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November 6, 2012

Via Hand Delivery

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

Re: Berlin Station, LLC – SEC Docket 2011-01

Dear Chairman Burack:

I enclose an original and eighteen copies of Motion of Berlin Station, LLC for Amendment of the Certificate of Site and Facility.

Very truly yours,

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

DOCKET NO. SEC 2011-01

**MOTION OF BERLIN STATION, LLC FOR
AMENDMENT OF THE CERTIFICATE OF SITE AND FACILITY**

Berlin Station, LLC (“Berlin Station”) respectfully submits this Motion to Amend the Certificate of Site and Facility, and states as follows:

Introduction

On November 8, 2010, the New Hampshire Site Evaluation Committee (“SEC”) issued its Decision Granting Certificate of Site and Facility with Conditions (“Decision”), and Order and Certificate of Site and Facility with Conditions (“Certificate”) to Laidlaw Berlin BioPower, LLC (“Laidlaw”). Laidlaw transferred the Certificate to Berlin Station pursuant to the SEC’s Decision and Order dated July 12, 2011. *See* Decision on 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 of Major Contractor at 20 (Docket 2011-01, July 12, 2011). The SEC’s July 12, 2011 Decision and Order also allowed certain amendments to the Certificate that are not material to this motion. *Id.* at 20-22.

The Decision and Certificate authorize Berlin Station to site, construct, and operate a renewable energy facility (“Facility”) in Berlin, New Hampshire. Construction commenced in October 2011 and Berlin Station anticipates commencing commercial operation in October 2013. As a natural and common element of advancing detailed design and construction of the facility, certain refinements have been determined to be prudent and appropriate.

First, while further evaluating the layout and material handling equipment for the wood yard, Berlin Station and its engineering team performed detailed design assessments leading to

refinements of the wood yard and equipment configurations. These changes are relatively minor with regard to the issues addressed by this Committee. However, they present significant improvements in facility operations while maintaining the overall footprint of the wood yard in a manner generally consistent with the initial approval. Second, the City has determined that the proposed River Walk should not be constructed. Third, the City has determined that new fencing will only be required along the road. Finally, the City has found, based upon a review of the site during spring and summer conditions, that it is impractical to fully implement the landscaping plan as initially conceived. Berlin Station is working with the City and the New Hampshire Bureau of Trails to modify the landscaping plan to address the desires of both parties. It is our understanding that the Berlin City Council discussed and approved the changes pertaining to the River Walk, the fencing and the landscaping on or about May 21, 2012.

By letter dated July 5, 2012, Berlin Station informed the SEC of these changes. In response, the SEC directed Berlin Station to file this Motion to Amend.¹ See August 13, 2012 letter from Michael Iacopino to Barry Needleman.

Berlin Station is submitting the pre-filed testimony of Mr. Dammon M. Frecker of Cate Street Capital in support of this Motion. See Exhibit A.

I. Reconfiguration of the Wood Yard

While advancing construction level design details, Berlin Station and its engineering team further evaluated the layout of the wood yard and material handling equipment and made relatively minor changes. However, the overall footprint of the wood yard and the type of handling equipment that will be used remain generally consistent with what was presented in the

¹ The four changes described herein are all within the retained jurisdiction of the SEC. Other changes at the facility have occurred but those changes are all subject to the delegated jurisdiction of the SEC's constituent agencies. For example, there were refinements to the layout of certain roadways and structures in the area of the boiler relevant to the Facility's Alteration of Terrain Permit. Consequently, these changes are not being presented here.

Application for Certificate of Site and Facility. Furthermore, the proposed changes will minimize the project's overall impacts and improve the Facility's reliability and performance.

