



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



**Robert R. Scott, Commissioner**

February 6, 2024

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

RE: HB 1326, AN ACT relative to notification processes for large groundwater withdrawal applications

Dear Chairman Renzullo and Members of the Committee:

Thank you for the opportunity to comment on House Bill (HB) 1326. HB 1326 would: 1) Require an applicant to notify all owners or residents within 10,500 feet of a proposed large groundwater withdrawal about the application; and 2) Establish a process where persons receiving the notice can request that the New Hampshire Department of Environmental Services (NHDES) test their wells. NHDES does not support this legislation for the following reasons:

- 1) Existing Water Users Are Adequately Notified Under Existing State Laws and Regulations: State law ensures that municipalities, water systems and the public are notified and have an opportunity to participate in the permitting process for new large groundwater withdrawals. Existing statutes include the following provisions:
  - a. Public water systems and municipalities within the “potential impact area” of a large groundwater withdrawal are provided copies of all submittals and correspondence between NHDES and the applicant for a large groundwater withdrawal. By statute, the potential impact area is a very conservative delineation of the area upgradient and downgradient of a proposed large groundwater withdrawal where any potential impacts may occur.
  - b. There are two 45-day public comment periods associated with every new application for a large groundwater withdrawal. The first occurs when a preliminary application submitted to NHDES is administratively complete. The second occurs when the final application is submitted after extensive hydrologic testing and data collection has occurred and the data has been summarized and analyzed. For both public comment periods, municipalities or public water systems in the potential impact area may request a public hearing. When a public hearing is requested, notice of the hearing must be made by the applicant and must be published twice over during a thirty-day period, in two different weeks in a newspaper of general circulation throughout the state and also in a newspaper that is in circulation in the municipality. The notice of the public hearing also must be posted in two public places in the municipality. The statute requiring notice

of the public hearing being placed in newspapers was enacted in 1998. Although the newspaper industry has evolved over the last two decades, posting a notice of a public hearing in newspapers is still an effective means of providing information to the public because newspapers exist not only in hard-copy but also in a digital format. Digital newspaper notices are readily shared in other digital platforms such as social media, websites of municipalities and websites that upload and make available public notices from numerous outlets. The effectiveness of the existing public notification procedures is evident by the robust attendance of the public at public hearings for large groundwater withdrawals.

- c. The large groundwater withdrawal permitting process generates the data necessary to delineate a zone around a proposed large groundwater withdrawal where the elevation of the groundwater may be affected. The permitting process also requires that existing private and public drinking water wells be identified in this zone. As a condition of permits for new large groundwater withdrawals, owners of water supply wells that may be adversely impacted by a new large groundwater withdrawal are notified by certified mail and provided with the contact information for NHDES and the permittee. State law requires that the owner of a large groundwater withdrawal permit mitigate any adverse impacts at no initial capital cost to existing water users. NHDES has the authority to enforce this requirement. NHDES can also modify or revoke a large groundwater withdrawal permit to prevent adverse impacts.
- 2) **The Proposed Notification Requirements Are Not Practical:** The requirement to provide written notification to all owners of property or residents within a 10,500-foot radius of the project is not practical. A 10,500-foot radius represents approximately 12.5 square miles and based on a review of recent applications would require separate direct mailings to approximately 1,500 to 3,100 properties.
  - 3) **The Testing Requirements Are Not Needed, Ambiguous and Costly for NHDES to Administer:** The proposed provisions stating that the persons receiving the written notification may request testing from NHDES. The statute and associated rules already stipulate extensive testing requirements as part of the large groundwater withdrawal permitting process. The testing is completed by the applicant using licensed geologists and engineers with oversight from NHDES. Additionally, the proposed provisions do not stipulate what kind of testing needs to be conducted. The bill requires NHDES to complete the testing which would likely be costly and could not be completed by NHDES unless substantial funding is allocated to hire more staff, procure equipment, and develop contracts with consultants, water well contractors and pump installers.

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For more information about the Large Groundwater Withdrawal Permitting Process in New Hampshire, please see the enclosed factsheet.

Thank you again for the opportunity to comment on HB 1326. 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,

A handwritten signature in black ink, appearing to read "Robert R. Scott". The signature is fluid and cursive, with a large initial "R" and "S".

Robert R. Scott  
Commissioner

Attachment: Large Groundwater Withdrawal Permitting Process Factsheet

ec: Sponsors of HB 1326 – Representatives Porcelli, Bernardy and Harley; Senator Gannon