

GROUNDWATER COMMISSION HB1353 SUBCOMMITTEE MEETING

**A PUBLIC DISCUSSION WITH THE NH LEGISLATURE'S GROUNDWATER
COMMISSION TO DISCUSS THE ROLE OF MUNICIPALITIES IN THE
REGULATION OF GROUNDWATER WITHDRAWALS**

Sponsored by

THE LAKES REGION PLANNING COMMISSION

MEETING MINUTES

Meeting Date: May 11, 2009

Meeting Location: Moultonborough Public Safety Building in Moultonborough, NH

Meeting Advertisement: The Lakes Region Planning Commission e-mailed a meeting notice prepared by the Groundwater Commission to Town Managers/Administrators, Town Planners, Planning Boards, Conservation Commissions and Selectmen for the towns represented by the Lakes Region Planning Commission. Towns represented by the Lakes Region Planning Commission include: Alexandria, Alton, Andover, Ashland, Barnstead, Belmont, Bridgewater, Bristol, Center Harbor, Danbury, Effingham, Franklin, Freedom, Gilford, Gilmanton, Hebron, Hill, Holderness, Laconia, Meredith, Moultonborough, New Hampton, Northfield, Ossipee, Sanbornton, Sandwich, Tamworth, Tilton, Tuftonboro and Wolfeboro. The Lakes Region Planning Commission also issued a press release that was carried by regional newspapers. The Department of Environmental Services e-mailed notices to all community water systems in the region. DES also e-mailed notices to all State Senators, Representatives and Executive Councilors that represent the region. DES also provided notice to various river and watershed organizations via e-mail. The meeting was also advertised on NHgroundwater.com, which was promoted in April in a press release issued by Senator Cilley's office.

Minutes Prepared By: Christine Bowman, NH Department of Environmental Services

These minutes provide a summary of the meeting. All meetings were video taped. Copies of these tapes can be provided upon request.

The meeting conducted was held as part of the regularly scheduled Commissioner meeting of the Lakes Region Planning Commission (LRPC).

The HB1353 portion of the meeting began at approximately 6:30 PM. Below is a list of participants:

Attendance:

Name	Association
Groundwater Commission / HB1353 Subcommittee Members	
Brandon Kernen	Department of Environmental Services
Bill McCann	Public Member
Robert Snelling	LRPC – Holderness/Society for the Protection of NH
David Wunsch	Joint Licensing Board
Susan Roman	HB1353 Subcommittee Member
Mason Westfall	New Hampshire Association of Conservation Commissions
Other Attendees	
Margaret LaBerge	LRPC – Alexandria
Thomas Hoopes	LRPC – Alton
John Cotton	LRPC – Andover
Steve Favorite	LRPC – Bristol
Maureen Criasia	LRPC – Center Harbor
Anne Cunningham	LRPC – Freedom
Richard Waitt	LRPC – Gilford
Bruce Whitmore	LRPC – Holderness
William Bayard	LRPC – Meredith
Herbert Vadney	LRPC – Meredith
Herbert Farnham	LRPC – Moultonborough
Barbara Perry	LRPC - Moultonborough
Wayne Crowley	LRPC – Northfield
Patricia Jones	LRPC – Ossipee
Robert Butcher	LRPC – Sandwich
Tom Peters	LRPC – Tamworth
Dan Duffy	LRPC – Tuftonboro
Todd Elgin	Holderness
Roger ter Kuile	Ossipee
Jack Scarborough	Plymouth
Mike Icard	LRPC
Peter Jensen	Moultonborough
Sarah Schmidt	Meredith
Cristina Ashjian	Moultonborough
Helen Gingras	Center Sandwich
Jean Hauser	Center Ossipee
Noreen Downs	Madison
Hollis Austin	Moultonborough
John Shipman	Freedom
Bob Clark	Moultonborough

