

**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 8, 2021, 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: Amy Rousseau (NHDES, attended to provide technical support)

The meeting was called to order at 10:04 am. Chair Rep. Rung noted that the meeting is being held on a new platform Go to Webinar/Meeting instead of Zoom.

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 noted for all Commission members that any members of the public that are observing are only able to hear the meeting and not see who is speaking, and therefore it would be helpful for people to identify themselves before they start speaking. Rep. Rung also noted that the researcher that supports the Commission, Joel Anderson, has retired as of the end of December and she has not been notified if another researcher will join the Commission.

Mr. Bandazian moved to approve the minutes of December 11th and Ms. Harrington seconded the motion. Rep. Mooney noted that the minutes were very well done and suggested that the clerk add her name at the bottom of the minutes so she is properly credited for her work. Ms. Fordey (clerk) agreed to amend the minutes to include that they were prepared by the HB737 Commission clerk. Motion to approve the minutes passed unanimously on a roll call vote.

Rep. Rung noted no new appointments to the Commission have been received yet from the NH Senate and therefore elections for a new chair and/or clerk (if it be the will of the fully-staffed Commission) will be tabled at this time.

**Public Information/Education Plans**

Rep. Rung recognized Ms. Paradis' work to educate the public about PFAS, general information as well as specific information re: letters from Golder Associates about access agreements with private property owners for well sampling. Rep. Rung asked for an update on what efforts to educate the public have been completed or planned as well as feedback from the Commission on how to proceed with public information sessions.

Rep. Rung recognized Ms. Harrington for her comments re: public information at a recent Merrimack Town Council meeting.

Ms. Paradis reported on efforts to educate the public, she, Ms. Murphy, and Ms. Fordey are working together to disseminate information to the public – ex. what are PFAS, why you should get your water tested, what the source of contamination is. Ms. Paradis noted plans to publish information in local newspapers. Ms. Paradis, Ms. Murphy, and Ms. Fordey are collaborating on an outline of PFAS information, deciding that the bulk of the information would be the same for all public, and then a paragraph or two of information specific to each community. The target is to complete a draft by mid-January of this important need to know information.

Ms. Murphy explained that the thought was it would be best if the bulk of messaging was the same to all communities and then including some community-specific information as appropriate.

Ms. Fordey noted that the public information sessions are definitely needed and should be held virtually due to COVID-19. Ms. Fordey stated that she would recommend the Commission support holding virtual PFAS information sessions(s) for the public.

Rep. Chretien asked who was involved in making the recommendations and guiding the public education efforts. Rep. Rung explained that as the community representatives of the three named towns in the HB737 Commission legislation, Ms. Paradis (Bedford), Ms. Murphy (Merrimack), and Ms. Fordey (Litchfield) had taken the lead and formed a subcommittee a few months ago. Rep. Rung noted that it might be time to expand that work and welcomed Rep. Chretien to join the efforts if she was interested. Rep. Rung asked for NHDES input on the larger goal of holding more public information sessions.

Mr. Wimsatt noted he agreed that we should have public information session(s) – pandemic means no public in person meetings but we have remote/virtual meetings; might get more participation/input via remote – DES is supportive, would be part of a larger program to give updates and answer specific questions – site investigation status, sampling etc.

Ms. Messmer asked about public education efforts in Londonderry. Would it make sense to include a paragraph of Londonderry-specific information in the outline of PFAS that Ms. Paradis, Ms. Murphy, and Ms. Fordey are creating? People in Londonderry also have questions as more evidence comes out that they are being impacted by PFAS.

Rep. Rung reminded the Commission that the recommendation was made to add representation on the Commission from Londonderry and that she sponsored a bill to have that effect, but she doesn't think we need to wait until the bill passes to include Londonderry in public education

efforts. Rep. Rung noted that Rep. Thomas of Londonderry co-sponsored the bill and has been involved in conversations about PFAS in Londonderry. Rep. Rung will contact Rep. Thomas to make sure their concerns are included.

Dr. Bush reported that she and Dr. Jon Ali are working on comprehensive responses to questions that were raised at the ATSDR APPLETREE grant meeting, and sharing that when it is complete this could help guide outreach efforts. Dr. Bush noted that questions have been categorized by topic and these could then become agenda topics for public information meetings, assuming that the questions are representative of the general public's concerns. She noted that answers have to go through a clearance process at NHDHHS and then they can be shared. This could be a way to increase/improve coordination with grant programs at the agencies and this commission, especially in public outreach. Dr. Bush noted that the ATSDR APPLETREE grant meeting went very well and was the first effort to reengage the public in the COVID-19 era and having to connect virtually.

