

WATER COUNCIL MEETING

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

May 14, 2014
9:00 a.m.

Members present: Chairman Gilbert, Councilors Gegas, Gosse, Henderson, Hinds, O'Brien, Rastallis, Rawnsley, and Varotsis

Members absent: Councilor Butler

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

Chairman Gilbert called the meeting to order at 9:00 a.m. Bill Gegas was introduced as our new member to the Council representing DRED.

1. Approval of Minutes of the October 9, 2013 and March 12, 2014 Meetings

- ***Councilor Varotsis made a motion to accept the minutes from October and March, second by Councilor Hinds. Motion passed unanimously. Councilors Rawnsley, Henderson and Gegas abstained.***

2. Status of Appeals

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

I. New Appeals

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

Hearing Officer: Not assigned

Recused Member: Carol Henderson recused.

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

- ***Councilor Rawnsley made motion to accept the appeal, second by Councilor Gosse. Motion passed unanimously.***

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

III. Hearings or PHCs Pending

Docket No. 13-01 WC – Edward and Robin Monty

RE: 12/05/12 Subsurface construction Approval No. 2012111282 issued to Hanna E. Perutz, Trustess

Hearing Officer: David Conley, Esq. assigned on 2/13/13

Recused Member: Deborah Hinds

Status: January 3, 2013 received Notice of Appeal. 1/4/13 issued receipt of appeal letter. 1/28/13 received Motion to Dismiss from permittee. February 7, 2013 received Objection to Motion to Dismiss. Council accepted the appeal on 2/13/13 and appeal acceptance letter issued on 2/14/13. 2/26/13 received letter from permittee. 2/28/13 received appearance from

Robert Murphy, Jr. for the permittee. March 13, 2013 received appearance from Richard de Seve for DES. April 10, 2013 issued Order on Motion to Dismiss which was denied. 4/11/13 sent Notice of Pre-hearing Conference schedule for May 13, 2013. 5/8/13 sent Notice of Unexpected Conflict, Hearing Officer unable to attend scheduled PHC via email. 5/9/13 sent Notice of Rescheduled PHC, scheduled for 5/17/13. Pre-Hearing Order(PHO) issued on 5/17/13 continuing the PHC. 6/5/13 received DES' Motion to Stay. Hearing Officer to rule on this. June 13, 2013 received Objection to Motion to Stay and Assented-to Motion to Stay. 6/14/13 issued ruling on Motion to Stay, which was granted, with a status report due by September 15, 2013. 9/13/13 received Appellant's Status Report. Chairman Gilbert requested another status letter be sent.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

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. 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 Change 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. 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. The license action is under Reconsideration. 9/13/13 sent letter requesting status of appeal be filed no later than October 9, 2013. 10/9/13 received request for extension to file status report. 10/10/13 issued letter granting requested extension to file status report, which is due no later than 10/25/13. 10/25/13 received appellants' status report requesting hearing on Motion for reconsideration of License action taken by the Department. November 15, 2013 issued letter regarding request for hearing, which states that the matter is not within the Water Council's jurisdiction.

Docket No. 12-19 WC – Cities of Rochester, Dover and Portsmouth, NH

RE: 11/5/12 Certification of NPDES Permit No. NH0100196 issued to the Town of Newmarket(PNA filed 12/5/12)

Hearing Officer: David Conley, Esq. assigned on 2/13/13

Status: January 18, 2013 received Notice of Appeal. 1/25/13 issued receipt of appeal letter. February 4, 2013 received Appearance for Atty. Evan Mulholland. 2/8/13 received Joint Motion to Continue. Council accepted Appeal and granted Joint Motion to Continue on 2/13/13 with Notice issued on the same date. No action required until final disposition of United State Environmental Appeals Board (EAB) and Federal Court.

Docket No. 12-20 WC – Cities of Rochester, Dover and Portsmouth, NH

RE: 11/5/12 Certification of NPDES Permit No. NH0100871 issued to the Town of Exeter(PNA filed 12/5/12)

Hearing Officer: David Conley, Esq. assigned on 2/13/13

Status: January 18, 2013 received Notice of Appeal. 1/25/13 issued receipt of appeal letter. February 4, 2013 received Appearance for Atty. Evan Mulholland. 2/7/13 received Joint Motion to Continue. Council to accept or decline appeal. Council accepted Appeal and granted Joint Motion to Continue on 2/13/13 with Notice issued on the same date. No action required until final disposition of United State Environmental Appeals Board (EAB) and Federal Court.

Director Stewart reported the Federal Appeal is resolved. Chairman Gilbert requested a letter be sent asking for a status report for the above two appeals.

Docket No. 13-06 WC – Old Dutch Mustard Co., Inc.

Re: 7/19/13 Administrative Order No. 13-012 WD

Hearing Officer: David Conley, Esq. assigned on 9/11/13

Status: August 19, 2013 received Notice of Appeal. 8/20/13 issued receipt of appeal letter. Council to accept or dismiss appeal at its September 11, 2013 meeting. If the Council accepts the appeal the appellant requests a Stay for 60 days to allow the appellant and the Department to discuss settlement. Appeal accepted and Stay granted 9/11/13. 9/12/13 issued appeal accepted letter which also granted the requested 60 day Stay. 9/16/13 received Appearance from Atty. Mary Maloney for the Department. October 18, 2013 sent notice of PHC schedule for November 13, 2013 at 1 p.m. PHC was held on 11/13/13/ and a second PHC is scheduled for January 13, 2014. 2nd PHC was held on 1/13/14. 1/16/14 issued Pre-hearing Order where the Parties have agreed to stay appeal pending civil action. March 20, 2014 received Notice of Rescission of Administrative Order and Motion to Dismiss Appeal of AO as Moot. March 26, 2014 issued Order granting Motion to Dismiss.

3. New Business

a. **Env-Wq 1100 Drinking Water State Revolving Loan Fund Program**

Holly Green and Dan Dudley, Drinking Water Ground Water Bureau

These rules expire in August. These are in regards to loans to small water systems. \$200 million has been distributed since 1997. Dan reviewed the major changes to the rules. Comments are asked to be sent to Dan Dudley by May 29th.

Questions and comments were received.

b. **Env-Wq 901 Groundwater Reclassification Rules**

Holly Green and Pierce Rigrod, Drinking Water Ground Water Bureau

Pierce reviewed the reason for the rules and the protections required.

Questions and comments were received.

- ***Councilor Hinds made a motion to accept the reclassifications as submitted, second by Councilor Varotsis. Discussion was held. Motion passed unanimously.***

c. Director Stewart reviewed the legislative session bills the Water Council would be interested in.

- d. Commissioner Burack and Assistant Commissioner Quoram thanked Director Stewart for his years of dedicated service as his retirement approaches. The Governor has put Gene Forbes' name forward as the new Water Division Director. He thanked the Council for their participation in the consultation process.

Chairman Gilbert thanked Johanna Lyons and Stan Rastallis for their service as they will no longer be serving on the Water Council.

Chairman Gilbert acknowledged Harry's long service to the Council and his appreciation for his work in the Water Division.

Councilor Gosse also thanked Harry from the Haulers Association. Councilor Varotsis shared a story from the early NH Water Supply and Control Commission days and he was glad Harry came on board.

5. Old Business

6. Next Meeting
June 11, 2014

7. Adjournment

- ***Motion made by Councilor Rawnsley to adjourn the meeting, second by Councilor O'Brien.***

Meeting was concluded at 10:00 a.m.