

WATER COUNCIL MEETING

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

April 13, 2016
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Beaurivage, Boisvert, Butler, Gegas, Hardy, Henderson, and Joubert

Members absent: Councilors: Clark, Hinds, O'Brien, and Rawnsley

Also present were Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

Chairman Gilbert called the meeting to order at 9:00 a.m.

1. Approval of Minutes of the February 10, 2016 Meeting

- ***Councilor Butler made a motion to accept the minutes of the February 10, 2016, second by Councilor Boisvert. Motion passed unanimously with Chairman Gilbert and Councilor Joubert abstaining.***

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.

Docket No. 15-07 WC – Board of Governors of the Black Cat Island Civic Assoc. Appeal

Re: 4/7/15 approval for subdivision #SA2015010642 issued to Goldsmith Children's Trust
Hearing Officer: David Conley, Esq. assigned on 6/16/15

Recused: Councilor O'Brien

Status: May 4, 2015 received Preliminary Notice of Appeal (PNA). 5/19/15 received Notice of Appeal. 5/20/15 issued receipt of appeal letter. Appeal accepted on June 10, 2015. 6/10/15 issued appeal accepted letter. 6/17/15 issued Notice of Pre-hearing Conference scheduled for 7/13/15 at 10:30 a.m. 6/19/15 received Appearance of Atty. Gretchen Hamel for DES. July 10, 2015 received Appearance of Attys. Jason Reimers and Amy Manzelli for the permittee and Owner's Petition to Intervene. 7/13/15 issued Pre-Hearing Order scheduling hearing for December 9, 2015. August 13, 2015 received Joint Motion to Dismiss. 8/17/15 received Assented-to Motion to Extend Objection Deadline. 8/27/15 Received Objection to Joint Motion to Dismiss. September 23, 2015 issued order on Joint Motion to Dismiss. October 9, 2015 received Appearance of Atty. Lauren Noether for the Department. 10/12/15 received Withdrawal of Appearance from Atty. Gretchen Hamel. November 9, 2015 received Appellant's, Intervenor's and State's Witness and Exhibit Lists. December 9, 2015 hearing was held and continued to January 13, 2016. 1/13/16 hearing finished and deliberations held. Decision of the Council was to deny the Appeal. February 10, 2016 issued Decision and Order on Appeal. Docket is closed.

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. (See Sept. 2015 minutes for full list of filings.) December 24, 2014 received Assented-to Motion to Stay Pre-hearing Conference and hearing. 12/30/14 issued letter granting Motion and scheduling PHC for 4/16/15 at 8:30 a.m. February 13, 2015 received Appellants' Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment. 2/27/15 received DES' Partial Objection to Appellants' Motion for Summary Judgment. March 11, 2015 issued Order Granting Summary Judgment in part. April 10, 2015 received Appearance from Robert Best and Motion for Rehearing. 4/15/15 received Objection to Applicant's Motion for Rehearing. 4/16/15 issued Decision and Order on Motion for Rehearing and issued Notice of Prehearing Conference scheduled for 5/13/15 at 10 a.m. Prehearing Order issued 5/13/15 with hearing scheduled for October 14, 2015 at 10 a.m. 5/15/15 received Request for Waiver of Rules. 5/18/15 issued letter regarding Request for Waiver of Rules. June 3, 2015 received permittee's status update. 6/10/15 issued Notice of Hearing time change per request from the Council. Hearing is now scheduled for October 14, 2015 at 9 a.m. July 2, 2015 received Amended Appearance – Atty. Robert Best and Assented-to motion to Stay All Deadlines. 7/14/15 issued letter granting Assented-to Motion and directing the parties to submit a status report by July 30, 2015. 7/30/15 received Motion for Extension of Stay. 7/31/15 received permittee's status update. August 5, 2015 issued letter with new filing deadlines. September 9, 2015 received Motion to Compel. 9/16/15 received Objection to Motion to Compel. 9/16/15 received Appellants' and State's Witness and Exhibit Lists. 9/17/15 issued order on Motion to Compel. 9/17/15 received Appellant's Assented-To Motion to Compel Responses to Discovery Requests. 9/21/15 received Intervenor's Witness and Exhibit List. 9/24/15 received Request that Assented-To Motion to Compel Responses be taken up at PHC. October 14, 2015 issued Pre-Hearing Order with hearing scheduled for Feb. 10, 2016 at 9 a.m. 10/22/15 received Site Visit Report and Second Amended Notice of Appeal. December 23, 2015 received Appellants' Amended Witness and Exhibit Lists. January 4, 2016 received State's Amended Witness and Exhibit List. February 10th and 11th, 2016 the Hearing and Deliberations were held. Decision to be issued within 90 days (5/11/16).

