

**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, July 17, 2020, 9 AM, Virtual Meeting**

Attendees: Joseph Ayotte (USGS), Chris Bandazian (Town of Bedford), Rep. Ralph Boehm, Sen. Shannon Chandley, Kathleen Bush (NHDHHS), Rebecca DeVries (Merrimack resident), Sen. Jeanne Dietsch, Nicole Fordey (Litchfield resident), 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), Rep. Gary Woods (NH Medical Society)

Guests: Cathy Beahm (NHDES), Karen Craver (NHDHHS-departing commission member), Jeff Marts (NHDES), Alan Raff (NH Senate staff, attended to provide technical support)

The meeting was called to order at 9:00 am.

Sen. Dietsch read the Right to Know notice.

Rep. Rung (clerk) called the roll for attendance. Ms. Costello was absent. Rep. Notter had not yet joined the meeting. Commission members stated their location and that they were alone.

Mr. Bandazian moved to accept the minutes from the March meeting. Rep. Thomas seconded. Rep. Rung called the roll to accept the minutes as presented. The minutes passed. Ms. Bush, Mr. Wimsatt, and Rep. Rung abstained.

Mr. Wimsatt introduced Ms. Beahm from NHDES Air Division to explain the Saint-Gobain (SG) variance request and the Town of Merrimack's permit appeal. She provided a background of the state statute and subsequent air permit issued to SG by NHDES, which requires SG to install a Regenerative Thermal Oxidizer. She explained the four areas of appeal by the Town of Merrimack: prohibit uncontrolled PFC emissions, return PFC emissions limitations contained in the final permit to those proposed in the draft permit, require an enhanced control device optimization program, and to install a hydrogen fluoride scrubber. The hearing date for the appeal is scheduled for December 14, 2020.

Ms. Beahm explained the SG variance petition, which requests the deadline to comply with the air permit be extended one year, to February 11, 2022 or one year from the final order disposing of the Town of Merrimack's appeal, whichever is earliest. The primary reasons for this request is the uncertainty of the outcome of the Town of Merrimack's appeal and vendor/contractor delays caused by the COVID-19 pandemic. The public hearing on the variance petition is scheduled for August 5, 2020 and will be conducted virtually. The decision must be made within 15 days of the hearing.

Ms. Beahm said there are four conditions required to be met for a variance to be granted: 1) The petitioner has taken reasonable steps to eliminate or prevent air pollution; (2) Granting a variance would not create a danger to public health, welfare, or safety; (3) The source of air pollution has social and economic value to the area in which it is located; and (4) Enforcement of the requirement for which the variance is sought would produce serious economic hardship on the petitioner without equal or greater benefits to the public.

Ms. Beahm summarized additional information NHDES requested of SG: RTO vendor proposed schedule for installation and operation of the RTO, modifications made to date, remaining work needed, contractors involved, and an updated schedule, documentation from each vendor and subcontractor who have informed Saint-Gobain of delays due to COVID-19, documentation from the manufacturer of the chosen RTO, including schematics.

In response to a question by Ms. Messmer about how the danger to the public health is determined, Ms. Beahm said the public can provide information on this during the public hearing and comment process. In response to a question from Rep. Thomas regarding COVID-19 infection impact on those exposed to PFAS, Mr. Wimsatt explained that the administrative procedure is formalized and the department will adhere to that.

Ms. Harrington explained the major points of the Town of Merrimack's appeal and the cost the Town has incurred in consultants and legal fees. She said the Town will oppose the variance petition. She also mentioned that the Town and SG are in Superior Court regarding sewer permit.

Ms. Messmer asked about the difference between the draft permit and the final permit. Ms. Beahm responded that in the draft permit there were 4 PFAS listed and that changed to two, and the methodology to calculate the levels changed.

Mr. Marts shared a presentation about the site investigation of SG's Merrimack facility. He explained how PFAS is released into air and deposited on soil, then leached into groundwater. SG hired Golder Associates to conduct a site investigation, which found 25 potential release areas (PRA) on the site. By way of background, the site was originally a GE power turbine manufacturing plant then was purchased in 1984 by ChemFab to make PFAS coated fabric, the manufacturing of which continues today under SG ownership.

Golder mapped the PRAs, many which overlap with another, also showing where monitoring wells and borings are located. Mr. Marts showed how the hydrogeology affects the flow of PFAS through the ground and how plumes from different releases are created.

Mr. Marts said that since the PFAS contamination was discovered in 2016, approximately 50 monitoring wells have been installed at various depths, from shallow on into fractured bedrock. Hundreds of samples of groundwater have been tested, along with many soil samples taken from borings.

Mr. Marts went on to explain the overburden groundwater flow and contours of the site. One contour area directs flow to Dumpling Brook and another to the Merrimack River. Of note is there exists a bedrock trough that runs along between the site to the contour near Dumpling Brook and a bedrock ridge running between the site and the Merrimack River that may contribute to the flow into Dumpling Brook.

