

WASTE MANAGEMENT COUNCIL

Minutes of December 15, 2011

**State of New Hampshire
Department of Environmental Services
29 Hazen Drive, Room 112, 113, and 114
Concord, New Hampshire 03301**

MEMBERS PRESENT: G. Bradley Richards, Chairman; Phillip Bilodeau; Michael Blayney
Charles E. Connell; Steven Crean; Arthur Cunningham; Nancy Kinner;
Elaine Lauterborn

(1) Introduction

(A) Chairman Richards brought the meeting to order at 8:15 a.m. verifying that a quorum was present.

(2) Pending Business

- (A) Schedule of Next Meeting: The next meeting is scheduled for January 19, 2012 and will be held at the NHDES offices.
- (B) Accept Minutes of the November 17, 2011 meeting. Charles Connell moved to except the minutes Phillip Bilodeau seconded. All in favor.

(3) Appeal Status Update: Paula Scott, Appeals Clerk

New Appeal's

Docket No. 11-14 WMC – Energy North Natural Gas, Inc. dba National Grid

Subject of Appeal: November 2, 2011 Final Decision on Remedial Action Plan for Lower Liberty Hill site in Gilford.

Presiding Officer: Not Assigned

Recusals:

Status: 12/2/11 received notice of Appeal which was timely filed. 12/6/11. Issued receipt Of Appeal letter. Council to accept or decline Notice of Appeal. Council Accepted Appeal

Pending, Appeal's.

Docket Number: 09-02 WMC

Appellant: North Country Environmental Services, Inc. (NCES, INC.)
Subject of Appeal: December 12, 2008 Applications to Modify Permit # DES-SW-SP-03-002 for Stage IV Phase II of the NCES Landfill, Trudeau Road, Bethlehem NH
Presiding Officer: Not Assigned
Status: Stay remains in affect Sent request for status report on September 21, 2011. 10/04/11 received joint status report. It appears both sides agree this can be dismissed.
Action needed by Council: Council may dismiss the Appeal if council chooses to treat this as a joint motion for dismissal. Template can be forwarded for the draft order to be prepared and presented to Council for issuing. Council accepted Joint Status Report. Council Tabled until a quorum was present. Clarification of status report is that the Appellant will withdraw appeal once Docket Nos 10-22 WMC and 11-04 WMC are resolved with finality.

Docket Number: 09-19 WMC

Appellant: North Country Environmental Services, Inc. (NCES, INC.)
Subject of Appeal: March 25, 2009 Notice of Decision Regarding Applications to Modify Permit #DES-SW-SP-03-002 for Stage IV Phase II of the NCES Landfill, Trudeau Road, Bethlehem, NH
Presiding Officer: Not Assigned
Recusals: Stephen Crean
Status: Stay remains in affect. Sent request for status report on September 21, 2011. October 4, 2011 received joint status report. It appears both sides agree this can be dismissed.
Action Needed by Council: Council may dismiss the appeal; If Council chooses to treat this as a joint motion for dismissal. Template can be forwarded for draft order to be prepared and presented to Council for issuing. Council Accepted Joint Statue Report. Council tabled until a Quorum was present. Clarification of Status report is that appellant will withdraw appeal once Docket Nos. 10-22 WMC and 11-04 WMC are resolved with finality.