As shown on Attachment 2 to the Testimony of Dammon M. Frecker, the wood chip pile configurations have been revised from three individual and roughly square-shaped piles into one pile of similar shape and one oval pile, both of which sit within the same footprint as originally proposed. The oval pile will enable the use of an A-frame overhead stack-out conveyor and an under-pile reclaim conveyor system. This equipment will allow the development and reclaim of the oval-shaped wood pile to be fully automated, thus eliminating one or more pieces of heavy equipment, such as front-end loaders, that would be necessary to manage the pile as originally proposed. Eliminating this equipment, which would have been located and operated along the northern edge of the property, will minimize sound impacts directly across the river from the site and reduce emissions associated with diesel-powered equipment.

The configuration of the wood chip handling equipment has been revised to accommodate the revised pile configurations. Originally, the wood yard was equipped with a centrally-located wood processing structure housing a screen and grinder used to reduce oversized material, with eight separate conveyors extending from the structure in different directions. In the refined configuration, the wood processing building is shifted approximately 250 feet to the south and a set of two conveyors are used to handle incoming woodchips and stack out to piles. The height of the wood processing building has been reduced from approximately 60 feet to 45 feet. Although the wood processing building is located closer to the property line in the refined configuration, Berlin Station will continue to comply with existing noise requirements. The refined configurations also result in the added benefit of reducing the impervious area on the

overall site by nearly 12,000 square feet, with much of the reduction occurring within the protected shore land area.

II. Elimination of the River Walk

Incorporated into the Certificate is an agreement with the City of Berlin proposing certain conditions (“Berlin Agreement”). The Berlin Agreement requires, *inter alia*, that Berlin Station (as the Certificate’s transferee) fund the design, development, and construction of a “River Walk” in the vicinity of the Facility along the east bank of the Androscoggin River. Certificate, Appendix II, § IV.1. Pursuant to the Berlin Agreement, the City was to contract with a party of its own selection for the River Walk design. However, the City determined, for various reasons, that the River Walk cannot be constructed as anticipated. For example, Berlin Station does not own the property along the river on the north end of the site, and as such the River Walk would become a dead-end at that point. In addition, various portions of the River Walk would by necessity be located in close proximity to industrial equipment on the Berlin Station site and would be required to traverse steep terrain along the site boundary, thus presenting a potential safety concern. The City has therefore concluded that it would prefer not to proceed with construction of the River Walk. In lieu of constructing the River Walk, Berlin Station has agreed to provide to the City the funds it intended to use for construction of the River Walk.

III. Reduced Fencing Requirements

The Berlin Agreement also requires that Berlin Station erect a new fence along the perimeter of the Facility’s site inside of the River Walk along the Androscoggin River. *See* Certificate, Appendix II, § IV.3. As a result of the elimination of the River Walk, the City has determined that fencing is not required along the site boundary that abuts the river. Rather, such

fencing is only necessary along the roads that border the Facility site. Berlin Station expects to provide the monetary savings from the reduced fencing needs to the City of Berlin.

IV. Modification of the Landscaping Plan

On November 1, 2011, in accordance with section I.1 of the Berlin Agreement, Berlin Station submitted two copies of a landscaping plan to this Committee which was initially approved by the City of Berlin. Based upon closer review of the site during spring and summer conditions, the City has determined that it is impractical to fully implement the landscaping plan as initially conceived because the plan calls for plantings in certain areas that simply cannot, for various reasons (e.g., the presence of ledge), sustain vegetation of any appreciable size. Berlin Station is working with the City and the New Hampshire Bureau of Trails to modify the landscaping plan to the satisfaction of both parties and will submit a revised plan upon receiving their approval.

WHEREFORE, Berlin Station respectfully requests the Subcommittee:


- A. Grant this motion for amendment of the Certificate;
- B. Amend the Certificate to incorporate the changes described herein; and
- C. Grant such other and further relief as the Subcommittee deems fair and just.

Respectfully submitted,
Berlin Station, LLC

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: November 6, 2012

By: 
Barry Needleman
Patrick H. Taylor
Eleven South Main Street
Concord, NH 03301
Telephone (603) 226-0400

Certificate of Service

I hereby certify that on this 6th day of November, 2012, I had hand delivered an original and eighteen copies of this Motion to the Site Evaluation Committee and a copy to the office of the Attorney General.



