



**FACT SHEET: STATE OF VERMONT CONSENT ORDER WITH SAINT-GOBAIN
CORRECTIVE ACTION AREA I AND CORRECTIVE ACTION AREA II**

April 12, 2019

The State of Vermont and Saint-Gobain Performance Plastics Corporation (Saint-Gobain) have reached an agreement addressing per- and polyfluoroalkyl substances (PFAS) contamination in impacted areas of the Town of Bennington, the Village of North Bennington, and the Town of Shaftsbury. The agreement provides a permanent drinking water solution for homes and businesses for the entire impacted area, including the extension of municipal water lines to an additional 244 homes in the eastern portion of the impacted area also known as Corrective Action Area II.

Overview

- *Corrective Action Area I (North Bennington and westside of Bennington):* Under this new agreement, Saint-Gobain's obligations for corrective action in Corrective Action Area I remain the same as those specified in the October 12, 2017 Consent Order between the State of Vermont and Saint-Gobain. These obligations consist of completing the construction of waterline extensions that started in 2017; drilling replacement wells (where feasible) for impacted homes/businesses in the areas where municipal water lines are not being extended; and maintaining and operating a Point of Entry Treatment System (POET) for impacted residents/businesses where either replacement wells or waterline extensions are not feasible.
- The service area of municipal water has been extended to two hundred ten (210) homes/businesses as part of the remedy for Corrective Action Area I. All waterline construction has been completed, with site restoration work remaining. This work will be completed this Spring and Summer.
- *Corrective Action Area II (east side of Bennington and a portion of Shaftsbury):* Saint-Gobain will fund municipal water line extensions in the areas identified on the attached map as Operable Unit A. Like Corrective Action Area I, in locations where a municipal water line extension is not feasible, Saint-Gobain will either drill a replacement well, when feasible, or operate and maintain a POET.
- The Town of Bennington, in conjunction with the State, will take the lead on the construction of waterlines within Operable Unit C as shown on the attached map. As part of the consent order, Saint-Gobain has agreed to pay the State \$3.7M, in lieu of monitoring and maintaining POETs for homes/businesses within Operable Unit C. The State will use this payment toward the construction of waterlines in Operable Unit C.

- Approximately 244 homes will be connected to municipal water in Corrective Action Area II Operable Units A and C. The estimated project costs for the water line project in Operable Units A and C is estimated at \$20 to 25 million..
- This agreement also changes the performance standard for corrective action from 20 ppt of perfluorooctanoic acid (PFOA) to the Vermont Groundwater Enforcement Standard for the combined concentration of 20 ppt for five PFAS: perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), perfluorononanoic acid (PFNA), and PFOA. This means that performance standard will change if the Vermont Groundwater Enforcement Standard for the targeted five PFAS changes in the future. As in the previous agreement, this agreement provides a requirement for Saint-Gobain to reimburse the State for certain response costs and oversight costs (past and future) for both corrective action areas.
- Waterline engineering and design will be finalized this spring. As with the waterlines on the west side, this is anticipated to be a two-year construction period, with work to begin this construction season.
- The consent order was filed in state court on April 9, 2019 and will be open for 30 days of public comment. Once the comment period has concluded, barring the need for substantive changes, the State will request that the court approve the agreement. At that point, the consent order will have the same effect as a court order. Saint-Gobain must pay penalties for any failure to comply with this consent order. Like the previous consent order, the State has agreed not to sue Saint-Gobain and its corporate affiliates for the five targeted PFAS in both Corrective Action Area I and Corrective Action Area II contingent upon Saint-Gobain's compliance with the consent order. The State has not provided a release of liability for PFAS contamination outside the five targeted PFAS or the site.
- As with the previous consent order, this agreement does not address private claims regarding injuries to property or health because these claims are outside the scope of the State's authority. This agreement does not provide Saint-Gobain with a release of liability from these private claims.
- All public comments on the consent order must be received by **May 9, 2019**. The consent order is not effective until it has been entered by the court after public comments are evaluated by Agency of Natural Resources (ANR). Please send all comments to: Renita Marshall at Agency of Natural Resources, Department of Environmental Conservation, 1 National Life Drive, Main 2, Montpelier, VT 05620 or renita.marshall@vermont.gov.
- Once this consent order becomes effective, it will supersede the previous consent order, referred to as the October 12, 2017 Consent Order.

