



N. JONATHAN PERESS  
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February 16, 2010

Thomas S. Burack, Chairman  
New Hampshire Site Evaluation Committee  
c/o New Hampshire Department of Environmental Services  
29 Hazen Drive  
P.O. Box 95  
Concord, New Hampshire 03302-0095

Re: Laidlaw Berlin BioPower, LLC  
Docket No. 2009-02

Dear Chairman Burack:

In accordance with the Order and Notice of Prehearing Conference, Site Visit and Public Informational Hearing dated February 9, 2010, enclosed for filing with the Committee, please find our Notice of Appearance and the City of Berlin's Petition to Intervene in the above-referenced proceeding.

Please contact me should you have any questions.

Sincerely,

N. Jonathan Peress

Enclosures

cc: Patrick MacQueen, Berlin City Manager  
Service List

3466380.1

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2009-02**

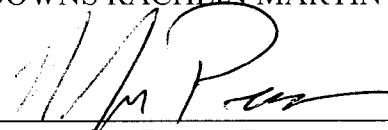
**Application of Laidlaw Berlin BioPower, LLC, for a Certificate of Site and Facility for a 70  
MW Biomass Fueled Energy Facility in Berlin, Coos County, New Hampshire**

**Notice of Appearance**

Pursuant to N.H. Admin.R. Site 202.04, please enter the appearance of Downs Rachlin  
Martin PLLC, by N. Jonathan Peress and Merritt Schnipper, attorneys licensed to practice in  
New Hampshire, on behalf of the City of Berlin.

Respectfully submitted,

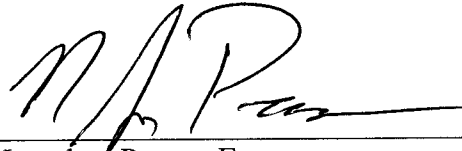
DOWNS RACHLIN MARTIN PLLC



N. Jonathan Peress, Esq.  
Downs Rachlin Martin PLLC  
8 South Park Street  
P.O. Box 191  
Lebanon, New Hampshire 03766-0191  
Tel.: (603) 448-2211  
Fax: (603) 448-9967  
Email: jperess@drm.com

**Certificate of Service**

A copy of this Notice has been served by e-mail this 16<sup>th</sup> day of February, 2010 upon  
each of the parties on the attached service list and by first class mail to the New Hampshire  
Attorney General's Office.



N. Jonathan Peress, Esq.

**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 70  
MW Biomass Fueled Energy Facility in Berlin, Coos County, New Hampshire**

**CITY OF BERLIN'S PETITION TO INTERVENE**

NOW COMES the City of Berlin (the "City") New Hampshire, by and through its attorneys, Downs Rachlin Martin PLLC, and hereby petitions for intervention in the above-captioned proceeding pursuant to RSA 541-A:32 and N.H. Admin. R. Site 202.11. In support of its Petition, the City states the following:

1. The City is a steward of the economic, environmental, public health and welfare interests of the City and its residents. Without limitation, such interests include the appropriate uses of land within the City and the orderly development of the region.

2. Laidlaw Berlin BioPower, LLC ("Laidlaw") is proposing to build a biomass fueled electric generating facility on a 62-acre parcel at the former Fraser Pulp Mill located in the City. The construction and operation of the proposed facility will directly impact the City and substantially implicates one or more of the foregoing interests of the City and its residents.

3. In reviewing Laidlaw's application, the Site Evaluation Committee must evaluate and make findings relative to a number of factors, including the effect of the proposed facility on the "orderly development of the region with due consideration [] to the views of municipal and regional planning commissions and municipal governing bodies." See RSA 163-H:16.

4. As the host municipality for the proposed facility, the City's rights and interests are directly and substantially affected by the application filed by Laidlaw and the decision of the Committee to either grant or deny the application. Because the proposed facility would be

located in close proximity to the downtown area of the City, the City has a substantial interest in the outcome of this matter and a unique interest that will not be protected by other parties to the proceeding. The City submits, pursuant to N.H. Admin R. 202.11(b)(3), that the interests of justice and orderly and prompt conduct of the proceedings in this case will not be impaired by allowing its intervention.

