

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, December 11, 2020, 10 AM, Virtual Meeting

Attendees: Joseph Ayotte (USGS), Chris Bandazian (Town of Bedford), Rep. Ralph Boehm, Dr. Kathleen Bush (NHDHHS), Rep. Jackie Chretien, Amy Costello (UNH Institute for Health Policy and Practice), Nicole Fordey (Litchfield resident), Nancy Harrington (Town of Merrimack), Rep. Bob Healey, Hon. Mindi Messmer (environmental advocate), Rep. Maureen Mooney, Hon. Nancy Murphy (Merrimack resident), Emma Paradis (Bedford resident), Rep. Rosemarie Rung, Michael Wimsatt (NHDES), Rep. Gary Woods (NH Medical Society)

Guests: Don Provencher (Merrimack Village District), Alan Raff (NH Senate staff, attended to provide technical support)

The meeting was called to order at 10:00 am.

Rep. Rung (chair) read the Right to Know notice.

Ms. Fordey (clerk) called the roll for attendance. Commission members stated their location and if anyone was in their presence. Rep. Rung confirmed a quorum was present.

Rep. Rung reported that she and Rep. Chretien have been appointed to the Commission by House Minority leadership and she is awaiting notification of the appointments from the NH Senate and House Majority leadership.

Rep. Rung recognized Ms. Harrington, who then led the Commission in a moment of silence to honor Merrimack Representative and NH House Speaker Richard “Dick” Hinch who suddenly passed away recently.

Rep. Woods moved to approve the minutes of November 13 and Ms. Murphy seconded the motion. The motion passed on a roll call vote with Mr. Bandazian, Rep. Chretien, and Ms. Harrington abstaining stating they were not present at the November 13 meeting.

Don Provencher, Chair of Merrimack Village District Board of Commissioners, was recognized by Rep. Rung for a presentation.

Merrimack Village District (MVD) Presentation

A map of Merrimack was shown indicating the locations of the six public water supply wells operated by MVD, as well as the two known sources of PFAS in the area. Wells 4 & 5 are located in the northeast area, Wells 2 & 3 in the southcentral area, and Wells 7 & 8 in the southwest area (actually located in Hollis but only supply water to Merrimack). Saint-Gobain Performance Plastics (SGPP) is located in the northeast area and Textiles Coated International (TCI) & septic systems on Howe Dr. are located in the southwest area (in Amherst).

MVD entered into a settlement agreement with SGPP in 2018 for the construction of a PFAS filtration system for Wells 4 & 5, SGPP paid for most of the costs associated with building this system. This is a granular activated carbon (GAC) plant that serves Wells 4 & 5.

There is a Manganese and Iron filtration plant using greensand at Wells 7 & 8. The system is broken into two pressure zones because of the different elevations in town. The elevations along the Merrimack River are lower than elevations out to the western part of town. All of the wells pump water to the low-pressure zone and there is a booster system that pumps water to the high-pressure zone. There are three total storage tanks, one is a backup and not in use.

There are 166 miles of distribution system pipes. MVD has \$175 million in assets. Average peak demands: 2-5 Mgal/day.

All six wells have exceeded the new Maximum Contaminant Levels (MCLs) for PFOA of 12ppt. PFOA is the only PFAS violation in all MVD wells. Well 2's PFOA level varies, sometimes is lower and sometimes is higher than the 12ppt limit. Wells 3, 7, and 8 are consistently higher than the 12ppt limit for PFOA.

Wells 4 and 5 were shut down in 2016 and reactivated in October 2020 when a PFAS treatment plant came online. Samples of PFOA were not taken during the time these wells were offline. Prior to 2016, Wells 4 & 5 tested at upwards of 130 ppt for PFOA.

History of Contamination of Wells 4 & 5 – in the 1980's there was a plastics factory in Merrimack owned by General Electric, then Chemfab Corp., it began emitting PFAS into the air. In the early 2000's SGPP's Vermont factory was mandated by the State of Vermont to install air emission abaters to filter PFAS emissions, instead of doing this SGPP, in the mid 2000's, relocated to Merrimack, purchased the Chemfab factory, and continued unfiltered PFAS emissions. Wind currents dispersed PFAS regionally across Southern NH. Widespread contamination of soil and groundwater resulted. Unfiltered PFAS emissions from SGPP continue to present day.

In 2019, there was new legislation requiring air emission limits – PFAS air emission abaters are now required. SGPP's design for an abater was approved by NHDES and installation is scheduled for early 2021.

Spring 2016 – the way the PFAS issue came to light was that SGPP tested their own MVD tap water at their Merrimack facility and PFOA was detected at 42ppt. As a result, MVD tested all six public wells and shut down Wells 4 & 5 (where PFOA>100ppt). At that time, the only limit

in effect was an acute health advisory at 400ppt. That did not address the long-term chronic issues related to PFAS, so there was an interim 100ppt limit that was set.