Summary of Key Provisions

As identified on the attached map, Operable Unit A in both Corrective Action Area I and Corrective Action Area II and Operable Unit C in Corrective Action Area II are those areas where

homes are eligible to be connected to a municipal water line.

Operable Unit B consists of those areas in both Corrective Action Area I and Corrective Action Area II where it is not technically feasible to connect homes to a municipal water line.

Drinking Water Remedy

- Operable Unit A in Corrective Action Areas I and II and Operable Unit C in Corrective Action Area II
 - **All homes/businesses**—regardless of the targeted five PFAS levels in drinking water wells—are eligible to be connected to a municipal water line.
 - The scope of work associated with extension of the municipal water line service includes connecting municipal water lines to the existing internal plumbing within the home or business and restoration of property disturbance. It does not include water usage costs or replacement of existing internal plumbing. For Corrective Action Area II, 244 homes/businesses are eligible to be connected to municipal water lines.
- Operable Unit B in both Corrective Action Areas I and II
 - **Homes with the targeted five PFAS at or above the Vermont Groundwater Enforcement Standard, which is currently 20 ppt:** Saint-Gobain will either install a replacement well if it is technically feasible or operate and maintain a POET. With respect to a replacement well, POET operation and maintenance will continue until ANR determines that the targeted five PFAS levels will remain below the Vermont Groundwater Enforcement Standard. Saint-Gobain must operate and maintain a POET until the targeted five PFAS are below the Vermont Groundwater Enforcement Standards and Saint-Gobain has demonstrated a stable or decreasing trend of the targeted five PFAS levels for eight consecutive rounds of quarterly sampling. There are approximately 32 homes in both Corrective Action Areas with the targeted five PFAS levels at or above the Vermont Groundwater Enforcement Standard in this category, twelve (12) within Corrective Action Area I and twenty (20) within Corrective Action Area II.
 - **Homes with the five targeted PFAS levels below the Vermont Groundwater Enforcement Standard, which is currently 20 ppt:** Saint-Gobain must comply with a long-term sampling program to monitor the five targeted PFAS levels. At any time, if the targeted five PFAS levels are at or above the Vermont Groundwater Enforcement Standard, Saint-Gobain must immediately provide bottled water and install a POET within 30 days of receipt of the laboratory analysis. ANR may authorize Saint-Gobain to connect the home to a municipal water line or install a replacement well if technically feasible.
 - **New wells:** Saint-Gobain must test all new wells in Operable Unit B upon request of the well owner. If the targeted five PFAS levels are at or above the Vermont

Groundwater Enforcement Standard, Saint-Gobain will immediately provide bottled water and install a POET within 30 days of receipt of the laboratory analysis. ANR may authorize Saint-Gobain to connect the home to a municipal water line or install a replacement well if technically feasible. If the targeted five PFAS levels are below the Vermont Groundwater Enforcement Standard, wells will be included in the long-term sampling program.