Brenda Sens	Gilmanton
Nanci Mitchell	Gilmanton
Nancy Wright	Moultonborough
Fran Laase	Tuftonboro
Cimbria Badenhausen	Chocorua
Michael Phelps	Tuftonboro
Susan Wiley	Sandwich
Enid Holmes	Moultonborough
Ginger Wells-Kay	Belmont
Eric Taussig	Moultonborough
Russell Nolin	Moultonborough
Patty Heard	Sandwich
Nancy Pope	Sandwich
Betsey Paper	Moultonborough
Dean Anson	Laconia
Paul Schmidt	Moultonborough
R. M. Campbell	Bristol
John Hodsdon	Meredith
Marie Samaha	Moultonborough
Stephen Roy	NH Department of Environmental Services
Christine Bowman	NH Department of Environmental Services

The meeting was opened with introductions. Bob Snelling then introduced Bill McCann.

Bill McCann opened the meeting and provided introductory remarks about the purpose and duties of the Groundwater Commission and the HB1353 Subcommittee. He explained that the Commission is conducting regional meetings to hear the public's ideas and recommendation about how groundwater should be managed in New Hampshire and what the role of municipalities should be in regulating groundwater. Bill McCann explained that the Commission really wants to understand why people have the opinion they do when they provide their recommendations.

Brandon Kernen then delivered a PowerPoint presentation on laws related to groundwater withdrawals in NH and the current regulatory process. Following the presentation, Bill McCann opened the public discussion portion of meeting.

An attendee asked how 57,600 gallons per day was derived as the threshold for requiring a large groundwater withdrawal permit. Brandon Kernen responded that there was an existing regulation in 1998 separating large community water systems from small community water systems and that the cut-off between the two was 40 gallons per minute which translates to 57,600 gallons per day.

An attendee asked whether the state has an idea of what percentage of groundwater withdrawn is withdrawn through large groundwater withdrawals and is currently being regulated. Bill McCann responded that DES has been trying to inventory those withdrawals. Brandon Kernen responded that the largest water use group in the state is private residential users followed by community water systems (both small and large) and that the state has an inventory of all withdrawals exceeding 20,000 gallons per day so the percentage of groundwater withdrawn through large groundwater withdrawals could be estimated.

John Cotton asked for clarification on Brandon Kernen's comment during the presentation that the court has yet to comment on whether groundwater is held in the public trust and whether he was referring to the NH Supreme Court. Bill McCann responded that yes that was the court that was being referred to. John Cotton then asked about the importance of the court finding that groundwater is in the public trust since discussions are ongoing about water use law and the role of the state. Bill McCann stated that he is familiar with the court decision and that although the state wrote an argument that groundwater is covered under the public trust doctrine, the court did not formally respond to the argument. John Cotton then asked if the assumption would be that groundwater is in the public trust in NH. Bill McCann responded that although it hasn't been ruled that way in NH, he thinks that most attorneys would likely say the public trust doctrine does apply to groundwater in NH until the court says otherwise.

An attendee asked for an explanation of HB1353 and the role of the Groundwater Commission. Bill McCann explained the history and status of HB1353 and that the Groundwater Commission is examining the role of municipalities in the groundwater withdrawal permitting process. He then explained the role of the public meetings in addressing the mandate. The attendee then asked if any representatives from corporations are on the Groundwater Commission or are

influencing the Commission. Bill McCann and Brandon Kernen jointly responded that there are 21 members on the Commission and provided a general breakdown of the representation on the Commission. Brandon Kernen stated that a list of members and who they represent is available on the state website.

An attendee asked about how concerned the people of Wolfeboro should be with the amount of water C.G. Roxane is withdrawing. Brandon Kernen responded that their permit is for the low 200,000 gallons per day but they are currently withdrawing in the low 100,000 gallons per day on average. He stated that DES has environmental monitoring and water use data and while he knows that there is a lot of concern about the withdrawal, it is a very ideal withdrawal given the amount of undeveloped land secured around the withdrawal site and lack of competing water users in the area. He explained that the withdrawal could be an issue for the wetlands located near the withdrawal but that these are being heavily monitored. He said that relative to private water users, the withdrawal is a non-issue.

