

AN ACT establishing a commission to investigate and analyze the environmental and health impacts relating to releases of per-fluorinated 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, June 11, 2021 8:30-9:25 AM, Virtual Meeting

The meeting was called to order at 8:30 AM.

Chair Rep. Rung read the Right-to-Know Law script.

Rep. Rung (serving as clerk) called the roll for attendance. Commission members stated their location and if anyone was in their presence.

Present: Mr. Chris Bandazian (Town of Bedford), Rep. Ralph Boehm, Dr. Kathleen Bush (NHDHHS), Rep. Jacqueline Chretien, Rep. Bob Healey, Rep. Richard Lascelles, Hon. Mindi Messmer (environmental advocate), Rep. Maureen Mooney, Hon. Nancy Murphy (Town of Merrimack), Ms. Emma Paradis (Bedford resident), Rep. Rosemarie Rung, Rep. Gary Woods (NH Medical Society), Mr. Joseph Ayotte (USGS)

Absent: Sen. Sharon Carson, Sen. Gary Daniels, Ms. Amy Costello (UNH), Mr. Michael Wimsatt (NHDES)

Mr. Bandazian moved a motion to approve the May 14, 2021 meeting minutes.

Rep. Woods seconded. Motion passed unanimously.

Chair Rung shared an updated meeting agenda item, one precipitated by Rep. Mooney's suggestion of having a presentation from a member of our federal delegation regarding the American Rescue Plan (ARP). Chair Rung had followed up on this request and informed the commission that a guest was present to give a summary of the ARP and address any questions commission members might have.

Chair Rung introduced and welcomed Mr. Peter Clark, assistant to Senator Jeanne Shaheen.

Mr. Clark stated his appreciation for the invitation to appear before the commission and the opportunity to provide an update on the American Rescue Plan (ARP)- specifically as it relates to water and wastewater funding. He shared:

In March 2021, Congress passed and the President signed, the American Rescue Plan (ARP). That package included \$350 billion for Corona Virus, state, and local fiscal recovery funds. New Hampshire is receiving more than 1.4 billion; 994 million to the State of NH, and the remainder of those funds will be distributed between counties, cities, and towns throughout the state. These funds are meant to be flexible and used to respond to the Covid 19 pandemic and the economic fallout of the pandemic. One of the expressed uses that was written into the legislation was that the funding local, state, and local communities will be receiving, be used for necessary investments in water, waste-water, and also broadband infrastructure projects.

The interim final rule was published by the Department of the Treasury (DOT) late last month, allowing eligible uses of the funds for water and wastewater. If a project would qualify under the EPA's Clean Water State Revolving Fund or Drinking Water State Revolving Fund guidelines, it would also qualify as an eligible use for American Rescue Plan funds. Some examples of projects that would qualify (by no means an exhaustive list), include water treatment, water transmission and distribution projects, decontamination, construction of publicly owned treatment facilities, non-point source pollution management, water re-use projects, water conservation projects, and projects along those lines. All of the aforementioned would be eligible and a local community would not need to get the DOT's approval before taking part in a water or wastewater infrastructure project using some of the funds. As long as the project fits the guidelines, the town could proceed. The internal file guidance also explains that funds can cover costs incurred for eligible *projects planned or started prior* to March 3rd, 2021, provided that the *costs* being covered were *incurred after* March 3rd. So, even if a project started before March 3rd, 2021, if it's still ongoing and there are still costs being incurred, ARP funds can be used. The funds must be obligated by December 21st, 2021. 2024 projects would not have to be completed by that time. The period of performance will run until the end of 2026. ARP money is already coming into the state. Some counties, and a few communities have already started to receive funding.

Ms. Messmer thanked Mr. Clark for the update and inquired if any of the ARP funds could be used to assist private well owners (whose wells are

contaminated). Mr. Clark responded that if it qualifies as a 'use' under one of those state revolving funds, then it would be eligible given the town's discretion. He believes that if a town chooses to provide funds to address private wells, and the use would meet state revolving loan funds eligibility requirements, then it's possible that it could be used for those purposes.