Wells 2, 3, 7, and 8 ranged 8-48 ppt of PFOA – since at that time this level was acceptable (even below the 70ppt advised by federal and state standards), all four of these wells remained online. MVD opened and interconnect w/ Nashua for make up water that was lost from shutting down Wells 4 & 5 – used on an emergency basis. Demands for water vary radically throughout the year, summer more demand, winter lower demand.

2016+ NHDES & SGPP investigated and identified widespread contamination (wind disbursed PFAS) – many towns in Southern NH.

2017 – NHDHHS tested blood of 217 MVD customers. Average MVD customer's blood PFOA level was double the national average (4 parts per billion for MVD customer vs. 2 ppb national avg.). PFOA is highly bioaccumulative by 2-3 orders of magnitude as PFAS levels are measured in drinking water in parts per trillion (ppt) and in blood in parts per billion (ppb). PFAS accumulates in your blood much higher than what is measured in groundwater.

Settlement Agreement Wells 4 & 5 – between MVD and SGPP – signed in Spring 2018. Required SGPP to cover 3.3 million of the 4.1 million estimated treatment plant costs. This left MVD with a \$810,000 shortfall. However, the actual shortfall was \$1.8 million as the actual construction cost of the treatment plant was \$5.1 million (difference between quotes for construction obtained in 2017 and actual costs when construction occurred in 2020). \$405,000 was secured by MVD from the drinking water and groundwater trust fund to offset some of the shortfall. Settlement agreement was based on a preliminary treatment plant 30% design level – leaving many needed items not to be covered by the agreement such as a backup generator and pavement costs. The settlement agreement covered 5 years of estimated granular activated carbon (GAC) media replacement cost. GAC is what removes PFAS from the drinking water.

Rep. Rung stated she was made aware that Rep. Maureen Mooney and Rep. Bob Healey have been appointed to the Commission by House Majority leadership. They were connected initially as attendees in listen-only mode, but at this point in the meeting were made panelists with full participation access in the virtual meeting on Zoom. Rep. Rung welcomed Rep. Mooney and Rep. Healey to the Commission.

Ms. Murphy was recognized for a question. Who participated in the settlement agreement negotiations? Was the public involved?

Mr. Provencher reported that the MVD Board of Commissioners – 5 commissioners, plus the MVD superintendent, and legal counsel, were the people involved in negotiations w/ SGPP. Negotiations were private with no opportunity for public involvement or review before the agreement was signed and effected. All 5 of those commissioners are no longer on the board.

Mr. Provencher continued with the presentation – resuming discussion of what the settlement agreement between MVD and SGPP contained. He reported that after 5 years the cost of GAC replacement will have to be covered by MVD customers. The settlement agreement did establish an escrow with funds to be used for operation and maintenance costs. However, as a result of more information from other plants in the country that use GAC, estimated GAC replacement is based every 2 years – this being the actual need, as breakthrough of PFAS is happening sooner than what was previously thought. This means that the funds are not going to last the full five years for operation and maintenance of the plant and could be expended in as soon as two years.

GAC treatment plant designer was selected by MVD and was under contract with MVD – design fees paid were paid by settlement escrow account. Important to remember that at the time of the settlement agreement, all other MVD wells (2, 3, 7, & 8) were in compliance with the PFOA MCL that existed of 70ppt and thus did not have any interventions as part of the settlement agreement.

Benefits of the Settlement Agreement – avoided costly multiple years of litigation, thought was for the PFAS treatment plan to be built sooner rather than later. Reality is that it still took 5 years to get treatment plant online. There was more autonomy for MVD to build and design the plant as they wanted and MVD staff can operate the treatment plan as they desire. Agreement limited only to PFOA and PFOS – can be reopened if new MCLs are established and violated. Wells 4 & 5 PFAS treatment plant online as of October 2020.

Drawbacks of the Settlement Agreement – MVD assumed all of the risks (including cost escalations, design unknowns, etc.). SGPP provided funds only covered 75% of estimated total project cost and non-PFAS costs that were necessary were not covered (ex. chemicals, generator, pavement, additional building size, etc.). Operation and maintenance funds cover 5 years of estimated GAC media replacement costs, only for PFOA/PFOS breakthrough, estimated every 2 years will need replacement. The treatment plan is not designed for short chain PFAS compounds like PFBA – estimated at only 1 year if used as a criteria for GAC replacement. MVD doesn't know yet the actual breakthrough rate for the treatment plant as it just went online in October 2020. MVD assumes GAC replacement costs in perpetuity after 5 years of funds spent. Settlement agreement only applies to MVD Wells 4 & 5 (no other MVD wells) as there have been no other responsible parties identified at this time for the PFAS pollution found in the other wells. MVD is solely responsible for compliance w/ MCLs, not SGPP. The settlement agreement excluded public review, participation, and voting – many MVD customers are not happy with this. Polluter assumes zero risk (cost escalation, overruns, MCL compliance, etc.).