III. Hearings or PHCs Pending

Docket No. 14-02 WC – Monadnock Paper Mills, Inc.

Re: 1/13/14 State Water Quality Certificate, WQC #2013-FERC-001, Conditions

Hearing Officer: David Conley, Esq. assigned on 5/19/14

Recused Members: Carol Henderson and Mike Butler

Status: February 28, 2014 received Notice of Appeal. March 11, 2014 issued receipt of appeal letter. May 5, 2014 received Appearance from Atty. Mary Maloney for DES. Council to accept or dismiss appeal. Appeal was accepted at the May 14, 2014 Council meeting. 5/14/14 issued Appeal accepted letter. 5/20/14 issued Notice of Prehearing Conference (PHC). 5/23/14 received Assented to Motion to Continue PHC. 5/29/14 issued letter granting Motion to Continue and rescheduled PHC for Sept. 10th at 8 a.m. August 13, 2014 received Assented to Motion to continue Prehearing conference. 8/14/14 issued letter granting Motion to Continue and rescheduled PHC for Oct. 27, 2014 at 8:30 a.m. 10/20/14 received Assented-to Motion to Continue PHC. 10/21/14 issued letter granting Motion to Continue and rescheduled PHC for January 12, 2015 at 8:30 a.m. 12/31/14 sent notice of rescheduled Prehearing Conference due to scheduling conflict. PHC is scheduled for 1/16/15 at 11 a.m. 1/4/15 received Assented-to Motion to Continue PHC. 1/6/15 issued letter granting Motion and rescheduling PHC for March 16, 2015 at 11 a.m. February 20, 2015 received Assented-To Motion to Continue Prehearing Conference. March 2, 2015 issued letter rescheduling PHC

to June 17, 2015 at 9 a.m. June 11, 2015 received Motion to Continue Pre-hearing Conference. 6/17/15 issued letter granting Motion and rescheduled PHC for September 17, 2015 at 8:30. September 10, 2015 received Assented-To Motion to Continue Pre-hearing Conference. 9/16/15 issued letter granting Motion to Continue and rescheduled PHC for Dec. 10, 2015 at 8:30 a.m. December 1, 2015 rec'd Assented-To Motion to Continue Pre-hearing Conference. 12/7/15 issued letter granting Assented to Motion to Continue and rescheduled PHC for March 28, 2016 at 8:30 a.m. March 29, 2016 received Notice that Appeal Has Been Resolved. Docket is closed.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

Env-C 300 IP Rules

Debra Sonderegger and Bill Hall, Drinking Water Ground Water Bureau
Bill Hall is the manager of the NH Environmental Laboratory Accreditation Program(NHELAP). These rules are for up for re-adoption. Public hearing March 31 with comments due June 13. The Safe Drinking Water Act requires certification program for labs that do testing for public water systems. Laboratories are inspected every 2 years. Rules are clarifying work and updating standards to 2009, adding new accreditation fields. This is a national effort with 100 labs in the program. Questions were addressed. Any comments can be sent to Chairman Gilbert and he will send them on.

4. Old Business

None

Other Business - Councilor Butler suggested there be presentations at future meetings from DES regarding programs going on such as the Water Quality Standards, TMDL, Impaired Water listing to EPA, InStream Flow, Shoreline Protection Act, and State Revolving Loan Funds. The Administration training is this Friday and it would be good to have the AG office speak to the Water Council regarding rules. The Council has only advisory input on the rules. It was suggested that an update come to this board after the public comment period is over for the rules. The Council hears them before the public for a professional comment. The role of the Water Council is to hear appeals and advise the commissioner of DES. Chairman Gilbert will work with Director Forbes and Atty. Edwards to set up some educational presentations. An update of the bills was also suggested. Discussion was held as to continuity of meetings and what would be helpful.

