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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

November 22, 2010 - 6:15 p.m.
Berlin City Hall
168 Main Street
Berlin, New Hampshire

RE: **SEC DOCKET NO. 2010-02**
Application of the Androscoggin
Valley Regional Refuse Disposal
District for Exemption from the
Application and Certificate
Requirements of RSA 162-H.
(Public Informational Hearing
and Deliberations)

PRESENT:	SITE EVALUATION SUBCOMMITTEE:
Thomas Burack, Commissioner (Presiding as Chairman)	Dept. of Environmental Services
Robert Scott, Director	Air Resources Division - DES
Harry Stewart, Director	Water Division - DES
Clifton Below, Commissioner	N.H. Public Utilities Comm.
Amy Ignatius, Commissioner	N.H. Public Utilities Comm.
Elizabeth Muzzey, Director	Div. of Historical Resources
Brad Simpkins, Director	Div. of Forests & Lands - DRED
Joanne Morin, Director	Office of Energy & Planning
Randy Knepper, Director	Safety Division - PUC

* * *

Counsel for the Committee: Michael Iacopino, Esq.
(Brennan, Caron, Lenahan...)

Counsel for the Applicant: Charles Willing, Esq.
(Rath, Young & Pignatelli)

COURT REPORTER: STEVEN E. PATNAUDE, LCR No. 52

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P R O C E E D I N G

1
2 CHAIRMAN BURACK: Good evening, ladies
3 and gentlemen. Welcome to a public hearing of the New
4 Hampshire Energy Facility Site Evaluation Committee. My
5 name is Tom Burack. I serve as Commissioner of the
6 State's Department of Environmental Services. And, in
7 that capacity, by statute, I also serve as Chairman of the
8 State's Site Evaluation Committee. We are here today for
9 a public information hearing and deliberative session on
10 Docket Number 2010-02, the Application of the Androscoggin
11 Valley Regional Refuse Disposal District for Exemption
12 from the Application and Certificate Requirements of RSA
13 162-H.

14 The Androscoggin Valley Regional Refuse
15 Disposal District, which we will refer to this evening
16 either as the "Applicant" or the "District", has filed an
17 Application seeking exemption from requirements of RSA
18 162-H pursuant to RSA 162-H:4, IV. The Applicant intends
19 to construct and operate a blended landfill gas, or LFG,
20 and natural gas energy project, which would include seven
21 elements: (1) a landfill gas processing facility and
22 associated compressor, dehydration unit, flares, and LFG
23 meter at the eastern end of the Mount Carberry Landfill
24 located in Success, Coos County; (2nd) a natural gas

{SEC 2010-02} [Public Informational Hearing] {11-22-10}

1 metering and pressure regulation station, known as an "M&R
2 Station", on the Applicant's property located in Berlin,
3 Coos County, and near the existing Portland Natural Gas
4 Transmission System, or PNGTS, pipeline; (3rd) an
5 approximately 11,300 foot-long, buried 8-inch diameter
6 High Density Poly Ethylene, or HDPE, LFG pipeline from the
7 Landfill to the M&R Station in Berlin; (4th) an
8 approximately 350 foot-long, 2-inch diameter lateral
9 pipeline from the existing PNGTS mainline pipeline to the
10 M&R Station; (5th) an approximately 470 foot-long, buried
11 8-inch diameter HDPE mixed LFG and natural gas pipeline
12 from the M&R Station to the Androscoggin River; (6th) an
13 approximately 300 foot-long 8-inch diameter segment of
14 coated steel pipeline crossing the abandoned railroad
15 bridge over the Androscoggin River; and (7th) an
16 approximately 2,500 foot-long, buried 8-inch diameter HDPE
17 mixed LFG and natural gas pipeline from the west end of
18 the Androscoggin River crossing to the Gorham Mill.

19 The siting, construction and operation
20 of such facilities are usually regulated by the Site
21 Evaluation Committee in an integrated fashion. However,
22 under certain circumstances, the Committee has the
23 authority to exempt a proposed project from its
24 regulation. If the Committee chooses to grant an

1 exemption, the Applicant must still comply with all state
2 and local regulations and obtain all necessary permits and
3 licenses from the appropriate federal and state local
4 agencies.

5 Notice of this public informational
6 hearing was served upon the public by publication in the
7 New Hampshire Union Leader on November 1, 2010 and in the
8 Conway Daily Sun on November 2, 2010. No written comments
9 or objections have been received from members of the
10 public to date.

