

## WATER COUNCIL MEETING

NH Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

November 14, 2012  
9:00 a.m.

**Members present:** Chairman Gilbert, Councilors Butler, Henderson, Hinds, Lyons, O'Brien, Rastallis, and Varotsis

**Members absent:** Councilors Gosse, Hoyt, and Rawnsley

Chairman Gilbert called the meeting to order at 9:00 a.m. Tom O'Brien was introduced as the Council's new member representing the Conservation/Environmental community. Councilor O'Brien shared his career history.

### 1. Approval of Minutes of the October 10, 2012 Meeting

- ***Motion made by Councilor Varotsis to approve the minutes, second by Councilor Rastallis. Motion passed unanimously.***

### 2. Status of Appeals

Appeals Clerk, Paula Scott, presented an update on the following appeals:

I. New Appeals

II. Decision and Orders that need to be written finalized and issued.

III. Hearings or PHCs Pending

### **Dockets No. 12-01 WC – David Sundman, et al.**

Re: 12/19/11 Alteration of Terrain Permit No. AoT-0353 for Dalton Valley Drag

Hearing Officer: David Conley assigned on 2/9/12

Status: Received appeal that appears to be timely on January 18, 2012. Issued receipt of appeal letter on January 20, 2012. Council accepted the appeal Feb. 8, 2012, notice was issued Feb.9, 2012. Pre-Hearing Conference (PHC) is scheduled for Apr. 16, 2012 at 1 p.m., notice sent 3/13/12. Mar. 20, 2012 received Motion to Continue PHC. Mar. 26, 2012, Motion was granted. Rescheduled PHC for May 2, 2012 at 9 a.m. At the Council's 4/11/12 meeting, the Council voted to consolidate appeal Docket Nos. 09-05 WC – North Country Alliance for Balanced Changed and 12-01 WC David Sundman, et al. Notice of the consolidated appeals and PHC were issued April 12, 2012. PHC was held on 5/2/12, a second PHC is scheduled for Aug. 27, 2012 @ 9 a.m., and a hearing is scheduled for Sept. 12, 2012 @ 10 a.m. Notice given 5/2/12 via PHO. August 8, 2012 the Water Council requested that the hearing scheduled for September 12, 2012 to begin at 8:30 a.m. instead. 8/23/12 received Appellant's Partially Assented-To Motion to Continue Hearing and PHC; Appellant North Country ABC's Motion for Partial Summary Judgment; and Appellant North Country's ABC's Memorandum in Support of Motion for Partial Summary Judgment. 8/27/12 received Stipulation to Dismissal of Appeal of Permit WPS-8289A. 8/30/12 Order regarding Dismissal of Appeal by agreement was issued. In accordance with the dismissal, Docket No. 09-05 WC Dalton Valley Drag, LLC is withdrawn from the Council's docket. September 4, 2012 received Status Update from the Department regarding Docket No.12-01 WC.

**Docket No. 12-05 WC Fillmore Industries**

RE: Feb. 14, 2012 Administrative Order No. 12-005 WD

Presiding Officer: Not Assigned. Requested Hearing Officer on 4/13/12

Status: Appeal was filed on Mar. 15, 2012. Receipt of Appeal letter was issued on 3/15/12.

Mar.13, 2012 appeal accepted letter was issued. PHC is scheduled for June 20, 2012 at 9 a.m., notice issued May 30, 2012. June 14, 2012 received Assented-To Motion to Continue PHC. June 15, 2012 Hearing Officer granted Motion to Continue. PHC rescheduled and held September 17, 2012 at 2 p.m.; parties to submit status report by October 17, 2012. Hearing scheduled for March 13, 2013 at 9 a.m., notice given by PHO. September 25, 2012 received Withdrawal of Appearance by Linda Magoon, received Appearance from Gretchen Hamel and received Motion to Dismiss. October 1, 2012 received an Appearance for Atty. Mark Rouvalis and Appellant's Objection to State's Motion to Dismiss. HO to rule on Motion and Objection. Oct. 17, 2012 received Joint Status Report from Appellant.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal
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**Docket No. 11-05 WC – Town of Hooksett and Hooksett Sewer Commission**

RE: 3/21/11 Administrative Order, Administrative Order No. 11-010 WD

Presiding Officer: Not Assigned

Recused: Christopher Rawnsley

Status: On May 11, 2011 the Council voted unanimously to accept appeal. The Town and DES continue to be engaged in discussion to resolve this matter. Both the Town and DES request that the Council continue to delay taking action on the Notice of Appeal. Sent request for status on June 14, 2012 asking for a response by July 11, 2012. June 22, 2012 received status report from appellant. Currently efforts are under way to implement a solution to the problems experienced that led to the issuance of the Administrative Order. October 17, 2012 sent request for status asking for a response by November 14, 2012. None received.

**3. New Business**

a. Review of Env-Wq 301 and Env-Wq 306 and EcX 100-200

Gretchen Hamel, DES Legal Unit Administrator, reviewed the RSA that states rules that apply to the Water Division must be presented to this council for comment but there is no requirement for a vote. Env-Wq 301, Surface Water Protection, expires next May. There are 3 substantive changes 1) require applicant to prove right title or interest; 2) business must show to be in good standing; 3) an agent must prove authority to act for owner.

Questions and comments were discussed from the Council. Env-Wq 306 – only substantive change is to update the ISO standard that applies, with a grandfathering clause for existing facilities.

Chairman Gilbert reviewed the new proposed draft consolidated procedural rules EcX 100-200. Gretchen also answered questions from the Council. Formal rule making has not begun but this was a chance for an initial review.

**4. Other Business**

Water Sustainability Commission Update – Chairman Gilbert reported the commission is in the final stages of writing the report and the goal is to issue it in early December.

Councilor O'Brien brought forward the proposed legislation in regards to integrated permit process being discussed for large projects. Director Stewart explained what it is and what the appeal process would be with a joint council to be created.

Director Stewart spoke to upcoming legislation for 2013. At the next meeting we will have Legislative Service Requests(LSRs) to review.

**5. Next Meeting**

December 12, 2012 at 9:00 a.m. Chairman Gilbert will notify the Council if the meeting is deferred to January.

**6. Adjournment**

- ***Councilor Varotsis made a motion to adjourn, second by Councilor Hinds. Motion passed unanimously.***

Meeting was adjourned at 9:40 a.m.