

**AIR RESOURCES COUNCIL  
MINUTES OF MEETING #177  
04/13/09**

- MEMBERS PRESENT:** Chairman Robert Duval, Vice-Chairman David Collins, William Smagula, Ryan Bielagus, Raymond Donald, Linda Thomas, Debra Hale, Georgia Murray, Terry Callum, Steven Walker
- MEMBERS NOT PRESENT:** Robert Hickey
- NHDES – ARD PERSONNEL:** Robert Scott, Anne Keach, Michael Fitzgerald, Michele Andy, Jeffrey Underhill, Eric Abrams, Amy Samson, Jessica Morton
- OTHER INTERESTED PARTIES:** Atty. Arthur Cunningham, Atty. Anthony Blenkinsop; Atty. Evan Mullholland, Atty. Gregory Smith, Anthony Caplan, Katherine Lajoie, Catherine Corkery, John Tuthill

**Call to Order:**

Chairman Duval called Meeting #177 of the Air Resources Council (ARC) to order at 9:02 a.m. on Monday, April 13, 2009 and announced that a quorum was present.

**Approval of Minutes:**

Terry Callum entered a motion to accept the minutes of meeting #176. Raymond Donald amended the motion to include a correction to the members listed as present. William Smagula seconded the motion. All present were in favor. The minutes of meeting #176 were accepted by the ARC.

**Division Activities & Legislative Update:**

Chairman Duval introduced Robert Scott, Director of the Air Resources Division. Director Scott provided members of the Air Resources Division with an overview of the following permitting activities related to the Air Resources Division:

Clean Power Development, Berlin, NH

Permit application received to construct a 29MW wood plant.

Augusta Fiberglass Coatings, Blackville, SC

Permit application received to construct a stack at PSNH-Merrimack Station in Bow, NH.

Director Scott provided members of the Air Resources Division with an overview of the following legislative activities related to the Air Resources Division:

**Legislative Issues**

HB 189 – Relative to enabling municipalities to establish energy commissions with specific powers, thus formalizing their role and mission, and enables them to obtain resources such as energy efficiency funding to support their efforts. This legislation is consistent with the a recommendation by the Governor's Climate Change Policy Task Force for cost-effective actions government can take to reduce greenhouse gases that contribute to climate change.

HB 229 – Relative to clarifying the eligibility for Class IV renewable energy generating facilities. The NHDES worked with legislators, stakeholders and the PUC on HB 873 establishing minimum renewable standards for energy portfolios, which passed and was adopted as RSA 362-F. This bill makes clear that eligible hydroelectric facilities are those that have a total nameplate capacity of 5MWs and have installed both upstream and downstream fish passages.

HB 515 – Relative to establishing a commission to study the alternative fuel vehicles. The NHDES supports the formation of this commission to study the impact to the highway fund from today's evolving vehicle mix that includes electric, hybrid, and alternative fuel cars. Director Scott reported that the NHDES further supports the proposed amendment by Senator Fuller-Clark to add the NHDES to the study commission.

SB 68 – Relative to the use of state vehicles. This bill allows the Department of Administrative Services to update the minimum mileage requirements using the latest cost data for each budget cycle. The current 12,000 mile requirement is outdated and significantly over-estimates the mileage that justifies operating a state vehicle using current costs. This bill would allow agencies to assign vehicles based on fuel efficiency for longer trips instead of meeting a mileage requirement.

HB 2 – Relative to state fees, funds, revenues, and expenditures. Establishes a new motor vehicle air pollution abatement fund and increases the motor vehicle inspection sticker fee from \$2.50 to \$3.00. Half of the fee increase (\$0.25) would be directed to the new fund to support NHDES programs and staff dedicated to reducing emissions of air pollutants from motor vehicles as well as greenhouse gas reductions. The remainder of the increase is allocated to the Department of Safety.

Director Scott introduced Michael Fitzgerald, Administrator of the Technical Services Bureau. Mr. Fitzgerald provided members of the ARC with copies of the Rulemaking Milestone Chart.