11 We will begin the public informational
12 hearing on this application with the introduction of the
13 Committee members. We will then hear a presentation by
14 the Applicant. Following that presentation, the Committee
15 members and staff will have the opportunity to pose
16 questions to the Applicant. Thereafter, the public will
17 be permitted to pose questions to the Applicant through
18 the Committee Chairman. If you have a question for the
19 Applicant, we ask that you please write your question down
20 on a card and hand it to Counsel for the Committee,
21 Attorney Michael Iacopino. We will try to organize all
22 the questions by subject matter and present them to the
23 Applicant in an organized fashion.

24 Once we have asked all of the questions

1 that the public may have, we will then take public
2 statements or comment on the Application. Please make
3 your public statements as succinct as possible and please
4 try not to be repetitive. If you wish to make a public
5 statement, please write your full name and contact
6 information on one of the sheets that have been provided
7 for this purpose. I believe there are extra sheets in the
8 back of the room. I would note that so far we have
9 received indication of interest in providing public
10 comment from three individuals. And, those are Thomas
11 McCue; Paul Grenier, the Mayor of the City; as well as I
12 believe it's a Guy Lopez. Do I have that correct?

13 MR. LOPEZ: Correct.

14 CHAIRMAN BURACK: Is there a Mr. Lopez
15 here? Thank you. Are there any others at this time who
16 think they may wish to make public comments?

17 (No verbal response)

18 CHAIRMAN BURACK: All right. Certainly
19 will be further opportunity, if you wish to do so, but I
20 just wanted to get a sense of that now. So, I will invite
21 members of the public to speak at the appropriate time.
22 Once public input is complete, the Committee may have
23 further questions for the Applicant, but we may then
24 deliberate and consider whether an exemption from the

1 statutory process should be granted to the Applicant.

2 We will first have the Committee members
3 introduce themselves. I would also just note that this is
4 a quasi-administrative proceeding or judicial proceeding,
5 and would ask that members of the public and the press
6 please refrain from having individual -- or conversations
7 with individual members of the Committee, but please
8 address any comments or concerns you have, either to us
9 here in this public session or to us through our legal
10 counsel, Attorney Iacopino, so that we can avoid any *ex*
11 *parte* communications regarding this matter.

12 So, again, after the Committee members
13 have introduced themselves, we will then take appearances
14 from the Applicant and its representatives. And, once we
15 have completed the appearances, Attorney Willing, you may
16 then start your presentation.

17 So, starting with Mr. Stewart, Director
18 Stewart.

19 DIR. STEWART: Harry Stewart, Department
20 of Environmental Services, Water Division Director.

21 DIR. SCOTT: Bob Scott, Department of
22 Environmental Services, Air Resources Division Director.

23 CMSR. IGNATIUS: Amy Ignatius, a
24 Commissioner with the New Hampshire Public Utilities

1 Commission.

2 CMSR. BELOW: Clifton Below, a
3 Commissioner with the Public Utilities Commission.

4 DIR. MUZZEY: Elizabeth Muzzey, Director
5 of the Division of Historical Resources and State Historic
6 Preservation Officer.

7 DIR. KNEPPER: Randy Knepper, I'm the
8 Director of Safety for the New Hampshire Public Utilities
9 Commission.

10 DIR. SIMPKINS: Brad Simpkins, with the
11 Division of Forests and Lands, in the Department of
12 Resources and Economic Development.

13 DIR. MORIN: Joanne Morin. I'm the
14 Director of the Office of Energy & Planning.

15 CHAIRMAN BURACK: Very good. Thank you
16 all.

17 CMSR. IGNATIUS: Chairman Burack, just
18 one administrative matter that we failed to mention at the
19 prior meeting. RSA 162-H requires the participation of an
20 engineer from the Public Utilities Commission.

21 CHAIRMAN BURACK: Yes.

22 CMSR. IGNATIUS: And, at a previous
23 time, the Commissioners voted to designate Mr. Knepper,
24 who is an engineer, to be the engineer participating in

1 this case. And, just so that that's officially on the
2 record, I wanted to make sure you had it tonight.

3 CHAIRMAN BURACK: Thank you very much
4 for doing that, making that statement. Okay. Attorney
5 Iacopino is going to excuse himself for a few minutes, but
6 we're going to proceed without him.

