safe drinking water.

- **The Challenge of Density**

The Town of Truro has not consistently obtained, documented and published water quality test results over time to enable a trend to be determined in Truro. However, the **Center for Coastal Studies** has been monitoring the nitrogen levels at the Inner Pamet Harbor for over 10 years. The data is presently being analyzed by **Docs for Truro Safe Water** and a report is forthcoming. Preliminary results indicate an increasing nitrogen level over time, consistent with the increasing density of septic systems in Truro in general and in the Pamet watershed in particular. This is consistent with the Weston & Sampson study which concluded based on sampling that gradual increases would result absent well mitigation or more stringent regulation.

The more densely populated areas of Truro, including Pond Village, North Truro and the Pamet River basin in central Truro could experience an increase due to high density development up gradient. Other neighborhoods could experience increases due to added people and/or occupancy and deteriorating septic systems.

- **The Challenge of Mitigation**

There are at least three ways in which mitigation can pose challenges to property owners relying on well water for domestic or commercial consumer use:

- **Cesspool Replacement.** Truro is estimated to still have about 210 cesspools in operation. A cesspool is a pit lined with cement or stone. Cesspools lack the ability to filter waste and the sewage eventually contaminates the surrounding soil. For this reason, **cesspools are outdated and illegal.** However, when the Commonwealth enacted Title V in 1975, it mandated that cesspools be upgraded to septic systems upon the sale of the property. Since some properties have not sold or have been passed inter-generationally, these cesspools have in effect become "grandfathered" until a sale happens. In the meantime, these cesspools have been contributing a significant amount of contamination to the aquifer for the 45 years since Title V became law and will for the foreseeable future until some plan to upgrade them is formulated.
- **Nitrate reduction.** Once nitrates have entered groundwater, it is a difficult, uncertain and lengthy process to reduce nitrates concentrations and nitrogen loading. It is by far better to avoid the contamination if at all possible, avoiding the cost and health risks of attempted nitrate reduction efforts. Septic system improvements (e.g., cesspool replacement) through tax incentives, policy and regulations to limit nitrates in drinking water, building regulations that conform with adjusted lower limits, discouragement of residential lawns (and thus nitrogen) and other nitrate-reducing actions undertaken prophylactically are worth consideration.
- **Be proactive.** It is possible to take steps to prevent nitrate concentrations from reaching levels where health and safety are in danger. This requires personal vigilance and monitoring by individual well owners. But equally, it requires community planning, scientifically based decision-making, and regulations that reflect both of these.

A common solution for communities that neglect their private well water safety until it becomes too contaminated is to build expensive water treatment plant(s) and water department infrastructures, as mentioned above. We have expensive examples of this surrounding Truro in both Provincetown and Eastham. For example, Eastham faced the same issue over a decade ago, but failed to take sufficient measures early enough. (See **Appendix H** for a brief re-cap of Eastham's initial timeline.) That resulted in the necessity of replacing private wells with a town water system, at a projected cost of over \$100 million.

Truro need not suffer this fate.

## Conclusions

As more research has emerged from the first question in 1945 about nitrates in well water as a possible cause of “blue baby syndrome” to this day, the scientific evidence shows consistently and incontrovertibly that:

- The harmful effects of nitrate on human health are found at lower and lower levels of concentration.
- The trend of lower threshold levels has been consistent for more than 25 years, finding significant health consequences at and below nitrate concentrations of 5 mg/L.
- At levels below 5mg/L the list of cancer and non-cancer health conditions triggered by lower levels of nitrates expands continuously, to include, among other conditions, **non-Hodgkin’s lymphoma, thyroid, bladder, colorectal and ovarian cancers, brain tumors in children, and multiple birth defects.**
- **Many experts and organizations domestically and internationally have called for the maximum contaminant level for nitrate to be set between 1 mg/L and 5 mg/L.**
- **Nitrate concentrations of 5 mg/L are well below current EPA and Truro Board of Health standards.**
- **Nitrate in private wells – serving 85% of Truro’s households - is not regulated. In Truro, only the Board of Health has the authority to do so.**
- Nitrates combine with and catalyze action of OWCs (organic wastewater compounds) to induce adverse health effects at lower levels of concentration and over longer periods of time.
- Mitigation of excessive nitrate concentrations or nitrate loading is uncertain, expensive, and prolonged once it enters groundwater.
- With prior planning and sound regulation, the worst effects of water contamination can be avoided, as can the adverse effects associated with excess nitrates on human health, property values, the local economy and the surrounding natural environment.

## Recommendations

It is clear that nitrate levels once thought to be safe in the 1960’s – set at 10mg/L - are considered to be too high and are no longer viewed as safe by the great majority of scientific evaluations, and today’s level of safety should reflect the evolution in science and science-based policy and regulation.

**These extensive scientific evaluations propound that safe levels fall within the range of 1 to 5 mg/L.**

**Accordingly, as a pressing local matter this research warrants consideration and possible revision by the Truro Board of Health to reset local standards in conformity with current scientific evaluations for nitrate concentrations and nitrate loading at a level at or under 5 mg/L.**

## Addenda

### Glossary

### Appendices A-I

Appendix A – Pamet Lens, Chequesset Lens, and Nitrate Levels 1984-95

Appendix B – Organic Wastewater Compounds

Appendix C – The Environmental Nitrogen Cycle

Appendix D – Sample Water Testing Results

Appendix E – Timeline of Research on Water Safety | Additional Details

Appendix F – Weston & Sampson Reports | Phases 1 and 2 | Relevant Excerpts

Appendix G – Truro’s Board of Health Regulations | On Nitrogen Loads

Appendix H – Eastham’s Struggle with Water Safety

Appendix I – Citations in Text and Additional Resources Organized by Source

## Addendum I - Glossary

### Scientific Acronyms Used in This Report

BOD	biochemical oxygen demand
gal	gallons
L or l	liter; 1.06 quarts
MCL	Maximum Contaminant Level
MCLG	Maximum Contaminant Level Goal
mg/L	milligrams per liter; a measure of concentration; the weight in milligrams of any specific substance or substances contained in one liter of solution
N <sub>2</sub>	Nitrogen gas naturally present in the atmosphere
NO <sub>3</sub> -N	Nitrate as Nitrogen
NO <sub>2</sub>	Nitrite
NH <sub>3</sub>	Ammonia
OWC	organic wastewater compound
pH	below 7.0 = acidic / above 7.0 = alkaline
ppm	parts per million
SF	square feet

### Conversion Factors

mg/L to ppm =	1 (mg/L and ppm are equivalent at the density of water of 1 kg/L)
Liters to gal =	3.7854 liters to a gallon
SF per acre =	40,000 sf in a “builder’s acre” (43,560 actual sf in one acre)

### Constants

SF per parking space =	350 SF
Allowable Effluent / 1 bedroom per 10,000SF =	110 gals/day
Title V septic effluent concentration =	23.63 mg/L
Average household size in Truro =	2.03 people per house (per 2010 Truro Census data)

### Symbols

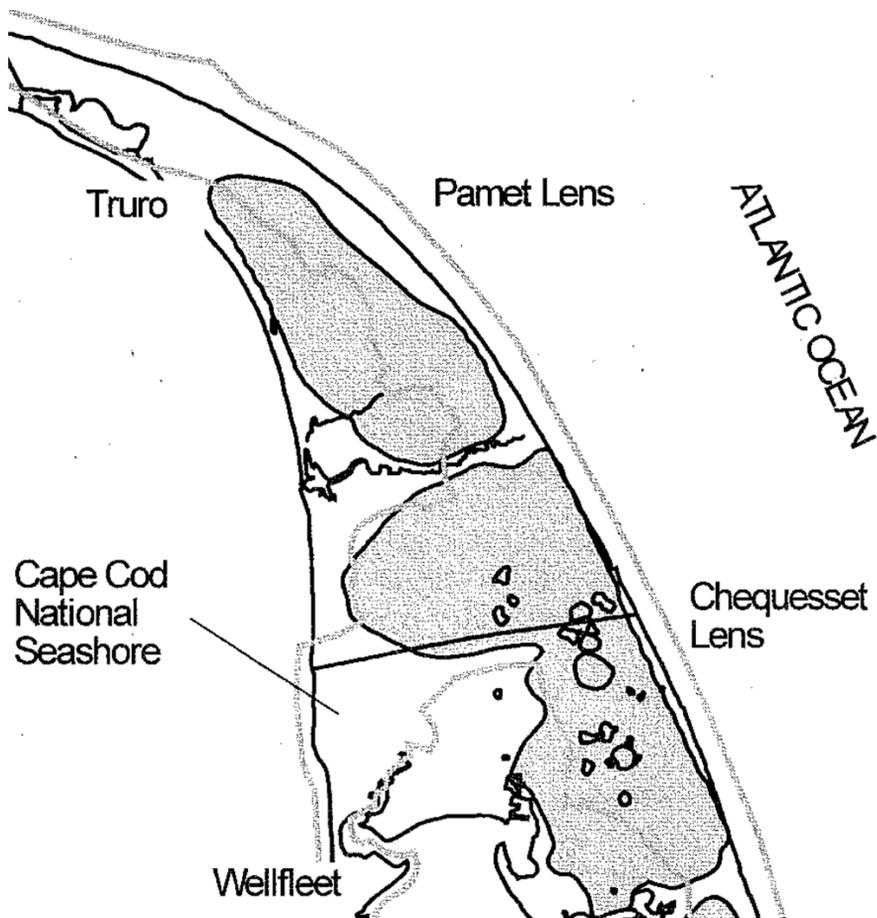
(>=) and (≥)	“greater than or equal to” the stated number
(<=) and (≤)	“less than or equal to” the stated number
~	“approximately”

### Appendix A– Pamet Lens, Chequesset Lens, and Nitrate Levels from 1984-1995

Truro’s groundwater, and thus well water, comes from the sections of the Cape Cod aquifer located under Truro known as the:

- **Pamet Lens** (north of the Pamet River) - The Pamet Lens exhibited a significant number of private wells which exceeded nitrate levels of 5 mg/L in the 1984 to 1994 timeframe.
- **Chequesset Lens** (south of the Pamet River)

These “lenses” are designated where ground water levels rise up to 5 feet above sea level. They float over sediments saturated with denser saltwater and have been studied extensively by the USGS, Cape Cod Commission, private consultants and municipal entities. The maps here are found in [Water Resources of Outer Cape Cod, Final Report of the Lower Cape Water Management Task Force, May 1998, Figures 1 and 6, respectively](#)



Appendix A – continued

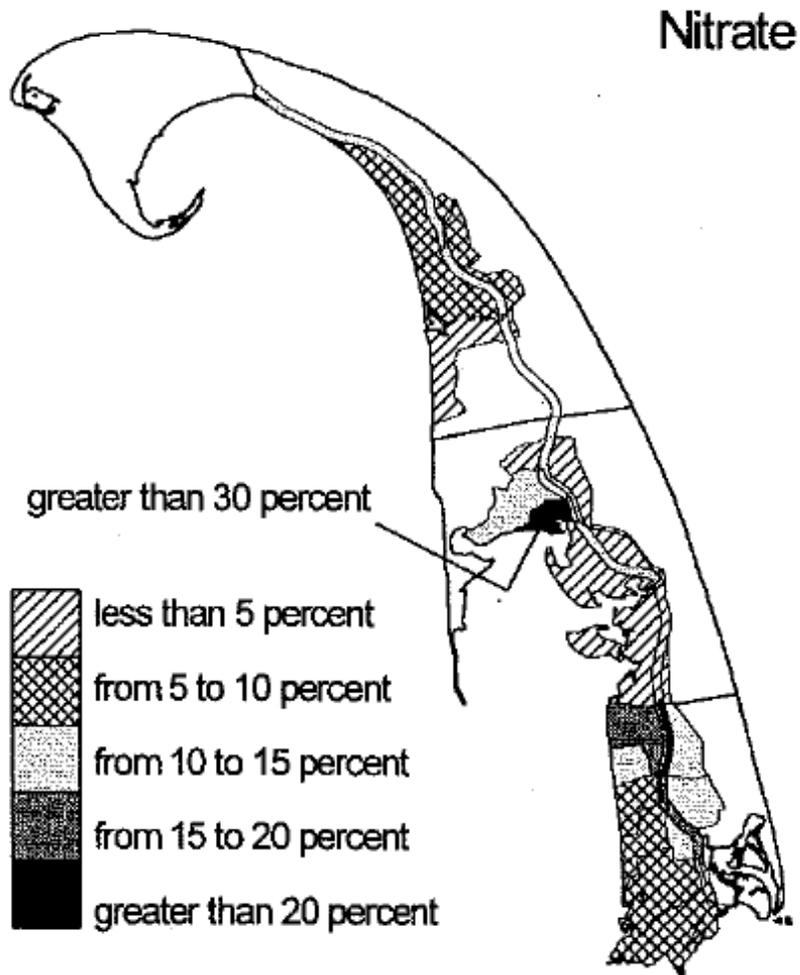


Figure 6. Percentage of private wells which exceeded nitrate levels of 5 mg/L from 1985 to 1994.