Comparison with Settlement Agreement between SGPP and NY State Department of Environmental Conservation (NYSDEC) for contamination in Hoosick Falls, NY. Major distinction is that in this case SGPP was responsible for design, installation, monitoring, operation, and maintenance of PFAS treatment plant – and continues to pay for this to this day. The responsibility for PFAS compliance falls completely with SGPP. GAC media is replaced at breakthrough of first PFAS compound (PFBA). (This is very different than SGPP's agreement in Merrimack w/ MVD). The way MVD became aware of this agreement was when MVD commissioners toured the Hoosick Falls PFAS treatment plant and started to ask questions about operation and maintenance and were told that SGPP handles all of those responsibilities.

The consent order from NYSDEC to SGPP was displayed – with language detailing SGPP’s responsibilities to pay for all costs associated with the treatment plant highlighted.

A letter NHDES sent in April 2016 to SGPP was displayed – on page 3 strong language stating SGPP was responsible to remove PFAS from all affected public water system supplies by August 2016– in essence responsible for a permanent treatment plant. Unclear what happened, but something happened along the way NHDES was not able to enforce the statements in this letter and SGPP was able to have significantly less burden and responsibility as a result of the settlement agreement with MVD.

Lessons Learned from Settlement Agreement – burden/costs/risks should be on the polluter and not MVD customers; research on other settlement agreements should have taken place; need public to be able to weigh in; should have settlement agreement amount = bid amount not an estimate of a 30% design; have polluter responsible to design, build, and operate the treatment system; specify GAC media replacement based on actual breakthrough of first PFAS compound (PFBA) – not on estimated PFOA/PFOS breakthrough; don’t agree to too short of operation and maintenance period (only 5 years in Merrimack) – should be in perpetuity as PFOA’s half-life is 90 years. 100ppt will take 300+ years to drop to the 12ppt PFOA MCL.

Customer Petition Warrant Articles - Main funding mechanism used for Wells 2, 3, 7, & 8 PFAS treatment plants. MVD is a private/governmental entity – not part of the Town of Merrimack and uses a “Village District” form of government with an annual meeting. 5 commissioners meet monthly and are elected to 3-year terms, paid \$100/mo. MVD can propose their own warrant articles but at this time MVD was “handcuffed” as there was pending litigation called the Dowling lawsuit that was filed by residents of Bedford and Merrimack against MVD and SGPP – MVD was then limited on what it could do to mitigate PFAS in the water because it would look like it was implicating itself. So therefore the MVD customers ended up doing their own petition warrant articles. All warrant articles are discussed, can be modified, and are voted on at annual meeting by ballot. Warrant articles that require bonding/loans over \$100,000 must pass by 2/3rds majority. As no specific polluters yet identified for the PFAS found in wells 2, 3, 7, & 8, a settlement agreement is not currently possible, and this is what led MVD customers to create petition warrant articles to fund PFAS treatment in these wells.

Petition warrant articles were needed due to change in MCLs – public is concerned that 70ppt limit is too high. They saw the MCLs drop from 400 to 100 to 70ppt in 2016. In January 2018, NH legislature passed a law requiring NHDES to establish science-based MCLs for 4 PFAS compounds by 2019. In June 2018 ATSDR issued a screening level for PFOA at 11ppt. This was alarming to MVD as their wells exceeded 11ppt, but they were assured that this screening level was not related to what would be applicable to drinking water. In January 2019, NHDES sets draft PFOA MCL at 38ppt. In February 2019, NHDES issued a notice that MCLs may need to be lowered substantially below 38ppt due to Minnesota Model, a study on health effects of PFAS. Also in February 2019, MVD customer filed two petition warrant articles – one requiring elective PFAS treatment at MVD Wells 2 & 3 and one at Wells 7 & 8.

Tools from MVD Used by Petitioners – April 2018 – MVD became aware PFAS MCLs were due at the end of 2018, PFAS treatment could be required (by MCLs or warrants) and wanted to understand PFAS treatment options, costs, and rate impacts.

June 2018 – MVD commissioned the PFAS Treatment Cost Study – recommended 2 GAC PFAS treatment plan solutions: at Wells 7 & 8 – expand existing greensand plant (that was filtering Manganese and Iron) to also filter PFAS; Wells 2 & 3 – combine and build one new PFAS treatment plant for both wells.

October 2018 – MVD commissioned PFAS Treatment Rate Impact Study based on the costs in the PFAS Treatment Cost Study.

Before the next annual meeting, there was significant grass roots public outreach by concerned residents, via presentation, social media, etc. A lot of people were advocating in favor of the warrant articles.

March 2019 MVD annual meeting – petition warrant articles both passed with 92% of the 286 people in attendance voting in favor. This requires MVD to move forward with PFAS treatment of MVD wells 2, 3, 7, & 8 – this was elective PFAS treatment, not required by regulation, because at the time these warrant articles were passed there were no violations in excess of 70ppt. Because there was no MCL violation, the design for treatment at these wells did not include lag vessels as a way to save cost. But now MCLs are lowered (June 2019 – PFOA MCL of 12ppt, effective October 2019) and all wells exceed the MCLs so the design needs lag vessels – back up vessels – which will result in higher cost of PFAS treatment plants.

