



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

February 12, 2024

The Honorable Andrew Renzullo  
Chairman, House Resources, Recreation and Development Committee  
Legislative Office Building, Room 305  
Concord, New Hampshire 03301

RE: HB 1268, AN ACT relative to prohibiting the issuance of large groundwater withdrawal permits for the commercial sale of bottled or bulk water

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on House Bill (HB) 1268. HB 1268 would prohibit the New Hampshire Department of Environmental Services (NHDES) from approving any groundwater withdrawal that exceeds 57,600 gallons over any 24-hour period (large groundwater withdrawal) for commercial sale of bottled or bulk water. NHDES does not support this legislation for the following reasons.

- 1) Existing Water Users and Water Resources Are Protected Under State Laws and Regulations: Since 1998, New Hampshire has administered a comprehensive regulatory framework to ensure that new large groundwater withdrawals do not adversely impact existing water users or water resources. Please see the attached factsheet that describes the Large Groundwater Withdrawal Permitting Process in detail.
- 2) The Legislation Is Not Necessary: While there have been six bottled or bulk water entities that have applied for and received large groundwater withdrawal permits since 1998, four of the six entities never proceeded to develop their bottled/bulk water projects. The fifth entity that received a large groundwater withdrawal permit only extracted groundwater below the threshold for requiring a large groundwater withdrawal permit and this facility is currently not in operation. The sixth entity that obtained a large groundwater withdrawal permit used the permit to substitute the water from new groundwater wells for the free-flowing springs it historically used in order to reduce the potential for bacteria contamination.
- 3) The Legislation Does Not Address Other Consumptive and Discretionary Uses of Water: The activity of extracting water for bottled or bulk water displaces water from where it occurs naturally in the environment. However, many other uses of extracted groundwater have the same effect on the environment. Power production, aquaculture, irrigation of golf courses and agriculture, and the manufacture of products containing water, all extract and displace groundwater from where it naturally occurs. Many of these activities use large quantities of

water. As such, there is no technical basis for singling out groundwater extraction for bulk or bottled water.

- 4) The Legislation May Infringe on Property Rights: Landowners in New Hampshire have a common law right to reasonably use the groundwater beneath their land. A law that uniformly prohibits a landowner's use of groundwater may result in a legal claim by a landowner and require compensation from the state.
- 5) The Legislation Will Affect Municipalities that Sell Water to Beverage Manufacturers: Some municipal public water systems with large groundwater withdrawal permits sell water to manufacturers of bottled water and/or entities that provide bulk water for drinking water or other uses. NHDES needs clarification on how to handle these situations should HB 1268 become law.

Thank you again for the opportunity to comment on HB 1268. Should you have any questions or require more information, please contact Brandon Kernen, Administrator of the Drinking Water and Groundwater Bureau at 603-271-1168 or [Brandon.Kernen@des.nh.gov](mailto:Brandon.Kernen@des.nh.gov).

Sincerely,



Robert R. Scott  
Commissioner

ec: Sponsors of HB 1268: Representatives Caplan, Read, and Bouldin

Attachment: Fact Sheet on Large Groundwater Withdrawal Permitting Process