Michele Tremblay was introduced to the Council, representing the NH Rivers, as our newest member and the council members introduced themselves.

The "NH Lives on Water" interim co-chairs, John Boisvert and Michele Tremblay, gave an update of what has been happening regarding the a coalition/alliance coming together on a common cause. The "What's Our Water Worth?" study was done a few years ago. Phase 4 was to come together and work together on phase 5 - "What's Our Water Cost?" Focus is now to show people the costs are real and what the costs are when we ignore infrastructure, etc. This came from Water Sustainability Report and a desire to keep this report alive and moving towards more support. This was a project with history, value, and involved numerous groups. There is a need to communicate and work together to accomplish the same thing with a sharing of resources and information.

5. **Next Meeting**

May 11, 2016 at 9 a.m.

6. **Adjournment**

- ***Councilor Beurivage made a motion for adjournment, second by Councilor Butler. Motion passed unanimously.***

Meeting adjourned at 9:55 a.m.

WATER COUNCIL MEETING

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

May 11, 2016
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Beaurivage, Boisvert, Butler, Clark, Henderson, and O'Brien

Members absent: Councilors: Gegas, Hardy, Hinds, Joubert, Rawnsley and Tremblay

Also present were Paula Scott, Appeals Clerk and Carolyn Guerdet, Council Clerk

Chairman Gilbert called the meeting to order at 9:00 a.m.

1. Approval of Minutes of the April 13, 2016 Meeting

- ***Councilor Boisvert made a motion to accept the minutes of the April 13, 2016, second by Councilor Clark. Councilor O'Brien abstained.***

4. Old Business

Env-C 300 IP Rules – no additional comments.

2. Status of Appeals

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

I. New Appeals

Docket No. 16-07 WC – Patricia Twarog Appeal

Re: 2/24/16 Waiver approval for Individual Sewage Disposal System issued to Lynn Perkins

Hearing Officer: Not assigned

Status: 4/28/16 received Notice of Appeal. 5/2/16 issued receipt of Appeal letter. Appeal appears to be untimely filed and is insufficient. Council to accept or dismiss Appeal at their May 11, 2016 meeting. No statutory provision, no copy of decision, no indication of service of:

- ***Councilor Henderson made a motion to deny the Appeal based on the fact it was untimely filed, second by Councilor Butler. Motion passed unanimously.***

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

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. (See Sept. 2015 minutes for full list of filings.) December 24, 2014 received Assented-to Motion to Stay Pre-hearing Conference and hearing. 12/30/14 issued letter granting Motion and scheduling PHC for 4/16/15 at 8:30 a.m. February 13, 2015 received Appellants' Motion for Summary Judgment and Memorandum in Support of Motion for Summary Judgment. 2/27/15 received DES' Partial Objection to Appellants' Motion for Summary Judgment. March 11, 2015 issued Order Granting Summary Judgment in part.

April 10, 2015 received Appearance from Robert Best and Motion for Rehearing. 4/15/15 received Objection to Applicant's Motion for Rehearing. 4/16/15 issued Decision and Order on Motion for Rehearing and issued Notice of Prehearing Conference scheduled for 5/13/15 at 10 a.m. Prehearing Order issued 5/13/15 with hearing scheduled for October 14, 2015 at 10 a.m. 5/15/15 received Request for Waiver of Rules. 5/18/15 issued letter regarding Request for Waiver of Rules. June 3, 2015 received permittee's status update. 6/10/15 issued Notice of Hearing time change per request from the Council. Hearing is now scheduled for October 14, 2015 at 9 a.m. July 2, 2015 received Amended Appearance – Atty. Robert Best and Assented-to motion to Stay All Deadlines. 7/14/15 issued letter granting Assented-to Motion and directing the parties to submit a status report by July 30, 2015. 7/30/15 received Motion for Extension of Stay. 7/31/15 received permittee's status update. August 5, 2015 issued letter with new filing deadlines. September 9, 2015 received Motion to Compel. 9/16/15 received Objection to Motion to Compel. 9/16/15 received Appellants' and State's Witness and Exhibit Lists. 9/17/15 issued order on Motion to Compel. 9/17/15 received Appellant's Assented-To Motion to Compel Responses to Discovery Requests. 9/21/15 received Intervenor's Witness and Exhibit List. 9/24/15 received Request that Assented-To Motion to Compel Responses be taken up at PHC. October 14, 2015 issued Pre-Hearing Order with hearing scheduled for Feb. 10, 2016 at 9 a.m. 10/22/15 received Site Visit Report and Second Amended Notice of Appeal. December 23, 2015 received Appellants' Amended Witness and Exhibit Lists. January 4, 2016 received State's Amended Witness and Exhibit List. February 10th and 11th, 2016 the Hearing and Deliberations were held. Decision to be issued within 90 days (5/11/16). A draft should be issued sometime this week.