## Appendix B – Organic Waste Compounds

### What Are Organic Waste Compounds (OWCs)?

OWCs are ingredients and by-products of common agricultural, industrial, and household substances. For this study, 69 individual compounds were aggregated into 15 classes:

- Antioxidants
- Dyes/pigments
- Fire retardants
- Polycyclic aromatic hydrocarbons (PAHs)
- Plasticizers
- Fuels
- Solvents
- Herbicides
- Insecticides
- Antimicrobial disinfectants
- Detergent metabolites
- Flavors and fragrances
- Human drugs (nonprescription)
- Sterols
- Miscellaneous

OWCs enter the environment in many ways, including runoff from urban and agricultural areas, industrial discharges into the air or water, leaching into the groundwater from unlined landfills, discharges from wastewater-treatment plants, combined sewer overflows, leaking septic systems, and leaking municipal sanitary and storm sewer systems.

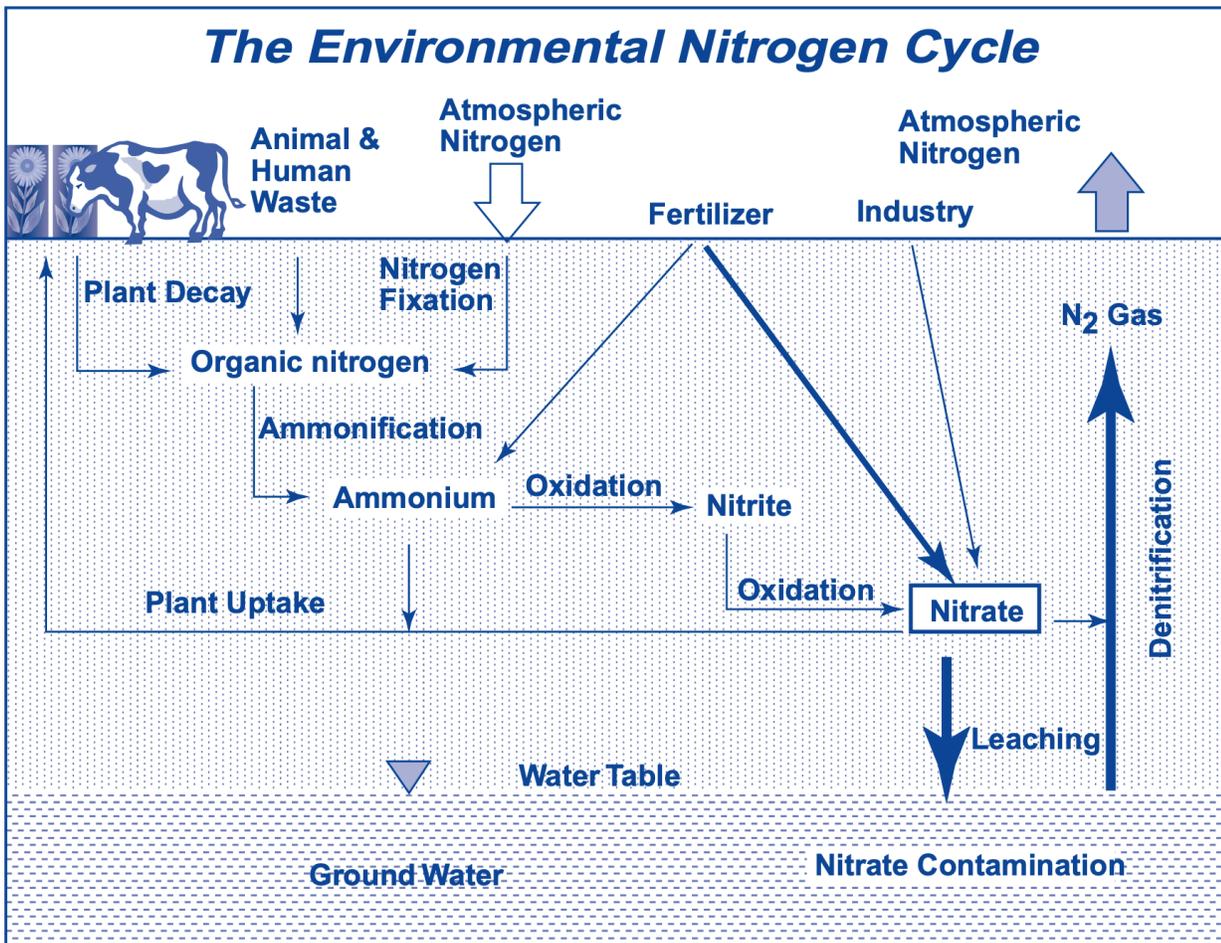
Many of these compounds are toxic at elevated concentrations and (or) are known to have endocrine-disrupting potential. Even low concentrations can impact aquatic organisms because exposure is often chronic, spanning entire life cycles and multiple generations. Furthermore, OWCs often occur as mixtures of multiple compounds, which can strengthen their effects.

<https://pubs.usgs.gov/fs/2015/3056/fs20153056.pdf>

OWCs are present in wastewater. They were not studied at the time when the original Safe Water Drinking Act was enacted in 1974, 46 years ago.

Appendix C – The Environmental Nitrogen Cycle

The graphic below illustrates the flow of nitrogen into and out of the ground water table.



**Appendix D - Sample Water Testing Results Report**

The Barnstable County Health Laboratory conducts drinking water analysis from samples collected and sent to them. Below is a result from a randomly collected well-water sample from Pond Road in North Truro, analyzed in 2019. The nitrate level is outlined in red, having a very high nitrate level of 4.7 mg/L. The pH of 6.1 indicates acidic water, and the sodium level of 58 is also high.



## CERTIFICATE OF ANALYSIS

### Barnstable County Health Laboratory (M-MA009)

**Recipient:** [REDACTED]  
[REDACTED] Pond Road  
North Truro, MA 02652

**Order No.:** G19114801  
**Report Dated:** 07/29/2019  
**Submitter:** [REDACTED]  
**Description:** rtn - Pond Road

**Laboratory ID#:** 19114801-01

**Sample #:** [REDACTED]  
**Collection Address:** Pond Road, North Truro, MA 02652  
**Sample Location:** [REDACTED]

**Matrix:** Water - Drinking Water  
**Sampled:** 07/11/2019 **By:** Customer  
**Received:** 07/11/2019 11:37 **By:** SamirB  
**Turn Around:** Standard

EPA 824.2 - Volatile Organics by GC/MS

ITEM	RESULT	UNITS	RL	MCL	METHOD #	ANALYST	TESTED	TIME
Nitrate as Nitrogen	4.7	mg/L	0.10	10	EPA 300.0	CL	07/11/2019	14:03
Copper	0.12	mg/L	0.10	1.3	EPA 200.8	CL	07/12/2019	13:09
Iron	0.13	mg/L	0.10	0.3	EPA 200.8	CL	07/12/2019	13:09
pH	6.1	PH AT 25C	NA	6.5-8.5	SM 4500-H-B	CL	07/11/2019	14:23
Sodium	58	mg/L	2.5	20	EPA 200.8	CL	07/12/2019	13:09
Total Coliform	Absent	P/A	0	0	SM 9223B	RG	07/11/2019	16:26
Conductance	410	umohs/cm	2.0		EPA 120.1	DCB	07/11/2019	14:23

Sodium level is above the maximum contaminant level. Those on a low sodium diet may wish to consult a physician.

Attached please find the laboratory certified parameter list.

**Approved By:** [Signature]  
(Lab Manager) 30 JUL 19

## Appendix E – Timeline of Research on Water Safety | Additional Details

This appendix summarizes the evolution over time of research into drinking water safety. The science has evolved considerably over the last 75 years since the end of World War II. It shows a period of accepting a 10 mg/L nitrate standard from 1962 (based on results from the 15 years prior) until today.

After the year 2000, studies began to appear questioning the appropriateness of the standard, especially as it relates to carcinogens and cancer. By 2010, more studies appear and confirm the relationship of nitrates and cancer and other illnesses. Some studies argue for a reduction in the standard to 5 mg/L or below. The last five years have seen an accelerating number of studies supporting similar conclusions.

1945

**Dr. Hunter Comly** of Iowa reported on two cases of a "previously unrecognized" condition that "may occur anywhere in rural areas where well-water is used in infant feeding." Dr. Comly suspected that the nitrates in the family's well-water were at fault. Before publishing his report, Dr. Comly collected from colleagues' anecdotal accounts of 17 more cases, including one that had resulted in death. It appeared to him that "the condition was not rare."

[https://dartmed.dartmouth.edu/summer00/html/what\\_makes\\_my\\_baby\\_blue.shtml](https://dartmed.dartmouth.edu/summer00/html/what_makes_my_baby_blue.shtml)  
<https://jamanetwork.com/journals/jama/article-abstract/275699>

1947-1950

**Methemoglobinemia and Minnesota well supplies**  
**Journal of the American Water Works Association**

A study is conducted in 1947-49 by clinical and sanitary experts of 139 cases of methaemoglobinaemia, due to the consumption of well-water, reported in Minnesota between January 1947, and September 1949, in infants under five months of age.

Based on the study, in 1950 the Journal of the American Water Works Association publishes a journal article Methemoglobinemia and Minnesota well supplies, reporting on the association of this condition with a high nitrate content of water.

[https://hero.epa.gov/hero/index.cfm/reference/details/reference\\_id/3841331](https://hero.epa.gov/hero/index.cfm/reference/details/reference_id/3841331)

1951

**Survey of literature relating to infant methemoglobinemia due to nitrate-contaminated water** - G. Walton  
**American Journal of Public Health and the Nation's Health**

The literature on methemoglobinemia in new-born infants due to ingestion of high-nitrate water is reviewed, the historical background leading to Comly's hypothesis is presented, and medical aspects, including cause, susceptibility, physiol. effects, diagnosis, and treatment, are briefly covered. Water used in preparing the infant's feeding formula should contain not more than 10 or possibly 20 ppm nitrate N.