Rep. Rung asked the Commission if they support Ms. Paradis, Ms. Fordey, and Ms. Murphy continuing their work to coordinate public information sessions with Dr. Bush (NHDHHS) and Mr. Wimsatt (NHDES). There was no voiced objection.

Rep. Woods asked what percentage of the public are we reaching virtually, via newspaper, community television, etc. and do we need to consider changing course?

Ms. Paradis reported that at this point we are testing different communication strategies and will then evaluate what is or is not working. Each community representative is addressing how we can reach folks on the ground and online. In some communities it makes sense to utilize public TV. In others the work may lie with town councils/selectboard meetings. Ms. Paradis said she could investigate the distribution numbers of local papers. Focusing too much on online only does lose out a significant part of the population that is not online. Any way we can get the information out is valued. In Ms. Paradis' experience, we have a highly uninformed population, that is not asking for PFAS-specific testing yet and thus we need to get information out as much as possible. She noted we are open to all suggestions/strategies.

Ms. Harrington clarified that the subcommittee working on public information/education is the Communications subcommittee of the Commission. This was confirmed by Ms. Murphy. Ms. Harrington suggested a handout at town elections with PFAS information. Rep. Rung suggested including PFAS information on mailers that are typically sent to residents prior to elections (information on budget, warrant articles, people running for local office etc.). Rep. Rung noted it would be helpful to remind people where they can find more information re: PFAS.

Ms. Messmer suggested asking for a slot of time on selectboard or town council meetings perhaps during public comment/input or even getting on the agenda to highlight important PFAS information.

Ms. Murphy reported she is willing to present information from the Communications subcommittee to the Merrimack Town Council, perhaps a revolving request to present on a

quarterly basis. Ms. Harrington agreed that it is important for summaries of accomplishments of the Commission to be presented to individual town's governing bodies in a succinct manner.

Rep. Rung noted that the Communications subcommittee should be ready to give an update at the next Commission meeting and between now and then coordinate with Dr. Bush (NHDHHS) and Mr. Wimsatt (NHDES).

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### **Blood Sample Retention Request Letter Response**

Ms. Messmer reminded the Commission that we have been discussing this for almost a year, the letter is regarding the 217 blood samples that were obtained by a random sampling of Merrimack residents and hoping for these samples to be retained for potential future use as we learn more about PFAS, hope they are not discarded.

Ms. Murphy this letter is in response to our original request to NH public health labs to retain blood samples that were taken within a year or so of the discover of PFAS contaminated water in Merrimack. We are worried if these samples are destroyed that we could lose important information, perhaps if new tests are developed. The issue was that the public health lab did not have permission from study participants to retain the samples beyond the period of time of the original assessment. This letter requests the samples are held onto and they initiate reconsent and storage actions as necessary. We want there to be

Ms. Messmer moved to approve sending the response letter; the motion was seconded by Rep. Woods.

Rep. Mooney asked if there should be a specific date indicated for when the storage request would expire instead of stating 5 years from the end of the assessment.

Ms. Messmer responded that the date was left open because the community assessment is not finished yet and it is unknown when we would have that date.

Rep. Mooney wondered if it would be appropriate to insert language that a date would be specified once the assessment is completed, noting this was a suggestion and she plans to vote in favor of sending the respond letter.

Rep. Chretien asked if there should there be a specific date indicated or deadline to initiate reconsent actions, when we would expect action as a result of this letter.

Ms. Murphy reported it is unclear when the assessment will officially close, her understanding was that the samples could only be held through the end of the assessment period and that the reconsent process could only start until after the assessment was closed.

Dr. Bush recommended that we ask for a proposed timeline. She reminded the Commission to be mindful that the NH public health laboratory is currently leading our COVID-19 response, the same staff that would be handling reconsent and storage of samples is currently focused on the

coronavirus. Dr. Bush suggested that in the spirit of collaboration that we should ask for an expected timeline that is realistic given the demands on the staff, rather than making a time-specific demand.