7 Attorney Willing, would you please make
8 your appearance and the appearance of others on your
9 project team.

10 MR. WILLING: Sure. My name is Chuck
11 Willing. I'm with Rath, Young & Pignatelli, which is
12 special counsel to the Androscoggin Valley Regional Refuse
13 Disposal District for this project. With me on the legal
14 team are Jay Tanguay, from the same firm, and Amy
15 Manzelli, from Sulloway & Hollis, which is the District's
16 general counsel.

17 We also have with us, on our engineering
18 team, Paul Schmidt, from CMA Associates, and also Craig
19 Musselman, from CMA Associates. Paul is going to be
20 giving the presentation on behalf of the District.

21 I did want to mention that Sharon
22 Gauthier, the Executive Director of the District, is not
23 here tonight, because she was called down to Concord for a
24 meeting with the Governor and other State officials down

1 there regarding other aspects of this project. And, I
2 know she very much regretted not being able to be here
3 tonight.

4 I should also acknowledge Mayor Grenier
5 and Attorney McCue, as members of the committee that
6 governs the District.

7 With that, I think I will turn it over
8 to Paul to give the main presentation on behalf of the
9 District.

10 CHAIRMAN BURACK: Thank you.

11 MR. SCHMIDT: Yes. I'm Paul Schmidt
12 with CMA Engineers, out of Manchester, New Hampshire. We
13 also have, on the engineering side with us, SCS Engineers,
14 as a landfill gas consultant; Russ Anderson and Greg
15 McCarron here also, and we also have with us the
16 anticipated general contractor, design/build contractor,
17 Lee Ransom, from -- representative from R.H. White here
18 today. Oh, and John Maynard, sorry, from McGuire Group.

19 And, I guess I'll -- the overall
20 project, and again, as summarized, the Androscoggin
21 District is planning a landfill gas to energy project and
22 pipeline, in combination with a natural gas -- tied to
23 natural gas to supply an alternate energy supply to the
24 Gorham Paper Mill. The Gorham Paper Mill currently uses

1 Number 6 fuel oil. And, with this project, we would
2 transmit both natural gas and landfill gas to the mill in
3 their -- for use in their boilers.

4 The project includes, in a very general
5 sense, and on this map, this is the landfill site, which
6 you can probably see from a distance. General pipeline
7 here, routed, and then this is the Androscoggin River
8 [indicating], this is the bridge crossing [indicating],
9 which is the old railroad bridge that the mill currently
10 owns, and the Gorham Mill is here [indicating], and the
11 red line on this plan is the pipeline.

12 And, the major components at the
13 landfill, the landfill currently collects gas generated
14 from the landfill in a collection system and flares that
15 to -- burns that to -- at a flare at the landfill site.
16 And, this would tie into that existing collection system
17 and compress the gas, so that it can be transmitted via
18 pipeline, and also dry it, so that the gas moving down the
19 pipeline doesn't have condensation issues. And, those
20 improvements would be at the landfill site. The project
21 encompasses work in three municipal districts: The
22 unincorporated areas of Success, in Coos County, which is
23 where the landfill is located, and the landfill
24 improvements would be in Success. And, actually, this is

1 the town line and -- this is the city line [indicating],
2 the City of Berlin, and the bulk of the gas pipeline is in
3 the City, and the Metering and Regulation Station is in
4 the City, and then the paper mill is in Gorham.

5 So, at the landfill site, there are
6 improvements, compressor and some equipment and housing it
7 at the landfill site. And, then, the landfill gas
8 pipeline follows largely an existing utility line that has
9 the leachate, which is the liquid collected from the
10 landfill. The leachate line goes from the landfill down
11 to the District's wastewater treatment plant. And, that
12 the gas line would follow that corridor, there's an
13 existing gravel roadway, and parallel that down to a point
14 here [indicating], actually there [indicating], and then
15 it would cross-country down the rest of the hill, to a
16 location where the Metering and Regulation Station is
17 proposed. All of that is on the District's property.
18 And, then, at this location here [indicating], the
19 Portland Natural Gas Transmission System natural gas main
20 is this yellow line [indicating]. And, there's a tap into
21 that line on the natural gas side. And, then, a lateral
22 from that, tap into that high-pressure line, to a
23 Metering/Regulation Station. That Metering/Regulation
24 Station would take the natural gas and bring it down to a

1 lower operating pressure, from typical operating pressure
2 from 1,100 PSI to about 100 PSI. And, as part of that,
3 there's a necessary heating comment as you change that
4 pressure. And, then, that station would include metering
5 and regulation of gas flows. And, then, the natural gas
6 and the landfill gas would then be mixed right outside
7 that Metering/Regulation Station, and then go in a
8 combined -- would be a combined gas. It could potentially
9 be just natural gas in that pipeline or natural gas and
10 landfill gas in that pipeline.