[https://hero.epa.gov/hero/index.cfm/reference/details/reference\\_id/3002705](https://hero.epa.gov/hero/index.cfm/reference/details/reference_id/3002705)

1962

The **U.S. Public Health Service** recommended a national nitrate standard of 10 ppm.

1970

President Richard Nixon decided in July of 1970 to create a single agency to deal with environmental issues, and the EPA was born.

1974

The **Safe Drinking Water Act (SDWA)** was passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply. The EPA endorsed the 10 ppm nitrate limit to protect against "blue-baby syndrome."

<https://www.epa.gov/sites/production/files/2015-04/documents/epa816f04030.pdf>

1995

The **SDWA** also authorized the EPA to seek the expertise of the National Research Council (NRC) to identify the health effects of specific contaminants. A 1995 NRC document, *Nitrate and Nitrite in Drinking Water*, was then the most recent of the required periodic reviews and again upheld the 10 ppm nitrate limit, based on no other data or research being available since 1951.

"When EPA evaluated the toxicity of nitrate and nitrite for the purpose of establishing drinking-water criteria, it did not assign a weight-of-evidence classification for their carcinogenic potential (EPA 1990a). EPA concluded that there are no convincing data to suggest that nitrate or nitrite is associated with any adverse effect other than methemoglobinemia, and it identified a no-observed-adverse-effect level (NOAEL) for nitrate of 10 mg of nitrate nitrogen per liter (1.6 mg/kg-day) on the basis of epidemiologic studies (Walton 1951). That value is equivalent to nitrate at 44 mg/L. To obtain a reference dose (RfD) from the NOAEL, an uncertainty factor of 1 was used because the NOAEL was derived from studies in humans of the most sensitive subpopulation. For nitrite, EPA assumed that the conversion rate of nitrate to nitrite by gastrointestinal tract bacteria in infants is about 10%, from which an RfD of 1 mg of nitrite nitrogen per liter (0.16 mg/kg-day) was calculated. That value is equivalent to nitrite at 3.3 mg/L. The MCLGs for nitrate and nitrite are based on these RfDs: nitrate nitrogen at 10 mg/L and nitrite nitrogen at 1 mg/L (EPA 1991)."

"Available data are inadequate to support an association between nitrate and nitrite exposure from drinking water and any noncancer effects except for methemoglobinemia in infants."

"The subcommittee concludes that EPA's current MCLGs and MCLs of nitrate at 44 mg/L (nitrate nitrogen at 10 mg/L) and nitrite at 3.3 mg/L (nitrite nitrogen at 1 mg/L) are adequate to protect human health."

<https://pubmed.ncbi.nlm.nih.gov/25101396/>

1996

**Drinking water nitrate and the risk of non-Hodgkin's lymphoma** - Mary H. Ward et al  
**Epidemiology**

Long term consumption of community water with average nitrate levels in the highest quartile (> or = 4 mg per liter nitrate-nitrogen) was positively associated with risk.

These findings indicate that long term exposure to elevated nitrate levels in drinking water may contribute to the risk of NHL [non-Hodgkin's lymphoma].

<https://pubmed.ncbi.nlm.nih.gov/8862975/>

1998

**Water Resources of Outer Cape Cod  
Lower Cape Water Management Task Force**

From 1985 to 1994, 3 of every 4 wells did not exceed nitrate levels of 1.4 mg/L in Truro.

Descriptions of water quality are typically expressed by using an acceptable standard value. In this study, we report the number of wells that exceed 5 mg/L as a measure of water quality... movement from sparse to dense development is accompanied by increasing variation of sampled nitrate levels and a general decrease in water quality. The importance of this trend is that it challenges the misconception that degrading water quality touches only a small minority of wells that already have “higher” nitrate levels. In fact, increasing development density is shown to affect the entire range of private wells on the Outer Cape.

A private well water quality monitoring program should be established in order to track water quality conditions into the future.

The absence of central wastewater treatment has meant that all households and businesses on the Outer Cape rely on onsite septic systems to dispose of their wastewater. Other than removing solids and reducing dissolved solids, conventional onsite systems do little to remove many other contaminants of household sewage.

The gradual accumulation of nitrate in groundwater as it flows towards coastal discharge areas and municipal wells has both environmental and public health implications on Cape Cod.

<https://sp.barnstablecounty.org/ccf/public/Documents/Provincetown%20Harbor/1998%20Water%20Resources%20of%20Outer%20Cape%20Cod.pdf>

2002

**Nitrate Toxicity and Drinking Water Standards: A Review - B.C. Kross  
The Journal of Preventive Medicine**

“The current US EPA maximum contaminant level (MCL) for public drinking water supplies and the health advisory level (HAL) for other private water supplies is 10 mg/L, expressed as NO<sub>3</sub>-N. Unlike other drinking water standards, the nitrate standard has no safety factor, which typically is about a 10-fold safety factor to account for differences in human susceptibility. Guidance, action, or advisory levels for nitrate in drinking water are lower in several countries, including Germany (4.4 mg/L), South Africa (4.4 mg/L), and Denmark (5.6 mg/L). Clearly health and regulatory officials in other countries believe that the current WHO and USA drinking water standard for nitrate is not adequate.”

“The regulatory authorities should establish a safety factor of two, which would reduce the current MCL and HAL for nitrate to 5.0 mg/L NO<sub>3</sub>-N. This regulatory mandate would encourage a prudent public health strategy of limiting human nitrate exposure.”

“The current nitrate standard established in 1987 is based on a literature review of 278 cases of methemoglobinemia reported in the United States between 1945 and 1950. The study reported that none of these cases occurred when nitrate concentrations in drinking water were below 10 mg/L (18). Unlike other drinking water standards, the nitrate standard has no safety factor, which typically is about a 10-fold safety factor to account for differences in human susceptibility.”

“By mandating a safety factor of two, which would reduce the current MCL and HAL for nitrate to 5.0 mg/L NO<sub>3</sub>-N, and by promulgating a MCLG of 3.0 mg/L of NO<sub>3</sub>-N; the United States regulatory approach for nitrate in drinking water would become consistent with other European countries and would encourage the prudent public health strategy of limiting human nitrate exposure.”

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.490.9053&rep=rep1&type=pdf>

2005

**2005 Truro Local Comprehensive Plan**  
**Truro Local Comprehensive Planning Committee**

Truro's greatest treasure is the rural character it has preserved.

The pressures for change are relentless, however -- and likely to accelerate. How can we balance economic growth with the need to protect limited resources?

This local comprehensive plan suggests a response to those questions. Developed over almost a year, representing the thought and work of scores of town citizens, employees, and officials...

Land Use. Town policies codified into the zoning bylaws are Truro's most effective planning tool.

Water Resources. The critical issues involving the Outer Cape's limited water resources were brought dramatically into the public eye by the 2004 agreement between Truro and Provincetown over how to share the water pumped from the Pamet Lens.

Board of Health is asked to: Continually review the Board of Health nitrogen loading standards to ensure that such standards adequately address potential groundwater pollution problems.

2009

**Cape Cod Regional Policy Plan**  
**Cape Cod Commission**

Five-ppm Nitrogen Loading Standard: The maximum nitrogen loading standard for impact on groundwater shall be 5 ppm for development and redevelopment unless a cumulative impact analysis indicates a more stringent loading standard is necessary.

[https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/Website\\_Resources/RPP/03041RPP\\_forweb.pdf](https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/Website_Resources/RPP/03041RPP_forweb.pdf)

2010

**Nitrate intake and the risk of thyroid cancer and thyroid disease – Mary H. Ward et al**  
**Epidemiology**

"We found an increased risk of thyroid cancer with higher average nitrate levels in public water supplies and with longer consumption of water exceeding 5 mg/L nitrate-N (for  $\geq 5$  years at  $>5$  mg/L."

<https://pubmed.ncbi.nlm.nih.gov/20335813/>

2012

**Cape Cod Environmental Summit Consensus Statement**  
**Association for the Protection of Cape Cod**

On September 27, 2012 representatives from thirty-six Cape Cod-based 501(c)3 nonprofit environmental organizations gathered to discuss and agree upon a set of core principles related to wastewater and nutrient loading of Cape Cod's waters.

Excess nutrients from wastewater and other sources are contributing to the decline of water quality.

Nutrient loading of Cape Cod's groundwater, ponds, and coastal waters caused by human activity and waste is the region's number one environmental priority. Immediate action on the part of government, business, and every citizen across Cape Cod is necessary.

Delay will add to the environmental damage, the cost of remediation and the cost of necessary infrastructure.

Long-term management of nutrients/wastewater requires an integrated approach. Integrated approach is “a holistic approach to water resources management that takes into account land use practices, open space preservation, growth management, zoning, stormwater management, drinking water protection, wastewater management, and water quality enhancement.”

It is necessary to use appropriate zoning, natural resource protection regulations, and land use regulations to protect our water resources and facilitate the goal of no net increase above each watershed’s TMDL for nutrients.

Sound land use planning, including zoning, can be used to manage growth, facilitate growth in areas with adequate infrastructure and control the generation of nutrients/wastewater.

<https://apcc.org/wp-content/uploads/2020/05/Consensus-Statement-final-ratified.pdf>

2013

[Prenatal nitrate intake from drinking water and selected birth defects in offspring of participants in the national birth defects prevention study](#)

**Environmental Health Perspectives**

“Women who had babies with NTDs [neural tube defects], limb deficiencies, and oral cleft defects were significantly more likely than control mothers to ingest  $\geq 5$  mg of nitrate per day from drinking water.”

<https://pubmed.ncbi.nlm.nih.gov/23771435/#:~:text=Higher%20water%20nitrate%20intake%20did,nitrosatable%20drugs%20and%20birth%20defects.>

2017

[Nitrate from Drinking Water and Diet and Bladder Cancer Among Postmenopausal Women in Iowa](#)

**Environmental Health Perspectives**

“We found significant associations among those exposed  $\geq 4$  years to drinking water with  $> 5$  mg/L NO<sub>3</sub>-N.”

“Long-term ingestion of elevated nitrate in drinking water was associated with an increased risk of bladder cancer among postmenopausal women.”

<https://pubmed.ncbi.nlm.nih.gov/27258851/>

**EPA**

“The Integrated Risk Information System (IRIS) Program is undertaking a reassessment of the health effects of nitrate and nitrite.”

The IRIS Program previously evaluated the oral health effects of nitrate and nitrite; oral reference doses (RfDs) for nitrite and nitrate<sup>2</sup> were posted to the IRIS database in 1987 and 1991, respectively. EPA based these RfDs on surveys of clinical cases of methemoglobinemia in infants associated with ingestion of nitrate-containing drinking water conducted in the early 1950s (Walton, 1951; Bosch et al., 1950). Since 1987, a growing body of literature indicates potential associations between nitrate/nitrite exposure and other noncancer health effects. Some epidemiological studies also suggest an increased risk of cancer, especially gastric cancer, associated with dietary nitrite exposure (ATSDR, 2017). Cancer risk associated with nitrate or nitrite exposure is complicated by the fact that, under conditions of concurrent exposure to amines or amides or low levels of antioxidants, endogenous nitrosation can occur, leading to the formation of carcinogenic nitroso compounds (ATSDR, 2017; IARC, 2010). IARC (2010) concluded that ingested nitrate or nitrite under conditions that result in endogenous nitrosation is probably carcinogenic to humans.