The change in MCLs requires public water systems to test for PFAS for 4 quarters and if the average PFOA readings are > 12ppt, then the system would begin to plan for PFAS treatment. However, all MVD wells are expected to exceed 12ppt PFOA based on historical data. Therefore the PFAS treatment will be mandatory, no longer elective. The customer petitioner got it right.

Lag vessels will add \$3 million to \$14.5 million in treatment costs – \$17.5 million treatment costs total. MVD is ahead by 2.5 years due to voters passing of petition warrant articles – MVD was already in design phase when new MCLs were passed (unlike other public water systems that will only start planning after 4 quarters of testing).

Funding for the \$14.5 million approved via customer petitioned warrant articles for PFAS treatment will come from loans (\$6,264,500 from the drinking water and ground water trust fund and \$6.5 million from the drinking water state revolving fund), a grant (\$1.45 million from the drinking water ground water trust fund) and MVD capital reserves (\$285,000). Possible that they will need to seek an additional \$3 million in funding by MVD warrant article at the 2021 or 2022 annual meeting for the lag vessels.

Part of the cost of treating Wells 2 & 3 will be Iron and Manganese treatment for Well 3 because it has elevated levels, these elements need to be removed first before the rest of the water can be put through the GAC to filter out PFAS because excess Iron and Manganese would just foul up the carbon and breakdown the filter in very short order. MVD is looking into alternatives to

replace Well 3 because they do not want to invest money into PFAS treatment if the well itself will need to be replaced because of other contaminants. Sodium and chloride concentrations in Well 3 are very costly to remove (tens of millions of dollars) and the trend is increasing concentrations of these elements, leading to serious concerns about the longevity of Well 3.

Therefore, the initial plan to build a PFAS treatment plant for Wells 2 & 3 closer to Well 3 (intersection of Industrial Drive and Continental Boulevard, behind Dunkin Donuts) has been changed to build the treatment plant closer to Well 2. MVD is proceeding with a new permanent well close to Well 2 that would replace at least some of the water currently being drawn from Well 3. The PFAS treatment plant near Well 2 has the capacity to treat the full flow rate from Well 2 as well as the full flow rate of Well 3, therefore the treatment plant will be able to filter the full amount of water that is currently drawn from these two wells.

A graph of Well 3's historical Iron and Manganese concentrations and Sodium and Chloride concentrations was displayed, clearly showing increasing trends and exceeding MCLs (prior to treatment).

Testing has shown that there are not the same elevated Iron, Manganese, Sodium, or Chloride levels in the location of the new permanent well.

Mr. Provencher noted that MVD periodically checks the list of Legislative Service Requests (LSRs) for upcoming sessions and they noticed at least 3 LSRs potentially of interest. The first is LSR 2021-0011 with prime sponsors listed as: Rep. Ralph Boehm, (the late) Rep. and Speaker of the NH House Richard Hinch, Rep. Jeanine Notter, and Rep. Richard Lascelles titled "requiring parties responsible for pollution of a drinking water supply to be financially responsible for certain consequences of that pollution." There is interest if this LSR were to become a bill that passes and is signed into law that MVD would be able to receive funding from SGPP and extend the limitation of only 5 years of estimated operation and maintenance costs for the PFAS treatment plant at Wells 4 & 5 as legally stipulated in the settlement agreement.

It is difficult to ascertain the specific text of a bill from just the LSR title, however Mr. Provencher strongly urged anyone in attendance to take note of this LSR and see it through if possible, in order to address the financial impact of PFAS contamination on MVD customers.

Rep. Boehm explained that this LSR was put into the office of legislative services (OLS) in September, and last week the text was released. Rep. Boehm said he was unsure if it will help MVD, but the text states that if a company is found responsible for polluting a public drinking water supply (with anything, PFAS or another contaminant) they are responsible for hooking up affected residences and businesses to a commercial water source or if that cannot be done within six months, they would be responsible for installation of a whole house/business filter, and in addition the polluter would have to pay for water bills for 5 years or until the house/business is sold. This would put these requirements on a polluter as a matter of law instead of as a result of an agreement with a polluting company.

In Litchfield what has happened is that residences and businesses that had their private wells contaminated were connected to municipal water, but are now paying very high water bills. The

water bills in Litchfield are “ridiculous” and in Rep. Boehm’s opinion Litchfield residents are subsidizing the water bills for all of Pennichuck East. The intent of the LSR is to help residents and businesses who were on private wells but are now on a public water source due to contamination in the wells and are financially burdened with high water bills. Rep. Boehm is unsure of effects on MVD, might need an amendment if something is needed. The text should be available as it has been signed off by the sponsors.

The second LSR of interest to MVD is LSR 2021-0068 sponsored by Rep. Suzanne Vail entitled “creating a statute of limitations on civil actions relative to damage caused by PFAS.

