

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2009-02

Application of Laidlaw Berlin BioPower, LLC, for a Certificate of Site and Facility for a 70MW Biomass Fueled Energy Facility in Berlin, Coos County, New Hampshire

January 26, 2010

ORDER ACCEPTING APPLICATION FOR CERTIFICATE OF SITE AND FACILITY AND DESIGNATING A SUBCOMMITTEE PURSUANT TO RSA 162-H: 6-a

On December 16, 2009, Laidlaw Berlin BioPower, LLC, (Applicant) filed an Application for a Certificate of Site and Facility (Application). The Applicant petitions the Site Evaluation Committee (Committee) for a Certificate of Site and Facility (Certificate) in order to site, construct and operate a renewable energy facility (Facility) in Berlin, Coos County, New Hampshire. The Facility is proposed to be located on the northern side of Community Street, Coos Street and Hutchins Street in Berlin (Site). This location formerly was the site of the Fraser Pulp Mill and was also sometimes referred to as the Burgess Mill. The Site has existing structures thereon.

The Applicant proposes to convert and upgrade the Site and to develop a biomass fueled energy generating facility nominally capable of generating 70 MW of electric power. The Facility, as proposed, will use whole tree wood chips and other low grade clean wood as fuel. The Applicant proposes to convert an existing boiler, (manufactured by Babcock and Wilcox) at the Site to a bubbling fluidized bed boiler that will use whole tree wood chips as its primary fuel, and ultra low sulfur diesel oil as auxiliary fuel. In addition to the boiler, the Facility will consist of a steam turbine generator, wood handling system, ash handling system, storm water management systems, two re-circulating water systems for steam generation and cooling, air pollution control systems, including a flue gas recirculation system, an upgraded electrostatic precipitator, and a selective catalytic reduction system. The Applicant also proposes to renovate an existing 50,000 gallon ultra low sulfur diesel fuel tank to store ultra low sulfur diesel fuel. In addition, the Applicant seeks to construct a new switchyard adjacent to the turbine building and consisting of a step up transformer and single breaker.

The new switchyard is proposed to be connected to the existing East Side Substation 300 operated by Public Service Company of New Hampshire (PSNH). A new 115kV transmission line will be installed. Portions of the transmission line will run both underground and overhead. The underground portion of the transmission line will be installed inside an existing 18 inch diameter fiberglass reinforced pipe formerly used

to transport pulp from the Site to Fraser's Paper Mill in Gorham, Coos County, New Hampshire. The underground portion of the transmission line will leave the Site near the intersection of Coos Street and Community Street and generally follow the route of the former rail bed from the south end of the Site to the north end of Shelby Street. The underground portion of the transmission line will then travel within an existing easement along Shelby Street and Devent Street. The transmission line will then transition to overhead conductors from the east side of Devent Street and terminate at the PSNH East Side Substation 300. The underground portion of the transmission line is proposed to run for an estimated length of 3,200 feet and the overhead portion of the transmission line is estimated to be 800 feet.

Upon filing of the Application, as required by RSA 162-H:6-a, I, and New Hampshire Code of Administrative Rules Site 301.01, copies of the Application were made available to each state agency having jurisdiction to regulate the siting, construction or operation of the Facility. Notice of the filing of the Application was also provided by Counsel to the Committee, to the City of Berlin, the Town of Gorham and to North Country Council, the regional planning commission for communities in Coos County.

On January 13, 2010, the New Hampshire Division of Historical Resources (DHR) advised the Committee that it had requested the Applicant to prepare a Project Area Form and to seek public comment from groups or individuals who may have concerns about the potential for direct and visual effects on historic properties. These actions are required under federal law that is administered by DHR. DHR also informed the Committee that the Applicant is cooperating in the DHR review process but that there is presently insufficient information to make a final determination on findings required by either state or federal law.

On January 14, 2010, the New Hampshire Department of Environmental Services (DES), Air Resources Division (ARD) advised the Committee that the Applicant's application for a Temporary Permit was deemed to be administratively complete.

On January 14, 2010, the Water Division of DES advised the Committee that the Applicant's application for an Alteration of Terrain Permit and application for a Shoreland Permit were deemed to be complete. However, the Water Division also advised that the Applicant's application for an Industrial Wastewater Indirect Discharge Request was incomplete because it lacked a signature of the appropriate town authority and an application fee. The Water Division also advised that the Applicant's Sewer Connection Permit application was incomplete because it lacked the signature of the appropriate town authority, lacked design drawings, lacked technical specifications and lacked the filing fee.