[https://yosemite.epa.gov/sab/sabproduct.nsf/8AF41B299F1C342C852581980075D17D/\\$File/Nitrate-Nitrite\\_IAP\\_draft\\_plan+9.8.17.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/8AF41B299F1C342C852581980075D17D/$File/Nitrate-Nitrite_IAP_draft_plan+9.8.17.pdf)

2018

Nitrate in drinking water and colorectal cancer risk: A nationwide population-based cohort study.  
*International Journal of Cancer*

“We found statistically significant increased risks at drinking water levels above 3.87 mg/L.”

<https://onlinelibrary.wiley.com/doi/full/10.1002/ijc.31306>

Prenatal nitrate intake from drinking water and selected birth defects in offspring of participants in the national birth defects prevention study

*Environmental Health Perspectives*

“Mothers of babies with spina bifida were 2.0 times more likely (95% CI: 1.3, 3.2) to ingest  $\geq$  5 mg nitrate daily from drinking water.”

“During 1 month preconception through the first trimester, mothers of limb deficiency, cleft palate, and cleft lip cases were, respectively, 1.8 (95% CI: 1.1, 3.1), 1.9 (95% CI: 1.2, 3.1), and 1.8 (95% CI: 1.1, 3.1) times more likely than control mothers to ingest  $\geq$  5.42 mg of nitrate daily.”

<https://ehp.niehs.nih.gov/doi/10.1289/ehp.1206249>

Drinking Water Nitrate and Human Health: An Updated Review – Mary H. Ward et al

*Int J Environ Res Public Health*

“Risk of specific cancers and birth defects may be increased when nitrate is ingested under conditions that increase formation of N-nitroso compounds. We previously reviewed epidemiologic studies before 2005 of nitrate intake from drinking water and cancer, adverse reproductive outcomes and other health effects. Since that review, more than 30 epidemiologic studies have evaluated drinking water nitrate and these outcomes. The most common endpoints studied were colorectal cancer, bladder, and breast cancer (three studies each), and thyroid disease (four studies). Considering all studies, the strongest evidence for a relationship between drinking water nitrate ingestion and adverse health outcomes (besides methemoglobinemia) is for colorectal cancer, thyroid disease, and neural tube defects. Many studies observed increased risk with ingestion of water nitrate levels that were below regulatory limits.”

“Four of the five published studies of colorectal cancer found evidence of an increased risk of colorectal cancer or colon cancer associated with water nitrate levels that were mostly below the respective regulatory limits.”

“Four of the five studies of thyroid disease found evidence for an increased prevalence of subclinical hypothyroidism with higher ingestion of drinking water nitrate among children, pregnant women, or women only [37,144,145,160]. Positive associations with drinking water nitrate were observed at nitrate concentrations close to or above the MCL.”

“To date, five of six studies of neural tube defects showed increased risk with exposure to drinking water nitrate below the MCL. Thus, the evidence continues to accumulate that higher nitrate intake during the pregnancy is a risk factor for this group of birth defects.”

“Estimating exposure for private well users is important because it allows assessment of risk over a greater range of nitrate exposures compared to studies focusing solely on populations using PWS [public water supplies]. Future health studies should focus on these populations, many of which may have been exposed to elevated nitrate in drinking water from early childhood into adulthood. A major challenge in conducting studies in these regions is the high prevalence of private well use with limited nitrate measurement data for exposure assessment. Recent efforts to model nitrate concentrations in private wells have shown that it is feasible to develop predictive models where sufficient measurement data are available.”

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6068531/>

2019

**Millions of Americans Exposed to Elevated Nitrate Levels In Drinking Water**

**Silent Spring Institute**

“Currently, EPA’s drinking water standard for nitrate is 10 ppm. That level is set in order to protect infants from a potentially fatal condition known as “blue baby syndrome,” a decrease in the ability of blood to carry oxygen around the body. However, recent studies suggest exposure at levels as low as 5 ppm is also associated with several cancers and birth defects, raising the possibility that EPA’s water standard is not sufficiently protective of health.”

<https://silentspring.org/news/millions-americans-exposed-elevated-nitrate-levels-drinking-water>

**Exposure-based assessment and economic valuation of adverse birth outcomes and cancer risk due to nitrate in United States drinking water - Alexis Temkin et al**

**Environmental Research**

“Our data suggest that exposure to nitrate in drinking water could account for 1–8% of total colorectal cancer cases, which translates into 1233–10,379 cancer cases annually. Of these cases, 12–24% are due to nitrate exposure for private well users, especially for people whose well water has 5 mg/L or more nitrate.”

“The latest research has produced strengthened epidemiological evidence for the risk of colorectal cancer at nitrate levels below the regulatory standard of 10 mg/L of nitrate as nitrogen.”

<https://reader.elsevier.com/reader/sd/pii/S001393511930218X?token=E6DB567D0A18C237359A21B313EF0AE2DE0F45986F2537237217E221968B84D7AE9B0C022F545E65E4E6C59C8947CFCD>

**Nitrate in U.S tap water may cause more than 12,500 cancers a year**

**Environmental Working Group**

In 2018, a nationwide [study](#) in Denmark found a significant increase in colorectal cancer risk at nitrate levels above 0.9 ppm. And in 2016, a [study](#) conducted in Spain and Italy found an increase in colorectal cancer risk at approximately 1.7 ppm of nitrate. A long-running epidemiological research program based in Iowa has reported an association of nitrate in drinking water and increased risk of [colorectal, ovarian, thyroid, and bladder](#) cancers.

<https://www.ewg.org/research/nitrate-us-tap-water-may-cause-more-12500-cancers-year/>

2020

**Ingested Nitrate and Nitrite and Bladder Cancer in Northern New England - Kathryn Hughes Barry et al**

**Epidemiology**

“Average drinking water nitrate concentration above the 95th percentile (>2.07 mg/L) compared with the lowest quartile (≤0.21 mg/L) was associated with bladder cancer.”

“Our results suggest the importance of both drinking water and dietary nitrate sources as risk factors for bladder cancer.”

<https://pubmed.ncbi.nlm.nih.gov/31577632/>

**New Hampshire Department of Environmental Services**

“EPA has not established an MCL [Maximum Contamination Limit] for a man-made contaminant since 1995.”

<https://ebcne.org/wp-content/uploads/2020/03/Presentations-Emerging-Contaminants-Seminar-The-Life-Cycle-of-PFAS.pdf>

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## Appendix F – Weston & Sampson Reports | Phases I and 2 | Relevant Excerpts

This appendix summarizes key findings in the reports by the Town of Truro’s water consultant, Weston & Sampson (W&S), an employee-owned interdisciplinary design, engineering, and environmental services firm in Massachusetts with over 100 years of experience. <https://www.westonandsampson.com/about-us/>

The Truro **Integrated Water Resources Management Plan (IWRMP)** was prepared and delivered in two phases: Phase I in 2014, and Phase II in 2018. The report is summarized below by including selections from the text of the report at the pages indicated.

- **Truro Weston & Sampson Phase I Report - October 2014**

[https://www.truro-ma.gov/sites/g/files/vyhlif3936/f/u286/truro\\_phase\\_i\\_iwrmp.pdf](https://www.truro-ma.gov/sites/g/files/vyhlif3936/f/u286/truro_phase_i_iwrmp.pdf)

by page:

1-1

Truro, like many Cape Cod communities is seeking to understand both current and potential future impacts to water resources and undertake a sensible and cost-effective approach to management. Maintaining the rural characteristics and natural beauty of Truro is of primary importance. Managing impacts due to summer population increases while not placing undue burden on year round residence is also important. While economic cycles may cause changes in the rate of development, future increases in population, tourist visits, and ageing infrastructure will most likely have increased water demand, additional wastewater management needs and increasing impervious cover dictating stormwater infrastructure improvements

One of the Outer Cape’s greatest assets is the groundwater lenses that are capable of providing potable water resources.

1-4

The IWRMP was initiated to understand the cumulative effects of nutrient loading on groundwater quality and surface water resources.

1-5

Based on multiple working sessions with the Truro Water Resources Oversight Committee a rational approach to incremental change and methods to address data gaps was developed. The overarching goal of sustainable water resource stewardship for Truro is well served by the committee and their commitment to a long-term plan.

3-1 Stormwater

Ensuring that precipitation enters the ground where it falls (direct infiltration) is a critical component of improving stormwater management. The largest inhibitor of direct infiltration is impervious surfaces and therefore, the most important factor in minimizing the amount of stormwater is by reducing impervious surfaces or treating stormwater from impervious surfaces. The amount of existing impervious surface varies by community, but all communities must work diligently to minimize the amount of newly constructed impervious surface, and even reduce that already existing, through proper regulation of growth and development. This is particularly true for critical recharge zones within Truro. Recharge zones based on ground water flow patterns are shown in Figure 3-2. Essentially, Truro can be divided into nineteen (19) zones effecting wells, rivers, lakes or direct discharge to the ocean.

3-2

“Point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm water discharges and return flows from irrigated agriculture.

3-7 Sampling

Although nitrogen concentrations can be modeled, empirical ground water sampling data is often used to compare

(Appendix F – p 2)

and contrast predicted concentrations from the model. Nitrogen sampling data from domestic wells was compared and plotted against modeled concentrations. Lots revealing > 5ppm (mg/l) of nitrogen are shown on Figure 3-2.

Sampling data suggests that over the sample period (2007-2009) over 1181 lots have been sampled with 45 showing concentrations above 5 ppm and 2 lots revealing concentrations above 10 ppm. Concentrations above 5 represent action levels for public drinking water supplies while concentrations above 10 exceed safe drinking water standards. Although, individual sample results require verification through sampling, the results suggest a variety of actions and management approaches are warranted.

A nitrogen loading rate of 13.5 pounds/acre/year was used for pavement loading and 6.76 pounds/acre/year was used for roof loading.

A nitrogen loading rate (0.45 pounds/acre/year) was applied to each recharge zone to calculate annual nitrogen loading for vegetative cover.

In lawn areas a loading rate of 1.08 pounds/5000sf/year was applied to each recharge zone to calculate annual nitrogen loading from the addition of fertilizers applied to lawn areas.

A nitrogen loading rate of 9.73 pounds/acre/year was used for open area loading.

3-9

The amount of open land and impervious area results in a total load of 13,065 lbs/year, or almost 37% of Truro's total annual nitrogen load for this analysis. [implies total annual nitrogen load ~ 35,000 lbs/yr]

3-12

The Town of Truro does not have a separate Stormwater Bylaw and associated Stormwater Regulations. In order to improve stormwater issues within Town, a public outreach program should be developed to make the population aware of the issue.

3-16

Figure 3-2, Map: Areas of Nitrate >5 ppm

3-18

Locally, the Board of Health rules and regulations govern subsurface disposal systems and the discharge of wastewater. Systems above a capacity of 10,000 GPD are required to obtain a Ground Water Discharge Permit (BRP WS-79, 85) and apply treatment technologies that limit the impacts to receptors and generally maintain groundwater quality at less than 10 ppb of Nitrogen (measured as Nitrate) at a property boundary. Although some inconsistency exists with these criteria and the drinking water action level of 5 ppb, most large systems in recent years have been achieving discharge concentrations between 4 and 7 ppb.

4-2

The initiation of a water quality sampling program in 2007 was a progressive move by concerned citizens. The program was designed to sample one-third of the private wells in Truro in every calendar year. The program is voluntary and response is neither mandatory nor punitive. Sample results above the safe drinking water level of 10mg/L (ppm) are asked to retest immediately. Sampling efforts have met with a high rate of response which has helped to establish baseline data throughout the town.