An attendee asked about how much water Lakes Region Water Company is using. Stephen Roy responded that in the Balmoral and Suissevale systems, water use is very seasonal; winter use can be as low as 30,000 gallons per day and summer use could be as much as 300,000 gallons per day. He explained that the sources are not required to have a large groundwater withdrawal permit because they predate the statute; however, the system is growing and will need to apply for a permit in the future. He said that they have taken some of the initial steps to develop more water for the system.

An attendee asked about how ski areas, which use water for snowmaking purposes, are handled in the permitting process. Bill McCann and Brandon Kernen jointly responded that most ski areas use surface water or dug ponds and not groundwater sources. Brandon Kernen stated that he is familiar with one ski area that uses groundwater sources but they predate the statute.

An attendee commented that a lot of analysis is put into characterizing the withdrawal but what about groundwater recharge. Bill McCann responded that part of the permitting process is to analyze the recharge characteristics as part of the aquifer testing. The attendee then asked if the data and wetland monitoring associated with C.G. Roxane's permit show that recharge is sufficient. Brandon Kernen responded that evaluating groundwater recharge is part of the permit application and that in the case of C.G. Roxane, the withdrawals are located in a large undeveloped watershed and that yes, data and monitoring indicate that recharge is sufficient.

Patty Heard asked if the data is readily available and whether C.G. Roxane provides it willingly. Brandon Kernen responded that yes and that it could be made available to the public. Patty Heard then stated that she was concerned about a corporation's virtual immunity from any kind of citizen litigation because of protections under the constitution. She asked if anyone could speak to the municipal ordinances adopted in communities in NH, ME, and PA and whether they are the only way to control corporate water withdrawals as opposed to a point-by-point regulatory process. Bill McCann responded that it is difficult to make a generalization because each state's constitution is different. He stated that the NH Attorney General's office has given an opinion on one of the NH ordinances and that only three communities to the best of his

knowledge have adopted these types of ordinances. He stated that some people feel that too much control is given to DES which is why the issue of the role of municipalities in the process has been raised. Patty Heard commented that municipal ordinances can be as general or specific as a town wants them to be and that local interests can be protected; there doesn't have to be an outright banning of groundwater use. Susan Roman stated that she is familiar with the ordinances and that there are several issues that have to be considered: a) constitutional issues in that the ordinances try to construct a constitutional regime for the town itself; b) NH is not a home rule state and municipalities get their powers from the state; and c) with the pre-emption in the current statute, the ordinances have to be looked at carefully on several levels to assess their vulnerabilities. Bill McCann provided additional clarification that NH is not a home rule state stating that the way the state constitution is written, all of the legislative authority in the state is in the legislature.

An attendee asked how much of the ongoing effort is reactive versus preventative and whether there have been problems in Carroll County with water quantity or availability that have risen to the state level. Brandon Kernen responded that DES has been looking at available data in regard to water quantity trends in the state, one source of which is well reports and the installation of replacement wells. He stated that DES doesn't see any specific trends in one area aside from a higher concentration of replacements wells in the Tamworth area, which are likely the result of shallow dug wells being replaced with drilled wells during the drought. He also mentioned that another subcommittee of the Groundwater Commission is looking at data needs and the existing monitoring network and what other types of data the state needs. The attendee then asked about groundwater quality in terms of drinking water. Brandon Kernen responded that there are two issues with water quality: manmade contamination and natural contamination. He explained that there have been a lot of broad studies relating to trends with water quality throughout the state. He also stated that DES has water quality data for public water systems and that there are source water protection programs in place to look at contamination sources and make sure they are regulated properly. David Wunsch responded that one of the critical data needs for the state is a large scale study of water quality and that existing wells in the state monitoring network are not being sampled due to budget constraints. He referred to the USGS study on arsenic but stated that water quality needs to be looked at more holistically.

