

WASTE MANAGEMENT COUNCIL

Minutes of April 19, 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 Blayney; Arthur Cunningham; Steve Crean; Michael Dufor; Nancy Kinner; Elaine Lauterborn; Daniel Sweet;

(1) Introduction

(A) Chairman Richards brought the meeting to order at 9:10 a.m. verifying that a quorum was present.

(2) Pending Business

(A) Schedule of Next Meeting: The next meeting is scheduled for May 17, 2012, and will be held at the NHDES offices.

(B) Accept Minutes of the February 16, 2011 meeting. Elaine Lauterborn Moved to except the minutes, Nancy Kinner seconded. All in favor.

(C) Correspondence:

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

Pending, Appeal's.

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. Third Pre Hearing Notice was issued on March 13, 2012 with Pre Conference scheduled for April 16, 2012 at 11:Am. April 16, 2012 received Appellant's Supplemental exhibits. Pre Hearing Order was issued on April 16, 2012. Hearing is scheduled for April 19, 2012 at 10:30 Am.

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. Order granting the town of Gilford's Motion to intervene was issued on February 16, 2012. Pre Hearing Conference notice was issued on February 16, 2012. The Pre Hearing Conference is Scheduled for March 12, 2012 at 10:30 Am, and the hearing is scheduled for October 18, 2012 and November 15, 2012 at 10: Am, notice given per Pre hearing Order.

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. March 5, 2012, received Appellants Withdrawal of Appeal.

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. March 5, 2012, received Appellants Withdrawal of Appeal.

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 Council. Waiting for the draft order from the Chairman

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. Waiting for the Draft Order from the Chairman

(4) Waste Management Division Update; Director Michael Wimsatt

Mr. Wimsatt gave an update on the 1.4 Dioxin contaminations that has been found in Atkinson.

(5) Hearing

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

(6) Adjournment

Meeting was adjourned May 17, 2012 at 9:10 Steve Crean made the motion to adjourn the April 19, 2012 meeting and Daniel Sweet seconded. Chuck Connell Abstained, 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.*