The third LSR of interest to MVD is LSR 2021-0087 sponsored by Rep. Rosemarie Rung and entitled “relative to standards for PFAS in drinking water and ambient groundwater.” Rep. Rung explained that this is a housekeeping LSR focused on establishing consistent references to this class of substances as “PFAS” throughout NH statute (and not PFCs) which would also be consistent to how they are referenced on the federal level. Rep. Rung also mentioned there is an additional LSR that she sponsored (with Rep. Doug Thomas as a co-sponsor) as a result of a recommendation from this Commission to add Londonderry representation to the Commission.

Ms. Murphy thanked Mr. Provencher for the presentation and the work of all the new MVD commissioners to deal with the settlement agreement that was not adequate and put a lot of costs on MVD customers. Ms. Murphy reported she is disappointed in the settlement agreement that was reached by previous commissioners. She thanked the current commissioners for being proactive and working on behalf of MVD customers and Merrimack residents.

Ms. Murphy asked Mr. Provencher to explain why the new PFAS treatment plant is being moved closer to Well 2 as opposed to the original plan for it near the Industrial Dr. area and what happened in 2010-2011 to cause an increase in Sodium and Chloride levels in the water. She noted that people in Merrimack are worried about the health risks (hypertension etc.) and that this has been mentioned in MVD meetings.

Mr. Provencher reported that he is unsure of anything specific happening in 2010/2011 to cause the increase in Sodium and Chloride levels. There was a salt mitigation effort in 2012 that seems to be having an opposite result in Well 3 – it did work in wells 7 and 8 to reverse the trend of Sodium and Chloride increases. Near Wells 7 and 8 are many businesses with commercial parking lots, and these businesses did change their salting practices. However, near Well 3 there is the Department of Transportation and the snow maintenance trucks where the town is responsible for salting practices. There are things that the town can be doing to decrease salt use, and it is important for private businesses to decrease salt use. MVD has made a lot of efforts in salt mitigation, most recently educating landowners and private parking lot owners on more environmentally-friendly salting methods. Mr. Provencher suggested that it could be helpful for more private parking lot owners to use brine as that minimizes the total salt load and could reverse the increasing trend. The presentation was recorded and MVD is following up with meeting attendees and will do a press release, they want to publicize a change in practices that are needed to reverse the Sodium and Chloride increase.

Mr. Provencher explained that initially the plan was to build the PFAS treatment plant closer to Well 3 because there is more usable land near Well 3 and they want to treat Wells 2 & 3 with the same system (utilizing a 1-1/4 miles of raw water transmission main), but they are concerned about the long term viability of Well 3 and do not want to rely on it. Well 3 is still usable at this time, but could become unusable if the Sodium and Chloride increasing trend cannot be reversed. Well 2 is the biggest producing well and the well with the lowest PFAS amounts, therefore Well 2 is always going to be there and be the main producing well. It was thus decided that the PFAS treatment plant should be near Well 2. An additional well closer to Well 2 is being pursued and thus having the plant near Well 2 would greatly decrease the length of transmission line needed should the new well replace Well 3 and the PFAS treatment plan near Well 2 would service both Well 2 and the new well.

Ms. Harrington reported that the Merrimack outlets opened in June 2012, and that this is an interesting coincidence with the timing of the noted increase in Sodium and Chloride levels. There were testing sites on that property for a while as MVD required it, not sure if testing results still exist, but it could be useful to review those tests or conduct more Sodium and Chloride testing at the outlets to see if that site could be in need of salt mitigation.

Ms. Harrington asked if there have been PFAS tests conducted on Wells 4 & 5 since they came back online in October. Mr. Provencher reported that water through the filters is PFOA levels non-detectable as was anticipated. Also in the distribution system the PFOA levels were undetectable in the north part of town; in the south part of town PFOA is detectable because water in that area is fed from the remaining wells (2, 3, 7, and/or 8) that have not been treated for PFAS yet. The question remains of how long it will be until we have breakthrough of the GAC for Wells 4 & 5.

Ms. Harrington asked what is the impact of the PFAS treatment plant on the total water distribution and if the water is blended. Mr. Provencher explained that the water is not blended throughout the system. Wells 4 and 5 will have a priority to feed users in proximity to these wells. Blending exists between the location of the different wells and PFAS concentration increases as you continue south (because there is less water from Wells 4 and 5 going south). Non detect of PFAS is the goal throughout the distribution system – hope is to achieve this in the next few years after all wells are treated.

Ms. Harrington - Public education is an issue, misunderstanding about the extent of blending of water and that there is actually more variation in the source of water (and thus level of PFAS) depending on where you are in town. The entire system will not benefit from only having one treatment plant online, need treatment plants for all wells.

Ms. Murphy asked about the letter sent from NHDES to SGPP in April 2016 – why was this language not carried forward, why didn't MVD get the settlement that happened in NY? Also, based on the cost to MVD customers for PFAS treatment of wells 2, 3, 7, & 8 – what is the timeline for determining the parties responsible for pollution there? It seems the only way that MVD customers could not bear the cost of PFAS treatment for wells 2, 3, 7, & 8 would be for polluters to be identified and for MVD to enter into settlement agreement(s) with those parties.