An attendee stated that they would not want to see any other permitting agency other than DES. He stated that communities have ample time and opportunities for input and there is a free flow of information. He said he would not want to see towns be able to permit because it would create an inequitable system. He expressed that there should be multiple tiers or classes of withdrawals and that when a small withdrawal wants to transition to a large withdrawal, even if it is a grandfathered withdrawal, once a certain threshold is reached some level of permitting and testing should be required, especially since there was no process in place when the withdrawal was initiated. He stated that he is concerned that there is no regulation of withdrawals that predate the statute and that as these withdrawals increase, there should be some degree of control. He also stated that since the state does the burden of permitting, there should be an associated fee, a portion going to the state and a portion going to the municipality in which the withdrawal is located. He expressed that a fee should apply to all entities, whether they are a municipality or a private corporation.

Mason Westfall interjected stating that this is the type of information the Groundwater Commission is listening for. He directed the attendees to the meeting flyer containing the lead-off questions. He reiterated that one of the questions that needs to be addressed is whether people think the state or municipalities should regulate groundwater withdrawals.

An attendee stated that they did not think each municipality should have its own permit system. Another attendee stated that if the state has the resources to guarantee the quality of water from a private well, the towns should not have any regulations; if not, the state should be encouraging municipalities to work with them.

An attendee asked if Brandon Kernen could explain some of the conditions that would be put on a permit. Brandon Kernen responded that depending on the permit, conditions could require monitoring of potentially susceptible private wells or wetlands, for example. The attendee asked about the frequency of the monitoring. Brandon Kernen responded that in a private well, water levels could be measured at as high a frequency as every four hours and that DES could require increased reporting of data during times of drought.

Patty Heard stated that she has no confidence that one central agency can monitor everything in the state and do it well. She gave an example of suburban sprawl. She stated that she doesn't trust a central agency to make decisions about a community's water; the people who live and work in a place have an understanding and concern about the natural resources of their community. Regarding monitoring, she expressed concern that the state is monitoring what is happening now but what about 40 years from now. She stated that she believes local citizens have the best ability to make decisions about their local resources.

An attendee inquired about whether towns have intervener status in the current permitting process. Brandon Kernen explained that amendments to the law in 2006 make it clear that towns can intervene in the process. The attendee stated that they felt the aquifer should be used as the basis for determining which towns can intervene in the process; that all towns overlying an aquifer should have a say on how an aquifer is used.

An attendee stated that towns can have a role in protecting groundwater resources if they have wellhead protection and aquifer protection ordinances; towns can also enact zoning ordinances to protect aquifers and other natural resources.

An attendee stated that she has concerns about the privatization of water. She also stated that she would be happy to have DES be the sole regulatory authority, but if an intervention process is devised, the state needs to make communities feel like they are being heard.

An attendee stated that locals must be empowered to enforce regulations and that one inspector for the whole state is insufficient. He stated that towns, through their health officers and code enforcement officers for example, could enforce the conditions of a permit if the state was unable to.

An attendee from Ossipee stated that towns should not have to enforce the state's regulations.

An attendee stated that if a town does not want to have a corporate entity come in and make a profit on their water, they need to put it in their master plan. They pointed out that the effects of the business operation on other resources such as roads need to be taken into consideration at the local level.

An attendee expressed that comment periods are insufficient for the public to adequately respond. Bill McCann responded that the statute has been amended to improve the public comment period. He cited the USA Springs case as an example where the local entity made an important first decision in the process; he explained that DES received the permit application after the town approved a critical zoning variance.

An attendee stated that sample aquifer protection ordinances are available on the DES website.

Mason Westfall interjected asking if the group could be polled. He expressed that it appeared that some people in attendance believe there should be a shared responsibility between the state and municipalities and wanted to know whether the group thinks the state should be totally responsible or towns should be totally responsible. Bill McCann reiterated that people need to express the basis for their opinions, which makes it difficult to poll the audience, and that he thought a show of hands would not be appropriate.