Sample bottles were directly distributed to 889 residences in 2007. Ten (10) sample results indicated concentrations between 5 and 10 ppm. No sample results revealed concentrations above 10 ppm.

No discernible pattern or clustering of the results between 5 and 10 ppm could be suggested. Instead results appeared scattered or random over the subject population.

4-5

Further work is necessary in densely developed areas and within the general locale of elevated concentrations.

(Appendix F – p 3)

4-6

Figure 4-1, Map: Areas with >5 ppm Nitrate

4-8

Figure 4-3, Map: Areas of Critical Interest

5-4

A loading rate of 26.23 mg/L of nitrogen was used for residential septic systems for the entire Town. This loading rate is consistent with current MassDEP assumptions for working septic systems. Additionally, this loading rate is consistent with values used in the Massachusetts Estuaries Program and ongoing studies for Cape Cod.

6-2

The time frame was restricted to a 10-year build-out analysis for nutrient loading purposes. The 10-year time frame was essentially chosen due to the relatively recent data sets available from the 2010 census and its comparison to 1990 and 2000 data. The analysis included nutrient loading using nitrogen as a key essential component of the challenges faced by most Cape Cod communities.

6-3

Table I. Nitrogen Loading Summary (10-Year Build-Out)

6-6

110 gallons per day per bedroom was the assumed wastewater flow. This loading rate of 23.63 mg/L for wastewater flow is comparable to the loading rate used by the Buzzards Bay National Estuaries Program nitrogen loading studies.

6-9

The existing nutrient loading rate from residential use was then calculated using the nitrogen loading rate of 5.95 pounds per person per year, which is the loading rate per person used in the Buzzards Bay Project's Nitrogen Loading Model.

6-11

Developable parcels map. Shows large parcels in Pond Village/N Truro

7-1

The sampling data and nutrient loading models indicate that excessive water quality impacts or risks to human health and ecology are not evident. Instead, sampling programs indicate that further detailed evaluations in areas with elevated nitrate sampling results should help ascertain whether land use practices, septic system conditions, or simply well construction and hydrogeologic conditions have resulted in localized impacts to groundwater quality. In essence, Truro is fortunate in that the need to create extended municipal infrastructure is not necessary.

**W&S Appendix C | Parcels with Septic Systems on Recharge Boundary Line**

#####

End of **Weston & Sampson Phase I Report** excerpts

**Truro Weston & Sampson Phase II Report** excerpts follow below

(Appendix F – p 4)

- **Truro Weston & Sampson Phase II Report - February 2018**

[https://www.dropbox.com/s/8ifl1a9uhfu1xl6/IWRMP\\_FINAL\\_REPORT\\_8.16.19.pdf?dl=0](https://www.dropbox.com/s/8ifl1a9uhfu1xl6/IWRMP_FINAL_REPORT_8.16.19.pdf?dl=0)

#### **IWRMP 8/16/2019**

“...development shall generally meet a 5 parts per million nitrate/nitrogen loading standard for impact on groundwater, but may increase to 10 parts per million nitrate/nitrogen where it can be demonstrated to the permitting authority that such increase will cause no significant adverse impact on wetlands, water bodies, public or private drinking water supply wells and potential water supply wells.”

[by page]

1

2005-2010 Local Comprehensive Plan, Ch. 3 Water Resources, Page 38 et al

2

2005-2010 Local Comprehensive Plan, Ch. 3 Water Resources Page 42 et al

<https://septic.barnstablecountyhealth.org/>

<https://www.masstc.org/>

3-7

Area I includes the intersection of Highland Road and Route 6 and the vicinity of the Pond Road commercial district, and including approximately 128 residences. This area has a significant amount of impervious surface. In addition, DOH records indicate replacement of 4 cesspools with Title 5 compliant systems since 2004. Village Pond is downgradient of this area.

3-9

...current Title 5 compliant systems are assumed to result in effluent containing 26.25 mg/L (ppm) NO<sub>3</sub> while I/A systems may reduce loading to 13 to 19 mg/L.

3-9

MassDEP has approved I/A and enhanced I/A septic systems that are expected to achieve 19 and 13 mg/L, respectively in treated effluent. Other I/A system may be installed for nitrogen reduction, but the system must go through an approval process at the local level.

Barnstable County records indicate that 6 I/A systems have been installed in Truro.

3-11

The Town should establish one or more monitoring wells in the Pamet River drainage, Pond Road commercial district, Old Rt.6/Sylvan Lane area and South Highland road area. Monitoring wells in these areas should be monitored twice a year in spring and fall.

#### **Reference to Local Comprehensive Plan 2005**

page 41: In Fresh Water Recharge Areas surrounding ponds, when developments generate over 2,000 gallons per day of sewage effluent, Developments of Regional Impact may be required to delineate the groundwater recharge areas to potentially affected fresh water ponds in order to identify and mitigate adverse effects.

<https://www.capecodcommission.org/our-work/developments-of-regional-impact>

page 42: In Unimpaired Areas, (areas where groundwater may have been degraded by point and non-point sources of pollution, including but not limited to areas with unsewered residential developments where lots, on average, are less

(Appendix F – p 5)

than 20,000 sq ft; landfills, septage and wastewater treatment plant discharge sites; high density commercial and industrial areas and those down gradient areas where the groundwater may have been degraded by these sources) development shall generally meet a 5 parts per million nitrate/nitrogen loading standard for impact on groundwater, but may increase to 10 parts per million nitrate/nitrogen where it can be demonstrated to the permitting authority that such increase will cause no significant adverse impact on wetlands, water bodies, public or private drinking water supply wells and potential water supply wells.

42-12. In Unimpaired Areas, where existing development exceeds the 10 parts per million nitrogen loading standard, redevelopment of that property shall not increase existing levels of nitrogen loading.

page 44: The certification, development and use of appropriate new innovative technologies designed to improve wastewater treatment by reducing nutrient loading is encouraged, although such technologies shall not be the basis upon which to increase building density or change uses from those defined by the Town Zoning By-Law.

page 45: Public & Private Wastewater Treatment Facilities: Truro will not actively encourage the use of these systems except in cases where groundwater quality is significantly deteriorated, the public health is threatened and public water supplies are not available, or where the use of such a system might advance a larger community goal identified in this Plan. In most such cases, private funding of such systems will be preferred. Under no circumstances will these systems alone be the basis upon which building densities are increased or land uses changed from those allowed in Truro's Zoning By-Law.

page 58: All forms of shellfishing have been experiencing unsatisfactory levels of productivity for many years. The brood stock for all species has fallen below the level where natural production of a bountiful annual harvest can be anticipated.

page 87: Truro's economy today depends almost completely on summer visitors and second homeowners. Almost 70% of its area is National Seashore, which, together with its beaches, is the primary attraction of what is perhaps the Cape's last rural town.

page 110: The Pamet Lens will reach output capacity by about 2020.

## **Appendix G - Truro's Board of Health Regulations | Summary on Nitrogen Loads**

### **Article 3**

Truro's Board of Health regulations, Article 3, applies to facilities with on-site sewage disposal systems located in the Town of Truro with a septic design flow greater than 600 gallons per day (gpd).

They must achieve/produce no greater than 19 mg/L total nitrogen concentration in the effluent by using the secondary treatment achieved with an approved innovative/alternative (I/A) septic system.

These systems shall be tested and reported on a quarterly basis.

Any application for a system proposing the use of I/A technology shall be submitted to the Truro Board of Health which shall hold a public hearing to consider its approval.

All applications shall include a copy of the Massachusetts Department of Environmental Protection approval letter appropriate to the I/A technology being used and the level of approval (i.e., General Use, Provisional Use, Remedial Use, Piloting Use, or site-specific Pilot Approval). All applications for Pilot Approval shall include all performance data from all piloting sites where the I/A technology has been similarly configured and utilized.

### **Article 14**

**Nitrogen Loading Limitations.** The Truro Board of Health hereby requires that all properties within the Town of Truro meet the loading restrictions set forth in 310 CMR 15.214 and contain at least ten thousand (10,000) square feet of Buildable Upland (as defined in Article 1 hereunder) for every 110 gallons per day of design flow and that all systems designed to serve said facilities meet the same restrictions and requirements contained in Title 5 as the "Nitrogen Sensitive Areas" defined in 310 CMR 15.215 irrespective of whether the properties are located within "Nitrogen Sensitive Areas" as so defined.

#### **In other words:**

Each bedroom in a residential property in Truro is assumed to have two (2) human occupants who produce nitrogen-based waste. Each bedroom is assumed to contribute 110 gallons per day (gpd) on average. That nitrogen load must be spread over enough land so as not to create a "point load" which poses an added danger to the aquifer.

The Truro Board of Health has long required 10,000 square feet of land (or approx. ¼ acre) per bedroom. The more bedrooms, the more waste, and so the more land is needed to spread the nitrogen load. By limiting the nitrogen load per acre, Truro's aquifer is not subjected to high nitrogen loads from any one parcel, and the consequences down gradient of such a load are mitigated for abutters and neighbors in the down gradient area.

Four bedrooms would require almost 1 acre, 25 bedrooms would require about 5.7 acres, 70 bedrooms would require about 15.9 acres, and 100 bedrooms would require about 22.8 acres to meet Truro's nitrogen load requirements.

## Appendix H – Eastham’s Struggle with Water Safety

This Appendix compiles some findings and timeline about how the Town of Eastham has dealt with the increasing elevation of nitrogen load in groundwater. This has been a more than decade long journey for the town, from dealing with increasing nitrogen levels to eventually acknowledging the need for a town-wide public water system.

### March 2013

After weeks of presentations about the need for town water, selectmen unveiled the price tag per household for a \$114.8 million public water system that will be proposed at town meeting.

The cost — for the median priced home in Eastham — will be \$17,875 over a 29-year payment schedule, which includes inflation. Depending on the bond payments, the cost will vary from about \$300 a year to \$966 at the top payment year. The annual cost averages out to \$616 a year, or \$52 a month, for the median home valued at \$400,000, according to the town’s presentation Tuesday night.

All homeowners, regardless of whether they hook up to the system, would pay for the town water with their annual tax bill.

<https://www.capecodtimes.com/article/20130327/NEWS/303270322#:~:text=After%20weeks%20of%20presentati ons%20about,be%20proposed%20at%20town%20meeting>

### April 2017

Eastham’s waterworks continue to progress. Overall construction for Phase 1 is 92-percent complete and that portion of the work is \$2.4 million under its eventual \$45.8-million budget (including phase 2).

While the listed cost of Phase 1 alone is \$28 million that doesn’t include three decades of interest at a 2.4 percent rate. Nor did it include \$2.1 million in loan forgiveness to Eastham from Massachusetts and a \$400,000 grant from the U.S. Department of Agriculture to support the project.

<https://eastham.wickedlocal.com/news/20170415/260-connected-to-eastham-water---next-17-million-to-be-spent>

### August 2020

Phase 2 of the program is currently underway and is anticipated to be completed by 2023. Construction consists of five phases, A through E, to expand water service and fire protection to secondary roadways and neighborhoods Town-wide. Phase 2A is under construction and includes three separate contracts to complete over 20 miles of water mains and associated water services and fire hydrants. Phase 2B, which includes additional water main construction, a water supply wellfield and control building, and a water storage tank, is currently scheduled to be online in late 2020.