Ms. Messmer reported feeling the letter should go as written, not to specific a timeline, but want to know that the samples will be held and give the agency the latitude to act as they are able to do so.

Dr. Bush clarified that with the release of the report and the public meeting in October 2017, the MVD exposure assessment closed. There has been ongoing litigation and activity so the concerns continue, but the specific assessment that these samples were collected for is closed. However, it is not clear if the statewide sampling response is complete an upon receipt of this letter NHDHHS will have to clarify the time period. It will need to be decided when response is complete, as in many minds it is ongoing. There will need to be a way to make it clear in the reconsent process to study participants that the study they were a part of is complete but the larger response is ongoing. It is important to reconsent as we continue to hold samples.

Ms. Costello suggested language to change the storage expiration to 5 years from the receipt of the letter. She is concerned that if we say from the close of the MVD exposure assessment, and NHDHHS determines it ended in 2017 – then we are not extending retention of samples for as long as possible. Confusion about the end date of the study could hurt the intention of the letter.

Ms. Messmer agreed with Ms. Costello. Ms. Messmer reported she was thinking along the lines of the private/public well assessments from ATSDR as being the measure of when the exposure assessment would be complete.

Ms. Costello motioned to amend end of 5th paragraph – request that storage and maintenance of samples be for a period of 5 years from the receipt of this letter and approve the amended letter to be sent to NHDHHS; motion was seconded by Ms. Murphy.

Rep. Mooney asked for clarification if it would from the date of receipt of the letter or from the date of the letter? Consensus is that it would be a period of 5 years from the date of the letter, which will be dated today 1/8/21.

Motion to amend and approve the amended letter to be send to NHDHHS passed by roll call vote with Dr. Bush and Mr. Wimsatt abstaining.

Rep. Rung and Ms. Messmer will work offline to finalize the letter with the approved amendment and necessary signatures and send to NHDHHS.

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## **Review of Interim Report Recommendations**

Rep. Rung has created a table to keep track of recommendations, legislative and non-legislative, from the Commission's first interim report. The document will show which requests have been turned into bills, submitted to an agency, etc. Bill numbers need to be updated now that session

has started. Rep. Rung asked Commission members to review this document and if corrections/updates are needed to make them and send to the Chair via email.

Rep. Rung said that there is little assistance available right now from House staff (as we do not have our Commission researcher as well) and she needs to be careful to compliant with Right to Know laws regarding Commission documents, and thus is hesitant to open a shared Google document at this time. Rep. Rung will consult with House staff as possible for guidance on using this document in an efficient and ethical manner. The intention is for this document to be used as a meeting tool and updated information to be sent with the agenda prior to each meeting.

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### **Health Subcommittee Update**

Ms. Messmer, Chair of the Health Subcommittee, reported that they have not been able to meet and asked the Commission if the ability to meet remotely would be extended to the subcommittees.

Ms. Messmer reported one update is that Sen. Shaheen's efforts for an allocation of \$1 million to physician education on the national level re: PFAS, funded via a grant program by the CDC, has been approved.

SB85 – environmentally triggered disease commission – has also been looking at this.

Dr. Bush summarized an email that was sent about ATSDR and the National Academy of Sciences, Engineering, and Medicine working on a study that will provide advice on PFAS testing. This study also demonstrates national initiatives to meet some of the goals of this commission, obtaining a summary of the science, and creating federal guidelines for clinicians regarding how and when to test and potential clinical implications and outcomes of PFAS testing. Public comment period for the study ended at the end of December and it looks they are going forward with the launch of this study and this work.

Rep. Rung asked Ms. Messmer to continue to update the Commission on the physician education grant funding that was secured on the national level, any efforts using the money, etc.

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### **Environmental Subcommittee Update**

Mr. Bandazian, Environmental Subcommittee Chair, reported that they do not have a way to meet right now due to the COVID-19 pandemic. However, Mr. Bandazian was able to reach out to Mr. Provencher (Merrimack Village District) in November and speak about the water treatment plant in Merrimack, prospective development of the site next to Saint Gobain, and concerns about a reduction in groundwater recharge to Wells 4 and 5 that only recently came back online after installation of the carbon filter. There is concern about redirected runoff from contaminated sites. Subcommittee is interested in having Mr. Provencher speak in greater detail



about these environmental concerns. There is also interest in having Sarita Croce (Assistant Director of Public Works/Wastewater in Merrimack) speak to the subcommittee. It is also possible that as a result of Senate appointments there will be changes in the membership of the subcommittee. Guidance is needed on how to facilitate meetings remotely while complying with Right to Know laws.