Barry Needleman

**STATE OF NEW HAMPSHIRE
BEFORE THE SITE EVALUATION COMMITTEE**

Docket No. SEC 2011-01

**MOTION OF BERLIN STATION, LLC FOR AMENDMENT OF THE CERTIFICATE
OF SITE AND FACILITY**

**TESTIMONY OF DAMMON M. FRECKER
ON BEHALF OF BERLIN STATION, LLC**

1 **Q. Please state your name, title and business address.**

2 A: My name is Dammon M. Frecker. I am presently the Managing Director of
3 Development for Cate Street Capital, Inc. My business address is One Cate Street, Portsmouth,
4 New Hampshire, 03801. *See Curriculum Vitae, Attachment 1.*

5 **Q. Briefly summarize your educational background and work experience.**

6 A: I received my B.S. in Chemical Engineering from the University of Maine at
7 Orono in 1984. I have over twenty five years of experience in providing environmental
8 permitting and compliance services to industrial facilities, utilities and independent power
9 generation facilities, institutions, municipalities and government agencies with a particular focus
10 on air quality and energy related programs. I have managed numerous projects involving the
11 preparation of comprehensive environmental impacts statements, along with federal, state and
12 local permit applications to support new project development. I have also assisted a wide variety
13 of facilities in the areas of air emissions inventory development, process engineering, emissions
14 control technology analysis and selection, regulatory analysis, and strategic planning. I served
15 for three years as a Visiting Lecturer at Tufts University in Medford, Massachusetts on the topic
16 of Air Pollution Control. I was also the Project Manager for the environmental engineering and
17 permitting of the Berlin Station project, and testified before this committee during the initial
18 licensing proceedings.

19 **Q. What is the purpose of your testimony?**

20 A. I am submitting testimony in support of a motion by Berlin Station, LLC (“Berlin
21 Station” or “the Company”) to amend the Certificate of Site and Facility (“Certificate”) issued to
22 Laidlaw Berlin Power, LLC and subsequently transferred to Berlin Station. I will describe the
23 relevant changes and provide the supporting justification for each.

1 **Q. Please list the changes at Berlin Station giving rise to this Motion.**

2 A. Construction of the project commenced in October 2011, and we anticipate
3 commencement of commercial operation in October 2013. As construction progressed, certain
4 refinements became appropriate and prudent.

5 First, the layout and material handling equipment for the wood yard has been revised.
6 The overall footprint of the wood yard and the nature of the handling equipment will remain
7 generally consistent with what we presented in the original application. The revisions will also
8 minimize the project's overall impacts and improve reliability and performance.

9 The second change arises from the City of Berlin's decision not to proceed with the
10 design and construction of the River Walk.

11 Third, because the River Walk will not be constructed, the City has also determined that
12 fencing along the Facility's site boundary abutting the river is no longer necessary.

13 Fourth, the City has determined that implementation of some components of the
14 landscaping plan as initially contemplated is impractical. We are working with the City and the
15 New Hampshire Bureau of Trails to address the desires of both parties.

16 **Q. Please describe the revisions to the configuration of the wood piles in the**
17 **wood yard.**

18 A. As shown on Attachment 2 to my testimony, the wood chip pile configurations
19 have been revised from three individual and roughly square-shaped piles into one pile of similar
20 shape and one oval pile. The wood yard and handling equipment, as approved by the
21 Committee, is shown on Attachment 2 in red. The revised configurations are shown in black.
22 Attachment 2 demonstrates that the dimensions of both of the refined piles sit within the
23 originally proposed footprint.