Mr. Wimsatt reported it is hard for him to say much about the negotiations between MVD and SGPP as he was not directly involved personally and NHDES was involved on a sideline basis. He does not know what went into the agreement. However, NHDES does continue to do work (ex. site investigations) to identify sources of contamination in many communities but does not have a direct timeline answer for that today.

Ms. Murphy asked Mr. Wimsatt to explain why NHDES was on the sidelines of the agreement. She would think that MVD would look to NHDES for support and expect NHDES to be a driving force in the agreement. Mr. Wimsatt reported that the agreement was between MVD commissioners and SGPP, NHDES was not a party and he would not want to conjecture an answer as to why that decision was made.

Ms. Messmer thanked Mr. Provencher for the presentation and that she felt it laid out the complicated history in a very lucid way. She noted that she also sits on the Pease Restoration Advisory Board (RAB) and at Pease the Airfield Interim Mitigation System (AIMS) has a pretreatment regenerative resin bed which preserves the life of the carbon vessel and takes out the shortchains. It is regenerative so there isn't waste. She wasn't sure if MVD has looked at that as a way to extend the life of the carbon. As we still have a continuing source of pollution it is important to consider all ways of preserving the life of the carbon. Ms. Messmer noted that 5 years of operating and maintenance costs is short even without a continuing source of pollution. She offered to provide info on the resin beds and treatment.

Ms. Messmer also noted her concern about the air emissions after the regenerative thermal oxidizer (RTO) is installed at SGPP, what unknown emissions might occur and products that we don't know about that could be mitigated by the HF scrubber. Ms. Messmer asked if there was an update on the Town of Merrimack's efforts to appeal the RTO permit at the Air Resources Council.

Ms. Harrington reported that an outcome has not yet been determined. Testimony was provided to the Air Resources Council and the Town is actively involved. They have been told this will not slow down the installation of the filtration system in general.

Rep. Rung reported that she is a member of the community advisory council for SGPP and learned at a recent meeting that installation of the RTO should take place in January 2021, however SGPP is not sure they can meet the permit date in February and will be doing testing to assess the need for the HF scrubber – that determination will be based on results from tests of the stack emissions, regardless if the installation of the HF scrubber ends up being mandated as a condition of their permit.

Mr. Wimsatt clarified that the Town of Merrimack's appeal is centered on the HF scrubber not being required – that appeal is pending and the hearing that was scheduled for December will now most likely be in March or April due to parties not agreeing on various procedural matters. Therefore, this matter is still pending before the Air Resources Council.

Rep. Mooney explained that she and Rep. Healey were appointed to the Commission on Tuesday December 8th by Speaker Hinch and apologized that this was not communicated to Rep. Rung as the chair.

Rep. Mooney alerted Mr. Provencher to LSR 2021-0608 (titled “relative to removal or containment of contaminants from the Merrimack Landfill”) which she has sponsored at the prompting of Rep. Hinch who asked her to get in touch with Laurene Allen. Rep. Mooney reported that despite the misleading title, the spirit of this LSR is that it would be a findings bill based on the MVD settlement of March 2018, the closest to potential language would be HB 494 from 2019.

Rep. Boehm clarified that Rep. Hinch asked to be added to LSR 2021-0011 (about holding polluters financially responsible for certain consequences of the pollution of drinking water) and not the other way around. Rep. Boehm reported that he had some difficulties with the office of legislative services during the drafting of bill text and that he is hopeful all issues have now been resolved.

Seeing no other questions, Rep. Rung thanked Mr. Provencher for the presentation and asked if the presentation slides could be posted to the Commission’s website. Mr. Provencher reported he will get back to Rep. Rung after having a few more people take a look at the presentation.

Ms. Harrington asked for a copy of the slides to be shared with members of the Commission and Rep. Rung confirmed that the slides will be sent to members via email.

Public Information/Education Plans – ex. notifying private well owners to get water tested, be included in the Golder study; and general plans to communicate with the public

Ms. Paradis met with Ms. Murphy and they discussed ways to get in touch with local communities. Ideas included: a column in local print newspapers on a monthly basis, writing an article for the local communities’ *Patch* online newspapers, and utilizing local community access television.

Ms. Paradis noted that the goal would be establishing local experts who are on the Commission, who can simplify the work and break down the conversations to get information out to the public and combat myths/misinformation. It would be good to get picked up by larger papers (ex. Union Leader, Nashua Telegraph).

Ms. Paradis noted that she has been in communication with the editor of the Bedford Bulletin who was receptive to the monthly column idea.

Rep. Rung requested that Ms. Paradis, Ms. Murphy, and Ms. Fordey discuss public hearings for their communities, most likely held remotely (due to COVID-19), as Dr. Bush and Mr. Wimsatt have mentioned that it is time to hold public hearings/information sessions again to update the public on what has happened re: PFAS.

