

**AN ACT establishing a commission to investigate and analyze the environmental and health impacts relating to releases of perfluorinated chemicals in the air, soil, and groundwater in Merrimack, Bedford and Litchfield.**

**HB737, Chapter 335:1, RSA Chapter 126-A: 79-a, Laws of 2019**

**Meeting**

**MINUTES**

**Friday, January 3, 10 AM, Room 204 LOB**

Attendees: Chris Bandazian (Town of Bedford), Rep. Ralph Boehm, Sen. Shannon Chandley, Amy Costello (UNH), Karen Craver (DHHS), Sen. Jeanne Dietsch, Nancy Harrington (Town of Merrimack), Mindi Messmer (environmental advocate), Rep. Nancy Murphy, Rep. Jeanine Notter, Emma Paradis (Bedford resident), Rep. Rosemarie Rung, Rep. Wendy Thomas, Michael Wimsatt (NHDES for Clark Freise), Rep. Gary Woods (NH Medical Society)

The meeting was called to order at 10:03 am.

Mr. Wimsatt provided an update from NHDES. He summarized the suit against DES from 3M, the Plymouth water system, and 2 other plaintiffs, specifically mentioning the preliminary injunction issued by Judge McNamara. Mr. Wimsatt said that regardless of the injunction, 700 or so of the 1600 regulated public water systems have already reported PFAS testing results with about 5% reporting results exceeding the new MCLs. DES is awaiting a Superior Court decision of whether or not DES can appeal to the NH Supreme Court.

Mr. Wimsatt updated the commission on Saint-Gobain's air permit application. The extended public comment period closed on December 31. Saint-Gobain has 10 days from the close of the comment period to respond to written comments, and DES has 30 days from then to determine findings of fact and issue a permit (by February 12). An appeal process to the permit is in place. Saint-Gobain has one year to meet the permit requirements, but are confident they can do so before then.

Mr. Wimsatt said that Saint-Gobain has tested on their site proper west of the Merrimack River. They will also be connecting about 20-30 homes in Litchfield to public water supply in the spring.

Rep. Thomas asked if residents newly added to the bottled water program will be connected to public water supply. Mr. Wimsatt answered that they would be "first in line" for permanent solution. Ms. Paradis said new testing in Bedford of residences show there are additional ones that will likely get bottled water. Ms. Paradis mentioned that her home may be one of those.

Rep. Notter asked what chemicals are tested in the water and shared concern if medicine from wastewater finds its way into the drinking water. Mr. Wimsatt said that Saint-Gobain is only required to test for PFAS. The testing includes approximately 16 PFAS compounds. Pharmaceuticals not degraded in the wastewater treatment process do find their way into effluent but dilution within those bodies of water helps to significantly decrease concentrations. However, this issue is an area of research and there is a drive to increase proper disposal of unused medicine.

Rep. Thomas said when her well water was tested it also reported on arsenic and MTBE. Rep. Boehm mentioned the use of septic systems and Mr. Wimsatt roughly estimated about 50% of NH is on septic, based on the number of households served by public water.

Mr. Wimsatt reported that the Town of Merrimack collected wastewater samples from Saint-Gobain, who is now treating their wastewater to remove PFAS, and detected PFAS. However, it is believed to be a product of legacy PFAS contained in the wastewater piping. He added that the Flatley Corp., which owns a strip of property between Saint-Gobain and the Merrimack River, is applying for a permit to construct a commercial warehouse.

Mr. Wimsatt continued his update by reporting that the Merrimack Village District will be completing construction of a PFAS treatment facility later this year for wells 4 and 5. The facility for their wells 7 & 8 is in the design phase with expected completion in 2021 and the facility for wells 2 & 3 is in conceptual design, with completion estimated in 2022. State funding has been provided: \$6.5 million from the Drinking Water State Revolving Fund, \$6 million from the Drinking Water and Groundwater Trust Fund and a grant of 10% of the DWGTF loan.

Ms. Messmer asked about the management of contaminated soil from the Flatley construction. Mr. Wimsatt said Flatley may manage the soil on site or the soil may go to a solid waste facility which accepts PFAS.

Rep. Woods asked about the soil sampling method. Mr. Wimsatt replied that the purpose of the testing determines the methodology. A core may be sampled and tested at different depths or, for construction material disposition, a representative sample of the aggregate used.

Allen Brooks, NH Assistant Attorney General, provided an update on State's PFAS litigation.

Rep. Thomas asked about the driving argument. Mr. Brooks replied that the plaintiffs are arguing that the new MCL rules present an unfunded mandate, there are procedural issues, etc. He explained the issue of "standing in harm" – that parties must show they are harmed by the action in question.

Sen. Dietsch asked Mr. Brooks to clarify the commission's role in future negotiations with Saint-Gobain. He responded that any public group or individual can make recommendations to negotiations, but they are not parties in the direct negotiations.

Ms. Messmer asked about the stay and injunction in the 3M/Plymouth suit. Mr. Brooks said that essentially, the judge stayed his own injunction. It created two interpretations: fourth quarter testing not required and fourth quarter testing required, but not by Dec. 31. Additional remarks were made about health impacts vs. financial impacts and the extent of preliminary injunctions.

The environmental sub-committee did not meet in December. Ms. Messmer presented the health sub-committee report with a printed report distributed to the committee. The sub-committee recommends that the commission draft a letter to DHHS to maintain blood samples collected for the Merrimack study.

Ms. Messmer moved that the commission compose a letter requesting that the State preserve the samples. The Rep. Murphy seconded the motion. Rep. Thomas asked about cost to store samples. Ms. Craver said there may be legal constraints in maintaining samples belonging to other people. Reasons to preserve the samples were discussed. Sen. Dietsch recommended that we vote on a letter once it is composed, but vote on the motion as

showing intent. The motion passed by voice vote and a letter will be brought to the February commission meeting for a vote.

The commission reviewed the responsibilities of the health committee and discussed whether they were still viable.

Sen. Dietsch reviewed the deadlines for reporting (Nov. 1) and the remaining meetings before the report. There will be no meeting in July. Rep. Rung will be absent for the March meeting and Ms. Messmer agreed to serve as clerk in her absence.

Ms. Craver provided the update from DHHS. The Environmental Health Integration Team brings together leadership and staff who work on environmental health related topics from across the Division of Public Health Services (DPHS). The team was developed in order to better coordinate environmental health activities. The group is currently working on refining our process for internal communications to allow for a more seamless and streamlined response to community concerns, including those related to PFAS. While the EHIT is currently limited to DPHS employees, the group will eventually bring in external partners, including those from other state agencies.

DHHS is working with the Silent Springs Institute and ATSDR to help with recruitment of participants for their respective studies, the PFAS REACH study and the ATSDR health study at Pease. A second mailing of letters went out in late December to approximately 1,050 individuals who did not respond to an initial letter.

The NH Biomonitoring Program TrACE study testing for PFAS will be complete by the end of this month. The Technical Advisory Committee will be convened in February of 2020; data will be released to participants soon after.

Tarah Somers from the Agency of Toxic Substances and Disease Registry has been invited to the next Health subcommittee meeting on January 13<sup>th</sup> at 10 AM to provide a summary of the current and planned ATSDR studies; she has confirmed her availability. Committees that may be interested in Ms. Somers presentation will be invited. Dr. Jonathan Ali will also be invited to present to the sub-committee.

The environmental sub-committee will meet after the health subcommittee at 1 pm.

The meeting was adjourned at 11:22 am.

Respectfully submitted,

Rosemarie Rung, State Representative, Hillsborough 21