Mr. Bandazian noted that the Merrimack Village District (MVD) is the public water source of one of the preserves in Bedford. In December, the water at the preserve was tested and came back at below 2ppt of PFOA, this is the first test with the carbon filtration online. It is still early, but this is evidence that filtration is working to reduce PFOA concentration.

There has been a lot of activity with NHDES responding to the Golder workplan, taking samples more than once to study seasonal fluctuations, requiring testing/considering testing in the entire outer boundary – not requiring the proximity standard to conduct well testing. Many documents can be found on the one stop site addressing these concerns and changes.

Rep. Rung reported she will follow up with NHDES regarding hosting subcommittee meetings – not sure what resources exist yet for subcommittees and wants to be respectful of the shared resources.

Ms. Messmer asked Mr. Bandazian to forward documents he mentioned about changes to water testing criteria. Ms. Messmer said attention should also be given to ensure the Commission is being provided with the documents it needs to keep up on the latest activities re: PFAS. Ms. Messmer asked that documents be shared whenever possible, including outgoing correspondence, and individual Commission members can decide how far in-depth they want or need to go. Mr. Bandazian agreed to forward the documents he had received.

Rep. Rung suggested keeping an inventory of documents that have been shared with anyone on the Commission to make sure they are distributed to all members on the Commission. Rep. Rung reported that meeting remotely might be adding to the difficulty of distribution of documents. Ms. Messmer suggested and Rep. Rung agreed that documents should be indexed on the Commission's website, including links to the One Stop site etc.

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#### **NHDES Update provided by Mr. Wimsatt**

Mr. Wimsatt noted that he will provide a list of talking points to the Commission clerk for inclusion in the minutes and that this will include links to the documents mentioned, some of which have been already mentioned by Mr. Bandazian.

Mr. Wimsatt reported that in last month's meeting members may recall that he first talked about Saint Gobain's air permit for a regenerative thermal oxidizer and there hasn't really been any change from last month's report with respect to that. Certainly DES' understanding is that Saint Gobain continues to work on site construction and enhancements to electrical and support systems to be ready to receive the thermal oxidizer, but it's DES' understanding that Saint

Gobain has still not received a confirmed ship date for that. Earlier Saint Gobain had expressed some concern about whether it would arrive in time for installation by the February deadline and it seems as if we are already in January here now that seems unlikely that they will have that. But in any event, DES will continue to monitor that with respect to the town of Merrimack's appeal of the permit. There's really little change from last month's report, the appeal hearing for that appeal which was scheduled for December 14 has been postponed and now that appeal hearing is likely to be in April. NHDES will keep the Commission updated on that.

As far as the site investigation goes, there's not too much change from last month's report. Saint Gobain did submit a supplemental site investigation report that includes a preliminary screening of potential remedial alternatives, and that plan is still under review by DES. Their consultants will also be submitting a workflow in January for an additional stormwater sampling that will be conducted after the thermal oxidizer becomes operational.

In regards to the Flatley Development, Flatley submitted a work plan to evaluate the presence of PFAS in the soil in the areas that are going to be disturbed as part of the plan construction, and that's per DES requests from a letter back in September. This work plan is currently under review, and the soil data should be used to develop a soil and groundwater management plan for the construction project. That would be submitted to DES for review prior to the start of construction. Flatley is working with DES to obtain all permits and address concerns, and then it would come back to Merrimack to review the site plan application. The breaking news for those who have seen today's papers is that Flatley has requested an indefinite continuance for its site plan application before the town. They stated that that was in order to allow them time to resolve any remaining permit issues with DES, and the newspaper article referenced the concerns expressed by Merrimack Village District (MVD) with respect to the stormwater management project. They will be continuing to work with DES to obtain their permits and addressing concerns about that and then presumably at some point would come back to the town of Merrimack to renew their sites on application.

As far as the waterline goes, the existing waterline construction projects, last month Mr. Wimsatt reported that extension of waterlines would be completed by the end of the year and that did happen. The last phase of the waterline installations, extensions, and connections that were required under the consent decree are complete. The only exception to that is well decommissioning and site restoration and final resolution of some curb stop decisions for some undeveloped properties, but basically everybody who was identified to get a connection to public water under the consent decree now has that. That completes the 2018 consent decree requirement. Saint Gobain's consultants will submit a remedial implementation report which summarizes that work, and documents how each property that was listed in the consent decree was addressed.