Area-Wide Groundwater

- Saint-Gobain must perform long-term monitoring of area-wide groundwater in both Corrective Action Areas I and II until the targeted five PFAS levels are below the Vermont Groundwater Enforcement Standards at compliance points approved by the Secretary and Saint-Gobain has demonstrated a stable or decreasing trend of the targeted five PFAS levels for eight consecutive rounds of quarterly sampling.
- Groundwater in both Corrective Action Areas I and II -Groundwater in these areas will be reclassified as Class IV non-potable groundwater in accordance with the Investigation and Remediation of Contaminated Properties Rule (IROCPR). A Class IV non-potable groundwater designation will prohibit future use of this groundwater for human consumptive or other residential purposes in areas served by the municipal water line.
- To the extent allowed by law, the State may use its reclassification authority to develop well construction standards within proposed Class IV areas that are greater than 200 feet from a waterline, to the extent that such standards may avoid the consumption or use of water containing PFAS.
- Reclassification of Groundwater to a Class IV designation will include a public process. At this time, it is anticipated that the petition to reclassify groundwater will be available for public comment in the next six months.

Water Street and Northside Drive Facilities

Site Investigation and Corrective Action

- The site investigation and corrective obligations are the same as in the October 12, 2017 consent order.
- Water Street Facility: Under an approved site investigation plan, Saint-Gobain has completed a supplemental site investigation for the interior of the Water Street facility. A copy of this plan can be found on our website. Saint-Gobain has submitted an evaluation of corrective action alternatives to the State for review. The State is still reviewing this document.
- Northside Drive Facility: Saint-Gobain has recently submitted a site investigation work plan for ANR review and approval. Site investigation activities will commence after the work plan is approved by ANR. It is anticipated site investigation activities to begin in late Spring or early Summer.

Payment of State Costs

- Saint-Gobain will reimburse the State for past response costs associated with Corrective Action Area II in the amount of \$655,015 within 30 days of the effective date of the consent order. Saint-Gobain has previously paid past costs for Corrective Action Area I in the amount of \$1,857,853 as required in the October 12, Consent Order.
- Saint-Gobain will reimburse the State for future response costs associated with Corrective Action Areas I and II, including all costs incurred by the State for the review and development of deliverables submitted under the consent order, oversight of site investigation and municipal water line construction, and all other costs of implementation, oversight, and enforcement of the consent order.

Saint-Gobain Appeal of Vermont PFOA Rules—Groundwater Quality Enforcement Standard and Hazardous Waste Listing

- Saint-Gobain will dismiss its appeal of Vermont’s PFOA Rules with prejudice (meaning, it cannot refile the same case later) and will not challenge Vermont’s new 20 ppt standard for the five PFAS listed above.

Public Comment

- The public has thirty days from the date the State and Saint-Gobain lodged the consent order with the court—April 9, 2019—to file comments.
- The consent order is not effective until it has been entered by the court after public comments are evaluated by ANR. Please send all comments to: Renita Marshall at Agency of Natural Resources, Department of Environmental Conservation, 1 National Life Drive, Main 2, Montpelier, VT 05620 or renita.marshall@vermont.gov.

Appendices

- Appendix A is Corrective Action Work Items and Schedule.
- Appendix A1 is Appendix A of the 10/2/17 Consent Order in *State of Vermont, Agency of Natural Resources v. Saint-Gobain Performance Plastics Corporation*, Docket No. 205-7-17 Bncv that is incorporated by reference.
- Appendix B is the map of the area designated as Corrective Action Area I, including Operable Units A and B, and Corrective Action Area II, including Operable Units A, B, and C.
- Appendix C is the Comparative Evaluation of Corrective Action Alternatives: Bennington, Vermont for Corrective Action Area I.

- Appendix C1 is the Comparative Evaluation of Corrective Action Alternatives: Bennington, Vermont for Corrective Action Area II.
- Appendix D is the Agency of Natural Resources Record of Decision and Selection of Remedy for Corrective Action Area I.
- Appendix D1 is the Agency of Natural Resources Record of Decision and Selection of Remedy for Corrective Action Area II.
- Appendix E is the form Agreement for Payment for Expansion of Municipal Water Lines in Corrective Action Area II.
- Appendix F is a list of Settling Defendant's related entities for purposes of the covenant not to sue in Paragraph 55.
- Appendix G is a list of contacts for purposes of providing notice under this Consent Order.