An attendee asked about the how glacial deposits versus fractured bedrock aquifers are treated in the permitting process. He also asked whether the state solicits comments from a municipality and if the municipality disagrees with DES's decision, how is that addressed by DES. Bill McCann stated that under the current process, the town receives a copy of the application and has the opportunity to request a public hearing; the town also has the opportunity to provide input to DES and if DES makes a decision contrary to that input, DES has to state their reasoning. The attendee asked if a different weight is placed on a community's input versus a corporation that is applying for a permit; he asked if the two are treated equally. Bill McCann responded that yes, they are treated equally; he then deferred to Brandon Kernen to address the individual's question about aquifers. Brandon Kernen stated that generally speaking, evaluations of fractured bedrock aquifers are more complicated and require more monitoring points be used and data be collected. He also stated that while the analytical models used are more appropriate for evaluations of overburden aquifers, the aquifers themselves may be more susceptible to over-pumping or drought conditions. Susan Roman commented that the statute generally revolves around the adverse impact criteria and that when a municipality provides input, it should have a technical basis for that input. She commented that this could be seen as a disadvantage for a town because of the financial resources required to pay for an independent review of an application.

John Cotton stated that information about a town's groundwater resources could be incorporated in a master plan or zoning ordinances, for example; however, in order for this to be effective, there needs to be more information available about the resources if the state wants better municipal input; the towns have to rely on good information at the outset. He asked about what is being done through this process to improve knowledge about aquifers in NH. Bill McCann cited

the water resources primer which has been made available to local entities. The question was then directed to David Wunsch who responded that NH is involved in the federal mapping program to map surficial deposits and that approximately 40% of the state is completed. He said the concentration has been on the southern part of the state with the highest population density and that the state is working on collecting better data sets which would be useful tools for towns. An attendee asked if Moultonborough could use the available data to determine how much water is available and whether they could expect problems in 20 years. David Wunsch responded that that is a difficult question to answer because groundwater moves and is recharged. The attendee then asked if C.G. Roxane is monitoring themselves. Brandon Kernen stated that no, state law requires a licensed professional to perform the monitoring. The attendee then asked that in looking at potential adverse effects, how much of a difference could you expect in a dry year versus a wet year. Brandon Kernen responded that when there is a concern about affecting other water users, a variable permit may be issued which contains water level thresholds to ensure that a certain amount of groundwater is maintained. He also stated that the intensity of monitoring and reporting may change depending on drought conditions.

An attendee asked about what percentage of by number or wells and by amount of water permitted has been from overburden versus bedrock aquifers since the law went into effect. Brandon Kernen provided a rough estimate stating that approximately one-half of the wells are bedrock wells and one-half are overburden wells. He estimated that approximately two-thirds of the water being withdrawn from the permitted withdrawals is from overburden aquifers and one-third is from bedrock aquifers. He stated that overburden wells are generally much larger producers than bedrock wells. Brandon Kernen explained that DES could provide the data to more accurately answer the question.

An attendee from Alexandria stated that their town has no zoning and then asked how a town could make a statement in their master plan or in their subdivision regulations that speaks to an impact that may be caused by an event in another town. Bill McCann responded that there can be a provision in ordinances for regional impacts and that although this is not necessarily a solution but a step toward communities working together. He said that the first step may be through regional planning commissions.

An attendee stated that based on the information in the presentation, it is clear that municipalities cannot regulate large groundwater withdrawals and that she is concerned that putting something in place through the master plan may be an illusion. She stated that she would prefer it to be clear on whether towns can influence withdrawals. Bill McCann responded that under the current statute, municipalities are preempted from regulating large groundwater withdrawals; however, towns have the opportunity to review the permit application and provide input to DES. He asked if communities would want to be able to do more than that. He reiterated that there is the possibility to change the legislation in the future. Susan Roman cited a case in Peterborough where an existing bottled water operation increased their groundwater withdrawal which in turn caused traffic to increase. Susan Roman explained that town zoning did not allow for a commercial business in the area and that the State Supreme Court upheld Peterborough imposed limitations on trucking at the site.

An attendee stated that in looking at a big development that needs a large community well versus a corporation that bottles the water and trucks it away, the public trust doctrine seems to imply more than just a technical assessment of the application. She stated the public benefit of the project should be looked at. Bill McCann responded that towns have to take a closer look at other local laws that an applicant would have to follow.