Well sampling – Saint Gobain presented a work plan for residential well sampling, and there have been six addenda to that plan that would have helped to address the new standards that became effective this past summer. And as of 1/5/21, there are 1,643 properties that were identified for sampling. 1,461 have had access agreements sent to them. And so far, 732 samples have been collected from water supply wells. That's approximately 100 additional since last



month's report. 448 properties have been offered bottled water, and that's about 62 additional since last month.

DES requested an updated estimate on the timeline for sampling and permanent water in a letter dated December 17 (available here <https://www4.des.state.nh.us/IISProxy/IISProxy.dll?ContentId=4892196>) and that goes to this issue that you know that, obviously the water sampling is going to take several more months, but DES feels like we have data in certain areas where we know enough about the presence and the occurrence of contamination in residential wells. And we obviously know where those properties are located and their proximity to existing water lines and we're asking Saint Gobain in this letter to put together a plan for really expediting decisions to provide, rather than taking the approach of 'we're going to do all our sampling and then we're going to figure out what we're going to do.' We've got enough information in certain locales where DES feels that Saint Gobain can begin concurrently working on waterline connection plans or waterline extension plans.

Also, in a separate letter on January 5 (available here <https://www4.des.state.nh.us/IISProxy/IISProxy.dll?ContentId=4894693>) DES asked for an investigation of the groundwater impacts due to air deposition from the facility throughout the entire consent decree area Saint Gobain and Golder are in their plans to address the sampling had tried to present some approaches that said if there's another area where we know that might have been released to PFAS that's not related to Saint Gobain, we're going to draw a big buffer around that we're not going to sample in that area, and that troubled DES. In this letter, it makes it very clear that we don't accept that, basically we don't agree with putting fixed buffers around these sites because while it may be true, and it is true in some cases, where there may have been other additional releases of PFAS from a fire station or a manufacturing facility, whatever it may be, the air deposition is the air deposition. We don't feel that they have adequate information to parse that out and say oh in this area it's associated with this particular facility not with Saint Gobain. We don't have any reason to believe that the air deposition wasn't the cause. While it may not have been uniform, we don't have any reason to believe that it's skipped anywhere if you will, so we're basically making very clear that we don't agree with that approach and that we expect Saint Gobain to do sampling, even within those areas that are adjacent to other locations, the argument being that while there may well have been some releases in some of these areas, there are also releases related to air deposition that contribute to the groundwater impacts in those areas. This is an important letter and an important position that we've taken.

DES also requested a framework to prioritize second sampling of properties where PFAS have been detected below the ambient groundwater quality standard, but they're certainly present because we don't have a lot of information about seasonal variability. We never really like to make a decision based on one sample. What we do want is for them to prioritize their work to sample where they haven't sampled yet, but we also want them to be looking at the need to do second samples, and we would encourage those samples to be seasonally offset. For example, if the first sample took place in Spring, we might want them to do the second sample in the Fall and so on.

There have been some assertions by Saint Gobain that they don't need to provide alternate water within buffers of these properties that have other potential sources of PFAS. DES is saying we

don't subscribe to that, unless they can make a really cogent persuasive argument that they have not contributed to the groundwater impacts in a particular area. We believe that under the provisions of the consent decree they have a responsibility to provide alternate water, whether there happens to be an additional source in that area or not, if it's inside the consent decree area. We believe that they have a responsibility under the consent decree to provide that alternate water.

Saint Gobain's consultants indicated on a conference call that they expect the areas with a high probability of a standard exceedance based on the sampling data will be addressed in the next few addenda in the coming months. We're getting to a point where we're going to have all these properties identified as part of a sampling plan addenda. They estimated on the call about 2600 properties that are likely developed and are not currently served by public water within the consent decree area and have not yet been sampled. Finally, we are working with them to try to develop plans for alternative water solutions in areas where we don't really think we need to do further sampling, we know that we're going to need alternate water through extension of water lines, we're going to try to encourage that to happen concurrently.

Ms. Messmer asked if there is a visual representation available of the new areas where well water sampling access agreements are being requested and if the new areas are the result of changes in modeling impacts.

