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May 11, 2011

Thomas S. Burack, Chairman
Site Evaluation Committee
N.H. Department of Environmental Services
29 Hazen Drive
Concord, NH 03302

Re: Laidlaw Berlin BioPower, LLC and Berlin Station, LLC
SEC Docket No. 2011-01

Dear Chairman Burack:

I enclose for filing with the Committee an original and 18 copies of a Partially Assented-to Motion for Protective Order and Confidential Treatment of Fuel Supply Agreement and the Supplemental Testimony of Ross D'Elia on Behalf of Laidlaw Berlin BioPower, LLC and Berlin Station, LLC.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Needleman".

Barry Needleman

Enclosures

cc: Service List

STATE OF NEW HAMPSHIRE
BEFORE THE
SITE EVALUATION COMMITTEE

Joint Motion of Laidlaw Berlin BioPower, LLC and Berlin Station, LLC, for Transfer and Amendment of the Certificate of Site and Facility Issued to Laidlaw Berlin BioPower, LLC, and Notice of Change in Major Contractor

DOCKET NO. SEC 2011-01

**PARTIALLY ASSENTED-TO MOTION FOR PROTECTIVE ORDER
AND CONFIDENTIAL TREATMENT OF FUEL SUPPLY AGREEMENT**

Applicant Laidlaw Berlin BioPower, LLC (“Laidlaw”), respectfully submits this Motion For Protective Order and Confidential Treatment for Fuel Supply Agreement, and states as follows:

1. Laidlaw seeks confidential treatment pursuant to RSA 91-A for the Fuel Supply Agreement entered into between Richard Carrier Trucking, Inc. and Laidlaw Berlin BioPower, LLC (“Fuel Supply Agreement”). The Fuel Supply Agreement contains confidential, commercial and financial information.

2. Because the Fuel Supply Agreement contains confidential, commercial and financial information, it is exempt from public disclosure under the New Hampshire Right to Know Act. RSA 91-A:5, IV. The Committee has the authority pursuant to RSA 91-A:5, IV to protect this information. Indeed, the Committee granted Laidlaw’s earlier motions for confidential treatment of the draft fuel supply agreement with Cousineau Forest Products (Laidlaw 62 and Laidlaw 63).

3. In *Lamy v. New Hampshire Public Utilities Commission*, 152 N.H. 106 (2005), the New Hampshire Supreme Court described a three-step analysis to determine whether information should be protected from disclosure under the Right to Know Law.

First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure. If no privacy interest is at stake, the Right-to-Know Law mandates disclosure. Next, we assess the public's interest in disclosure. Disclosure of the requested information should inform the public about the conduct and activities of their government. Finally, we balance the public interest in disclosure against the government interest in nondisclosure and the individual's privacy interest in nondisclosure.

Id. at 109.

4. Laidlaw submits that there is a significant privacy issue at stake with respect to the Fuel Supply Agreement. The Fuel Supply Agreements contains confidential, commercial and financial information that is highly sensitive and would not normally be disclosed to the public. Any disclosure beyond that to the Committee and parties would likely cause substantial harm to Laidlaw's competitive position. *See Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540, 554 (1997).

5. The purpose of the relevant motion pending before the Committee is to evaluate the amendments sought by Laidlaw to its Certificate. As such, the public does not have an interest in having access to the confidential commercial and financial information contained in the Fuel Supply Agreement. Accordingly, Laidlaw submits its legitimate privacy interest in the Fuel Supply Agreement vastly outweighs any interest the public may have in its disclosure.

6. Consistent with its prior order, Laidlaw requests that the Committee grant its Motion for Protective and Order and Confidential Treatment of Fuel Supply Agreement.

7. Laidlaw has sought and received assent for the relief sought in this Motion from the City of Berlin, New Hampshire. Counsel for the Public and Edrest Properties, LLC did not respond to Laidlaw's request for assent.

WHEREFORE, Laidlaw Berlin BioPower, LLC respectfully requests the Committee:

A. Grant this Motion for Protective Order and Confidential Treatment;

B. Issue an order protecting the Fuel Supply Agreement and limiting its release to members of the Committee and Counsel for the Public, the City of Berlin and Edrest Properties, LLC; and

C. Grant such other and further relief as may be just and equitable.

Respectfully submitted,

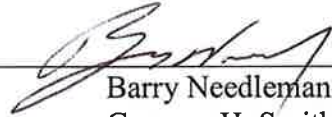
Laidlaw Berlin BioPower, LLC

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: May 11, 2011

By: _____



Barry Needleman
Gregory H. Smith
Cathryn E. Vaughn
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Telephone (603) 226-0400

Certificate of Service

I hereby certify that on this 11th day of May, 2011, the original and 18 copies of the foregoing Motion for Protective Order and Confidential Treatment has been forwarded to Site Evaluation Committee. One copy has been sent to the Attorney General's office.



Barry Needleman