

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

December 9, 2015
8:00 a.m.

Members present: Councilors: Boisvert, Butler, Clark, Gegas, Hardy, Henderson, Hinds, Joubert, O'Brien, and Rawnsley

Members absent: Chairman Gilbert and Councilor Beaurivage

Also present were Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

Councilor Rawnsley called the meeting to order at 8:05 a.m.

1. Approval of Minutes of the October 14, 2015 Meeting

- ***Councilor Butler made a motion to accept the minutes of the October 14, 2015, second by Councilor Hinds. Motion passed unanimously. Councilors Hardy, Rawnsley, and Joubert abstained.***

2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

II. Decision and Orders that need to be written finalized and issued.

Docket No. 15-04 WC – Woodmere Association, Inc. Appeal

Re: 3/3/15 Administrative Order No. 15-005 WD

Hearing Officer: Not assigned

Status: April 2, 2015 received Preliminary Notice of Appeal (PNA). May 18, 2015 received Notice of Appeal. 5/18/15 issued receipt of Appeal letter. Appeal was received 76 days after decision was issued. Council denied the appeal on June 10, 2015. August 11, 2015 issued Decision and Order on Notice of Appeal. September 10, 2015 received Request for Reconsideration. Discussion was held. It was decided the appeal was filed with the improper Council and was not received in a timely manner. October 14, 2015 Council moved to decline the Request for Reconsideration. Council to issue decision on Request for Reconsideration.

III. Hearings or PHCs Pending

Dockets No. 12-01 WC – David Sundman, et al.

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb.9, 2012. (See Sept. 2015 minutes for full list of filings.) December 24, 2014 received Assented-to Motion to Stay Pre-hearing Conference and hearing. 12/30/14 issued letter granting Motion and scheduling PHC for 4/16/15 at 8:30 a.m. February 13, 2015 received Appellants' Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment. 2/27/15 received DES' Partial Objection to Appellants' Motion for

Summary Judgment. March 11, 2015 issued Order Granting Summary Judgment in part. April 10, 2015 received Appearance from Robert Best and Motion for Rehearing. 4/15/15 received Objection to Applicant's Motion for Rehearing. 4/16/15 issued Decision and Order on Motion for Rehearing and issued Notice of Prehearing Conference scheduled for 5/13/15 at 10 a.m. Prehearing Order issued 5/13/15 with hearing scheduled for October 14, 2015 at 10 a.m. 5/15/15 received Request for Waiver of Rules. 5/18/15 issued letter regarding Request for Waiver of Rules. June 3, 2015 received permittee's status update. 6/10/15 issued Notice of Hearing time change per request from the Council. Hearing is now scheduled for October 14, 2015 at 9 a.m. July 2, 2015 received Amended Appearance – Atty. Robert Best and Assented-to motion to Stay All Deadlines. 7/14/15 issued letter granting Assented-to Motion and directing the parties to submit a status report by July 30, 2015. 7/30/15 received Motion for Extension of Stay. 7/31/15 received permittee's status update. August 5, 2015 issued letter with new filing deadlines. September 9, 2015 received Motion to Compel. 9/16/15 received Objection to Motion to Compel. 9/16/15 received Appellants' and State's Witness and Exhibit Lists. 9/17/15 issued order on Motion to Compel. 9/17/15 received Appellant's Assented-To Motion to Compel Responses to Discovery Requests. 9/21/15 received Intervenor's Witness and Exhibit List. 9/24/15 received Request that Assented-To Motion to Compel Responses be taken up at PHC. October 14, 2015 issued Pre-Hearing Order with hearing scheduled for Feb. 10, 2016 at 9 a.m. 10/22/15 received Site Visit Report and Second Amended Notice of Appeal.

Docket No. 14-02 WC – Monadnock Paper Mills, Inc.

Re: 1/13/14 State Water Quality Certificate, WQC #2013-FERC-001, Conditions

Hearing Officer: David Conley, Esq. assigned on 5/19/14

Recused Members: Carol Henderson and Mike Butler

Status: February 28, 2014 received Notice of Appeal. March 11, 2014 issued receipt of appeal letter. May 5, 2014 received Appearance from Atty. Mary Maloney for DES. Council to accept or dismiss appeal. Appeal was accepted at the May 14, 2014 Council meeting. 5/14/14 issued Appeal accepted letter. 5/20/14 issued Notice of Prehearing Conference (PHC). 5/23/14 received Assented to Motion to Continue PHC. 5/29/14 issued letter granting Motion to Continue and rescheduled PHC for Sept. 10th at 8 a.m. August 13, 2014 received Assented to Motion to continue Prehearing conference. 8/14/14 issued letter granting Motion to Continue and rescheduled PHC for Oct. 27, 2014 at 8:30 a.m. 10/20/14 received Assented-to Motion to Continue PHC. 10/21/14 issued letter granting Motion to Continue and rescheduled PHC for January 12, 2015 at 8:30 a.m. 12/31/14 sent notice of rescheduled Prehearing Conference due to scheduling conflict. PHC is scheduled for 1/16/15 at 11 a.m. 1/4/15 received Assented-to Motion to Continue PHC. 1/6/15 issued letter granting Motion and rescheduling PHC for March 16, 2015 at 11 a.m. February 20, 2015 received Assented-To Motion to Continue Prehearing Conference. March 2, 2015 issued letter rescheduling PHC to June 17, 2015 at 9 a.m. June 11, 2015 received Motion to Continue Pre-hearing Conference. 6/17/15 issued letter granting Motion and rescheduled PHC for September 17, 2015 at 8:30. September 10, 2015 received Assented-To Motion to Continue Pre-hearing Conference. 9/16/15 issued letter granting Motion to Continue and rescheduled PHC for Dec. 10, 2015 at 8:30 a.m. December 1, 2015 rec'd Assented-To Motion to Continue Pre-hearing Conference. 12/7/15 issued letter granting Assented to Motion to Continue and rescheduled PHC for March 28, 2016 at 8:30 a.m.