WHEREFORE, the City respectfully requests that the Site Evaluation Committee grant the City full intervenor status, without limitation, in this proceeding.

Respectfully submitted,

THE CITY OF BERLIN

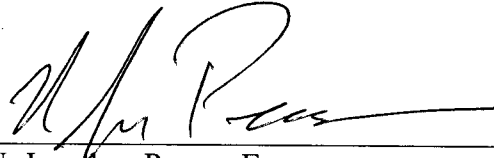
By its Attorneys,  
DOWNS RACHLIN MARTIN PLLC

A handwritten signature in black ink, appearing to read 'N. Jonathan Peress', written over a horizontal line.

N. Jonathan Peress, Esq.  
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Fax: (603) 448-9967  
Email: [jperess@drm.com](mailto:jperess@drm.com)

**Certificate of Service**

A copy of this Petition has been served by e-mail this 16<sup>th</sup> day of February, 2010 upon each of the parties on the attached service list and by first class mail to the New Hampshire Attorney General's Office.

A handwritten signature in black ink, appearing to read 'N. Jonathan Peress', written over a horizontal line.

N. Jonathan Peress, Esq.

3466296.1

# **SERVICE LIST**

**Docket No. 2009-02**

**Application of Laidlaw Berlin Biopower, LLC**

## **Sub-Committee Members**

<p>Thomas Burack, Chairman Site Evaluation Committee Department of Environmental Services 29 Hazen Dr., Box 95 Concord, NH 03302-0095 <a href="mailto:Thomas.Burack@des.nh.gov">Thomas.Burack@des.nh.gov</a></p>	<p>Christopher Northrop, designee NH Office of Energy and Planning 4 Chenell Drive Concord, NH 03301 <a href="mailto:chris.northrop@nh.gov">chris.northrop@nh.gov</a></p>
<p>Harry T. Stewart, Director – Water Division Department of Environmental Services 29 Hazen Drive, Box 95 Concord, NH 03302-0095 <a href="mailto:Harry.Stewart@des.nh.gov">Harry.Stewart@des.nh.gov</a></p>	<p>Craig Wright, designee Air Resources Division Department of Environmental Services 29 Hazen Drive, Box 95 Concord, NH 03302-0095 <a href="mailto:Craig.Wright@des.nh.gov">Craig.Wright@des.nh.gov</a></p>
<p>Donald M. Kent, Administrator NH Natural Heritage bureau 172 Pembroke Road, Box 1856 Concord, NH 03302-1856 <a href="mailto:DONALD.M.KENT@DRED.STATE.NH.US">DONALD.M.KENT@DRED.STATE.NH.US</a></p>	<p>William Janelle, Assistant Director Project Development Department of Transportation PO Box 483 Concord, NH 03302-0483 <a href="mailto:BJANELLE@DOT.STATE.NH.US">BJANELLE@DOT.STATE.NH.US</a></p>
<p>Amy Ignatius, Commissioner NH Public Utilities Commission 21 South Fruit St., Suite 10 Concord, NH 03301 <a href="mailto:Amy.Ignatius@puc.nh.gov">Amy.Ignatius@puc.nh.gov</a></p>	<p>Michael Harrington, Staff Engineer NH Public Utilities Commission 21 South Fruit St., Suite 10 Concord, NH 03301 <a href="mailto:michael.harrington@puc.nh.gov">michael.harrington@puc.nh.gov</a></p>
<p>Elizabeth H. Muzzey, Director NH Division of Historical Resources 19 Pillsbury St., 2<sup>nd</sup> Floor Concord, NH 03301-3570 <a href="mailto:elizabeth.muzzey@dcr.nh.gov">elizabeth.muzzey@dcr.nh.gov</a></p>	