11 Across a roadway that's on the District
12 land that services the City of Berlin's wastewater
13 treatment plant, follows -- and then it follows an old
14 railroad bed to the bridge. The bridge is owned by -- and
15 it does cross -- and that portion of the pipeline does
16 cross land owned by --

17 FROM THE FLOOR: Great Lakes.

18 MR. SCHMIDT: -- Great -- thank you. I
19 said it wrong earlier. So, Great Lakes Hydro, which will
20 require an easement across their property. And, then, the
21 bridge crossing would be a -- go across the deck of the
22 existing bridge with a 6-inch steel pipe. And, then,
23 enter the mill's property, both in the City and in Gorham,
24 and follow -- they have an existing, some railroad tracks

1 and a gravel road, and it would follow that to, you know,
2 come up outside of the mill. And, the District's -- the
3 interconnection point from the District's perspective is
4 just outside the mill's boiler building. And, then, the
5 mill would take that, and additional pressure regulation
6 and control, and it would feed their two existing boilers.

7 The quantities of pipeline and the
8 sizing of the pipeline that were read into the record
9 earlier were the initial Application. Since the initial
10 Application was made, there has been -- have been some
11 minor modifications of the exact location of the pipeline
12 and the distances. So, I would actually like to, if
13 appropriate, read, give you those. And, they're not
14 significantly different, though, they're all still -- what
15 was originally submitted is basically still the same.

16 But, for reference, the current
17 estimated length of the landfill gas pipeline is
18 10,650 feet, and we currently anticipate that's going to
19 be a 6-inch HDPE pipe. The natural gas pipeline, from the
20 tap to the M&R Station, is estimated to be 675 feet. And,
21 that's a 2-inch lateral, that will be a steel pipe. And,
22 it's about 850 feet from the M&R Station to the bridge,
23 and about 200 -- 2,500 feet from the bridge to the mill,
24 all 6-inch pipe. All the pipeline is proposed to be

1 buried, except for where it comes up at the M&R Station,
2 at the Landfill, and at the bridge, and at the mill, but
3 the rest of the pipeline would be buried.

4 Do you want me to run through the
5 permitting or not?

6 CHAIRMAN BURACK: If you would. I think
7 it would be helpful if you can just give a summary of the
8 permitting. Thank you.

9 MR. SCHMIDT: Okay. Yes. The project
10 to date, the District has begun various permitting aspects
11 for the project. And, they have, in addition to the
12 filing with the SEC that we're considering tonight, the
13 District has submitted to the Public Utilities Commission
14 a petition for license to construct and maintain a gas
15 pipeline across the river. The PUC will have direct
16 jurisdiction on the pipeline crossing the river. And, the
17 PUC has also -- been in communications with the PUC with
18 respect to the regulation of the District. And, a
19 determination at this point that the District will not be
20 a -- considered a "public utility", but will be subject to
21 the PUC's safety requirements.

22 The District has met with each of the
23 three communities, and participated in zoning and site
24 plan reviews in all three communities. In Coos County,

1 they did receive both the zoning approval and a building
2 permit for the work at the landfill portion of the project
3 for the City of Berlin. And, they did receive a
4 conditional site plan approval. And, they will be, as one
5 of the conditions, and they will be filing a building
6 permit, once the final design of the building for the M&R
7 Station is finalized. And, in Gorham, they did receive a
8 conditional site plan approval. And, actually, it's not
9 quite clear at this point whether they will require -- the
10 mill will be required to get a building permit for the
11 work, on their work on the boilers. We don't anticipate
12 that the District will need to get a building permit.

13 With respect to the New Hampshire
14 Department of Environmental Services, they met with the
15 representative of DES on two different -- the District met
16 on two different times. There will be a -- need to be a
17 modification of the -- the existing landfill does have a
18 temporary air permit for the existing flare, and that will
19 have to be modified to reflect the changes. They have an
20 existing -- the landfill has a permit for the landfill
21 itself, and that will have to be modified to reflect the
22 changes of the -- and that covers both the landfill and
23 existing gas system, and it will have to be modified to
24 reflect the changes of the landfill gas system.