Mr. Clark shared that funding for "non-entitlement/ non CDBG communities", will have to "pass through", and be received from the State of NH. [FYI/ The Community Development Block Grant (CDBG) Program provides annual grants on a formula basis to states, cities, and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. The program is authorized under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended 42 U.S.C. 5301 et seq.] Mr. Clark believes that Manchester, Nashua, Dover, Rochester, and Portsmouth are the entitlement communities in NH. Their ARP funding will not pass through the State of NH as they will receive it directly from the federal government. The remainder of NH towns can expect to receive their funding within 30 days of it passing through the State of NH.

Mr. Bandazian asked about the ARP funding process and application deadlines. Mr. Clark was unsure of the exact details of an application process but offered to get that information to Mr. Bandazian. He did know that all municipalities seeking funding had to request a "DUNS" number [FYI/ The Dun & Bradstreet D-U-N-S Number is a unique nine-digit identifier for businesses. This number is assigned once our patented identity resolution process, part of our [DUNSRight methodology](#), identifies a company as being unique from any other in the Dun & Bradstreet Data Cloud. The D-U-N-S Number is used as the starting point for any company's [Live Business Identity](#), the most comprehensive and continually updated view of any company in the Data Cloud.] Also necessary is a number with the Department of Treasury- a "SAM" (System for Award Management; SAM.gov) federal account. Both of those numbers are required to actually access the funding and ensure that the DOT knows that the community is ready to receive their funding.

Rep. Boehm asked if the funds can be used for filtering a public water system and referenced a contaminated public well in Merrimack. Mr. Clark replied that he believed that would be eligible under the Drinking Water State Revolving Loan Fund, but that it would be important to confirm that with DES.

Hon. Murphy clarified for the record that all of the Merrimack public wells are contaminated, not just one.

Representative Mooney thanked Mr. Clark for making himself available to the commission so quickly and like Mr. Bandazian, expressed interest in the ARP

application process. Following up on information she'd received from the Governor, Rep. Mooney sought clarification as to the involvement of the legislature and department heads in the ARP process.

Mr. Clark replied that there are two separate pots of money coming into NH. The first pot is \$994.6 million in funding that the State of NH itself will receive and have the ability to determine how it will spend. He believes that the Legislature may have some authority relative to the spending of those state funds. Separately, the second pot is funding that passes through the state but is directed for use by municipalities and local governments- without input from the State of NH. The state doesn't have the authority to change allocations of how much municipalities will be getting, to hold the money back, or anything along those lines. The discretion of how to spend that money will be solely by local governments.

Rep. Mooney sought confirmation that municipalities would need to apply directly for ARP funds. Mr. Clark answered in the affirmative. He stated that municipalities would have to get their DUNS number and their SAM.gov account to begin the process, and that funding (besides that for the entitlement communities- Manchester, Nashua, Dover, Rochester, and Portsmouth) will go 'through' the state. He said that this funding route to local governments is essentially just a "pass through" the state for logistics purposes.

Acting clerk, Hon. Murphy, sought clarification of the acronyms (DUNS, SAM.gov, etc.) used in conversation here today. Mr. Clark provided that information (see notes above).

Rep. Rung asked if there is somebody from the New Hampshire Municipal Association working with our federal delegation to help educate smaller communities that may not have the personnel to interface with the state for these pass through funds.

Mr. Clark shared that this is happening and Sen. Shaheen's office has been in close contact with the New Hampshire Municipal Association (NHMA). The NHMA is working with smaller communities to make sure that they have all of the information they need to access this funding, and providing assistance when possible. County governments, for example, the New Hampshire Association of Counties, have also been working with counties to make sure that information and assistance is available. Mr. Clark stated that there are several different groups that are planning webinars and different kind of technical sessions when the money starts to come into the state for distribution to local governments. Once that funding has come through and

towns are receiving it (over the next few months), technical sessions will be held. Sen. Shaheen's office will be supporting those efforts in trying to make sure that all necessary information is getting out to those who need it.

On her own behalf and that of commission members, Rep. Rung shared thanks and appreciation to Mr. Clark for his presentation and willingness to make himself available to the group. Mr. Clark left the meeting.