An attendee cited what she felt were deficiencies in the permitting process for C.G. Roxane, in that the public had no knowledge that a permit had been applied for. She also stated that other communities located on the truck route of the C.G. Roxane plant should be aware that the Moultonborough planning board is reviewing an application for expansion of the facility which will result in increased truck traffic. She stated that in previous permitting by planning board, the regional impact provision had been underutilized.

Patty Heard stated that she is in support of an aquifer-based approach for community involvement. She also talked about constitutional protections granted to corporations and the takings clause of the Fifth Amendment. She stated that in her opinion, a community does not have a lot of power versus a corporation. She also stated that she hopes as water becomes a more valuable resource, the focus is placed on drinking water and not corporate water interests.

An attendee asked if any thought has been given to grant towns the authority to have an independent review of an application conducted at the applicant's expense. Brandon Kernen provided a summary and update on the status of HB314 which would enable a municipality in which a well(s) are located to hire a consultant at the expense of the applicant. The attendee then asked if an application for a public water supply well was treated differently than an application for a withdrawal in which the water will be removed from site, for example a bottling facility. Brandon Kernen stated that when a withdrawal is proposed, the applicant is required to evaluate how the withdrawal will affect water resources in the area and look at the overall water budget. Brandon Kernen stated that DES does not make public benefit judgment but does look at overall water availability. He also cited statutory amendments that were made specifically to protect public water supply.

An attendee commented on the concept of towns enforcing permits stating that one or more groups in a town could be designated to enforce and they could then file an official complaint to the state if a permit violation was identified. The attendee also stated that because the basis of planning in NH is based on volunteers who don't necessarily have a technical background, the permitting work should be done by qualified professionals. He stated that there are plenty of opportunities for towns to have input on an application.

An attendee commented that it appears that towns have a fair amount of power but that arguments against a proposed withdrawal need to have a technical basis, for example, whether the groundwater resource is going to be depleted. He also stated that onerous conditions placed on a permit to ensure that a withdrawal does not cause any adverse impacts may ultimately result in the permit holder not pursuing the project. Bill McCann referred to the NH Supreme Court's decision which stated that DES has to approve a permit unless an adverse impact cannot be mitigated.

An attendee from Gilford cited an example from their town in which a corporation proposed an activity within the town's aquifer protection district and that the requirements to meet the provisions of the aquifer protection ordinance proved too expensive for the corporation to pursue the project.

An attendee stated that they would like for the state to develop a center of knowledge on groundwater resources that could be used by municipalities, including the identification of shared water resources that cross municipal boundaries. He stated that this would educate local people and bring towns together in support of a regional approach to managing groundwater resources.

An attendee commented on a case specific issue relative to an appeal to the water council. He stated that the appeals process doesn't work and DES should be dissolved and an environmental protection department should be developed. He stated that more enforcement of environmental regulations is necessary.

An attendee asked about whether public notice of an application to DES is required at any stage in the process, and if so, who is responsible for the public notice. He asked that the regulatory requirements be amended to require public notice of an application to DES.

An attendee expressed that consideration should be given to saving some water for agricultural use / food production. Bill McCann commented on the work of the hierarchy of groundwater users subcommittee.

An attendee inquired about whether the Lakes Region Planning Commission could participate in the efforts undertaken by the Groundwater Commission. Brandon Kernen responded that Glenn Greenwood represents the Association of Regional Planning Commissions on the Groundwater Commission but that the public is welcome to participate in the Groundwater Commission meetings and on subcommittees, and in holding the public meetings.

An attendee commented on a case specific issue relative to an appeal to the water council relating to a groundwater discharge application. Brandon Kernen responded that the regulatory process for discharging wastewater doesn't declare towns to have intervenor status, unlike the large groundwater withdrawal statute.

An attendee asked if there have been any large groundwater withdrawals in the state that have adversely impacted wetlands that have been successfully mitigated. She stated that there are examples in New York State. Brandon Kernen responded that the process that is currently in place allows the detection of a problem before irreversible damage is done.

An attendee expressed that it is important to remember that water quality does impact water quantity and that it is important to understand risks to groundwater quality.

An attendee asked if a provision similar to the Aquatic Resource Mitigation fund will end up in all of the environmental legislation as an acceptable method to mitigate adverse impacts.

