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**Via Hand Delivery**

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

December 31, 2009

Laidlaw Berlin BioPower, LLC  
SEC Docket No. 2009-02

Dear Chairman Burack:

On behalf of Clean Power Development, LLC (“CPD”), I am writing to provide a brief Reply to Attorney Needleman’s letter to you dated December 29, 2009 which contends that CPD’s letter dated December 28, 2009 “is procedurally improper, and substantively, the issues raised have no bearing on a completeness determination. Moreover, many of the assertions are inaccurate.”

1. CPD’s letter is not procedurally improper. Pursuant to RSA 162-H:6-a, II, “the chairperson or designee shall require as much information as he or she deems necessary to review the application and may take other administrative or procedural actions on behalf of the committee to aid in the orderly conduct of the proceeding.” Accordingly, the chairperson has been delegated very broad powers by the legislature, inter alia, to consider in its discretion information filed by a member of the public. The fact that there is no rule explicitly providing for public comment during the 30 day review period does not circumscribe the authority of the chairperson to do as he sees fit in this regard.

2. CPD did not fail to mention the purported letter of intent between Laidlaw and PSNH. CPD’s letter (at 2) accurately quotes Laidlaw’s Application with reference to the existence of a letter of intent with PSNH. Laidlaw’s problem is that PSNH has represented to the NHPUC that there is no agreement of any kind and the PPA is a “twinkle in Laidlaw’s eyes.” Laidlaw and PSNH appear to disagree on this fundamental matter. At a minimum, the Application is incomplete without a copy of any binding agreement Laidlaw believes it has with PSNH, including a letter of intent.<sup>1</sup>

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<sup>1</sup> Any PPA between Laidlaw and PSNH that may ultimately come into existence will require PUC approval under RSA 362-F. The Application does not mention this requirement. Without PUC approval,

3. CPD did not err in stating that "PJP, not Laidlaw, is the actual owner of the Project." PJP is unquestionably the owner of both the site and facility. Laidlaw apparently has a "Development Agreement" with PJP, a fact not mentioned in its Application. PJP, the owner of both the site and facility, is located in a house in Portsmouth. All of its assets are subject to a mortgage granted to Aware Energy which is located at the same house. There is no information on PJP, the owner of both the site and facility, in the Application.

4. CPD did not err in its assertion that "the applicant failed to address the fact that the site is a Brownfield site." CPD correctly contended in its letter (at 6) that:

[t]he Application does not contain any information whatsoever on the existing condition of the Site, the remedial action plan required by RSA 147-F, or whether it has been complied with, and the Covenant-not-to-Sue entered into by the State of New Hampshire.

The site is unquestionably a Brownfield subject to the requirements of RSA 147-F. Laidlaw provides absolutely no support for its conclusion that "no specific remediation activities are required at this time or to allow development of the Project." The Application is incomplete without any supporting documentation for this broad and controversial assertion.

5. CPD did not err in its assessment of the LandVest Study. Attorney Needleman contends that "LandVest was correct and CPD is wrong: most of those facilities are beyond a 100 mile drive from the Project." CPD's letter did not claim that the twelve (12) facilities were all within the 100 mile drive from the Project. CPD correctly contended that the LandVest study "excludes five existing facilities within the 100 mile drive from the Project or 3 hour drive time, as well as seven proximate to the identified wood basket that may draw significant portions of their supply from the indicated wood basket." CPD's contentions in this regard are supported by an analysis prepared by Innovative Natural Resource Solutions LCC. The LandVest study is seriously flawed. There is simply not enough wood available to meet the incremental increased supply/demand of the 70MW Laidlaw project. The LandVest study does not incorporate a substantial number of known and presently operating biomass users that are physically located within the fuel availability study area or are proximate and historically known to meet a portion of their supply needs from the limited resource that is the defined wood basket.

For the foregoing reasons, CPD does not believe that the Laidlaw Application "contains sufficient information to carry out the purposes of RSA 162-H." There is no existing ability to finance the Project; there is no information on the owner of the site and facility; there is no information on the Covenant-not-to-Sue and any remediation obligations on PJP; and the LandVest study is seriously flawed. Nonetheless, CPD realizes that the Committee should be afforded substantial discretion in carrying out its duties, and accordingly, CPD will accord great respect to any decision the Committee makes on this matter.

Sincerely,  
  
/s/ James T. Rodier

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Laidlaw and PJP will be unable to obtain financing for the Project and the resources of the Committee will have been wasted on this proceeding.

Copies to: Barry Needleman, Esq., Michael J. Iacopino, Esq., City of Berlin