#### Climate Change Action Plan

Director Scott provided members of the ARC with copies of the *New Hampshire Climate Action Plan* (NHCAP) which calls for achieving the greatest feasible reductions in greenhouse gas emissions while also providing the greatest possible long-term economic benefits. Director Scott stated that the NHCAP contains sixty-seven recommended actions that will be sufficient to achieve the mid-term reduction goal and establish a framework for taking additional measures to reach the long-term goal. The greatest improvements will come from the building sector, followed by the transportation and the electric generation sectors.

Director Scott explained that in order to accomplish those goals, the Task Force recommends the formation of a public/private partnership, the New Hampshire Energy and Climate Collaborative, to oversee and guide implementation of the NHCAP. The primary purpose of the Collaborative will be to track and facilitate implementation of the NHCAP's recommendations, and to report to the Governor, Legislature, and the general public on the progress toward achieving the desired outcomes. He added that the proposed Collaborative will consist of major institutions and leading individuals representing:

- Six members from the business community
- Six members from the public sector
- Six members from the education and nonprofit sectors

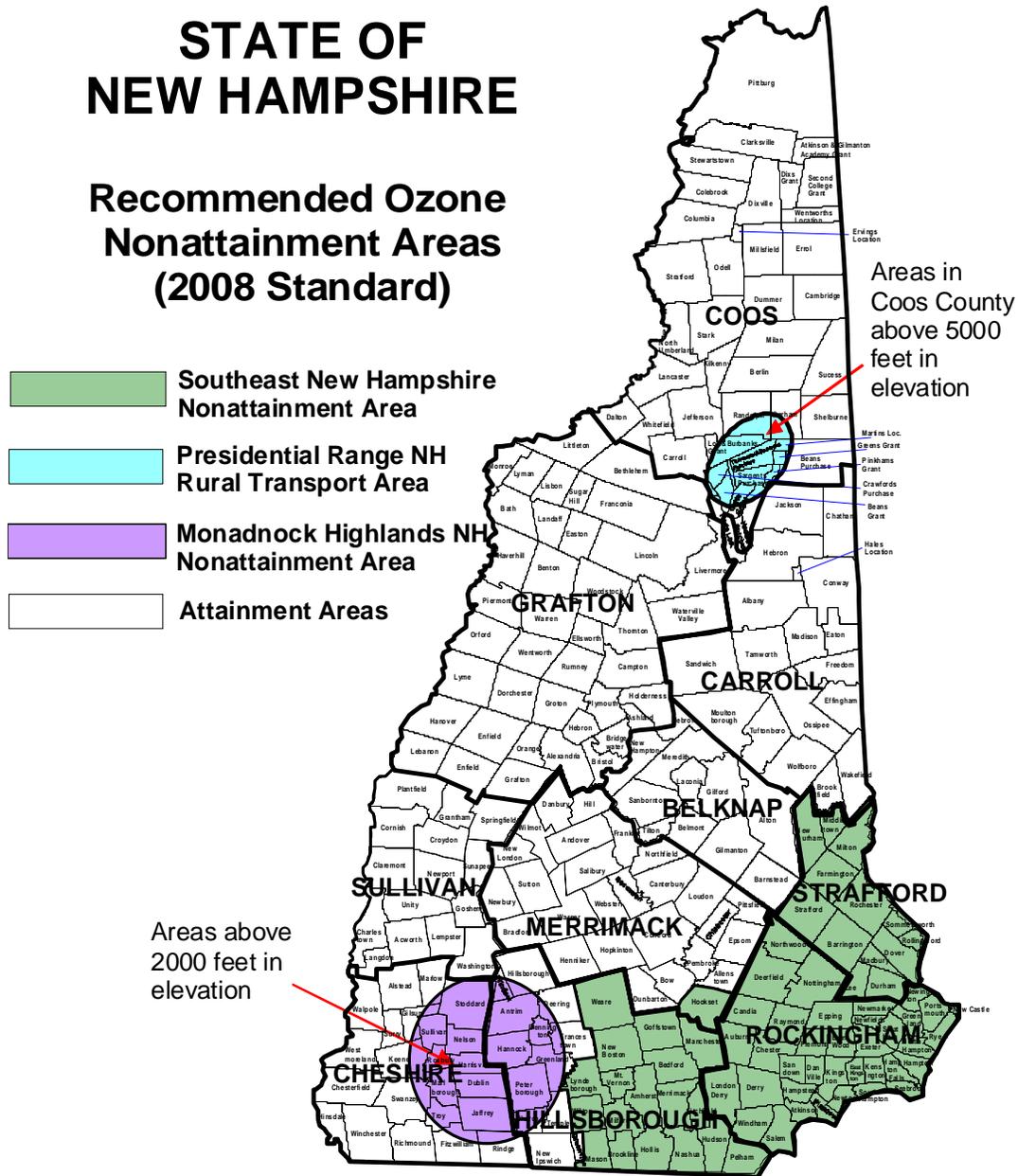
#### **Overview of Proposed Ozone Non-Attainment Designations:**