Rep. Rung spoke of an unmet need that remains, which is to fill commission vacancies. She sought the help of Senators Carson and Daniel's to encourage the Senate President to complete the appointments necessary to fill our vacancies. Recommendations have been made and to her knowledge, not yet acted upon. It is the Chair's hope that the Senators serving on the commission will encourage the Senate president to make those appointments so that we can be a fully staffed commission. She noted that as the Londonderry community has been added to the commission, it is particularly important that this community be represented. Rep. Rung will again, reach out privately to those involved. Follow up on the status of this request will be discussed and put on the July meeting agenda.

Rep. Mooney provided an update on PFAS-related legislation. Rep. Mooney shared a few updates re: some bills that are being tracked relative to the commission's work.

-House Bill 236, extending the statute of limitations for PFAS claims from 3 to 6 years, was passed by the House, passed by the Senate, concurred by the House yesterday, and is currently on its way to the Governor's desk.

-Both House Bill 271 and House Bill 235, heard by Resources, Recreation, and Development (RR&D), will be headed to a committee of conference. Rep. Healey is on both committees of conference. Rep. Mooney understood from RR&D Chairman Renzullo, that the House wants language included to help homeowners have access to funding. That seems to be the issue for the committees of conference. Those committees of conference have not yet been scheduled.

-House Bill 135, Rep. Boehm's bill, was re-referred to the Senate Energy and National Natural Resources Committee which means that "we won't be seeing too much action on that soon."

-House Bill 478, relative to treatment of PFAS at Merrimack Village District wells 4 and 5 has been retained in committee.

Rep. Mooney shared that recommendations for retained bills in the House are due November 18, 2021.

Rep. Boehm referenced HB135 and stated that he believed that the re-referral of that bill came as a result of the Senate "listening to lobbyists" which he believes those in "the House usually don't." He shared that the BIA had the biggest objection. He suggested that it would be helpful for us to wait a month and then reach out to the Senate committee and its Chair, Sen. Kevin Avar, asking that they not listen to the lobbyists paid to oppose this legislation. Rep. Boehm shared that the House did change the language back from five years to two years for paying the related water bills.

Rep. Rung will add that to a future agenda so that we could work together on a strategy for reaching out to those Senators. She asked if the Senate has the same deadline the House does for delivering a recommendation on re-referred bills.

Sen. Boehm doesn't believe so. "I don't think, so, they run their own rules, and they keep changing them, probably around the same time, they want to vote on them in January."

Rep. Rung will add this to the agenda- maybe for August as that might be the appropriate time to take action on this. Rep. Rung mentioned hearing of an amendment that may be proposed for committee of conference bills and noted that Rep. Healey, as a member of the committee of conference, would have the opportunity to advocate for funding for municipalities, and even more specifically, for private well owners. She believes this is a very important opportunity to provide relief for private well owners, without having to introduce new legislation in the fall. She asked, as it would be helpful, if Rep. Healey could provide a report on that at the next commission meeting.

Rep. Healey spoke of the Town of Londonderry wanting to reimburse via rebate, \$500 to private well owners. Well owners who choose to install a point of use water system would be eligible for this rebate from the town to defray the costs of purchase and installation.

Rep. Mooney informed the group that House committees of conference reports are due by four o'clock on June 17.

Rep. Rung mentioned that future meetings of the commission and subcommittees will be in person, in Concord. She expressed sincere and great appreciation to NHDES for hosting the commission's remote meetings. Rep. Rung instructed subcommittees who wish to meet in Concord, to coordinate that with Heather Goley in the LOB, as she will make sure the meeting information is posted and a room reserved for the meeting.

Hon. Messmer asked if this information meant that mean we cannot meet remotely anymore as subcommittees.

Rep. Rung will get final clarification re: Hon. Messmer's question and provide that response via email to the commission. She then called for subcommittee updates.