1 **Q. What are the benefits of this revised configuration?**

2 A. Berlin Station will be able to use an A-frame overhead stack-out conveyor and an
3 under-pile reclaim conveyor system, thus allowing the development and reclaim of the oval-
4 shaped wood pile to be fully automated. This will eliminate the need to use certain heavy
5 equipment, such as a front-end loader, that would otherwise be necessary to manage the wood
6 pile. Such heavy equipment would have been located and operated along the northern edge of
7 the property, and its elimination will minimize sound level impacts in the area of the City located
8 directly across the river from the site and reduce emissions associated with diesel-powered
9 equipment.

10 **Q. What other revisions have been made to equipment in the wood yard?**

11 The configuration of the wood chip handling equipment has been revised in connection
12 with the refined configuration of the wood piles. In the original configuration, the wood yard
13 was equipped with a centrally-located wood processing structure housing a screen and grinder
14 used to reduce over-sized material, with eight separate conveyors extending from the structure in
15 different directions. In the refined configuration, the wood processing building is shifted
16 approximately 250 feet to the south and a set of two conveyors are used to handle incoming
17 woodchips and stack out to piles. The height of the wood processing building has been reduced
18 from approximately 60 feet to 45 feet tall. The refined configurations will also result in the
19 benefit of reducing the impervious area on the overall site by nearly 12,000 square feet, with
20 much of the reduction occurring within the protected shore land area.

21 **Q. Are there any negative impacts associated with the proposed**
22 **reconfiguration?**

1 A. No. Although the wood processing building is located closer to the property line
2 in the refined configuration, Berlin Station will continue to comply with existing noise
3 requirements.

4 **Q. What is Berlin Station’s obligation with respect to the proposed River Walk?**

5 A. Berlin Station is the transferee of the Certificate issued to Laidlaw Berlin
6 Biopower, LLC. Incorporated into that Certificate is an agreement with the City of Berlin
7 (“Berlin Agreement”) imposing certain conditions upon the project, including the construction of
8 a River Walk along the east bank of the Androscoggin River. Though Berlin Station is solely
9 responsible for the construction of the River Walk, the design of the project is left to the
10 discretion of the City. The City has decided, for various reasons, that the River Walk cannot be
11 constructed as anticipated.

12 **Q. Why has the City of Berlin decided not to pursue the design and construction**
13 **of the River Walk?**

14 A. Berlin Station does not own the property along the river on the north end of the
15 site, and as such the River Walk would become a dead-end at that point. This is an undesirable
16 design for the City. In addition, various portions of the River Walk would by necessity be
17 located in close proximity to industrial equipment on the Berlin Station site, and would be
18 required to traverse steep sloped terrain along the river’s edge, creating potential safety concerns.
19 The City has therefore concluded that the construction of the proposed River Walk is not
20 desirable.

21 **Q. What effect will the elimination of the River Walk have on Fencing?**

22 The Berlin Agreement requires that Berlin Station erect a new fence along the perimeter
23 of the site inside of the River Walk along the Androscoggin River. As a result of the elimination

1 of the River Walk, the City has determined that fencing is not required along the site boundary
2 that abuts the river. With this change, new fencing will only be required along the roads that
3 border the Facility site.

4 **Q. Have Berlin Station and the City agreed to an alternative to the River Walk?**

5 A. In lieu of constructing the River Walk, Berlin Station has agreed to provide to the
6 City the funds it intended to use for construction of the River Walk. Berlin Station also expects
7 to provide the monetary savings from the reduced fencing needs to the City of Berlin.

8 **Q. Does Berlin Station propose to amend the landscaping plan that the**
9 **Company submitted to the Site Evaluation Committee on November 1, 2011?**

10 A. Yes. Based upon closer review of the Facility's site during spring and summer
11 conditions, the City has determined that it is impractical to fully implement the landscaping plan
12 as initially conceived. Specifically, the landscaping plan calls for plantings in certain areas that,
13 the City subsequently determined, cannot sustain vegetation of any appreciable size. One reason
14 for this is the presence of ledge in certain areas. As a result of these unforeseen circumstances,
15 the landscaping plan as submitted to the Site Evaluation Committee must be revised.