1 We do anticipate filing a Wetlands
2 Permit. The wetlands issues impact associated with the
3 project are anticipated to be minimal, particularly given
4 the size and scope of this project. And, that is subject
5 to a final -- a final design of the exact pipeline, once
6 we get the exact wetlands impact, before we file that
7 permit. The District has had discussions with New
8 Hampshire --

9 (Court reporter interruption.)

10 MR. SCHMIDT: The District has had
11 discussions with DES regarding shoreland protection
12 permitting, which we believe will be covered under the
13 Wetlands Permit, when that is issued. The District
14 requested and received, under the Alteration of Terrain
15 permitting requirements for -- they requested a waiver of
16 two specific requirements and were granted those waivers,
17 and received -- and the project otherwise does not require
18 a separate permit, and they've received those.

19 The Natural Heritage Bureau was
20 contacted with respect to impacts to endangered, sensitive
21 species. And, there was a determination made by the state
22 there that this project would not have any significant
23 impact on endangered or other identified sensitive
24 species.

1 The New Hampshire Department of
2 Historical Resources was also contacted with respect to
3 the project, and there was a determination that there
4 would be no impact, significant impact to historical
5 properties.

6 And, the other permitting on my list is
7 the mill we anticipate will be required to -- will be
8 required to get a modification to their air permit, an air
9 permit for their boilers, and they will need to get a
10 modification to that permit.

11 So, that's the general project that's
12 proposed. Is there anything else the Committee would like
13 summarized at this point or --

14 CHAIRMAN BURACK: I think that's a very
15 helpful summary. And, why don't we -- thank you very
16 much, Mr. Schmidt. Why don't we turn to questions from
17 the Committee.

18 I would just point out, for those in
19 attendance who were not here earlier, that the Committee
20 did meet at 4:00 in a public meeting to initially review
21 the Application materials and obtain some additional
22 information and clarifications regarding the information
23 submitted. So, we have already, as a Committee, had a
24 chance to ask some questions of the Applicant. I don't

1 think it's necessary for us to repeat questions that were
2 asked briefly. But, certainly, this is an opportunity to
3 ask -- ask of the Applicant any other questions that we
4 have beyond those that were asked this morning -- or, I
5 should say at 4:00, as well as any other items that came
6 up during our site tour, that began at 1:00 this
7 afternoon, or any other clarifications on items that were
8 asked at the 4:00 meeting, to which we requested answers
9 at this session.

10 And, in that connection, Director
11 Ignatius, I believe you had a question that you had posed.
12 Can you recall what that question was?

13 CMSR. IGNATIUS: I can. And, I think
14 Director Morin also had asked it during the 4:00 session.
15 It involves multiple projects being discussed at the same
16 time and how they interrelate. There have been two
17 biomass projects that this Committee has looked at; the
18 Laidlaw Project and the Clean Power Development Project.
19 And, what I'd asked before is, if the Clean Power
20 Development Project were to come to fruition, as I
21 understand it, they would be bringing a lot of truck
22 traffic with heavy biomass wood chip loads down Shelby
23 Street. And, Shelby Street you identified as a place for
24 the pipeline to go underneath, as it heads, I guess, over

1 to the railroad bridge to come across the river.

2 Do you see any difficulty in both things
3 happening at the same time on that street? The heavy
4 truck loads and the pipeline being underground on that
5 road?

6 MR. WILLING: Paul.

7 MR. SCHMIDT: It is something we'll need
8 to take into account, at any road crossing, we don't
9 anticipate that that will be a problem. There's no direct
10 conflict between those two issues.

11 CMSR. IGNATIUS: Okay.

12 CHAIRMAN BURACK: Thank you. Are there
13 other questions from members of the Committee at this
14 time? Go ahead, Commissioner Ignatius.

15 CMSR. IGNATIUS: Thank you. Can
16 Mr. Willing, or someone else associated with the project
17 or the municipalities here, identify for us public
18 hearings that may have occurred or other public outreach
19 that have given people in the three affected communities
20 an opportunity to know about this project and voice any
21 concerns about the project?

22 MR. WILLING: Each of the local permits
23 that we've obtained so far was obtained via a public
24 meeting process. So, the public has had an opportunity to

1 participate in those processes. I think I could also say,
2 and maybe Mayor Grenier can speak to this, that the
3 project is very well known in all of the communities up
4 here. People have had a chance, among other things, to go
5 to District meetings and other forums in which to express
6 their point of view about the project.