## Committee Members Not on Sub-Committee

<p>Thomas Getz, Vice Chairman Site Evaluation Committee NH Public Utilities Commission 21 South Fruit St., Suite 10 Concord, NH 03301 <a href="mailto:Tom.Getz@puc.nh.gov">Tom.Getz@puc.nh.gov</a></p>	<p>George Bald, Commissioner Dept. of Resources &amp; Economic Development 172 Pembroke Road, Box 1856 Concord, NH 03302-1856 <a href="mailto:george.bald@dred.state.nh.us">george.bald@dred.state.nh.us</a></p>
<p>Glenn Normandeau, Executive Director NH Fish &amp; Game Department 11 Hazen Drive Concord, NH 03301 <a href="mailto:GLENN.NORMANDEAU@WILDLIFE.NH.GOV">GLENN.NORMANDEAU@WILDLIFE.NH.GOV</a></p>	<p>Ted Austin, Director Division of Parks &amp; Recreation Dept. of Resources &amp; Economic Development 172 Pembroke Road, Box 1856 Concord, NH 03302-1856 <a href="mailto:ted.austin@dred.state.nh.us">ted.austin@dred.state.nh.us</a></p>
<p>George N. Campbell, Jr., Commissioner NH Department of Transportation 7 Hazen Drive, Box 483 Concord, NH 03302-0483 <a href="mailto:GCAMPBELLCOMMISSIONER@DOT.STATE.NH.US">GCAMPBELLCOMMISSIONER@DOT.STATE.NH.US</a></p>	<p>Robert Scott, Director Air Resources Division Department of Environmental Services 29 Hazen Drive, Box 95 Concord, NH 03302-0095 <a href="mailto:Robert.Scott@des.nh.gov">Robert.Scott@des.nh.gov</a></p>
<p>Clifton Below, Commissioner NH Public Utilities Commission 21 South Fruit St., Suite 10 Concord, NH 03301 <a href="mailto:Clifton.Below@puc.nh.gov">Clifton.Below@puc.nh.gov</a></p>	<p>Brook Dupee, Bureau Chief Department of Health &amp; Human Services Division of Public Health Services 29 Hazen Drive Concord, NH 03301 <a href="mailto:bdupee@dhhs.state.nh.us">bdupee@dhhs.state.nh.us</a></p>
<p>Brad W Simpkins, Interim Director Division of Forests &amp; Lands Dept. of Resources &amp; Economic Dev. 172 Pembroke Road, Box 1856 Concord, NH 03302-1856 <a href="mailto:brad.simpkins@dred.state.nh.us">brad.simpkins@dred.state.nh.us</a></p>	<p>Van McLeod, Commissioner Dept. of Cultural Resources 20 Park Street Concord, NH 03301-6314 <a href="mailto:van.mcleod@dcr.nh.gov">van.mcleod@dcr.nh.gov</a></p>

## Committee Staff

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Jane Murray, Secretary Site Evaluation Committee Dept. Of Environmental Services 29 Hazen Drive, Box 95 Concord, NH 03302-0095 <a href="mailto:jane.murray@des.nh.gov">jane.murray@des.nh.gov</a>	Timothy Drew, Administrator Public Information & Permitting Dept. of Environmental Services 29 Hazen Dr., Box 95 Concord, NH 03301 <a href="mailto:Timothy.Drew@des.nh.gov">Timothy.Drew@des.nh.gov</a>

## Parties

<b>Counsel for the Applicant</b>  Barry Needleman, Esq. McLane Graf Raulerson & Middleton 11 So. Main Street Concord, NH 03301 603-226-0400 <a href="mailto:barry.needleman@mclane.com">barry.needleman@mclane.com</a>	<b>Clean Power Development Counsel as Interested Party</b>  James T. Rodier, Esq. 1500A Lafayette Rd., Suite 112 Portsmouth, NH 03801 <a href="mailto:jtrodier@comcast.net">jtrodier@comcast.net</a> 603-559-9987 603-427-5461 (fax)
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## Counsel to the Public

NH Attorney General's Office 33 Capitol Street Concord, NH 03301 603-271-3658	
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## Information Only

<p>Edith Tucker Coos County Democrat <a href="mailto:tigger@ncia.net">tigger@ncia.net</a> <a href="mailto:edithtucker@ne.rr.com">edithtucker@ne.rr.com</a></p>	<p>Barbara Tetreault Berlin Daily Sun <a href="mailto:Barbara@berlindailysun.com">Barbara@berlindailysun.com</a></p>
<p>Douglas Patch, Esquire Orr &amp; Reno 1 Eagle Sq., Box 3550 Concord, NH 03302 <a href="mailto:DPatch@Orr-Reno.com">DPatch@Orr-Reno.com</a></p>	