Ms. Paradis spoke first, as Chair of the communication subcommittee. She shared that in meeting with the Hon's. Messmer and Murphy, a decision was made to include community liaisons that actually have a pulse on the situation in their respective communities, and can assist the subcommittee in its work. Those individuals are ready and willing to help facilitate two way communication between the communication subcommittee and their own impacted communities. Ms. Paradis noted that the subcommittee was informed by Londonderry residents of the existence of a Londonderry PFAS Task Force initiated at the local town government level. The group was also informed that there is some confusion around certain conflicting information shared within the community. The subcommittee feels this exemplifies why accurate and consistent messaging is so important, as well as the benefit of an active communication subcommittee. Ms. Paradis stated that the subcommittee feels it is very important for the commission to have a Londonderry citizen representative appointed asap. Ms. Paradis informed the group of the virtual informational presentation DES made in Londonderry, and a "vendor fair" scheduled for June 17th during which DES will be present. The Londonderry liaison for the communications subcommittee shared that there were articles in the Londonderry Times that addressed the "rebate program." Upon being informed that their drinking water is PFAS contaminated, questions asked and concerns raised at the Londonderry DES meeting are shared by other impacted communities as well.

Rep. Rung shares the communication subcommittee's frustration at the length of time it has taken to make the commission appointments requested, noting that the names of potential members were "passed on to the Senators months ago." She remains unaware of why there has been such a delay. As ARP funding is coming into the state, Rep. Rung would like to make sure that we've got great communication with impacted communities, and that one of the potential values of doing so, is that we might be able to impact where those funds might be directed (such as very high priority tasks, remediation projects, etc.). Ms. Rung agreed to follow up on Ms. Paradis' request re: a Londonderry citizen representative appointment. She suggested that Ms. Paradise, as Chair of the communication subcommittee,

may wish to send a letter to Senators, Carson and Daniel's citing the importance of these appointments, and encouraging their assistance in having the Senate President make them.

Rep. Rung welcomed and shared that Rep. Lascelles (Litchfield) has been appointed to the commission.

Rep. Rung noted vacant commission positions including a Litchfield citizen representative, a Merrimack citizen representative, a Londonderry citizen representative, and a Londonderry town government representative. Names have already been submitted to fill the vacant commission positions and we await the Senate recommendations and approvals to make those appointments by the President of the Senate.

Rep. Rung sent sympathies to Mr. Wimsatt (NHDES) and his family relative to his unavailability to join us today.

Rep. Rung requested an update from Dr. Katie Bush of NHDHHS.

Dr. Bush provided updates re: recent events of interest to the group, including some that members attended.

She shared information about the New Hampshire Childhood Cancer Conference that had a really rich group of presenters (including those from outside of NH), and over 300 people in attendance. Attendees included those representing academia, health care, public health, community members, advocates, and folks from the cancer program who do the data entry, etc. for the cancer registry. It was a really great conversation around the intersection of risk factors for cancer, including genetic, family history, and environmental risk factors.

Dr. Bush informed the group that New Hampshire DES hosted the Drinking Water Source Protection Conference, and the bio-monitoring program presented their findings there. This was a very high level presentation. Plans are still in place for the bio-monitoring program to come to the commission at a future date to present their work once the participant summary report is completed. That summary report has made it through an internal agency review but now, because it has to do with human subjects, and public health, private information, documents for that study must also go through an external IRB or Institutional Review Board.

Dr. Bush stated that the timeline for return of the MVD Community Exposure re-consent letters that were sent to all of the participants has now passed. There were 217 people in that original study. 130 people in total responded, and of those, 116 provided consent to retain their samples. 14 individuals

did not. There was a very small number of letters (perhaps, 10 or so) that did not reach the intended recipient, possibly due to moves since 2018 with no further contact information available. Overall, when considering overall response rates or any kind of survey work, anything above a 50% response rate is great. A response rate of near 60% as in this case, is certainly a positive outcome.