Docket No. 15-07 WC – Board of Governors of the Black Cat Island Civic Assoc. Appeal

Re: 4/7/15 approval for subdivision #SA2015010642 issued to Goldsmith Children's Trust

Hearing Officer: David Conley, Esq. assigned on 6/16/15

Recused: Councilor O'Brien

Status: May 4, 2015 received Preliminary Notice of Appeal (PNA). 5/19/15 received Notice of Appeal. 5/20/15 issued receipt of appeal letter. Appeal accepted on June 10, 2015. 6/10/15 issued appeal accepted letter. 6/17/15 issued Notice of Pre-hearing Conference scheduled for 7/13/15 at 10:30 a.m. 6/19/15 received Appearance of Atty. Gretchen Hamel for DES. July 10, 2015 received Appearance of Attys. Jason Reimers and Amy Manzelli for the permittee and Owner's Petition to Intervene. 7/13/15 issued Pre-Hearing Order scheduling hearing for December 9, 2015. August 13, 2015 received Joint Motion to Dismiss. 8/17/15 received Assented-to Motion to Extend Objection Deadline. 8/27/15 Received Objection to Joint Motion to Dismiss. September 23, 2015 issued order on Joint Motion to Dismiss. October 9, 2015 received Appearance of Atty. Lauren Noether for the Department. 10/12/15 received Withdrawal of Appearance from Atty. Gretchen Hamel. November 9, 2015 received Appellant's, Intervenor's and State's Witness and Exhibit Lists.

Docket No. 15-11 WC – The Three Socios, LLC Appeal

Re: Re: 8/17/15 Well Location Approval DR 140043 issued to George Calef
Hearing Officer: David Conley, Esq. assigned on 10/19/15

Status: September 8, 2015 received Notice of Appeal. 9/10/15 issued receipt of Appeal letter. 9/17/15 received Appearance of Atty. Gregory Wirth and a Motion to Intervene for the Permittee. 9/22/15 received Appearance of Atty. Allen Brooks for DES. October 1, 2015 received Response to Notice of Appeal. Council to accept or dismiss appeal at their October 14, 2015 meeting. 10/14/15 Appeal was accepted and issued Appeal accepted letter. On Oct. 5, 2015 received Motion to Dismiss. 10/09/15 received Objection to Motion to Dismiss. This motion and objection were held until the Council accepted the appeal and a Hearing Officer had been assigned. 10/22/15 issued letter granting Motion to Intervene. November 5, 2015 issued Order on Permittees' Motion to Dismiss. 11/5/15 issued notice of Pre-Hearing Conference scheduled for 12/14/15 @ 9:30 a.m.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

None

3. New Business

Director Forbes gave a presentation of the Land Resource Management Reorganization. Questions were taken and discussion was held.

Councilor Hinds submitted a letter from Presby Environmental to the Council.

Councilor Butler suggested someone attend from the AG office to assist in the education of the new council members as to their roles and responsibilities.

4. Old Business

5. Next Meeting

January 13, 2016 at 9 a.m. Continuation of Hearing.

6. Adjournment

- ***Councilor Butler made a motion for adjournment, second by Councilor Joubert. Motion passed unanimously.***

Meeting adjourned at 8:52 a.m.

WATER COUNCIL

HEARING MINUTES

December 9, 2015

The Water Council met for
Docket No. 15-07 WC – Board of Governors of the Black Cat Island Civic Assoc. Appeal Hearing
Wednesday, December 9, 2015 in Rooms 112, 113, & 114
at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Councilors: John Boisvert, Malcolm Butler, Eugene Clark, Bill Gegas, Chip Hardy, Carol Henderson, Deborah Hinds, Dave Joubert, Tom O'Brien, Chris Rawnsley

Absentees: Councilors: Bob Beurivage and John Gilbert

Also present was: Paula Scott, Appeals Clerk

The Hearing was called to order by Hearings Officer David Conley at 9:00 a.m.

The Hearing is continued to January 13, 2016 at 9 a.m.

The Hearing closed at 3:40 p.m.