III. Hearings or PHCs Pending

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

Chairman Gilbert and Director Forbes have set a schedule for tentative presentations for future meetings. June should be a discussion with the Attorney General's Office. At this time the council will not be meeting the month of August.

Director Forbes addressed the drinking water contaminations being discovered in New Hampshire. The PFCs at Pease and the PFOAs at St. Gobain were reported on. A map was distributed showing the radius of the well testing around St. Gobain. The source is atmospheric transference. These are emerging contaminants. Acute standards are now being addressed to establish a health advisory. 100 parts per trillion is the line that EPA is now working with now. VT has a temporary standard of 20 parts per trillion. DES is working with St. Gobain to provide funding for design of the extension of the water system to provide drinking water to the Litchfield residents who are on individual wells. Search for similar types of contaminations has been extended to other facilities around the state. There is a similar facility, now closed, in Amherst which has been tested and increased PFOAs have been detected. Director Forbes acknowledged the staff for their extensive work, they are working to be out in front of this. The website offers good information and updated weekly. Multiple public information meetings have been held and well attended.

Sarah Pillsbury, Administrator for the Drinking Water Ground Water Bureau, shared that the PFCs are everywhere. They are looking for a long term standard. We have good drinking water – it is tested and we know what's there and that it is safe. Flint is a good reminder of that lead is a source and is a big deal for children. In New Hampshire it is rare to be naturally occurring. More comes from water pipes, aggressive water(basically city water) leaches out

the components. Lead and copper rules need to be revised. Focus is to get lead out of the drinking water. Remember in NH we have naturally aggressive water and we've never had an elevated lead level. Now the rules is under 15 parts per billion. This is not a health standard. For kids there is no safe level for lead in drinking water. A lot of water systems in NH have been aggressive in removing lead service lines. Goosenecks have not been studied as much. Revising website for good information for home owners. Schools and daycares are not sampled as regularly. The Flint situation was held. For homes – the first lead ban was in 1985. It was later than that with the fixtures. Cost of lead test is \$15. She mentioned it is always good to flush water every day. Pennichuck has been open to helping their customers with the lead test. There is a Lead Commission that is still looking into all the things that should be done. The first ban was you could leave 8% lead.

Questions were addressed. PFOA is extremely soluble and it travels easily. It is now considered the best tracer. From the health side – there is limited health data. There are some animal studies from which these standards were set. There about 6,000 chemicals on the list. It is quite treatable with carbon. The process that is set up to set drinking water standards is every 10 years.

John Boisvert questioned – what if any involvement would the water council have in this process going forward? Probably in rule changes and advising the commissioner.

Director Forbes gave an update of the 2016 legislation. Also an update was given on the Land Resources Management reorganization.

It was noted that this was a very informative and important meeting. A list of meeting topics will be distributed in advance with the suggestion of continuing education of the council roles.

5. Next Meeting

June 8, 2016 at 9 a.m.

6. Adjournment

- ***Councilor Beurivage made a motion for adjournment, second by Councilor Boisvert. Motion passed unanimously.***

Meeting adjourned at 10:33 a.m.

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5. Next Meeting

June 8, 2016 at 9 a.m.

6. Adjournment

- ***Councilor Beurivage made a motion for adjournment, second by Councilor Boisvert. Motion passed unanimously.***

Meeting adjourned at 10:33 a.m.