<https://www.envpartners.com/project/new-municipal-water-system-development/>

## Appendix I - Citations in Text and Additional Resources Organized by Source

### EPA

<https://www.epa.gov/privatewells>

[https://www3.epa.gov/region1/eco/drinkwater/private\\_well\\_owners.html](https://www3.epa.gov/region1/eco/drinkwater/private_well_owners.html)

[https://yosemite.epa.gov/sab/sabproduct.nsf/8AF41B299F1C342C852581980075D17D/\\$File/Nitrate-Nitrite\\_IAP\\_draft\\_plan+9.8.17.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/8AF41B299F1C342C852581980075D17D/$File/Nitrate-Nitrite_IAP_draft_plan+9.8.17.pdf)

The IRIS [Integrated Risk Information System ] Program previously evaluated the oral health effects of nitrate and nitrite; oral reference doses (RfDs) for nitrite and nitrate<sup>2</sup> were posted to the IRIS database in 1987 and 1991, respectively. EPA based these RfDs on surveys of clinical cases of methemoglobinemia in infants associated with ingestion of nitrate-containing drinking water conducted in the early 1950s (Walton, 1951; Bosch et al., 1950). Since 1987, a growing body of literature indicates potential associations between nitrate/nitrite exposure and other noncancer health effects. Some epidemiological studies also suggest an increased risk of cancer, especially gastric cancer, associated with dietary nitrite exposure (ATSDR, 2017). Cancer risk associated with nitrate or nitrite exposure is complicated by the fact that, under conditions of concurrent exposure to amines or amides or low levels of antioxidants, endogenous nitrosation can occur, leading to the formation of carcinogenic nitroso compounds (ATSDR, 2017; IARC, 2010). IARC (2010) concluded that ingested nitrate or nitrite under conditions that result in endogenous nitrosation is probably carcinogenic to humans.

[https://cfpub.epa.gov/ncea/iris/iris\\_documents/documents/subst/0078\\_summary.pdf](https://cfpub.epa.gov/ncea/iris/iris_documents/documents/subst/0078_summary.pdf)

Primary research cited above by EPA

[https://hero.epa.gov/hero/index.cfm/reference/details/reference\\_id/3841331](https://hero.epa.gov/hero/index.cfm/reference/details/reference_id/3841331)

[https://hero.epa.gov/hero/index.cfm/reference/details/reference\\_id/3002705](https://hero.epa.gov/hero/index.cfm/reference/details/reference_id/3002705)

### US Geological Survey

[https://pubs.usgs.gov/sir/2012/5001/pdf/sir2012-5001\\_report\\_508.pdf](https://pubs.usgs.gov/sir/2012/5001/pdf/sir2012-5001_report_508.pdf)

[http://www.state.in.us/idem/cleanwater/files/gw\\_source\\_water\\_workshop\\_usgs\\_nitrates.pdf](http://www.state.in.us/idem/cleanwater/files/gw_source_water_workshop_usgs_nitrates.pdf)

Population growth and increasing demands for water make the availability of that water, measured in terms of quantity and quality, even more essential to the long-term sustainability of our communities and ecosystems.

#### Scientific Investigations Report 2010-5100

Examination of the 1.640-ft-radius area around a well can provide a broad characterization of local land use affecting the well, but it may not adequately characterize the land use in the entire capture area of the well, which may also affect the quality of the water in the well.

[http://www.state.in.us/idem/cleanwater/files/gw\\_source\\_water\\_workshop\\_usgs\\_nitrates.pdf](http://www.state.in.us/idem/cleanwater/files/gw_source_water_workshop_usgs_nitrates.pdf)

### Commonwealth of Massachusetts

<https://www.mass.gov/private-wells>

<https://www.mass.gov/service-details/private-well-guidelines>

<https://www.mass.gov/service-details/faqs-private-wells>

<https://www.mass.gov/service-details/protect-your-family-a-guide-to-water-quality-testing-for-private-wells>

<https://www.mass.gov/regulations/310-CMR-1500-septic-systems-title-5>

<https://www.mass.gov/doc/310-cmr-15000-title-5-of-the-state-environmental-code/download>

<https://www.mass.gov/doc/private-well-guidelines/download>

<https://www.mass.gov/service-details/chapter-40-b-housing-production-plan>

<https://www.mass.gov/files/documents/2016/07/vt/truro.pdf>

**Cape Cod Commission**

[https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/Website\\_Resources/RPP/RPPprev2003illustrated.pdf](https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/Website_Resources/RPP/RPPprev2003illustrated.pdf)  
<https://www.capecodcommission.org/our-work/208>  
[https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/208/208%20Final/Cape\\_Cod\\_Area\\_Wide\\_Water\\_Quality\\_Management\\_Plan\\_Update\\_June\\_15\\_2015\\_Summary.pdf](https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/208/208%20Final/Cape_Cod_Area_Wide_Water_Quality_Management_Plan_Update_June_15_2015_Summary.pdf)  
[https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/208/208%20Final/Cape\\_Cod\\_Area\\_Wide\\_Water\\_Quality\\_Management\\_Plan\\_Update\\_June\\_15\\_2015.pdf](https://www.capecodcommission.org/resource-library/file?url=/dept/commission/team/208/208%20Final/Cape_Cod_Area_Wide_Water_Quality_Management_Plan_Update_June_15_2015.pdf)

**Barnstable County**

<https://www.barnstablecountyhealth.org/resources/publications/compendium-of-information-on-alternative-onsite-septic-system-technology/basics-of-wastewater-treatment#:~:text=The%20amount%20of%20oxygen%20required,biochemical%20oxygen%20demand%20or%20BOD.&text=Some%20BOD%20is%20removed%20in,flows%20to%20the%20leaching%20field.>

**University of Massachusetts**

<https://ag.umass.edu/cafe/fact-sheets/nitrate-nitrite-in-private-drinking-water-wells>  
<https://ag.umass.edu/sites/ag.umass.edu/files/fact-sheets/pdf/nitrate.pdf>  
<https://ag.umass.edu/cafe/fact-sheets/well-water>

**Truro Board of Health**

<https://www.truro-ma.gov/board-of-health>  
[https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/uploads/board\\_of\\_health\\_regulations\\_rev\\_eff\\_2-2020.pdf](https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/uploads/board_of_health_regulations_rev_eff_2-2020.pdf)

**Truro Water Resources Oversight Committee**

[https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/u286/wastewater\\_in\\_truro\\_august\\_13\\_2015.pdf](https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/u286/wastewater_in_truro_august_13_2015.pdf)

**Environmental Work Group**

<https://www.ewg.org/tapwater/>  
<https://www.ewg.org/tapwater/reviewed-nitrate.php#:~:text=According%20to%20the%20findings%20of,%2Done%2Dmillion%20cancer%20risk.>

**Environmental Working Group | Drinking Water Standards:**

[https://cdn3.ewg.org/sites/default/files/u352/EWG\\_TWDBStandards-Chart\\_PP01.pdf](https://cdn3.ewg.org/sites/default/files/u352/EWG_TWDBStandards-Chart_PP01.pdf)  
Exposure-based assessment and economic valuation of adverse birth outcomes and cancer risk due to nitrate in United States drinking water

<https://reader.elsevier.com/reader/sd/pii/S001393511930218X?token=E6DB567D0A18C237359A21B313EF0AE2DE0F45986F2537237217E221968B84D7AE9B0C022F545E65E4E6C59C8947CFCD>

**Silent Spring Institute**

<https://silentspring.org/our-science>  
<https://www.youtube.com/watch?v=MV5Oc5MI6-Y&feature=youtu.be>

In general, shallower wells pull younger groundwater more recently in contact with the atmosphere (Plummer and Friedman, 1999) with shorter flow paths that allow less time for sorption and biodegradation processes. Shallower wells have previously been found to show the greatest impact from septic systems and other pollution sources.

<https://www.sciencedirect.com/science/article/pii/S0048969715312353>

Our results suggest that current regulations to protect domestic wells from pathogens in septic system discharges do not prevent OWCs from reaching domestic wells.

We found that nitrate concentrations of 1 mg/L NO<sub>3</sub>-N, which are tenfold higher than local background and tenfold lower than the US federal drinking water standard, were associated with wastewater impacts from OWCs. Since nitrate is a commonly measured drinking water contaminant, it is a useful screening tool for OWCs in domestic wells

<https://privatewells.silentspring.org/faq>

<https://www.mendeley.com/catalogue/309b4ce1-901e-3985-a68a-6924f9713888/>

### Association for the Protection of Cape Cod (APCC)

A large portion (roughly 80 percent) of the excess nitrogen in our coastal waters comes from on-site septic systems. Title 5 septic systems were designed to remove bacteria and viruses, but not nutrients like nitrogen or phosphorous.

<https://apcc.org/our-work/advocacy/water-quality/>

### New Hampshire Department of Environmental Services

“EPA has not established an MCL [Maximum Contamination Limit] for a manmade contaminant since 1995. EPA issued a preliminary regulatory determination for perchlorate in October 2008 – still no MCL.”

<https://ebcne.org/wp-content/uploads/2020/03/Presentations-Emerging-Contaminants-Seminar-The-Life-Cycle-of-PFAS.pdf>

### Interstate Technology and Regulatory Council (ITRC)

Per- and polyfluoroalkyl substances (PFAS) are a very large family of thousands of chemicals that vary widely in their chemical and physical properties, as well as their potential risks to human health and the environment.

PFAS have only recently come to the attention of investigators and the public in large part due to the fact that until the early 2000s analytical methods to detect low levels of PFAS in the environment were available only in a few select research institutions. It was not until the early 2010s that these methods became widely available and had detection limits in water low enough to be commensurate with levels of potential human health effects. Toxicological studies have raised concerns regarding the bio-accumulative nature and potential health concerns of some PFAS. As a result, our understanding of PFAS and the risks they may pose is rapidly evolving.

<https://pfas-1.itrcweb.org/>

[https://pfas-1.itrcweb.org/wp-content/uploads/2020/04/ITRC\\_PFAS\\_TechReg\\_April2020.pdf](https://pfas-1.itrcweb.org/wp-content/uploads/2020/04/ITRC_PFAS_TechReg_April2020.pdf)

<https://www.youtube.com/watch?v=ZmIC3vjv8&feature=youtu.be>

### MassDEP 310 CMR: DEPARTMENT OF ENVIRONMENTAL PROTECTION

15.214: Nitrogen Loading Limitations (1) No system serving new construction in Nitrogen Sensitive Areas designated in 310 CMR 15.215 shall be designed to receive or shall receive more than 440 gallons of design flow per day per acre except as set forth at 310 CMR 15.216 (aggregate flows) or 15.217 (enhanced nitrogen removal).

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### Comments and Questions?