Mr. Wimsatt reported that sampling is taking place throughout the identified 65 square miles in the consent decree that forms a rough rectangle from the facility. He reported for a future meeting he could create a map illustrating where sampling is occurring and where the most exceedances of ambient groundwater quality standards are found. The data is showing impacts to groundwater throughout the consent decree area.

Ms. Messmer asked if there has been any expansion of the 65 square mile area, if parts of Londonderry for example have been included in sampling.

Mr. Wimsatt reported that Saint Gobain's work is limited to the consent decree barrier and what he has presented is limited to the area inside the consent decree boundary. DES is very aware that, unfortunately, there are exceedances in Londonderry outside the consent decree area that we believe are due to air deposition from Saint Gobain. It doesn't mean that they don't technically still have some liability and that others could assert that they need to address those concerns, but under the terms of the consent decree the agency is not in a position to compel Saint Gobain to do the sampling or provide alternate water source outside the consent decree area.

Mr. Wimsatt noted that DES is very engaged with the town of Londonderry, staff presented at a town council meeting on 1/6/21, and we had a phone call with leadership from Londonderry just yesterday. He is really pleased that Londonderry is going to be brought into this Commission because they absolutely belong here. Londonderry represents a unique problem. We have PFAS contamination in lots of places in the state, and none more intensely than we do have associated with this site and the work of this Commission. But Londonderry is a little bit unique in the sense that, while they have portions of the town that are inside the consent decree area, there are also

other areas outside the consent decree area that we believe have absolutely been impacted above standards.

As a result of the air deposition they also have a number of locations where we've identified other responsible parties who have had more conventional releases to the formation, not to air deposition, but just to spills and releases that have impacted groundwater. Londonderry has many hundreds of, and perhaps over 1000, residential wells that will be above PFAS standards. DES is taking the lead on doing the sampling there. We're working hard on ways to figure out how to expedite that sampling, and we're going to need some comprehensive drinking water solutions in Londonderry. It's not clear that one water line will be practicable, it may well be an extension of water lines to serve a number of people. And in fact because of the areas inside the consent decree that that are in Londonderry, Saint Gobain will likely be expanding water lines in those areas but we're going to need to look in the area outside the consent decree and expanding water lines, serving residents and also perhaps some were localized treatment or consolidation of the many small community water systems in Londonderry. We're going to be working very closely with the Town of Londonderry to try to address those issues. It's going to be complicated, it's going to be expensive, and it's not going to be fast, but we are identifying it as a priority for our work right now.

Ms. Messmer asked if there is going to be a future opportunity or push for either an addendum to the consent decree to cover the cost for the people of Londonderry that maybe not within the consent decree area but DES says are a result of air dust deposition or will there be separate actions taken.

Mr. Wimsatt is not aware of any push for that and can't comment. The consent decree said basically that within the consent decree area Saint Gobain has a responsibility to address contamination of groundwater and drinking water above whatever standard the agency might set, regardless of what the number is, provided that that the presence of that is reasonably shown to be the result of their deposition. Outside the consent decree, to the extent that that the air deposition is tied to exceedances of the original 70 parts per trillion standard they still have a responsibility to address alternate water. But for violations of any standards that we may set that are lower than 70, of course people know we set a standard at 12 ppt for PFOA which is a primary contaminant, it's not that they don't have responsibility it is that the agency is not in a position to compel them to do that work. That was basically the consent decree that was entered into to try to get this very important work that we've been describing here going and get them committed to doing it. The good news is that I think in most other directions we did okay. But I think the line in Londonderry, it would have been nice if it was further East but it wasn't. At this point, we're doing what we can to work with them within the confines of consent decree and hold them to all the responsibilities and commitments that they made, and with respect to this area outside the consent decree in Londonderry, we're looking at other ways that we can address those tricky water issues.

Rep. Woods commented that the consent decree does not include what is modeled and what on the ground testing indicates is a problem. Scientific evidence indicates the source of the contamination and testing supports this. He asked if there is an opportunity to modify the consent decree based on the discovered evidence.

Mr. Wimsatt replied that this is a legal issue and not a technical one and he can't comment.

