

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #180
07/13/09**

- MEMBERS PRESENT:** Chairman Robert Duval, Georgia Murray
William Smagula, Ryan Bielagus, Raymond Donald,
Debra Hale, Steven Walker, Robert Hickey,
Linda Thomas, Terry Callum
- MEMBERS NOT PRESENT:** Vice-Chairman David Collins
- NHDES – ARD PERSONNEL:** Robert Scott, Anne Keach, Joanne Morin, Joseph Fontaine,
Ryan Trombley, Pamela Monroe, Craig Wright, Michele Andy,
Amy Samson
- OTHER INTERESTED PARTIES:** Atty. Evan Mullholland, Atty. Andreas Gilmenakis,
Atty. Gregory Smith, Ellen Connett , Paul Connett,
John Tuthill, Katie Lajoie, Anthony Caplan

Call to Order:

Chairman Duval called Meeting #180 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, July 13, 2009 and announced that a quorum was present.

Approval of Minutes:

William Smagula entered a motion to accept the minutes of meeting #179. Raymond Donald seconded the motion. All present were in favor. The minutes of meeting #179 were accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Robert Scott, Director of the Air Resources Division (ARD). Director Scott provided members of the ARC with the following update regarding ARD activities and related legislation.

Permitting Activities

Draft Title V Permit for PSNH Merrimack Station, Bow – draft permit will be finalized by the end of July 2009. A public hearing will be scheduled to receive public comment on the draft permit. Director Scott stated that existing permits for the facility will remain in effect until the final permit is issued.

Funding

- 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 expected total amount allocated to the Air Resources Division is approximately \$350,000. The remainder of the increase is allocated to the Department of Safety.
- State Budget/Medical Malpractice Funds – Director Scott reported that the State budget is based on the \$110 million dollars from the medical malpractice fund. If the State loses the law suit, NH legislators will have to return to session to develop an alternative budget.
- Director Scott reported that the Air Resources Division expects approximately \$500,000 in funding from the Section 105 Grant. This amount represents a decrease in previous years as

the Section 105 grant monies are now being distributed to an increased number of states designated as being in non-attainment.

Site Evaluation Committee

- Director Scott reported that the Site Evaluation Committee will issue a Certificate of Site and Facility to construct and operate the Granite Reliable Power, LLC windpark in Coos County.
- Director Scott reported that the Motion for Declaratory Ruling does not trigger SEC review for PSNH.

Chairman Duval asked Director Scott if the SEC has issued any other certificates for wind power generating facilities in NH.

Director Scott reported that the SEC has issued a Memorandum of Understanding (MOU) with local government and county commissioners for operating conditions for the Lempster Wind Power facility. He explained that the MOU is legally binding and incorporates safety and visibility conditions.

New Hampshire Regional Haze State Implementation Plan (SIP) Revision

Director Scott stated that a public hearing was held on June 24, 2009 to receive public comment concerning the Regional Haze SIP revisions. Comments were received from the Federal Land Managers, the Environmental Protection Agency, and the Appalachian Mountain Club and will be considered in preparation of the final SIP submittal.

Director Scott provided members of the ARC with a copy of RSA 125-J:13 NO_x – Emitting Generation Source Requirements as additional information for members as part of their review of the re-adoption of *Env-A 3700, NO_x Emissions Reduction Fund for NO_x-Emitting Generating Sources*.

Env-A 3700, NO_x Emissions Reduction Fund

Chairman Duval introduced Joseph Fontaine, Program Manager, Technical Services Bureau. Mr. Fontaine provided members of the ARC with the draft rule, *Env-A 3700, NO_x Emissions Reduction Fund for NO_x Emitting Generation Sources*. Mr. Fontaine explained that the rule was originally adopted in December 2001. The NHDES is required to re-adopt rules every eight years prior to the rule expiration date. Portions of the rule are outdated and can be deleted. The existing rules implement the NO_x Emissions Reduction Fund for NO_x Emitting Generation Sources established under RSA 125-J:13. The NO_x Emissions Reduction Fund is an effort by the State of New Hampshire to reduce emissions of NO_x, a precursor pollutant. The rules establish a fee-based program targeting higher NO_x-emitting generation sources that saved money on their electricity costs by installing on-site generation, but have not reduced their NO_x emission rates to the level of the power grid.

Mr. Fontaine stated that other than clean-up changes to the rule, no significant changes are being proposed to the re-adopted rule.

Georgia Murray suggested an additional revision to the language contained in *Env-A 3707.06, Procedures for Use of NO_x Emissions Reduction Fund Fees*.

Mr. Fontaine agreed to include “...or each year in which the fund equals an amount lower than \$150,000 and the department proposes use of money from the fund, the department shall:

- (a) Issue ~~annually~~, on or before ~~January 15~~ **September 1**, a proposal for the use of fund moneys consistent with RSA 125-J:13, II(c)...”

Mr. Fontaine provided members of the ARC copies of the revised language to *Env-A 3707.06*.

Raymond Donald entered a motion to accept for review that proposed rule for re-adoption. Debra Hale seconded the motion. Linda Thomas opposed. All others were in favor. Motion carried. Chairman Duval instructed members of the ARC to contact Vice-Chairman Collins with any additional comments concerning the rule within fifteen days.

Status of Appeals:

Amy Samson, Appeals Clerk provided members of the ARC with a status of appeals before the ARC:

Docket # 09-18 ARC, Appeal of Public Service of New Hampshire

Steven Walker entered a motion to continue to table the Notice of Appeal filed by Public Service of New Hampshire. Ryan Bielagus seconded the motion. All present were in favor. Motion carried.

Docket # 09-03 ARC and 09-04 ARC , Appeal of Mink Hills Center for Sustainable Development

Hearing scheduled for today, July 13, 2009 at 10:00 a.m. following the regular meeting of the ARC. A Decision to Dismiss must be prepared for Docket #09-03 ARC, Appeal of Katie Lajoie.

Docket #09-10 ARC, Appeal of NH Sierra Club et al. and 09-11 ARC, Appeal of Conservation law Foundation

A pre-hearing conference was held on June 22, 2009. A further pre-hearing conference in this matter has been scheduled for Monday, August 17, 2009 at 9:00 a.m. in room 110, 29 Hazen Drive. The appeal hearing in this matter has been scheduled for Monday, September 14, 2009 at 10:00 a.m. in room 112, 29 Hazen Drive.

Docket # 08-48 ARC, Appeal of Russell Thomas (Administrative Order # WMD 08-033)

See status report filed by appellant. No further action is required by the ARC in this matter.

Other Business:

Chairman Duval set the next date of the ARC to be held on August 10, 2009 at 9:00 a.m. in conference rooms 112 and 113.

Adjourn:

Having no further business to discuss, Debra Hale entered a motion to adjourn. Georgia Murray seconded the motion. All present were in favor. Meeting #180 of the ARC adjourned at 10:10 a.m. on July 13, 2009.