Docket No. 10-26-WMC – Old Dutch Mustard Co. Inc. of Pioneer Point Appeal

Subject of Appeal: Issuance of Standard Permit DES-SW-SP-10-005 issued on October 26, 2010 to Pioneer Point Ent. As well as waiver approvals DES-SW-WV-10-003 and -004.
Presiding Officer: David Conley, Esq.
Status: PHC was held on August 25, 2011 at 9.00 am.
Second PHC was held on October 14, 2011, and notice given per PHO issued August 25, 2011.
Presiding Officer issued decision on Motion to Dismiss and Objection to Motion to Dismiss On August 29, 2011. September 21, 2011 Appellant filed Motion to Compel. Intervener's Response to Motion to Compel was filed on September 28, 2011. Order on Appellants Motion to Compel was issued on October 2, 2011. Partially Assented-To Motion to Reschedule Hearing and certain Pre-hearing deadlines. Filed October 3, 2011. October 4, 2011 received Appellants Witness & Exhibit lists and Intervener's Objection to Motion to Reschedule Hearing & Certain Pre-hearing deadlines. October 5, 2011 received response to Objection to Motion to Reschedule Hearing and certain Pre-hearing deadlines. Order on partially Assented-to-motion to Reschedule Hearing and certain pre-hearing deadlines was issued on October 6, 2011. Second PHC is rescheduled to December 12, 2011 at 9:15 am. And Hearing is rescheduled to December 15, 2011@ 9:00.notice given per Order on Partially Assented – To Motion to Reschedule Hearing. October 10, 2011. Received Intervenor's Witness and exhibit list. December 5, 2011 received Appellants Witness and Exhibit List and Intervenor's Witness and Exhibit List. December 5, 2011 received supplement to Intervenor's Witness and Exhibit List and DES' Motion to Strike. Witness Designations of Appellant and Appellee. December 8, 2011 received Appellants

Qualified Assent to Motion to Strike and Appellants Revised Exhibit List and Exhibits.
December 12, 2011 Pre Hearing Order was issued and also, Received Intervenor's Exhibit
List and Exhibits. December 13, 2011 Notice of Change in Time for next Pre Hearing
Conference was issued
Action needed by Council; None

Docket No. 11-04 WMC –Seth Goldstein, et al Appeal

Subject of Appeal: February 14, 2011 Type II Modification Stage IV Phase II-A Permit number
DES-SW-SP-003-002.

Presiding Officer: David Conley: Esq.

Recusal: Stephen Crean

Status; Appellant filed Motion to Compel on August 8, 2011. NCES filed Objection to Motion to
Compel and Motion for Extension of time on September 8, 2011. NCES filed its reply In Support
Of its Motion for Extension of Time on September 9, 2011. Decision and Order on Motion to
Dismiss untimely appeal was granted and issued on September 27, 2011. Motion for Rehearing
Was filed on October 26, 2011. Objection to Motion for Rehearing was filed on November 1,
2011. Presiding Officer will issue decision on reconsideration.

Docket No 10-22 WMC –Seth Goldstein, et al Appeal

Subject of Appeal: August 27, 2010 Type 1B permit Modification for NCES Stage IV
Landfill, 581 Trudeau Road Permit# DES-SW-03-002

Presiding Officer: Attorney David Conley, Esq.

Status: Council deliberated on July 21, 2011. PO to issue draft order to the council and issue final
Order within 90 days (October 19, 2011). Draft Decision and Order was accepted by the Council
On September 15, 2011, Final decision and order was mailed on September 16, 2011. October
14, 2011 received Motion for Rehearing. On October 24, 2011 received Objection to Appellants
Motion for Rehearing, Council to act on Motion and Objection, Motion Granted on the following
Conditions, the appellant is to submit offer of proof on II. A-h by Dec 30, 2011. Attorney Gould
May respond if he chooses by January 13, 2012. Any new or additional evidence will be
Considered in Accordance with our rules and relevant statutes.

Docket No 08-17 WMC- Simard Family Trust

Subject of Appeal: February 19, 2008 Auburn Road Landfill Superfund Site Groundwater
Management Permit No. GPW-198803007-L0001.

Presiding Officer:

Status: Hearing was held on June 19, 2008, Decision and Order was never issued. Chairman was
Sent draft Decision and Order on November 10, 2011 to review and prepare for Presentation
To the Council. Chairman is working with Council on preparing final draft order to be presented to
The Council.

Docket No 07-20 WMC Shaw Environmental, Inc.

Subject of Appeal: July 24, 2007 Groundwater Remedial Services Award to Weston Solutions Inc.
Presiding Officer

Status: Hearing was held on November 15, 2007 and appeal denied. However, the Decision and
Order was never issued in written form. On November 18, 2011, Chairman was sent Draft Decision
And Order that had been on our H drive. Chairman is working with Council on preparing final

Draft order to be presented to the council.

(4) Adjournment

Meeting was adjourned at 11:00 Elaine Lauterborn made the motion to adjourn the December 17, 2011 meeting Michael Blayney seconded. All in favor

Respectfully submitted by Pamela Werner, Waste Management Council Clerk.

A copy of the audio taped recording of this meeting is available upon request. Please contact Mrs. Werner at (603) 271-2905 for more information.