Attachment G
Proposed Changes to Finding of Fact and Reclassification Order in response to Public Comments

Presented at May 11, 2021 Virtual Public Meeting

Findings of Fact
Proposed changes highlighted in yellow

- Barr Engineering, on behalf of Saint-Gobain Performance Plastics (SGPP), has submitted an administratively complete reclassification petition. The "final" petition was received on January 28, 2021, and determined administratively and technically complete on February 5, 2020.

- The Vermont Agency of Natural Resources (ANR) has reviewed the petition and determined that the factual information provided in the petition and other documents referenced in this Decision Document is in accordance with the requirements of Sections 12-503 and 12-504 of the Vermont Groundwater Protection Rule & Strategy and 10 V.S.A. Chapter 48. This information supports the reclassification of groundwater to a Class IV as shown on map in Attachment A. The final approved Class IV boundary will be able to be found on the ANR Atlas.

- Extensive environmental investigations, as summarized in the petition, have identified a zone of PFAS groundwater contamination (Attachment A) that exceeds groundwater enforcement standards. The major source of the groundwater PFAS contamination appears to be the leaching through soils from past air emissions of two former Teflon coating facilities. Given this contaminant pathway and results of the environmental investigations, it appears, in general, that the highest PFAS levels are found in shallow groundwater.

- Per the requirements in Section 12-502 of the Groundwater Protection Rule & Strategy, reclassification is required because groundwater quality within the proposed Class IV boundary area (Attachment A) exceeds the Vermont Groundwater Enforcement Standards for PFAS and the PFAS contamination in groundwater is predicted to persist for more than five years, likely decades.

- Area-wide groundwater within the proposed Class IV area, particularly shallow groundwater, is contaminated to the point that it may not be suitable as a source of drinking water and may not be suitable for non-potable uses, such as agriculture, commercial, industrial, or geothermal use.

- Potable groundwater can be found within the proposed reclassification area as evidenced by the 130 plus water supply wells that are non-detect for PFAS or below the applicable regulatory standards.

- ANR considers the connection to a municipal water system as the preferred long-term drinking water remedy for all properties within this proposed Class IV and will strongly encourage property owners to connect where feasible; however, there are locations where connecting to a municipal water system are not technically feasible nor economically viable given the size and population densities of some parts of the proposed Class IV area.

Reclassification Order

Proposed Changes highlighted in yellow

The Secretary of the Agency of Natural Resources (ANR) hereby makes the Findings of Fact identified above and reclassifies the groundwater to Class IV for the area identified on the map in Attachment A (most of Bennington north of Route 9 and the most southern parts of Shaftsbury) subject to the following conditions and clarifications:

1. All existing water supplies that have not had an exceedance from testing above the applicable regulatory standard for per-and polyfluoroalkyl substances (PFAS) and continue to test below the applicable regulatory standard are considered a potable water supply with respect to PFAS, which means the Class IV designation does not apply to these water supplies. The applicable regulatory standard is the Maximum Contaminant Level (MCL) for public water supplies and the Vermont Groundwater Enforcement Standard (VGES) for all other water supplies.

2. For a water supply that has or has had PFAS concentration above the applicable regulatory standard, it will be considered a potable water supply with respect to PFAS, as defined in #1 above, once the following criteria is met:

    a. testing shows that PFAS levels have met the performance standards in Appendix A of the Consent Order (CO) for being eligible to remove a treatment system from a water supply. This performance standards are eight (8) consecutive rounds of quarterly sampling showing an overall downward trend in PFOA, PFOS, PFHxS, PFHpA, and PFNA contaminant levels in the water supply or a flat trend if the contaminant levels below the applicable regulatory standard.

    b. continued testing shows PFAS levels below the applicable regulatory standard.

3. The installation of new permitted drinking water wells may be allowed for a building or structure outside 200-feet of an existing waterline or within 200-feet if given a variance by ANR, provided the following are met:

    i. The new well is constructed following the requirement specified in Attachment D, or an acceptable equivalence as determined and approved by ANR;
    ii. Prior to use, the water must be tested for PFAS that are regulated under either the Vermont Groundwater Protection Rule and Strategy or the Vermont Water Supply Rule, as may be amended. At the time of this order, there are five regulated

PFAS: PFOA, PFOS, PFHpA, PFNA, and PFHxS. The current standard is 20 ng/L for the combination of the five regulated compounds. The water samples must be sampled using EPA Method 537.1, or another method accepted by ANR. Results of the water test shall be submitted to the Drinking Water and Groundwater Protection Division (DW&GPD) for review and approval prior to use;

iii. The submittal of a long-term monitoring plan for PFAS testing to the DW&GPD for review and approval or verification that this well is part of a long-term monitoring plan under an ongoing corrective action being performed by Saint-Gobain Performance Plastics (SGPP) pursuant to the requirements of the CO and an approved corrective action plan by ANR. Monitoring will be required until there is sufficient data and information, as determined by ANR, that long-term monitoring is no longer warranted. Results from the ongoing monitoring results must be provided by the permittee to the DW&GPD as specified in the conditions of any applicable permit, unless this well is being monitored as part of work performed by SGPP under the requirements of the CO and an approved corrective action plan by ANR; and

iv. If the PFAS concentrations in a water sample from a well are above the regulatory standard for the regulated PFAS, then a suitable point-of-entry system (POET), or other long-term remedy approved by ANR, must be installed. If a treatment system is not required as part of an approved corrective action plan overseen by ANR, then a design plan of the long-term remedy must be submitted for review and approval to the DW&GPD, along with an operation and maintenance plan for the proposed remedy.

4. All newly permitted wells that are consistent with the conditions outlined in #3 above, have PFAS levels below the applicable regulatory standard, and continue to test below the applicable regulatory standard are also considered a potable water supply with respect to PFAS, as defined in #1 above.

5. New overburden wells, springs, or shallow dug wells for drinking water wells are prohibited.

6. The VT Department of Environmental Conservation Waste Management and Prevention Division must be notified prior to any new well being installed for industrial, commercial, or geothermal use so they can assess the suitability of such well or use in light of the Class IV designation.

7. The Agency of Agriculture, Food, and Market must be notified prior to any new well being installed for agricultural use so they can assess the suitability of such well or use in light of the Class IV designation.

8. Long-term monitoring within the Class IV is required by SGPP, consistent with the approved corrective action plan, entitled, “Corrective Action Plan 2-Corrective Action Areas I and II – Operable Unit B North Bennington and Bennington”, dated March 2020,

prepared by Barr Engineering, or any subsequent updates to this plan approved by ANR. This long-term monitoring will provide groundwater data to assess whether adjustment (expansion, contraction, or reclassification back to a Class III) of the Class IV designation is warranted.

Date _____

Julie Moore, Secretary
Agency of Natural Resources

Note: minor non-substantive changes were made to the Final Finding of Facts and Reclassification Order for clarity, readability, and to correct grammatical errors. *October 2021*