

**Water Supply Division**

The Old Pantry Building  
103 South Main Street  
Waterbury, VT 05671-0403

[PHONE] (802) 241-3400  
[FAX] (802) 241-3284

[www.vermontdrinkingwater.org](http://www.vermontdrinkingwater.org)

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**MEETING MINUTES**

**For the public Meeting held Tuesday July 31, 2007 Regulation of New Water Line Extensions and Existing Consecutive Water Systems Pavilion Office Building 109 State Street Montpelier, Vermont 9:30 AM – 2:00 PM**

Attendees:

Mike Mandigo, Stowe Water Dept.; Jay Nadeau, CWD; Arthur Hamlin, Dept. Housing and Community Affairs; Michael A. Welch, St. Johnsbury Town; Jane Newland, Beans Mobile Homes; Robert Moulton, Vergennes-Panton Water; Alan Shelvey and Paul Clifford, City of Rutland; Tom Nesbitt, Stantec; Rob Werley, Town of Hartford; Alec Tuscany and Bill Woodruff, Village of Waterbury; Jeff Gagne, Graniteville FD #4; Shaun Fielder, VWRA; Allen Robtoy, City of St. Albans; Don Phillips, Forcier and Aldrich; George Lague, Swanton Village; Terry Riley, Castleton FD #1; Todd Law and Geoff Wilson, City of Montpelier; J. Robert Audette, MHP owner; Representative Albert Audette, and Roger Dickinson.

Water Supply Division (WSD) Representatives present: Gary Schultz, Eric Blatt, Jean Nicolai, Tim Raymond, Ellen Parr Doering, Greg Bostock, and Ashley Lucht.

Handouts provided at the meeting included: an agenda; federal exemption criteria; options to regulating new water line extensions and existing consecutive systems and the draft summary of how NY and the New England States implement the federal exemption criteria. Also discussed was the January 25, 2006 *Jurisdictional Guidance Document for Community Water Systems*. (Documents can be found at [www.vermontdrinkingwater.org](http://www.vermontdrinkingwater.org)).

The following summary reflects comments made at the meeting:

**Regulations of New Water Line Extensions**

**Federal Exemption Criteria**

Vermont is the only New England state which has not adopted some form of the federal exemption criteria. The previous WSD Director explored adopting the federal exemption criteria and held informal discussions with interested parties and state legislators but felt the sentiment was not there to support adoption of the federal exemption because of the potential to reduce public health protection. Attendees at the meeting seemed to agree that Vermont should be similar to other New England States and adopt some form of the federal exemption. It was suggested that the workgroup not re-invent the wheel and review the Regional State Summary (compiled by Alex Elliott, ANR Attorney and handed out at the meeting) when developing their recommendations.

In reviewing the exemption criteria, the question was asked how the WSD defines selling water as it pertains to the criteria. The WSD would need to define “selling” water if it were to adopt the federal exemption. EPA’s submetering policy (memo dated 12/16/03) outlines that submetering promotes water conservation and should not be considered as “selling” under the Safe Drinking Water Act. The state has the flexibility to make a determination whether billing for water is a “sale” for regulation under the SDWA or whether systems are “submetering.” In making its decision, the state needs to consider that the distribution system does not pose a risk to public health, no known probable backflow or cross connections issues, etc.

Discussion related to ownership vs what is meant by operational control:

Municipalities may not take ownership of sub-standard infrastructure of mobile home parks, etc. Many currently assume operational responsibility only to the curb stop. Municipalities may be willing to assume operational control or conduct water quality monitoring, but would not take over ownership. Rights of way is a big issue for many municipalities.

Consecutive system owners are not necessarily looking for towns to take over ownership, but would at least like the wholesaler to take responsibility over water quality in their lines when they do not treat. Wholesalers seem to be generally in agreement to issuing public notice and considering water quality monitoring and residual monitoring for their consecutive systems in their sampling plan.

What can a municipality do to assist privately owned consecutive public water systems which do not meet any construction standards and have problems? Municipalities are concerned with financial and liability issues in taking over “rescued systems” where they may not trust the existing infrastructure and ensure public health protection for the entire system with a backflow preventer. The WSD needs to consider this scenario and refrain from requiring the municipality to assume responsibility and/or control of consecutive public water systems, including those meeting the federal exemption criteria.

A given wholesaler may not provide operational services to all its consecutive systems depending upon the adequacy of pipe size, type, materials, etc. Municipalities are not in agreement to take over responsibility for sub-standard systems. The consecutive water system’s distribution system serving the connection may meet the minimum state standards standards, but may not be in conformance with the municipality’s standards, or local water ordinance.

Typically, a wholesaler is responsible for flushing lines while other operations are the responsibility of the consecutive system. The wholesaler would have responsibility and liability concerns if the wholesaler were required to conduct flush, or repair the system. A consecutive public water system may have issues regarding Disinfection By-products (DBPs), lead and copper, and/or coliform bacteria when the wholesaler water system currently does not.