7 But I will turn it over to Mayor
8 Grenier.

9 MAYOR GRENIER: Commissioner Ignatius,
10 the Solid Waste District is actually a consortium of ten
11 member communities. And, all ten -- well, actually nine
12 communities in Coos County, representing the
13 unincorporated places that use the landfill. And, because
14 we were expending District funds to pay for our share of
15 the project, we had to get permission from the governing
16 bodies of all ten communities, member communities, the
17 fact that we were expending District funds to put this
18 project together.

19 So, we did have multiple public
20 hearings. We do have the documentation and the permission
21 of the member communities in support of the project.

22 CHAIRMAN BURACK: Director Scott.

23 DIR. SCOTT: As a follow-up to that line
24 of questioning, is it safe to assume that those public

1 meetings were noticed and the fact that you'll be
2 discussing these issues were noticed?

3 MAYOR GRENIER: Yes. Yes.

4 DIR. SCOTT: Okay. Thank you.

5 CHAIRMAN BURACK: Thank you, Mayor
6 Grenier. Other questions from members of the Committee?
7 Commissioner Ignatius.

8 CMSR. IGNATIUS: Thank you. As Mr. -- I
9 just drew a blank.

10 CHAIRMAN BURACK: Schmidt.

11 CMSR. IGNATIUS: -- Schmidt, thank you,
12 pointed out before, there had been a discussion with the
13 Public Utilities Commission on the regulatory status of
14 this project, if it were approved. And, a written
15 statement from the PUC saying, "Based on what it
16 understood the project to be, it did not appear to be a
17 "public utility" under the state standards." And, one of
18 the key reasons in reaching that conclusion was that there
19 was a single customer being served. It wasn't serving the
20 "public", as we normally think of in a public utility.

21 Is there any intention that the project
22 would, over time, serve the public?

23 MR. WILLING: No. There is no intention
24 for that. The project is being constructed specifically

1 to deliver natural gas and landfill gas to this mill to
2 provide energy for its paper-making process.

3 CMSR. IGNATIUS: I had one other
4 question, if I may. The status of the Fraser Mill
5 ownership is changing --

6 MR. WILLING: Yes.

7 CHAIRMAN BURACK: -- weekly, sometimes
8 daily, and I appreciate that no one really knows the
9 answers to all of that. But the proposal says that
10 there's a ten year contract that would be entered into for
11 Fraser or its successor to accept, assuming the successor
12 wants to do this, to accept the blended landfill/natural
13 gas fuel. I guess two questions. One is, is the new
14 prospective buyer still interested in entering into a
15 long-term contract? And, secondly, what happens if, for
16 whatever reason, it does not remain in operation and the
17 mill at some point, within that ten year contract term,
18 ceases to operate?

19 MR. WILLING: The mill purchaser is
20 aware, at least generally, of the length of contract we're
21 talking about here. No, we're not talking about a
22 short-term contract. We're talking about a long-term
23 contract. We have not yet entered into negotiations with
24 the mill, so -- with the mill purchaser, so I don't know

1 what the final terms of that agreement will be. But I can
2 assure you that the District will insist on a long-term
3 contract. We understand that that doesn't guarantee that
4 the mill stays open for any particular -- or, any certain
5 length of time over the long term. And, if the mill shut
6 down at that point and was no longer purchasing gas, then
7 we would have to deal with that situation as it comes. We
8 are not seeking permission from the PUC or from any other
9 body to do anything in particular with the gas in that
10 eventuality.

11 CHAIRMAN BURACK: Thank you. Other
12 questions?

13 (No verbal response)

14 CHAIRMAN BURACK: Okay. Attorney
15 Willing, I believe we heard earlier today that the
16 District put out a request for proposal, you received one
17 proposal from a company called "R.F. White" to construct
18 the project. But you have not yet entered into a written
19 contract or agreement with R.F. White, is that correct?

20 MR. WILLING: That's right. It's "R.H.
21 White".

22 CHAIRMAN BURACK: R.H. White. Thank you
23 for that correction.

24 MR. WILLING: Yes. They're the selected

1 contractor. We would expect to enter into a contract with
2 them to construct the project, but we have not done that
3 yet.