Ms. Harrington reported that as discussed at the last Commission meeting, she brought the idea to the Merrimack town council of town government/officials communicating with residents about the well water sampling access agreement letters from Saint Gobain and Golder. This was approved, so if a list of residents with outstanding access agreements can be sent to the town manager, they'd be happy to write a letter and send it out to all of those Merrimack residents that DES is trying to get a sample from.

Ms. Harrington went on to report that Merrimack's Assistant Director for Wastewater Sarita Croce, and our attorney did have a meeting before the air division on November 18 and they argued against the report that had been submitted by the engineering team related to stack testing reports. They had factual information that they had presented in the hopes of having the scrubber, and the efficiency of the RTO, how they have to do it. The issues are their own mistakes and stack testing related to PFAS and Gen X. In their calculations they put Gen X as zero, which is impossible. The assumption and the calculations were wrong. The comparison of the dip pan results and the stacks testing were inconsistent. They did not measure the stack tests at maximum potential emission rate. They did it according to average. There are a lot of conclusions that were presented to this group so that they would be included into the permit, to justify making the efficiency higher and also for the use of the scrubber so we would not have hydrochloric acid being emitted by the stacks. They are waiting to be able to have a response to that, their hope is that they don't have to go and argue it in March or April, because they're presenting this information to be involved in the air permit.

Ms. Harrington continued to report that Saint Gobain has requested a permit to put on a pad. They are giving bits and pieces of information to the building department in Merrimack and the building department is saying, "Give us the entire plan," because we want to be able to present it to a fire prevention engineer, they have to be cognizant of the chemicals that are being used, and the setup, and they want to be able to have a fire engineer look at it to be able to approve it. The fire department, the permitting department has put in that official request and they have not responded.

Ms. Harrington noted that the air permit should not be delayed related to the scrubber because a scrubber can be added on, even after the installation of the RTO. Hopefully, we're going to get a positive response related to, I don't want to say it's an appeal, but it's a presentation of information which really should justify why the RTO should have certain criteria, and that a scrubber should be included. We're waiting to hear back.

Mr. Wimsatt encouraged the plan for Merrimack town officials to send letters to residents that have been identified as needing water sampling access agreements. He stated that providing that information is on his to do list for January. He believes that's going to be helpful to advance progress there and he thanked Ms. Harrington for addressing that issue.

Ms. Murphy asked what a citizen should do whose wells are or can be reasonably assumed to be contaminated but are located outside the consent decree area. Where should that person turn to for help or how can they access assistance?

Mr. Wimsatt replied that if a citizen is outside the consent decree and their well is sampled and identifies contamination they can contact him and DES will try to connect with resources. Exactly who might be able to help will depend on where the citizen is located geographically and what the understood source of the contamination might be. Certainly either Mr. Wimsatt or Jeff Marts, who is the project manager for Saint Gobain would be good places to start.

The Chair Rep. Rung thanked Mr. Wimsatt for his update and answering the Commission's questions. Seeing no further questions, Rep. Rung recognized Dr. Bush to provide an update from NHDHHS.

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#### **Update from NHDHHS provided by Dr. Bush**

Dr. Bush stated there aren't many updates at this time since our last meeting. The biggest update was already shared, that we did hold that public meeting to showcase the ATSDR grants and have been in touch with our ATSDR partners. The one piece not mention earlier was that as those health consultations become finalized and available there will be a public comment period. At that time, as part of our larger outreach plans, we can specifically plan a meeting to review those health consultations for both the public and private water health consultations, which will also include a public comment period. I think engaging this Commission as well as any of the public is important. We will certainly keep the Commission apprised of that progress as, like almost all government at this point, things are moving slower than usual. We hope to have those to share in the coming months.

Dr. Bush reported that as we talk about engagement with the public, what comes to mind is we do have a separate grant program here, that is also shared between the health department and DES and funded from the CDC, it's a capacity building grant and this year it's focused on well water quality. We're working on building out a dashboard that will summarize private well data across the state for a number of contaminants, PFAS among them, but also arsenic and other contaminants that we know to be important here in New Hampshire. As part of that, we're also supposed to be doing some education and outreach around private well water testing. It just seems like there's yet again an opportunity really to collaborate perhaps on some outreach events to increase awareness broadly around the importance of testing your well, and whether these homes fall within or outside the consent decree, obviously the responsibility of testing falls to different parties, but if part of the goal of this Commission is just to increase awareness broadly, independent of the Saint Gobain investigation, there's some opportunity there again for some specific outreach events. It's not certain what that looks like these days in a remote era, however there are opportunities to work with existing town public meetings, or having handouts at the election. DHHS has a two or three page handout that provides guidance to homeowners on recommended well water testing. That is something we could help pull together in time for the elections or other any other place where people are rarely gathering these days.



