

**WASTE MANAGEMENT COUNCIL**

**Minutes of February 16, 2012**

**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 Blayne; Arthur Cunningham; Michael Dufor; Nancy Kinner; Elaine Lauterborn;

**(1) Introduction**

(A) Chairman Richards brought the meeting to order at 10:15 a.m. verifying that a quorum was present.

**(2) Pending Business**

(A) Schedule of Next Meeting: The next meeting is scheduled for March 15, 2012 and will be held at the NHDES offices.

(B) Accept Minutes of the January 19, 2011 meeting. Michael Blayne Moved to except the minutes, Michael Dufor seconded. All in favor.

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

**Pending, Appeal's.**

**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 did not have a quorum at the November meeting therefore, Council to Act on Motion and Objection. Council accepted the Motion for the Rehearing at the Dec 15, 2011 meeting with the following conditions. The appellant is to submit offer of proof on. A-h by December 30, 2011. Attorney Gould may respond by January 13, 2012. Any new or additional

Evidence will be considered in accordance with our rules and relevant statutes. December 30, 2011, received partial offer of proof. January 10, 2012 received NCES Objection to Uncaptioned Motion for extension of Time. January 13, 2012 received NCES Response to Appellant's partial Offer of proof. January 19, 2012 Council deliberated, on Items II a,b,c,e,f,g,h, Charles Connell Made the motion to Deny, Arthur Cunningham seconded all in favor. Item II d Charles Connell Made the motion to deny, Michael Blayne seconded. 4 members voted for the motion 2 opposed. Motion was denied. On January 26, 2012 Order was issued on Motion for Rehearing.

**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 exhibits. December 12, 2011

PHO was issued and also, received Intervenor's Exhibit List and Exhibits. December 12, 2011

At the PHC a motion was made to continue hearing and was granted. Hearing was rescheduled

To January 19, 2012 at 10:00 am notice given per PHO. Third PHO is scheduled for January

13, 2012. December 13, 2011 Notice of change in time for PHC was issued. January 12, 2012

received e-mail requesting hearing be moved out 30 days. PO agreed to postpone the hearing

and reschedule with due notice given. PHC is rescheduled to February 16, 2012 at 10:00 am.

Notice issued on January 13, 2012. February 12, 2012 Motion to Adjourn or Continue PHC &

Hearing was filed by DES. February 9, 2012 Intervener filed Objection to Motion to Adjourn or

Continue PHC & Hearing. February 9, 2012 Appellant filed Response to Objection to Motion to

Reschedule Hearing and certain pre hearing deadlines. Order on Motion to Adjourn or continue

PHC and hearing was issued on February 10, 2012. PHC is scheduled for April 16, 2012, and

Hearing for April 19, 2012.

**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: David Conley

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 At there December 15, 2011 meeting, notice was sent on December 16, 2011. December 19, 2011 received motion to intervene from the town of Gilford. December 27, 2011 received Appearance by Evan Mulholland for the DES and received Objection to the town of Gilford's Motion to Intervene. On January 6, 2012 received Town of Gilford's response to Objection To Motion to Intervene. January 10, 2012 received Appellants Sur-Reply to the Town of Gilford's Response to Objection. Hearing Officer to act on Motion and Objection. On February 16, 2012, Elaine Lauterborn made the motion to accept the town of Gilford's Motion to Intervene. And Mike Durfor seconded the motion. All in favor.

**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

Recusals: Stephen Crean

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 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) Waste Management Division Update; Director Michael Wimsatt**

Mr. Wimsatt gave an update to the Council on the 2014-2015 Budget. He also gave an update on The disbandment of the PRC to the Department of Environmental Services. The Spill Response Section will now be in charge of all of the equipment that used to be managed by the coop. The Council would like to thank the Spill Response group for all of there hard work with this transition. Mr. Wimsatt also gave a brief synopsis of the Farmington Landfill and also on the Legislative Session in regards to HB 1489 Repeal of the Fod fund, HB 1721Spcc plans and self certification, HB 1477, Spent materials an also HB 1234- 1435 establishing a grievance committee.

**(5) Vapor Recovery Rules Update; Mr. Michael Juranty**

The Vapor recovery Stage II rules will expire in August of 2012. The State of NH would like to Modify the stage II rules and tie the Federal Neshap rules to the vapor recovery rules and readopt The stage I **Rules**. Arthur Cunningham made the motion to concur with the changes to the Vapor Recovery Rules. And was seconded by Michel Blayney. All were in favor

**(6) Adjournment**

Meeting was adjourned at 12:10 Nancy Kinner made the motion to adjourn the February 16, 2012 meeting Arthur Cunningham 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.*