Dr. Bush shared that the APPLETREE program continues to work collaboratively with both DHHS and DES in engaging communities. Referencing Ms. Paradis' comments and the communication subcommittee's concerns, she wonders what role this program might have in benefitting communication and future co-ordination of community events. Back in December 2020, Dr. Jonathan Ali and Dr. Bush came before the Merrimack Town Council to present what the APPLETREE program could offer. Dr. Bush wonders if there is a sense of some kind of disconnect or lack of coordination that could be addressed by making an ask of that program. She is aware that DES has now hosted a number of community meetings, and if we wanted to synthesize some of those meeting notes, or think of outreach materials that then could be shared across communities (because many of them have the same kinds of questions), that's something that could be talked about. Though she is present as a DHHS representative, and is never exactly sure what exactly is happening on the DES side, hearing what has been talked about already today, and knowing the core goals of that grant program, it does seem like an opportunity.

Dr. Bush mentioned that DHHS is doing some work related to well water quality. This is not specific to PFAS, but related to some other naturally occurring contaminants, like radon, arsenic and uranium in a number of communities where some high levels of exposure are seen.

Dr. Bush was on a recent call with ATSDR and reports that they are continuing to work on Merrimack risk assessments. Reportedly, there have been several staff retirements and there's been a lot of handing over of responsibilities. The project officer has re-assured DHHS that he will help keep tabs on the status of those assessments. As soon as DHHS is aware of a final product being released, we will be in touch and bring those forward to this commission.

Hon. Ms. Messmer stated that she had planned to ask a question of DES re: who specifically at DES, to refer impacted citizens to when they have questions re: certain PFAS contamination issues. She is not sure what residents in affected communities are being told at community meetings and elsewhere, in terms of who to contact at DES when they have questions. She

continues to have a large number of people reaching out to her with a variety of questions including those re: private well MCL exceedances, accessing bottled water, why PFAS contaminants are in their drinking water; or alternatively, making statements such as "I have/my neighbor has PFAS in my/their well and I want to talk with someone at DES about it." Citizens continue to call/email Hon. Messmer and up until now, she has told them to contact Jeff Marts. She wonders if his phone has been ringing off the hook, maybe inappropriately so, and if there are other identified DES staff persons that she should be referring citizens to/ or that citizens have been directed to by DES. Her questions for DES... Who at DES, are citizens from each of the impacted communities being told to contact? What information are they being given? She would really like an answer as to how these citizen questions/concerns are being handled by DES so that we can be sure impacted citizens are getting the information that they need about the contamination and the contaminants in their water.

Hon. Messmer shared that she did attend the NH Pediatric Cancer Conference yesterday and heard one of the researchers say that some work had been done that identified a common Dicer1 mutation in the rhabdomyosarcoma cases in New Hampshire. Given that particular cancer diagnosis is a concern of the people in Merrimack due to cases in that community, as well as on the seacoast (where the cluster identification was first made) for the same reason, she wanted to know if Dr. Bush could comment on that, and if we can get some more information about what that means to the population impacted by RMS here, and those of us concerned about it.

Dr. Bush answered that this is beyond her area of expertise but that she would then be happy to reach out to the cancer program, and perhaps even some of the collaborators from the conference and make sure that she can get an answer. Dr. Bush noted having heard that comment as well during the conference session, and it's an interesting intersection of genes and the environment. She stated that she can't speak to the details of that research, but would certainly be happy to relay Hon. Messmer's question to those who could.

Hon. Messmer believes the information presented at the conference included (possibly in the comments) that the RMS cases, in New Hampshire (Seacoast and Merrimack cases), had this Dicer1 mutation. She is very interested in learning more about this mutation and wonders if Rep. Woods might have some information. Hon. Messmer found the conference informative and noted that one presenter made an important comment. He stated that even

with as much information as there was presented at the conference, there is not enough research into environmental triggers for cancers, in particular, the ones we're concerned about in New Hampshire. Hopefully, there's going to be some more work going on in this area. She shared that a conference presenter also mentioned a CDC ecological study that is being done on PFAS in some communities, and exposure and environmental triggers for cancer. Hon. Messmer feels it would be great if we found out what that CDC ecological study was about, who was involved in that, and what towns and states were included so that we can have it on our radar.

Rep. Chretien wanted to ask a clarifying question about the mutation, and whether the thought is that this is a region that's particularly susceptible to damage by PFAS, or possibly something that may be heritable from the population's genetics background.

