

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #221
01/13/14**

MEMBERS PRESENT: Vice-Chairman David Collins, Ryan Bielagus,
Georgia Murray (via conf. call), William Smagula,
Kris Nils Blomback

MEMBERS NOT PRESENT: Chairman Robert Duval, Debra Hale, Raymond Donald
Deborah Chabot, Carmela Amato-Wierda,

NHDES – ARD PERSONNEL: Craig Wright, Michele Roberge, Gary Milbury,
Barbara Hoffman

OTHERS PRESENT: Anne Keach, Paula Scott

Call to Order:

Vice-Chairman Collins called Meeting #221 of the Air Resources Council (ARC) to order at 9:15 a.m. on Monday, January 13, 2014. Vice-Chairman Collins announced that a quorum of the ARC was not present.

Approval of Minutes:

Quorum not present – Item tabled.

Division Activities & Legislative Update:

Vice-Chairman Collins introduced Craig Wright, Director of the Air Resources Division (ARD). Mr. Wright briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Legislation

Mr. Wright reported that the Air Resources Division (ARD) is tracking and/or developing testimony to support or oppose the following legislation for the upcoming 2014 session:

HB 1129 – establishing a committee to study energy efficiency
HB 1192 – eliminating the threshold price on the use of proceeds from the regional greenhouse gas initiative program
HB 1305 – relative to the definition of asbestos abatement
HB 1443 – relative to renewable portfolio standards
HB 1385 – relative to changes and additions to energy facilities
HB 1456 – relative to the issuance of certificate for energy facilities by the site evaluation committee
SB 268 – relative to allocations from the energy efficiency fund
SB 281 – relative to the siting of wind turbines

Michele Roberge, Administrator of the Permitting and Environmental Health Bureau added that the Air Resources Division is tracking the following legislation relative to radon and mold:

SB 334 – relative to certification and licensure for mold assessment or remediation services
HB 1532 – relative to notification of radon level prior to sale or lease of property

Director Wright stated that he will provide members with relevant Legislative activities at the next meeting of the ARC.

Permitting

The NCES operates a solid waste landfill, which generates landfill gas that is extracted and combusted in one of two open flares, with the second flare serving as a backup control device in the event the first flare is temporarily offline for maintenance or repairs. The Title V Operating permit is intended to incorporate all applicable state and federal requirements relating to air emissions, including the requirements of existing temporary permits, into one operating permit. Director Wright added that the Title V Operating permit is also required for the landfill based on its capacity, pursuant to the Code of Federal Regulations, 40 CFR Part 60, Subpart WWW.

Director Wright reported that a public hearing is scheduled for January 16, 2014 at 6:00 p.m. at Profile High School in Bethlehem, NH.

Public Service of New Hampshire - Schiller Station, Portsmouth, NH

Director Wright stated that the NHDES has received over two hundred e-mails from Sierra Club members and the Conservation Law Foundation. He reported that the NHDES is currently reviewing those comments; however no request for a public hearing has been received by the NHDES.

Regional Greenhouse Gas initiative (RGGI) Rules

Director Wright stated that nine RGGI states are preparing comments to submit on-line regarding the 111D Standards. He added that new sources such as Granite Ridge and Essential Energy will be affected by the proposed standards; and additional proposed standards are being developed for existing sources which will affect PSNH plants.

Env-A 702.05, 705.01, and 907.01, General Reporting and Fees Requirements

Quorum non present – Item Tabled

Status of Appeals

Paula Scott, Appeals Clerk presented the status of appeals before the ARC as follows:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to the State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013. The ARC received PSNH's status report on September 5, 2013. On September 12, 2013, the ARC issued a letter granting the request. On December 4, 2014, the ARC received a Joint Motion to Close this Docket.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the

Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants; Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants; Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request for Information. A continued hearing on the matter was held on August 12, 2013. The hearing will resume on September 11, 2013 at 11:00 a.m. On August 20, 2013, the ARC received the Appellant's Submittal of missing data from Exhibit A4. A hearing on the matter will resume on October 21, 2013 following the regular meeting of the ARC at 10:00 a.m. Deliberations were held on November 18, 2013. A Decision will be issued within 90 days (2/16/14).

Docket No. 13-4 ARC – Winmill Equipment Co., Inc. regarding Administrative Order No. 13-009 ARD issued on May 30, 2013. The ARC received the Notice of Appeal on July 1, 2013. On July 2, 2013, the ARC issued an insufficient appeal letter. On July 15, 2013, the ARC received a revised Notice of Appeal. On July 22, 2013, the ARC issued a receipt of the Revised Appeal. On August 19, 2013, the ARC received a Notice of Appearance from Kerry Barnsley for the NHDES. On September 13, 2013, the ARC issued a Notice of Pre-hearing Conference scheduled for October 8, 2013 at 4:00 p.m. On September 24, 2013, the ARC issued notice of the Pre-Hearing Conference time change from 4:00 p.m. to 8:30 a.m. on October 8, 2013. The Pre-hearing Conference was held on October 8, 2013 and a Pre-Hearing Order was issued. The continued Pre-Hearing Conference is scheduled for January 14, 2014, at 8:30 a.m. On November 15, 2013, a notice of the rescheduled continued Pre-hearing Conference for January 13, 2013 was sent. On January 10, 2014, the ARC received an

Assented to Motion to Continue. On January 10, 2014, the ARC issued a letter granting the Motion to Continue and rescheduling the PHC to March 13, 2014.

New Business

Vice-Chairman Collins introduced Kris Nils Blomback, Executive Director of Pats Peak Ski Area. Mr. Blomback has been appointed to the ARC representing the Recreational Industry.

Other Business

Vice-Chairman Collins set the next meeting of the Air Resources Council to be held on February 10, 2014.

Public Commentary

No public comments were received by the ARC.

Adjourn

Having no further business to discuss, meeting #221 of the Air Resources Council adjourned at 9:35 a.m. on January 13, 2014.