An attendee asked that if the subcommittee was going to make a recommendation tomorrow on the local control issue, what would it be. Bill McCann responded that the subcommittee had not yet discussed the input they've received and that the subcommittee was not ready to comment. He stated that the subcommittee was waiting to complete the meeting but that he was getting a sense from the meetings that some form of local participation should be incorporated into the process.

An attendee stated that when it comes to large groundwater withdrawals, the decision making power is provided to the state; when it comes to the local side, however, there is an influence on land use planning and roads, for example, and if the process is going to continue as it exists, he feels it is incumbent on the state to look at a halfway measure where some type of severance is put on activities that will affect the water budget (resulting in a total displacement of water) and that some type of fee should be put in place that can be directed toward local resources.

John Cotton cited a Poland Springs case in ME where a local planning board official played a very effective role in gaining consensus among a wide group of stakeholders.

An attendee commented on international companies and protections under NAFTA.

An attendee asked whether bonding is required for commercial applicants in the event of bankruptcy. Bill McCann and Brandon Kernen responded jointly providing an update on the status of the SB56 and the technical details of bonding that have yet to be worked out.

An attendee commented on other state's and city's bans on bottled water solely because of the use of plastic bottles.

An attendee asked if the subcommittee could recommend that a permit application could only be filed by certain types of entities or business organizations. Bill McCann stated that this was not a charge of the subcommittee and that NH has recognized corporations as entities that can file for permits.

An attendee asked if the subcommittee was spending much time working with geologists and scientists to determine what the state should be doing more of in terms of the science. Bill McCann responded that the subcommittee has been charged with resolving the local control issue and not the science portion. David Wunsch provided an update on the data needs subcommittee.

The meeting was adjourned at approximately 8:30 PM.

The following is the list of discussion points noted on the flip chart during the meeting:

- What percentage of groundwater withdrawn in NH is from large groundwater withdrawals?
- C.G. Roxane large groundwater withdrawal
- Lakes Region Water Company water use
- Groundwater withdrawals for snow making
- Analysis of groundwater recharge
- Do municipal ordinances provide an avenue for regulating corporate or commercial water use?
- Are we being reactive to water quantity or water quality issues?
- Local permitting could create inequities in the process; the state process works
- More division within large groundwater withdrawal classification (small, medium, large); thresholds of use
- Progression of small groundwater withdrawals to large groundwater withdrawals
- Permitting fees
- Water quality in private wells
- One central agency (like DES) cannot monitor everything that is going on in the state
- Local citizens are the best to protect local resources
- Intervener status should be extended to all towns over an aquifer
- Wellhead protection / aquifer protection – model ordinances
- Uniform regulations should set by state; but towns should be given the authority to enforce large groundwater withdrawal permits
- Importance of master plans
- Are DES comment periods sufficient to receive local input?
- Does DES solicit local input on a permit application; or is it a town's responsibility to provide it unsolicited?
- Does DES place equal weight on an applicant's and potentially affected party's interests?
- What's being done to improve knowledge of NH's aquifers and groundwater (hydrogeology)?
- What data is available to determine groundwater availability?
- What percentage of large groundwater withdrawals are from overburden versus bedrock aquifers?
- How do towns include language in their local regulations that speak to things happening in other (neighboring?) towns?
- Importance/role of regional planning
- In the permitting process, is there any consideration of the public benefit of the water use? – Public Trust seems to imply more than just a technical approach to permitting
- Give towns the authority to hire a consultant to review a large groundwater withdrawal permit application at the applicant's expense
- Are applications for withdrawals where the water is "staying local" treated differently than water that is being "exported"?
- The state needs to develop a body of knowledge (e.g., aquifer boundaries) that towns could tap into
- Appeals process
- More environmental protection and enforcement is necessary
- Require an applicant to post a public notice that they are filing an application
- Consideration of agricultural use
- Role of regional planning commissions in permitting process
- Give towns intervener status in groundwater discharge permitting (appeals?) process
- Bonding of commercial applicants
- Who can file applications? What types of business entities?