On January 15, 2010, I advised the Applicant, by letter, that the Water Division did not find the application to be complete and that I, therefore, could not find the

Application to be complete nor accept it for the purposes of RSA 162-H. I also advised the Applicant that it could cure the deficiencies by supplying the missing information.

By letter dated January 21, 2010, the Water Division advised the Committee that it had received the design drawings and technical specifications that were previously missing and that the application fees had been paid. The Water Division advised the Committee that it now had sufficient information to conduct its technical review of the Industrial Wastewater Indirect Discharge Request and the Sewer Connection Permit application. On January 22, 2010, the Committee was advised that the City of Berlin had signed off on the Industrial Wastewater Indirect Discharge Request and the Sewer Connection Permit application

Sufficiency and Acceptance of the Application

Based upon my preliminary review of the Application, as required by RSA 162-H: II, I find that it contains sufficient information to carry out the purposes of RSA 162-H pertaining to Renewable Energy Facilities. The deficiencies noted by the Water Division have now been cured. I will briefly address the DHR process.

The application process utilized by DHR is a fluid process that advances in stages. In this case, the Applicant filed a Request for Project Review with the DHR. This is the first stage of the DHR process and the Applicant appears to have provided sufficient information for the completion of that stage of the process. In fact, according to the DHR, the Applicant has been asked to advance to the second stage of the process and file a Project Area Form and solicit public comment. The Applicant has, therefore, necessarily provided sufficient information to initiate the DHR application process. Neither RSA 162-H: 6-a nor 162-H: 7, IV, require the Applicant to complete the entire review process with a state agency prior to the filing of an Application with the Committee. The advancement through the DHR review process should not delay Committee review of this Application. However, the Applicant is reminded that it should comply with all of the formal and informal requirements of the DHR process as this matter proceeds.

Therefore, I deem the Application to be complete and accept the Application for all purposes under RSA 162-H. To the extent that this facility may also qualify as an Energy Facility under RSA 162-H:2, VII, I deem the Application to be complete and accept the Application. Pursuant to N.H. Code of Administrative Rules, Site 302.04, I hereby waive any additional Application requirements that may exist.

Designation of Subcommittee

I will serve as the Chair of the Subcommittee in this docket. Pursuant to RSA 162-H: 6-a, III, and RSA 162-H: 4, V, I hereby designate the following members of the Committee to serve on the Subcommittee that shall consider and either approve or reject this Application:

Thomas S. Burack, Chairman
Commissioner, Department of Environmental Services

Christopher Northrup
Office of Energy and Planning
(Designated by Joanne Morin, Director, Office of Energy and Planning, pursuant to RSA 162-H: 4, V)

Harry Stewart
Director, DES Water Division

Craig Wright
DES Air Resources Division
(Designated by Robert Scott, Director, Air Resources Division pursuant to RSA 162-H: 4, V)

Elizabeth Muzzey
Director, Division of Historical Resources
(Designated by Van McLeod, Commissioner of the Department of Cultural Resources pursuant to RSA 162-H:3)

Donald M. Kent , PhD
DRED, Division of Forests and Lands
(Designated by Brad Simpkins, Director, DRED Division of Forests and Lands pursuant to RSA 162-H: 4, V)

William Janelle
Department of Transportation
(Designated by George Campbell, Commissioner of the Department of Transportation pursuant to RSA 162-H: 4, V)

Amy Ignatius
Commissioner, Public Utilities Commission

Michael Harrington
Staff Engineer, Public Utilities Commission
(Designated by the Public Utilities Commission pursuant to RSA 162-H: 3)

Based upon the foregoing it is hereby:

ORDERED: That the Application contains sufficient information for the purposes of RSA 162-H and is hereby accepted; and,

FURTHER ORDERED: That the aforementioned designees shall serve as the Subcommittee that shall consider and either approve or reject the Application.

So Ordered this 26th day of January, 2010.

New Hampshire Site Evaluation Committee

A handwritten signature in black ink, reading "Thomas S. Burack". The signature is written in a cursive style with a horizontal line underneath the name.

Thomas S. Burack, Chairman