Dr. Bush was not able to speak to that other than to say that she thinks it's likely a very complex kind of intersection of family history, genes and environment and certainly not specific to PFAS. She will review the report, and make sure to include the link to that report in her notes. She will bring both of these questions to the cancer program and can report back, either as part of her notes if they come quickly, or at our next meeting, if it takes a little more time to gather the answers.

Rep. Woods commented that he was pleased to see articles in science and nature journals that are really beginning to look at the epigenomic aspects of all kinds of triggers. He stated that we're really beginning to get some real basic science addressing this, which is heartening to add to the epidemiologic surveys that we're looking at. It's good to see.

Rep. Rung encouraged Rep Woods to suggest articles that he might think would benefit the commission.

Rep. Woods shared that though some articles are quite technical, he will keep that in mind. In his early days he did a lot of work with recombinant DNA technology and genetic transformation.

Dr. Bush informed the group that many studies and papers were presented at the conference yesterday and that she will make sure to share them as the conference materials become available, or if they're posted on Dartmouth's website, to share that as well.

Rep. Rung stated that all of the recordings from the community meetings have been held by DES and are available on the DES Investigation page. If people want to go back and see any of the meetings that perhaps they

weren't able to attend, those are being maintained on that PFAS investigation website. Now with the State House open, she plans to make sure that our commission website is robust. We don't have a lot of things currently posted on there. This is as a result of a staffing issue. Staff just haven't been able to do a lot of the work. That is one of the things on her to-do list this month for the agenda for our July meeting. One of the few things she does want to make sure is added to the agenda is a potential presentation by the bio monitoring program and on the cancer study so we can have a really robust discussion on that. Rep. Rung asked Dr. Bush if she could communicate with the appropriate people to see if they would be willing to come to the July full-commission meeting. The plan for the July meeting is to be in person, in Concord. We would return to our 11 o'clock AM meeting time on Fridays. It would be held in the LOB in the Resources, Recreation and Development Committee room, which is on the third floor. Rep. Rung is looking at Friday, July 16th for that meeting and called for questions/concerns.

Rep Rung confirmed a July 16th, 11 o'clock AM full commission meeting. The standard agendas will remain and include presentations by the bio-monitoring program, and the cancer program.

In response to the return to physical rather than virtual meetings, Hon. Messmer spoke of her concerns about meeting in person. She has a family member with a significant illness and notes that air exchange is known to be poor in that room. She noted that there are things we don't understand or know yet about Covid variants that are already here in New Hampshire. She would prefer not to meet in person to prevent any exposure from being in a room with people. She recognizes that some people may not be as concerned as she, but given the circumstances she mentioned, is wondering if there's going to be a way to call into that meeting rather than being physically present or if we could find a way to make it available via Zoom?

Rep. Rung will pursue answers to those questions. She is aware that when the aquatic invasive species commission meets in the RR&D committee room, they do have conference lines available for people calling in.

Dr. Bush had a clarifying question regarding the specificity requested with respect to the presentation from the cancer program. What does the commission want to know?

The cancer program has released its recent cancer burden report statewide and there are some outstanding requests for some updated cancer data. There are also some more details being sought related to yesterday's

conference presentation. Dr. Bush queried if an update on all initiatives is requested.

Rep. Rung confirmed that the commission has questions for the cancer program and would like to see an updated cancer report that includes cases from 2014-2019.

Rep. Boehm shared that he just saw the movie, "Dark Waters", the documentary about DuPont and the PFAS contamination of a community in West Virginia. He suggested that it might be interesting for the cancer program to begin the proposed discussion/presentation with consideration given to the cancers noted in that health study.

Rep. Rung asked that if any commission member had items they'd like to see on the July meeting agenda to please reach out to her. In the meantime, she plans to push to get commission vacancies filled and touch base with the Londonderry PFAS Task Force about the HB737 commission. She thanked everyone for their attendance and DES and Ms. Amy Rousseau for all of the help coordinating and hosting virtual commission meetings.

A motion to adjourn was made by Rep. Woods and seconded by Rep. Chretien.

The meeting was adjourned at 9:25 AM.

Respectfully submitted,

Hon. Nancy Murphy (acting clerk)