Chairman Duval introduced Dr. Jeffrey Underhill, Administrator of the Atmospheric Science and Analysis Section. Dr. Underhill provided members of the ARC with an update of New Hampshire's Non-Attainment Designations. Dr. Underhill reminded members of the ARC that:

- The ozone standard was recently lowered from 80ppb to 75ppb.
- The ozone levels are improving in the state and New Hampshire is now coming into attainment with the older standard.
- Portions of New Hampshire will be designated as Non-attainment for the revised standard.
- Nashua, Portsmouth, Miller State Park (Pack Monadnock), and Mt. Washington are now exceeding or borderline exceeding the new standard.

- While portions of New Hampshire will be designated as Non-Attainment under the New Hampshire proposed non-attainment boundaries for the revised standard, there should be no additional control requirements beyond what is already planned for the state.
- Non-attainment classifications for the Southeast NH area are expected to moderate and the Monadnock Highlands area to be marginal.
- The Governor requested that the Presidential Range area (Mt. Washington) be designated as “Rural Transport”, thus no new local requirement will be necessary.

Dr. Underhill provided the following map which indicates recommended non-attainment areas according to the recent standard:



1/6/2009 Possible 8-hrBndys (2008) with Counties.gsm

## **Overview of Public Health Assessment, Claremont, NH**

Chairman Duval introduced Eric Abrams, Health Risk Assessor of the Environmental Health Program. Mr. Abrams summarized the Public Health Assessment of Ambient Air Quality in Claremont, New Hampshire. Mr. Abrams reported that U.S. Agency for Toxic Substances and Disease Registry (ATSDR) is a non-regulatory federal agency mandated by Congress to assess human health effects from exposure to hazardous substances at Superfund and other sites. For the last seventeen years, ATSDR and New Hampshire's Environmental Health Program (EHP) have maintained a cooperative agreement to conduct assessments of human health implications of hazardous chemical releases, and to make recommendations to protect the public health.

Mr. Abrams explained that during the public hearing related to permitting a local stationary source, some residents of Claremont, New Hampshire expressed concerns about air pollution emissions from the Wheelabrator-Claremont waste to-energy facility. As a result, the NHDES requested EHP to examine air quality and certain health effects that might be associated with air emissions from nearby point sources including the Wheelabrator, Claremont facility.

Mr. Abrams reported that the overall conclusion of this report is that ambient air in the Claremont area does not present a health hazard to the general population. Based on review of the monitoring data, sulfur dioxide (SO<sub>2</sub>), fine particulate matter (PM<sub>2.5</sub>), do not represent a public health hazard to residents of the Claremont area. In addition, the NHDES reviewed the Claremont area ambient air monitoring data for twenty-eight regulated toxic air pollutants, and concludes that the levels do not pose a human health hazard to any sensitive population. Based on the analyses of the data, Claremont regulated toxic air pollutant levels are expected to have no effect on rates of non-cancer diseases and their effect on cancer rates is negligible. Regulated toxic air pollutant levels at the South Street monitoring station were also consistent with those from other air monitors across the state regardless of season, wind direction, and other factors.