16 **Q. How does Berlin Station propose to address the need to revise the**
17 **landscaping plan?**

18 A. Berlin Station is working with the City and the New Hampshire Bureau of Trails
19 to modify the landscaping plan to the satisfaction of both parties and fully expects to develop a
20 mutually acceptable revised plan.

21 **Q. Does this conclude your pre-filed testimony?**

22 A. Yes.

Dammon M. Frecker

One Cate Street, Suite 100, Portsmouth, NH 03801
Ph. (603) 319-4400
DFrecker@CateCapital.com

EXPERIENCE SUMMARY

Chemical Engineer and environmental professional with over 25 years of experience with development of energy, chemical processing and manufacturing facilities. Experience spans plant and process engineering, health and safety, multi-media environmental program management, comprehensive environmental impact studies and Federal, State and local permitting, and development project management.

PROFESSIONAL POSITIONS

Cate Street Capital, Inc. -Managing Director – Development Activities

- Responsible for managing technical feasibility analyses, comprehensive environmental impact reviews and permitting, project design engineering, development and construction for new projects. Provide regulatory support for operating assets.
- Projects include energy from waste, biomass energy generation, water treatment and reclamation, innovative renewable fuels, and other renewable energy & environmental sustainability projects.

ESS Group, Inc. - Vice President, Energy & Industrial Services

- Member of Senior Management Team responsible for overall management, growth, strategic direction, and technical and fiscal execution of 75+ person environmental consulting and engineering company.
- Managed large and complex projects involving siting, development, comprehensive environmental impact studies and permitting of energy and industrial facilities.

Wehran EMCON Northeast, Inc. - Department Manager, Facilities Services

- Managed staff of 16 engineers and scientists providing environmental auditing, compliance management and permitting services to industrial and energy facilities throughout the US.

Polaroid Corporation - Environmental Manager, Industrial Coating Division

- Responsible for multi-media environmental management of complex chemical and photographic film manufacturing facility. Provided corporate-wide support of air quality permitting and compliance programs.

Custom Coating and Laminating, Inc. - Plant Engineer, Environmental Health & Safety Manager

- Responsible for process engineering and optimization of specialty film surface coating operations at one of the largest coating plants in Massachusetts. Managed all environmental, health & safety programs.

Eastmount Engineering, Inc. - Chemical Engineer, Manager of Chemistry & Engineering

- Project Engineer and Manager for air emissions testing programs at industrial and energy facilities throughout the eastern US. Developed innovative direct-interface gas chromatography sampling system and methodology for volatile organic compounds.