Comments and questions on this publication can be emailed to [docsTruro@gmail.com](mailto:docsTruro@gmail.com)



# TOWN OF TRURO

P.O. Box 2030, Truro MA 02666

Tel: (508) 349-7004 Fax: (508) 349-5505

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**To:** Members of the Zoning Board of Appeals  
**From:** Jarrod Cabral, Department of Public Works Director  
**Date:** October 8, 2020  
**Subject:** Cloverleaf Update

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- The watermain installation and associated site work will consist of the following three phases.
  - Watermain install from Shore Rd to 22 Highland
  - Connect Fire house Rd under Route 6 to Cloverleaf property
  - Install watermain from Northern most area of Cloverleaf down to Highland Rd
- The roadway within the Cloverleaf will be rough cut in and stabilized with standard roadway base material. In addition, erosion control will be installed before and after the watermain installation. At the completion of the watermain installation and site work the Cloverleaf site will be monitored the DPW. Monitoring will consist of a weekly site walkthrough with an emphasis on erosion control, storm water management, and maintaining compliance with the environmental management plan. The project will then be transferred to Community Housing Resource Inc, and Ted Malone, as part of a lease agreement.
- Language in the water main bid documents, and contract documents will be specific regarding construction sequences, completion, supervision, and required meetings. In addition, bid documents will be specific regarding erosion control, storm water management, and maintaining compliance with the environmental management plan throughout project. The Town will require a Project Manager, Project Superintendent and Jobsite Foreman. Meetings will consist of an initial construction kick-off meeting, and daily meetings with the DPW Director and Jobsite Superintendent. In addition, we will also require a project team meeting every two weeks with the Project Manager, Jobsite Superintendent, DPW Director and Town Consultant. In my absence our Health, and Conservation agent will attend meetings as needed. Means and method of installation and site work proposed by lowest responsive bidder will be submitted to and reviewed by Town staff and Town consultant.
- The specifics of roadway maintenance responsibilities will be specified in the lease. We anticipate performing services much like what is contained within the Sally's Way agreement which consist of snow removal, sanding and sweeping.
- It is important to note that this portion of the Cloverleaf project is funded by a MassWorks grant, total estimated cost of construction is approximately 1.1M.

## STAFF MEMORANDUM

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To: Truro Zoning Board of Appeals

From: Barbara Carboni, Interim Town Planner/Town Counsel, KP Law

Date: October 2, 2020

Re: Waivers under G.L. c. 40B and Applicant's Waiver Requests, **UPDATED**

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**Section I** contains guidance on the principles and process under which the Board considers requests for waivers of local regulations. **Section II** contains the Applicant's waiver requests, somewhat rearranged and edited for efficiency, and with comment.

### **I. Waivers under G.L. c. 40B**

Under G.L. c. 40B, ss. 20-23, the Zoning Board of Appeals *may*, but is *not required* to waive any Bylaw or other local regulation with which a proposed project does not comply. The Board may grant some waivers requested by the applicant, and deny others. With respect to each waiver requested, the Board must decide whether the waiver is "consistent with local needs." G.L. c. 40B, s. 20 defines "consistent with local needs" as:

"reasonable in view of the regional need for low and moderate income housing considered with the number of low income persons in the city or town affected and the need to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces."<sup>1</sup>

A shorthand version: reasonable when balancing (1) *regional and local affordable housing need* and (2) *public health and safety, contextual site and building design, and open space preservation*.

As a practical matter, certain waiver requests are central to the project, and if denied will effectively deny the project. For example, in this case, the Use Table in Zoning Bylaw Section 30 does not permit multifamily use, so if the project is to be approved, this Bylaw provision must necessarily be waived. But the Board must *first* determine whether waiver of this Bylaw to allow multifamily housing is "consistent with local needs." If the Board finds that multifamily use is reasonable when balancing (1) and (2) above, then the waiver is consistent with local needs.

The Board may grant a waiver in part, or to some lesser extent than requested. For example, in this case, the Applicant requests approval for thirty-nine units of multifamily housing on a site of 3.91 acres. This requires waiver of the Zoning Bylaw's Lot Area

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<sup>1</sup>In addition, "consistent with local needs" means "applied as equally as possible to both subsidized and unsubsidized housing."

requirement, which would limit development to five units (@33,750 square feet per dwelling unit. The Board may waive the Bylaws to allow a multifamily development of *fewer* than thirty-nine units – in effect, granting the waiver in part, and denying it in part.<sup>2</sup> It is within the Board’s authority to do so *only if* it finds that the project at the density requested (39 units) is not “consistent with local needs.”

Where a Board is inclined to deny a waiver, there is typically discussion with the applicant regarding the impact of such denial on the project. This is one reason why public hearing is left open, so that both the applicant and the public may comment on waivers. The applicant may make the case that the project would be rendered “uneconomic” by the waiver denial. In such case, the Board is entitled to ask the applicant for a project *pro forma*, which the Board may then consider in deciding whether to grant or deny the waiver.<sup>3</sup> This process also applies to the Board’s consideration of any permit conditions. The Board need not request a *pro forma*, and many G.L. c. 40B projects are permitted and conditioned without this step.

### Input on waivers

G.L. c. 40B, s. 21 states that the Board, “in making its decision on [the] application, shall take into consideration the recommendations of the local boards and shall have the authority to use the testimony of consultants.” Where Town boards or departments, or the Board’s peer reviewer have made recommendations regarding waiver requests, the Board must consider these recommendations. The Board may also consider recommendations expressed by members of the public. Ultimately, however, it is up to this Board whether to grant or deny any waivers.

### Why discuss waivers now?

Finally, it is reasonable to ask whether the Board can, or should be considering waiver requests before it has voted on whether to grant a comprehensive permit. The answer is that waivers are such a significant part of a G.L. c. 40B permit that it makes sense to review them up front. This is especially true for waivers without which the project cannot be built. If the Board is inclined to deny a waiver, this gives the applicant the opportunity to address any issue raised by the Board and potentially modify the project – or to make a case that the denial would render the project uneconomic. In short, it allows for useful dialogue.

If the Board elects to discuss waivers prior to voting to grant or deny a permit, this does *not* mean that the Board has already determined that a permit should issue. The discussion may be seen as determining what waivers the Board could find as “consistent with local needs” if it elects to grant a permit.

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<sup>2</sup> This may also be viewed as imposing a condition limiting the development to a specific density.

<sup>3</sup> The *pro forma* may be subject to peer review if the Board so desires. Note that “uneconomic” is a G.L. 40B term of art, and it is up to the subsidizing agency to set profit limits. The Board cannot apply its own definition of what is an appropriate return.

## II. Applicant's Waiver Requests

With the Applicant's cooperation I have edited and rearranged the waiver requests for the Board's discussion. Below are the waiver requests, in some cases with supporting argument from the Applicant and Staff comment. Additional waivers not requested by the Applicant but needed for the project are also identified.

### Board of Health Regulations

Applicant's request: Relief from specific requirements of Article 14 of the Truro Board of Health regulations in excess of MA DEP Title 5 regulations.

#### Article 14: Nitrogen Loading Requirements

"The Truro Board of Health hereby requires that all properties within the Town of Truro meet the loading restrictions set forth in 310 CMR 15.214 and contain at least ten thousand (10,000) square feet of Buildable Upland (as defined in Article 1 hereunder) for every 110 gallons per day of design flow and that all systems designed to serve said facilities meet the same restrictions and requirements contained in Title 5 as the "Nitrogen Sensitive Areas" defined in 310 CMR 15.215 irrespective of whether the properties are located within Nitrogen Sensitive Areas as so defined."

Staff Comment: The Board's peer reviewer, Mark Nelson of Horsley Witten Group, has noted that this regulation limits wastewater flow to 440 gallons per day per acre. The Cloverleaf site contains a total of 3.91 acres or 170,320 square feet. Under Article 14, the maximum wastewater discharge would be 1,874 gallons per day. The proposed system for this project has a design flow of 7,480 gallons per day. Waiver of Article 14 would be required to allow this discharge in excess of the 1,874 gpd limit for a parcel of this size.

Mr. Nelson found that the Applicant's original wastewater disposal system did not comply with Title 5 or Article 14 of the Truro Board of Health regulations. The Applicant then submitted a revised proposal utilizing the BioMicrobics treatment system, an Innovative/Alternative technology system. Mr. Nelson's report dated July 6, 2020, reviews the system proposed and contains his discussion of this waiver request. Mr. Nelson concludes that waiver of Article 14 is appropriate, conditioned on an Operation and Maintenance Agreement; monthly sampling of wastewater effluent for one year (reduced to quarterly if warranted); a contingency plan; and groundwater monitoring downgradient of the leaching field.

#### Article 9: Innovative/Alternative Technology [additional waiver required]

The proposed BioMicrobics treatment system for the project is an Innovative/Alternative technology certified for enhanced nutrient removal by the Department of Environmental Protection. Article 9 limits the use of I/A Technology treatment systems to "Remedial Use Situations" arising from failed or nonconforming systems:

"(2) Standards. Innovative/alternative (hereinafter, "I/A") technologies, as defined herein, will only be permitted in Remedial Use situations, and as defined herein (see article 3). I/A technology will not be permitted in any other situations."

Use of the I/A BioMicrobics system for the project, which is not a Remedial Use Situation, requires a waiver from this Bylaw.

## **Zoning Bylaw**

### Section 30: Use Regulations

#### 30.1(A): General Requirements

Allows “single-family dwelling or single-family dwelling with accessory apartment use” only. Waiver required to allow multi-family and two-family use.

30.2 Use Table. Does not allow two-family or multi-family use. Waiver required to allow these as principal uses.

30.2. Use Table. Does not allow on-site management office, community room or storage as accessory uses. Waiver required to allow these uses as accessory uses in conjunction with multi-family use.

### Section 40.6: Growth Management

#### B. Residential Development Limitation

“1. There shall be no more than forty (40) building permits for new single family dwelling units authorized within any calendar year, beginning January 1 and ending December 31. . .”

Other portions of Section 40.6 limit the issuance of permits to any one applicant during a single month or year.

From Applicant: : This section limits residential building permits issued within any calendar year to 40, and further limits the total number to any one applicant to 4. Section 40.6.C.1 does provide for exemptions for “construction of affordable housing units provided such housing units have deed restrictions to ensure they remain affordable for the maximum period permitted under Massachusetts Law” however the definition of “Affordable Housing” in the bylaws refers only to housing certified as affordable by the Truro Housing Authority. The definitions in the Zoning Bylaw also defines “Affordable Households” as households earning no more than 80% of the AMI as determined by DHCD. These definitions are potentially contradictory with the mixed income nature of this rental housing development. Therefore, relief from this Growth Management section is requested to exempt all rental units in the development including the units that have deed restrictions up to 110% AMI and the unrestricted Market Rate units, so that building permits can be issued at once.

Staff Comment: Staff agrees that a waiver of Section 40.6 is required to allow the issuance to a single applicant of building permit(s) for the construction of 39 dwelling units. Staff believes that if a waiver is granted, the exemption in Section 40.6.C. 1 is not relevant.

Section 50: Area and Height Regulations

50.1 Regulations

A. Table (Dimensional Requirements)

The Applicant has submitted the following table based 50.1.A, requesting **side yard and building height waivers**, with more detail in the second table below.