Mr. Bandazian noted that there should be a public outreach/communication effort regarding the need to respond to the letters for access agreements to test private water. He stated that response rates are available for each community and noted that Londonderry has a higher response rate, possibly because the situation/awareness is newer whereas there is a lower response rate in Bedford/Merrimack where there might be a feeling that the mission has already been accomplished. He suggested that each town should be notifying their residents about the need to respond, for example the town manager/administrator and town councilors/selectboard could send additional correspondence. Mr. Bandazian noted that providing public water is very expensive, and not having participation in the work plan leads to the municipality paying most of the costs for extending public water systems and point of entry filtration systems.

Members of the Commission agreed that letters from Golder/SGPP might not be responded to and that more attention would be paid if the letter came from the town or some neutral party.

Mr. Wimsatt noted that these would have to be companion letters done at the same time or in addition to the official letters from Golder stating the request from NHDES for an access agreement to allow for water testing. He agreed that communication from town leaders could be helpful and that responding to these letters is in the best interest of the towns and residents. He will reach out to get more information about the timing of letters being sent by Golder/SGPP (to coordinate with towns sending letters), also going to ask for response rate information, will ask for mailing list, and will see if we can get text of the letters being sent.

Rep. Rung explained that having the text of the letters being sent will be helpful when town leaders are writing their letters encouraging residents to participate in the sampling.

Ms. Fordey noted that she has been in contact with local Litchfield news (cable TV and online) regarding public information/education initiatives and the selectboard regarding the importance of residents responding to the letters requesting access agreements for water testing.

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Status of Blood Sample Retention Request

Ms. Murphy reminded the Commission how in 2017 NHDHHS conducted blood testing of 217 MVD customers, and those blood samples are still in the public health lab. Over the last several months, the Health Subcommittee has raised the issue of retaining these blood samples as they are of value, given that they were taken within a year or two of the discovery of PFAS contamination from SGPP and the samples showed PFAS concentrations double the national average. The Health Subcommittee sent a letter to NHDHHS in March 2020 requesting retention of the samples for future use and study. A response was received in September 2020 from Dr. Christine Bean from NHDHHS that included several questions.

Draft letter from Health Subcommittee in response to these questions has been created and needs to be approved by the Commission so it can be sent to NHDHHS. The letter explains the rationale for preserving the blood samples, namely the ongoing nature of PFAS discovery and response, the long term and ongoing exposure of the Merrimack community to PFAS, and citizens' concerns about health impacts of the exposure. These samples could be critical to fill

knowledge gaps about PFAS and health impacts and the opportunity to retain specimens to be used in future studies is important. There are no specific studies identified yet, however the Health Subcommittee believes NHDHHS should have the ability to retain the samples with participants' consent. A period of 5 years of retention is requested (not indefinite); and the letter asks NHDHHS to initiate re-consent of study participants and acknowledges the costs of continued storage of the samples.

The entirety of the draft response letter has been provided to all Commission members for review. It was decided that at the next full Commission meeting members will vote to approve/finalize the response letter as this will give new Commission members an opportunity to read the background information. Ms. Murphy requested that Commission members be prepared to vote at next meeting so a response is not further delayed. Rep. Rung confirmed that she will communicate with Senate President Chuck Morse and make sure that any new Senate appointees will have all of the information they need prior to next meeting in order to be prepared to vote on the response letter.

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Review of Interim Report Recommendations

Rep. Rung reported that Commission members will receive a table of a list of recommendations from the already issues Interim Report and how they are or are not being addressed in the current legislative session. This will be a tool to track our progress, and new items can be added. Rep. Rung will add Rep. Mooney's LSR previously mentioned.

Subcommittees – particularly Health and Environmental – have not met since last full Commission meeting. At our next meeting when fully staffed, will ask subcommittee chairs to work on reorganizing, get on a meeting schedule, and add members as appropriate. Commission members should expect a relaunch in January of our subcommittees.

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Update from NHDES

Mr. Wimsatt reported the permit is in effect for the RTO at SGPP. The latest information from SGPP is that onsite electrical and support systems construction to prepare to receive the treatment unit is progressing at the facility. The RTO has been ordered, however SGPP has stated that there is no confirmed ship date at this point, and as it is custom constructed, there is concern if it will arrive in time for installation by the February deadline. The Town of Merrimack appeal of the RTO has already been discussed, no change from last month's report.

SGPP has submitted a supplemental site investigation report that includes a preliminary screening of potential remedial alternatives. This plan is currently under NHDES review and Mr. Wimsatt will report more on it in the future.

Flatley Development – NHDES received a work plan from Flatley's consultant (GZA) to conduct soil sampling on the parcels around SGPP where they are planning future development, on the west side of the plant site. In response to Flatley's request, NHDES held a web-conference meeting on 11/30 with Flatley, MVD, and the Town's building and development staff.

Waterline – work in Litchfield should finish by end of 2020. Installation of the water main is complete, and contractors are installing the service lines to the houses. With the exception of well decommissioning and final resolution of the curb stops at undeveloped properties, this will complete the connections outlined under the 2018 Consent Decree.

Water supply well sampling – Addendum 5 has been submitted to NHDES from SGPP:

1461 properties identified for sampling (letters sent) – 100 additional access agreements came in, and 100 samples collected. 635 samples collected from water supply wells (note that SGPP only gets a 40-50% response rate – will be sending 2nd notices for Addenda 1 and 2). 386 properties offered bottled water (61 additional since last meeting).