## **Status of Appeals**

(The ARC entered into executive session to meet with their Counsel, Atty. Blenkinsop from 10:20 a.m. – 10:55 a.m.)

Amy Samson, Appeals Clerk provided the following update regarding the status of appeals before the ARC.

Docket No. 08-39 ARC, Appeal of Gregory and Cheryl Kindrat – A hearing was held on January 26, 2009. The ARC deliberated on March 9, 2009. A written decision is being finalized and will be issued to the ARC to review and approve on May 11, 2009.

Docket No. 08-48 ARC, Appeal of Russell Thomas regarding July 2, 2008 Administrative Order – Appeal was accepted on September 15, 2008. An Assented to Motion to Stay was filed on December 15, 2008, which was granted by the Presiding Officer, David Collins.

Docket Nos. 09-03 & 09-04 ARC, Appeal of Mink Hills Center for Sustainable Development and Katherine Lajoie to Approve the January 5, 2009 Decision to Approve the Application and Issue a Proposed Title V Operating Permit to Wheelabrator Concord Company, LP. Correction to rebuttal filed by Katherine Lajoie on April 13, 2009. The ARC needs to vote to accept or deny the Motion to Dismiss.

Steven Walker entered a motion to suspend the procedural rules in order to allow the parties to speak before the ARC for approximately five minutes. Linda Thomas seconded the motion. Raymond Donald, Debra Hale, Terry Callum, David Collins, William Smagula, Steven Walker, and Ryan Bielagus voted against the motion. Linda Thomas and Georgia Murray voted in favor. The motion to suspend the procedural rules of the ARC failed.

William Smagula entered a Motion to approve the Motion to Dismiss for Lack of Standing filed by Atty. Mulholland in the case of Katherine Lajoie only. Raymond Donald seconded the motion. Linda Thomas opposed, all others present were in favor. The Motion to Dismiss the Katherine Lajoie appeal was approved by the ARC. A hearing will be scheduled for the appeal of the Mink Hills Center.

Ms. Samson provided members of the ARC with the status of the following new appeals concerning the March 9, 2009 Temporary Permit TP-0008 – PSNH Merrimack Station before the ARC:

Docket No. 09-10 ARC – Appeal filed on March 18, 2009 by NH Sierra Club, et al.  
Docket No. 09-11 ARC – Appeal filed on March 19, 2009 by Conservation Law Foundation  
Docket No. 09-12 ARC – Appeal filed on March 19, 2009 by Freedom Logistics & Halifax-American Energy

Before taking formal action on the preceding appeals, the following members of the ARC stated their recusal from hearing the appeals:

David Collins  
Robert Duval  
William Smagula  
Linda Thomas  
Georgia Murray

Chairman Duval pointed out that as their first order of business, the non-recused members of the Council needed to appoint a Presiding Officer for hearings concerning Docket Nos. 09-10 ARC, 09-11 ARC, and 09-12 ARC. The recused members then stepped down.

Terry Callum entered a motion to appoint Raymond Donald as the presiding officer. Steven Walker seconded the motion. All remaining non-recused members of the ARC were in favor. Motion carried.

In the interest of time, the non-recused members of the ARC tabled discussion of Docket Nos. 09-10 ARC, 09-11 ARC, and 09-12 ARC until the next meeting of the ARC. The recused members then re-joined the Council.

### **Other Business**

Chairman Duval set the next date of the ARC to be held on May 11, 2009 at 9:00 a.m. in conference rooms 112 and 113.

### **Adjourn**

Having no further business to discuss, Terry Callum entered a motion to adjourn. Debra Hale seconded the motion. Motion carried. Meeting # 177 of the ARC adjourned at 11:30 a.m. on Monday, April 13, 2009.