Save Our Groundwater
P.O. Box 182
Barrington, NH 03825

11 October 2004

RECEIVED
OCT 12 2004

New Hampshire DES Water Council
c/o Michael Scalafini, Appeals Clerk
29 Hazen Drive
Concord, NH 03302

Re: *Docket No. 04-17 WC*

Dear Mr. Scalfini:

Enclosed for filing in the above captioned matter is an original and twenty [20] copies of a letter objecting to the manner the Water Council is getting legal advice, and requesting assurances on the matter.

Thank you for your attention to this matter.

Sincerely,

COPY

Bill McCann, Member
SOG Board of Directors Pro Se

Cc: Mark E. Beliveau, Esq.
E. Tupper Kinder, Esq.
Armand M. Hyatt, Esq.
Anne M. Edwards, Associate Attorney General Not mailed - see enclosed No
Richard W. Head, Assistant Attorney General

A note from

Bill McCann

RECEIVED

OCT 12 2004

12-Oct-04

Michael, after sending you the email I thought better of sending a copy of the letter to the Water Council to Attorney Anne M. Edwards. Her copy is in my possession, unsealed.

If you would like to keep it, I have no problem with that. I just did not want to be the one to make her aware of the potential conflict of interest, if she did not already know.

Thank you for your assistance in this matter.

COPY

Bill McCann
10/12/2004 10:49 AM

Save Our Groundwater
P.O. Box 182
Barrington, NH 03825

October 11, 2004

New Hampshire DES Water Council
c/o Michael Scalafini, Appeals Clerk
29 Hazen Drive
Concord, NH 03302

RECEIVED
OCT 12 2004

Re: *Docket No. 04-17 WC*

Gentlemen / Mesdames:

I am writing on behalf of Save Our Groundwater [SOG] to raise a concern about the process to date. We filed our appeal in late August, with a revised appeal submitted on September 1, 2004. I attended the Water Council meeting of September 8, 2004 on behalf of the Board of Directors of SOG. At that meeting a Motion was adopted by the Water Council to table both our Appeal and that of the Town of Nottingham's pending the receipt of a Legal Opinion from the Department of Justice [DOJ]. Apparently Associate AG Anne M. Edwards is Legal Counsel to the Water Council and prior to the meeting of September 8th an issue had been presented to her by the Water Council seeking legal guidance.

In a conversation with your Appeals Clerk, Michael Scalafini, last week I learned that the issue you referred to Ms. Edwards had something to do with the question of the Water Council's jurisdiction in our appeal and the appeal of the Town of Nottingham. When I asked exactly what was the issue that the Water Council had referred to Ms. Edwards, Mr. Scalafini told me that the matter was "privileged", which I can understand.

However, as a representative of one of the parties to this matter I am very concerned that your are asking the DOJ to give you an independent, and I trust impartial opinion regarding an issue that the DOJ has already taken a position on previously. On August 4, 2004 and again on August 31, 2004 the DOJ filed Motions to Dismiss on both SOG's and Nottingham's appeals. Both Motions were by the Assistant Attorney General Richard W. Head. Both Motions stated that the "proper venue" is the Supreme Court.

How can the DOJ give the Water Council independent and impartial legal advice, when the agency has already taken a position on the issue? While I understand that Ms. Edwards is a different Attorney, and works in a different Bureau than Atty. Head, what measures have been taken to ensure that the Attorney General's Civil Bureau and the Environmental Protection Bureau have no communication about your request for legal advice from the Civil Bureau regarding these appeals.

Specifically, what provisions were made to establish a "Chinese Wall" so that there would be no contact between the two attorneys while your request for legal advice was being researched and developed by Ms. Edwards. It is my understanding that this is attempted in law firms to prevent conflicts of interest when two lawyers are involved in a similar matter. Since DOJ is DES's law firm I would expect that you and/or DOJ would take appropriate steps to avoid a conflict of interest in these two appeals.

I am requesting that you provide SOG an assurance that you and/or DOJ did in fact take appropriate measures such as a "Chinese Wall" or an "ethical wall" to protect the process of these two appeals, and how they were implemented.

If DOJ cannot or will not provide the requested assurances then I would request that the Water Council get its advice on the pending matter from an outside Counsel

Thank you for your attention to this matter and I hope to get a prompt response.

Sincerely,

COPY

Bill McCann, Member
SOG Board of Directors