Dr. Bush stated she always tries to provide an update on the biomonitoring work because we're all very interested in that. The TrACE study report is still not yet complete, though it is being worked on. So much of DHHS' work is currently focused on the COVID response at this time so there are not always large updates to provide.

Rep. Rung thanked Dr. Bush for the update. Rep. Rung reported that following the public ATSDR/APPLETREE grant meeting, she is very glad to know that the questions are being compiled and addressed. Rep. Rung reported that the feedback she has gotten, just anecdotally from people in the community who participated, was that they wanted to make sure that the department was aware that they are pretty educated on this issue it seemed as though a lot of the comments made during the meeting were basic and the public is a little bit beyond that, people are pretty educated so just to be prepared that in further communication DHHS could probably raise the bar a little bit for the type of information that's being shared.

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Seeing no further questions or comments for Dr. Bush, Chair Rep. Rung moved to the next item on the agenda - resolution plans for bottled water. Rep. Rung recognized that Mr. Wimsatt had addressed this topic in his update. Her concern was that if we wait to get all these wells tested and then get plans for hooking people up, it seems like that's it's keeping people on bottled water longer than maybe we want them to be. The fact that DES is pursuing with Saint Gobain to provide these water connections as we go along, as, as communities are identified to be eligible for a community hookup, addresses her concern. Her worry was that if we wait so long to find out where we need to extend water lines some of these people would have been on bottled water for years and that's not right. Bottled water is really used for drinking and cooking, and it doesn't address any water they might use for other purposes in the household. Rep. Rung reported she is not going to address that agenda item anymore unless somebody wants to do so.

Seeing no other questions or comments, the Chair proceeding to setting the Commission's next meeting for February 12 at 10 o'clock.

Chair Rep. Rung hopes we're fully staffed at that time and that then we will revisit elections for new chair and/or clerk as is the will of the Commission.

Ms. Harrington requested that once those members have been finalized, that we get an updated list of the membership.

Rep. Rung confirmed an updated Commission membership list will be sent once finalized. Rep. Rung also reported that there is a delay in getting things on our website. The legislative workload is very heavy right now and this Commission is not a priority, which is understandable as the priority right now is really getting bills assigned to standing committees and getting those committee structures and those membership lists in place.

Rep. Rung stated she wanted to thank Nicole Fordey very much for serving as our clerk, and that Ms. Fordey did an exceptional job on last meeting's minutes. Rep. Rung also expressed gratitude to Mr. Wimsatt and staff at NHDES for hosting this meeting, as the Commission would not have



been able to meet without their help. She hoped that DES would be able to assist with a meeting platform also on February 12 and that this will be discussed.

Rep. Rung asked if there were any other comments or questions. Rep. Boehm reported that in regards to the bottled water situation, that legislation he recently filed (HB135, text available here: [http://gencourt.state.nh.us/bill\\_status/billText.aspx?sy=2021&id=11&txtFormat=html](http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2021&id=11&txtFormat=html)) would limit time on bottled water to six months, after that someone affected would be put on a whole house filter. Hopefully we're not going to have people on bottled water forever. If they can't be connected to another water source within six months, they would get a whole house filter and then can get a connection.

Rep. Rung noted she will make sure to capture that information in our Commission recommendation table and put Rep. Boehm as the contact person so we can track what progress we're making on this issue.

Rep. Mooney reported she wanted to highlight a potential scheduling conflict as standing House committees are being scheduled differently this year than in the past, including some on Fridays. Her standing committee has its orientation a week from today on a Friday and she isn't sure if this will be a conflict with this Commission's meetings going forward.

Rep. Rung thanked Rep. Mooney for noting this and we will have to keep this as an important consideration when scheduling and to resolve any conflicts if they should arise.

Rep. Mooney moved to adjourn the meeting and Rep. Healey seconded the motion. The motion passed by a roll call vote. The meeting was adjourned at approximately 11:42am.

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Next Commission meeting: Friday February 12th, 2021 at 10am – virtual link TBD

Minutes prepared by Nicole Fordey, HB737 Commission Clerk