PROFESSIONAL AFFILIATIONS

Air & Waste Management Association – New England Section

- Board of Directors, 2002 – Present
- Chair, 2008-2010

Northeast Energy & Commerce Association

- Board of Directors, 2006 – 2011

Environmental Business Council of New England

- Vice Chair of Energy Committee, 2008 – 2010

American Institute of Chemical Engineers

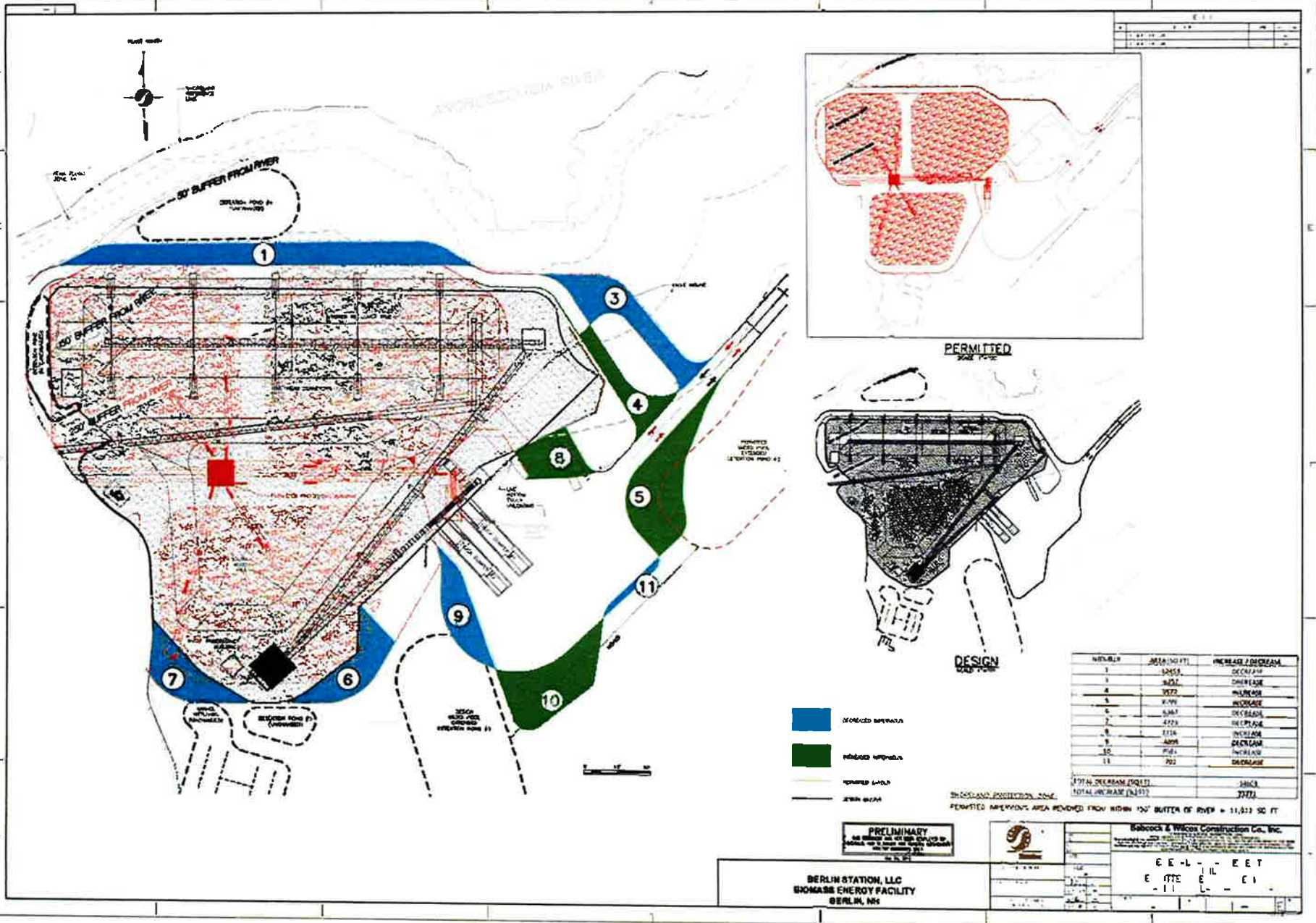
- Member, 1984 – Present

Tufts University, Medford, MA

- Visiting Lecturer, Air Pollution Control, 2003 - 2006

EDUCATION

- B.S. Chemical Engineering, Concentration in Pulp & Paper Technology, University of Maine at Orono



NUMBER	AREA (SQ FT)	INCREASE / DECREASE
1	12458	DECREASE
2	8237	DECREASE
3	3572	INCREASE
4	6171	INCREASE
5	5267	DECREASE
6	4773	DECREASE
7	1174	INCREASE
8	4008	DECREASE
9	768	INCREASE
10	702	DECREASE
TOTAL INCREASE (SQ FT)		3100
TOTAL DECREASE (SQ FT)		3772

100' BUFFER FROM RIVER = 11,822 SQ FT

PRELIMINARY
 ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CHANGE WITHOUT NOTICE.
 DATE: 08/11/2011



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BERLIN STATION, LLC
BIOMASS ENERGY FACILITY
 BERLIN, NH

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