In recent discussions at SGPP Community Advisory Committee meeting, SGPP agreed to consider additional methods of notification, possibly including state or local officials, in order to encourage a higher response rate for obtaining permission to sample. This is something that NHDES would like to explore further.

NHDES is exploring with SGPP and their consultant the options for implementing alternate water solutions where practicable concurrent with further sampling.

There are additional concerns in the community that bottled water deliveries were not happening timely, SGPP is talking to contractor Monadnock water – some folks want regular delivery schedule and some people want on a call-basis. This makes it difficult for Monadnock to coordinate deliveries – they are currently working on a plan to accommodate everyone.

Ms. Messmer asked of the 386 total on bottled water – with a 61 resident increase since last month's meeting – how many of these are since the new MCLs went into effect? Mr. Wimsatt was not sure how many are since the new standards. He noted that these residents are located in Merrimack, Bedford, Londonderry, and Litchfield.

Ms. Murphy asked if SGPP is the tenant for the Flatley property. Mr. Wimsatt reported he does not know for sure but does not have any information to indicate that SGPP is the tenant.

Rep. Rung asked if it is possible to delineate which samples are from water produced via a home filtration system and which are not?

Mr. Wimsatt reported that NHDES is aware of the distinction and makes note of that information. He reported that in many cases there is at least one tap that is not being filtered/treated and that would be used to get a raw sample. NHDES is asking that information about home filtration be collected as part of the sampling process.

Rep. Rung stated that the data would be more valid if it showed if a test was on treated or untreated water – specifically identifying the source of the water tested.

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Update from NHDHHS

Dr. Bush reported that the NH Cancer Burden Report was released and is available at: <https://www.dhhs.nh.gov/dphs/cdpc/documents/nhcancer-2012-2016.pdf> The report includes state level data 2012-2016.

The Food Protection Program at NHDPHS is undertaking a rulemaking effort to require bottled water (bottled or sold in NH) to meet the new Arsenic and 4 PFAS MCLs. Dr. Bush noted that this can be a year-long process, and they plan to implement by December 2021.

Staff participated in a risk communication training, and a team across our two agencies is being convened to debrief and to provide input for the development of a guidance document for risk communication to guide best practices.

As we have discussed previously, we (the Agencies) support further community engagement to better understand community concerns and gather data and information to help address those concerns.

Dr. Jonathan Ali from NHDES, is the NH ATSDR APPLETREE Program Director. Working with local partners, he scheduled a virtual presentation about the ATSDR APPLETREE Cooperative Agreement that will be held on Wednesday December 16th from 5:00pm to 6:30pm. A public notice was sent to the Commission Chair.

Two representatives from ATSDR will be able to give a brief update on the Health Consultations and related work at Pease.

If the Commission would like to schedule a separate presentation to learn more about the ATSDR APPLETREE Program in NH, we are more than happy to arrange something.

Rep. Rung reported she will forward the invitation to the APPLETREE meeting next week to all Commission members.

Dr. Bush reminded the Commission that NHDHHS staff are very busy right now with another peak of COVID-19, the public health labs are busy right now, and currently there are no plans to destroy the blood samples from the Merrimack study.

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New Business

Rep. Rung reported she has been considering how we can help people who are on bottled water, as that is not a permanent solution for people. Mr. Wimsatt did mention that there are conversations about extending water lines wherever possible.

Ms. Costello and Rep. Chretien left the meeting at approximately 12:05pm (as the meeting was scheduled to end at 12pm, the Chair did apologize for going over time).

Rep. Rung notified the Commission that this is the last meeting we will benefit from Senate administration help. She thanked Alan Raff for his support/assistance and wished him well in his future endeavors. Ava Hawkes was thanked for her previous help as a senate aide. Rep. Rung reported that House administrative services are not in a position to support our Commission's work as they have to prioritize standing committees. Rep. Rung put out a request to NHDES and NHDHHS if either agency partner can host meetings on a zoom license that would be a great help to the Commission. We would need this in order to host remote meetings that have public access. Mr. Wimsatt reported he will look into the possibility.

The next meeting will be Friday January 8th at 10am.

Rep. Rung noted that at the next meeting we need to also discuss the Communications subcommittee – to expand public information sessions.

Rep. Rung stated that with a fully staffed commission in January we can revisit elections of chair and clerk. She asked Commission members to speak with the person before you nominate them to make sure that the nominee is open to the position and associated responsibilities.

Rep. Rung reported that unless there is an objection from any Commission members, she would like to post auxiliary info on the Commission's website, for example the minutes of the SGPP community advisory council meetings can be added to our website for the public's education.

Ms. Murphy moved to adjourn the meeting and Ms. Harrington seconded the motion. The motion passed by a roll call vote. The meeting was adjourned at approximately 12:13pm.

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Minutes prepared by Nicole Fordey, HB737 Commission Clerk