Mr. Ayotte asked for technical information regarding the bedrock ridge and if there are "gateways" there that serve as routes for groundwater contamination.

Rep. Thomas requested that PFAS uptake in vegetation be included in the slide showing routes of contamination. Mr. Marts says that has not be considered. She also asked about plans to connect private well owners receiving bottled water from SG to municipal water. Mr. Marts replied that there is no documented plan to connect, primarily because of the case in NH Superior Court that puts a hold on enforcement. If connection were pursued, it would likely be years. Rep. Thomas requested that impact on property values be included in the investigation.

In response to Ms. Messmer's request, Mr. Marts showed on the map where municipal wells are located in relation to the contours. He discussed the type of wells showing the highest and lowest concentration of PFOA and what may be contributing to other well measurements (e.g., presence of soil disposition, proximity to sanitary and sewer lines).

Ms. Paradis echoed the concern about lack of a plan to hook up residents to municipal water. She described the situation faced by many Bedford residents who are on bottled water.

Ms. Messmer asked how the various pieces (HB1264, SG sampling plan, court order, etc), will impact moving forward. Mr. Wimsatt said that the outcome of HB1264 will determine when progress will resume on water line installation plans and sampling. Ms. Beahm provided additional comments about the air permit appeal.

Rep. Rung asked where is the outfall from Dumpling Brook (Merrimack River), whether testing had been conducted at Gilbert Crossing on the development's vegetation, and generally, testing on produce. Mr. Marts said the Dumpling Brook outfall is the Merrimack River. Mr. Marts said the testing of groundwater at Gilbert Crossing is consistent with expected levels. He said the state has not tested produce for PFAS.

Ms. Harrington spoke about the sewer discharge from SG and the concern by the Town of Merrimack that its biosolids (which have a commercial application) are contaminated with PFAS from SG waste going to the wastewater treatment plant. The Town of Merrimack has withheld its approval of SG's wastewater discharge permit, SG appealed and the case is now in NH Superior Court.

Ms. Craver introduced her replacement on the commission, Dr. Katie Bush. Ms. Bush provided a report from NHDHHS. Due to the COVID pandemic and an office redesign, DPHS staff has largely been working remotely. They have been able to maintain cross-program collaboration via tools that have been provided, such as zoom and VPN access.

DHHS is continuing to participate in a Dartmouth-led effort to develop PFAS materials specific to NH.

As a liaison between the Commission and our federal public health partners, Ms. Bush relayed questions from the Commission to CDR Somers at ATSDR. She has emailed the responses to Mindi Messmer, Chair of the health subcommittee.

The amendment for Dartmouth Cancer Registry Contract is underway to include funding from the Groundwater Trust to enhance the State's work related to environmental and childhood-related cancers. This funding will cover a literature review for environmentally cause childhood cancers, analysis of radiological monitoring data for the seacoast nuclear power plant, convening of experts in childhood cancer, a re-analysis of childhood cancer data in NH and nationally and information gathering from families of children affected by cancer to better understand their unmet needs to inform the health department in future program planning.

The CDC has reduced the funding awarded to NH DHHS for SFY21 and subsequently the department is having discussions about the impact these reductions will have on the capacity of Dartmouth to continue to provide high quality cancer data to researchers and public health professionals.

The Biomonitoring Program TrACE Program completed the sampling and continues to finalize the data analysis and summary report. The goal is to release the Participant Summary Report in the next few months.

NH DES and DHHS were awarded the ATSDR APPLETREE Grant, which has two components: site-investigation with community education and outreach, and Choose Safe Places for Early Care and Education for safe siting of child care facilities.

NH DES and DHHS applied for a collaborative grant from CDC's National Center for Environmental Health focused on building environmental health capacity.

Ms. Bush mentioned that the letter regarding retention of blood samples was not received but has been resent.

Rep. Woods asked if the NH Medical Society is involved in the Dartmouth-led project. Ms. Bush said they are not explicitly part of that effort, but State Epidemiologist, Dr. Ben Chan is part of it.

There was discussion about the scope regarding the CDC collaborative pending grant application.

Sen. Dietsch reviewed the scope, statutory requirements and responsibilities of the commission. She reviewed the subcommittees and what they can report in the November annual report with suggested process and deadlines.

There was discussion about the commission submitting comment to the public hearing on SG's variance petition. Rep. Murphy moved for the commission to submit a letter opposing the variance petition. Ms. Harrington seconded the motion. During discussion, concerns were raised that some commission members may be placed in an awkward position, being employees of the State. Rep. Murphy withdrew her motion.

Sen. Dietsch, Rep. Murphy, Rep. Rung and Sen. Chandley will work with legislative leaders to ensure subcommittee meetings be scheduled.

A motion to adjourn was made by Rep. Woods, seconded by Rep. Boehm. A roll call was taken and all present voted in favor.

The meeting adjourned at 11:35 am.

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