<u>Dimensional Requirements</u>	<u>Required</u>	<u>Provided</u>
Minimum Lot Size:	33,750 sq. ft.	170,320 sq. ft.
Minimum Lot Frontage:	150 feet	209.61 feet
Minimum Frontyard Setback	25 feet	42 feet
Minimum Sideyard Setback	25 feet	see chart for buildings requiring waivers**
Minimum Backyard Setback	25 feet	42 feet provided [Building 23-25]
Maximum Building Height	2 stories; 30 feet	see chart for buildings requiring waivers**

Staff Comment: Minimum lot size is a limit on density; only five lots/dwelling units would be permitted on a parcel of 170,320 square feet. Staff believes that at 170,320 square feet, the does not satisfy the Bylaw minimum lot size for a project of thirty-nine dwelling units and that a waiver of 50.1.A is required to allow this density

<u>Dimensional Requirements</u>	<u>Required</u>	<u>Provided</u>
Minimum Sideyard Setback	25 feet	see chart for buildings requiring waivers**
Maximum Building Height	2 stories; 30'/23' flat	see chart for buildings requiring waivers**

<b>Relief Required Building Number</b>	<b>Minimum Sideyard Setback – 25 feet Required</b>	<b>Maximum Building Height (definition of building height to ridge above existing grade) – 30' max</b>	<b>number of stories – two story maximum</b>
1-3	conforming at 40.8 feet	conforming at 21.7 feet	conforming at two stories
5-7	**waiver required for setback at 12.3 feet	conforming at 24 feet	conforming at two stories
2-4	conforming at 91.2 feet	conforming at 28 feet	conforming at two stories
6-8	conforming at 34.2 feet	conforming at 28.5 feet	conforming at two stories

9-11	conforming at 33.3 feet	conforming at 25.25 feet	conforming at two stories
13-15	**waiver required at 24 feet to foundation excl. egress porch	conforming at 23.75 feet	conforming at two stories
10-12, 14-16, 18-20	**waiver required at 20' to foundation excl. egress porch	conforming at 27.25 feet conforming at 26.5 feet conforming at 28.5 feet	conforming at two stories conforming at two stories conforming at two stories
17-19	**waiver required at 14.8 feet to foundation excl. egress porch	conforming at 25.75 feet	conforming at two stories
22-24 23-25	conforming at 51.5'  **waiver required at 14.6 feet to foundation	**waiver required at 36'11"  **waiver required at 31'11"  due to fill placed at rear of site above existing grade; appears 24'8" at roadway	**waiver required at three stories; definition of basement in terms of foundation exposure on more than one side will classify this basement as a third story; relief required
21	conforming at 61' west side and 40' east side	**waiver required at 31.5' that exceeds 23' limit for flat roof; based on def of building height above existing grade; visible height from road is 22.5' at front and 31.5' at rear	**waiver required at three stories; definition of basement in terms of foundation exposure on more than one side will classify this basement as a third story; relief required

Staff Comment: These tables should be reviewed and discussed in conjunction with site plans and elevations. The building heights and waivers requested for buildings 21, 22, 23, 24, 25 should be more fully described.

50.2: Building Gross Floor Area for the Residential District

“B. Applicability and Exceptions:

1. Total Gross Floor Area Allowed by Right: [B]uilding permits for new construction . . . shall be issued only where, on completion of the construction or project, the Total Gross

Floor Area of the new or expanded structure(s) does not exceed 3,600 sq.ft. for a Residential District Minimum Lot Size of 33,750 square ft. and prorated to 3,668 sq.ft. for one acre of land:

a. Plus 300 sq.ft. for each additional contiguous acre of land, or fraction thereof prorated.

..

2. Special Permit to exceed the Total Gross Floor Area limit: The Total Gross Floor Area limit for a dwelling and accessory buildings on a lot established in subsection 50.2.B.1 may be exceeded up to a maximum established by this subsection, by Special Permit. No Special Permit may be issued for any construction if the construction would result in the Total Gross Floor Area exceeding 4,600 sq.ft. for a Residential District Minimum Lot Size of 33,750 (or .775 acre) and prorated to 4,600 sq.ft for one acre of land:

a. plus 300 sq.ft. for each additional contiguous acre of land, or fraction thereof prorated.

...”

Staff comment: At 3.91 acres, the Total Gross Floor Area allowed as of right on the project site would be 4,568 sq. ft. (3,668 for the first acre + 300 sq ft. for each additional acre or fraction). The Total Gross Floor area allowed by Special Permit would be 5,568 sq ft (4,668 for the first acre + 300 sq. ft for each additional area or fraction). As calculated by the Applicant, the Total Gross Floor Area of the project is 46,172 sq.ft. A waiver is required for construction of all Floor Area in excess of 5,568 sq. ft.

## Section 70: Site Plan Review

### 70.3. Commercial Development

#### A. Commercial Site Plan Review is required for:

1. Any construction, alteration, expansion, or modification of any properties, structures and uses other than that of single or two-family residences and their accessory uses and structures.

Applicant’s presentation (condensed): Applicant seeks relief from the requirements of Site Plan Review procedures and requirements; and, to allow the Comprehensive Permit to be issued in lieu thereof. Applicant is presenting a site plan, landscape planting plan and site lighting plan that incorporates many Site Plan Review requirements. The applicant has submitted the Commercial Site Plan Review Checklist and questionnaire as evidence of substantial conformance with the Procedures and Plan Requirements of Site Plan Review. Relief is requested from requirements, if any, to post a bond, cash, Letter of Credit, or impose Planning Board Covenants, related to site development.

Staff Comment: Under G.L. c. 40B, a separate Site Plan Review process cannot be required. This Board’s review of the comprehensive permit application substitutes for Site Plan Review under Section 70. The Applicant has submitted most of the information required under Section 70.3.D,<sup>4</sup> and the Board has reviewed plans extensively - including with the benefit of peer review. The Board may conclude that its review has been consistent with Section 70.3, and that

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<sup>4</sup> Exception: lighting plan. I have asked Applicant to provide.

waiver of any remaining procedural or substantive requirements is warranted. Given the scale of this development and its impacts, the Board may wish to review the project's conformity with the Review Criteria/Design Guidelines of Section 70.3.F.

## **Subdivision Rules and Regulations**

Staff Comment: Although the project is not a subdivision, it is residential development of a scale and impacts consistent with those of a subdivision. For this reason, many of the standards contained in the Rules and Regulations should be considered applicable to the project, and where noncompliant, waivers should be requested and considered by the Board. Section 3, Design Standards and Section 4, Specifications for Construction of Roads, and Appendix 2, Table 1 (Recommended Geometric Design Standards) are of particular importance.

Applicant's presentation: The applicant will comply with the intent of the Subdivision Control Regulations with the exception that the applicants requests the waiver of the Planning Board role and this review be made by the Zoning Board of Appeals as part of the Comprehensive Permit under MGL Chapter 40B. In addition, specific relief /waiver is requested:

### Section 3. Design Standards

#### Section 3.6. Street Design

##### Section 3.6.6. Dead-end streets

a. "The length of dead-end streets should not exceed one thousand (1,000) feet."

Waiver is required: Loop roadway is 1,060 +/- feet long.

##### Section 3.6.7. Adjacent properties

"Proposed subdivision roads shall be separated from subdivision boundaries by a screening buffer of twenty-five (25) feet width or more. . . ."

Waiver is required: Access road is within 25 feet of side line, adjacent to Unit 21 (east), 13 feet provided.

##### Section 3.6.8. Design Standards: Table 1 in Appendix 2 – Type C

- Minimum Roadway width: 20 feet

Waiver is required: loop road has 14 foot travel way, with 1 foot berms provided (one-way traffic)

- Minimum Radius at street centerline: 290 feet

Waiver is required: 100 feet provided at Highland Road entrance; 50 feet provided within the site.

- Maximum Grade: 8%

Waiver is required: Main Access Road 10% proposed

- Minimum curb radius: 30 feet

30 feet required; 30 foot radius provided on main access road – exit lane

***APPLICANT TO CLARIFY: Is waiver required and if so, where?***

- Dead-end Street maximum length: 1000 feet  
Waiver is required: loop roadway is 1,060 feet +/- long

Section 4: Specifications for Construction

4.1.8 Berms

“Berms shall be provided on both sides of all paved roads where the grade is 3% or greater. Bituminous concrete berms, eighteen (18) inches in width on rolled asphalt base or binder course, shall be constructed. . .”

Waiver is required: 12 inch berms proposed

4.1.10 Vegetation:

“Existing trees of over six (6) inches in diameter, measured at four and one-half (4-1/2) feet above existing grade, outside the travel surface of any proposed or existing roads and on proposed building lots should be preserved. . . .”

Waiver is required: Trees within the proposed limit of work line shall be removed as needed to allow for the construction of the development, beyond the edge of clearing for the roadway.

Additional waiver requested:

2.5.4(c) Performance Guarantee

Requires a performance guarantee in the form of a bond, deposit, or covenant to secure construction of ways and installation of municipal services.

The Applicant has requested waiver of “any requirement. . . to post a bond, cash, Letter of Credit, or impose Planning Board Covenants, related to site development,” which would include the above.

Staff Comment: To protect the Town’s interests and investment in this project, denial of this waiver is recommended.

**General Bylaws**

Chapter 1, Section 8: Soil Removal

1-8-1. “The removal of topsoil, loam, sand, gravel, clay, hardening, subsoil and earth from any parcel of land not in public use in the Town of Truro except as hereinafter provided, shall be allowed only after a written permit therefore is obtained from the Building Commissioner.

Applicant's presentation [condensed]: Applicant requests waiver of the requirement that the Permit for Soil Removal be obtained from the Building Commissioner, and that the Permit for Soil Removal, with any conditions imposed, be issued by the Zoning Board of Appeals as part of the Comprehensive Permit. Applicant requests waiver of any bond or other security.

Staff Comment: Under G.L. c. 40B, a separate permit cannot be required for the earth removal involved in this project, but the Board may secure, through a permit condition requiring administrative review, compliance with any reasonable standards and conditions that would be applied to a non-40B project. Through discussion with the Building Inspector and DPW Director, in lieu of a soil removal permit, the DPW director will have oversight of soil removal activity during the Town's part of the project, and this activity will be subject to review and approval by the Board's consultant during the Applicant's portion of the project.

### Curb Cut Permit

Applicant's presentation: The Applicant requests that the Comprehensive Permit substitute for Curb Cut Permit from the Town of Truro. MA DOT Curb cut Permit is being sought by Truro DPW.

Staff Comment: Curb Cut Permits are issued by the Select Board following review by DPW and Chief of Police. The proposed project will have curb cuts on Highland Road (main entrance) and Route 6 (emergency access). The Highland Road curb cut has effectively been reviewed by DPW and the Police Chief as part of the comprehensive permit process. The DPW Director has confirmed that DPW will apply for the MassDOT curb cut approval. The Town's curb cut permit requirements may be waived.

### **Catch-all waivers**

The Applicant seeks relief from the Truro General Bylaws and Other Regulations, as follows:

Relief is requested from any other zoning bylaw, general bylaw or regulations or procedures that may be identified in the review process if full compliance is not physically or economically feasible.

Relief is requested from the applicability of such other sections of the Zoning By-law, the Subdivision Control Regulations, or of such other local rules and regulations that would otherwise be deemed applicable to this development.

Staff Comment: Catch-all waivers are not recommended. Any relief sought should be specifically identified and considered by the Board.

## Waiver of fees

Applicant's presentation: Relief is requested from any requirements for paying fees for any regulatory review or for any permits related to the development of this project, including but not limited to fees for building permits and septic system installation permits.

Staff Comment: The Board may:

- grant the relief as requested – relief from payment of *any* fees
  - waive some fees and not others
  - waive a percentage of fees (this is sometimes done in proportion to the percentage of affordable units in the project)
  - decline to waive any fees
- 

## **Other**

### Section 30.9 Parking

Section 30.9 requires two parking spaces per dwelling unit. The development's 39 dwelling require 78 spaces; 81 spaces are provided.

Section 30.9.C. Off Street Parking Schedule, provides in part that “in determining the number of spaces required only delineated spaces which *are not obstructed* shall be calculated.” [emphasis added]. The Planning Board has suggested that there are “at least 10 obstructed spaces” on the proposed plans and therefore an insufficient number of spaces provided. See comment letter dated July 28, 2020 and September 4, 2020 (“at least 11”). The Planning Board also suggests that the Management Office and Community Room visitor uses require additional spaces.

Staff Comment: The Board may determine the meaning of the Bylaw language and implications for the applicant's proposed number of spaces. If the Board finds that the number of parking spaces does not meet the Bylaw requirement, it may consider a (partial) waiver of the requirement.