For permitted new line extensions, many municipalities have up-front requirements, which include a P.E. design and construction sign-off prior to acceptance (the developer will be long-gone after the project is complete). For some new construction projects, problems occur. Accepting line extensions comes back to the responsibility for the wholesaler/municipality to

develop and adopt their own set of standards and regulations. A wholesaler may not want to be responsible for water to the tap where the wholesaler does not have control over a certain section of line not contracted to them.

**For new water line extensions** (reviewed the options presented in the handout)

**1a** - Towns routinely do 1a but not in all cases. It is important to know which process is acceptable. The town and WSD should work out this process. Smaller towns and fire districts typically do not have established standards. There would be exceptions to 1a such as CWD putting in a new line extension to provide Water to Milton or Jericho. CWD's charter retains CWD as a wholesaler and does not give the authority for CWD to operate individual systems. Municipalities may be limited by their charter, bylaws, or water ordinances and would not have the ability to own or operate water systems outside of their municipality without an amendment. In this case, an inter-municipal agreement may be necessary and it is possible that a consecutive could request the wholesaler to take over operational control.

**1b, 1c and 1d** – need to take a flexible approach

**1c** – parent system would have some minimal oversight.

**Regulation of Existing Consecutive Water Systems discussion**

As far as the wholesaler taking over the sampling for the consecutive system if WSD were to adopt the federal exemption, it was noted that for larger systems the existing consecutive system would represent a very small percentage of the entire water system which is sampled. Looking at the number of samples required, a relatively small portion of a water system is sampled. Water quality monitoring should be incorporated into the wholesale system and the wholesaler could have an MOU with the consecutive.

The long term sustainability for newly formed consecutive systems may be an issue in 20+years and that it might be advantageous for a municipality to absorb a new system and include that portion of the system in their financial long range plan for infrastructure maintenance. It was noted, that municipalities have funding issues and taking on additional expenses may not be feasible.

No single solution or any of the options presented would be applicable to all systems state wide. The workgroup should come up with a range of options to meet a variety of scenarios. Perhaps a combination of options 1a, 1c and 1d and being flexible with the municipality's local requirements would work the best. The workgroup should consider modifying 2b to say the owner is responsible.

Water Use Ordinances can be very detailed. However, if there are no sewer ordinances, it creates a dilemma because no standards exist. Perhaps the water industry could take the waste water approach and require ordinances. For some systems, a consecutive system is a Fire District and FDs want to be considered a separate entity from the wholesale and do not want the wholesaler to control their destiny. In this case, an inter-local agreement may be a good option. The idea of having a phasing-in process of 2-3 years for towns to develop ordinances was not favorable

because it would place another burden on the municipality. Some towns which have their own ordinances also have their own staff, engineers, or consulting engineers to review developer's projects. This is advantageous because the town establishes a good rapport with consultants and in some cases the consulting engineer's service is paid for by the developer.

The WSD has a definition of minimal operational control. A wholesaler could oversee repairs which would be conducted according to a municipality's specifications.

Some municipalities know consecutives (under the current definition) exist on their system, but have not turned them over to WSD because they are waiting to see how the division will regulate consecutive systems at the end of this process. Wholesalers know consecutives will need major repairs and the municipalities do not have resources to help upgrade these facilities. Some wholesalers conduct water quality monitoring but would have problems with: supervision or oversight of the infrastructure, obtaining the necessary easements to gain access, and could not legally make repairs because of the lack of space or easements in relation to the private enterprise. One town went through the process of digging up a consecutive system and drafted as-builts to determine the extent of the system, easements, etc., with the ultimate goal of having operational control of the system. The municipality gave the system 5 years to make the repairs and the consecutive system agreed to pay for the improvements. When it comes to upgrading a consecutive system, we should consider that we do not need to take drastic measures and replace all of the infrastructure at once. Replace the infrastructure over time and give operational control to the wholesaler.

The Vermont Advisory Commission on Manufactured and Mobile Homes (which met 1-2 years ago) recommended that the state adopt the federal exemption. The Water Supply Division Director at that time attended a subcommittee meeting focused on mobile home park infrastructure. The recommendation focused on the monitoring requirements and costs to the consecutive systems. If MHPs would upgrade their systems or verify the integrity of their distribution system verifying public health is not at risk, then Option 2B would align with the Advisory Commission's recommendation

Concerns were expressed that the state has double standards and does not require testing of private homeowner wells.

Some concern was expressed with the WSD's Jurisdictional Guidance Document (referred to as the 7 points of light at the meeting) which the division uses to define operational control. Item #5 regarding water quantity may not be under the control of the wholesaler. A recommendation was made to modify the Jurisdictional Guidance Document by omitting #7 and only apply them to new water line extensions.

Eric Wegner, of the Woodstock Adequate Company, was unable to attend the meeting but asked that the line extension workgroup develop additional criteria for when a P.E. is required to sign off on a project. Currently the Water Supply Rule requires a P.E. sign off for any line extension greater than 500 feet.