4 CHAIRMAN BURACK: And, the construction
5 would be performed on a design/build basis, is that
6 correct?

7 MR. WILLING: That is correct.

8 CHAIRMAN BURACK: Okay. In response to
9 Request Number 1, in the response to the request for
10 information that followed your submittal of the request
11 for exemption that came on September 3rd, you identified
12 for the District a total of five different funding
13 sources, including the District's own funds of
14 approximately 2.2, \$2.3 million.

15 MR. WILLING: Uh-huh.

16 CHAIRMAN BURACK: And, the remaining,
17 for a total of about 4.6 million coming from four other
18 sources, including the U.S. Economic Development
19 Administration, the New Hampshire Business Finance
20 Authority limited recourse loan, and CDFA Block Grant
21 through the City of Berlin, and also a Northern Borders
22 State Commission Grant. With respect to those four
23 funding sources from sources other than the District
24 itself, are those all secured at this point? In other

1 words, are they all absolutely certain of receipt?

2 MR. WILLING: They're certain of
3 receipt. The final documents have not been signed yet.
4 Especially in the case of the EDA, there's going to have
5 to be an iterative process with them. They will want to
6 see more of the permit information, they will want to --
7 it will have to take place in a certain sequence over
8 time, and that's a little bit complicated. But,
9 basically, we have assurance of all of these funding
10 sources, and we've been -- we've applied and received
11 approval from them.

12 CHAIRMAN BURACK: So, you don't believe
13 there is any risk of any of those funding sources going
14 away for this project?

15 MR. WILLING: No significant risk.

16 CHAIRMAN BURACK: If there were to be a
17 cost overrun on this project, how would that overrun
18 likely be funded? Would that come from the District or
19 would you have to seek additional funding sources?

20 MR. WILLING: Most likely, it would be
21 coming from the District.

22 CHAIRMAN BURACK: And, do you anticipate
23 that, in your contracting process, you'll be building both
24 adequate contingencies in, as well as seeking other ways

1 to protect against cost overruns?

2 MR. WILLING: Yes. Yes. I should state
3 the bids that came -- the bid that came in was less than
4 the budgeted amount. So, I think we've adequately
5 accounted for contingencies with that number.

6 CHAIRMAN BURACK: Thank you. In
7 response to our Request Number 2, regarding identification
8 of alternate routes considered for the pipeline, you
9 essentially indicate that you "didn't consider a
10 significantly different pipeline route." But, as we heard
11 earlier, while most of the line is going to cross through
12 or be on property owned by the District or by Fraser, or
13 Fraser's affiliate, Great Lakes, there are going to be
14 some easements that are required. Are you already in the
15 process of negotiating to obtain those easements?

16 MR. WILLING: Yes. We're already in
17 negotiations with Fraser up to this point as to what that
18 easement will likely be granted by the purchaser of the
19 mill and with Great Lakes and with PSNH. We have notified
20 PNGTS that we need an easement from them to cross their
21 line, and they have indicated a willingness to do it,
22 although we haven't actually negotiated anything with them
23 yet.

24 CHAIRMAN BURACK: Okay. Thank you.

1 Before I forget here, in his statement, Mr. Schmidt
2 provided certain corrections to the description of the
3 lengths of pipeline.

4 MR. WILLING: Uh-huh.

5 CHAIRMAN BURACK: And, while it's
6 helpful to have on the record, it would be perhaps even
7 more helpful to have that submitted to us in writing. So
8 that, if there are any transcription errors, we catch them
9 and can rely on what you submit to us in writing as a
10 follow-up to that?

11 MR. WILLING: Yes, we can do that, on
12 the understanding that, as we get into design and even as
13 we're into construction, that the lengths are going to
14 vary by a small amount.

15 CHAIRMAN BURACK: I think we all
16 understand that. It would just be helpful to understand,
17 as of this moment in time, what you are contemplating
18 would likely be the extent of the changes to what was
19 originally proposed.

20 Also just want to confirm our
21 understanding, based on the discussion that we had at our
22 4:00 session, that it is anticipated that the M&R Station,
23 that is the Metering and Regulating Station, is likely, in
24 fact, to be under the ownership of the District, and not

1 of PNGTS?

2 MR. WILLING: That is our understanding.
3 Since the District is funding the project, it wants to own
4 as much of the project as it possibly can. It's entirely
5 possible we may -- our expectations may be altered
6 somewhat as we get into discussions with PNGTS. But, if
7 it is possible for us to own everything right up to the
8 PNGTS transmission line, that's what we will do.

9 CHAIRMAN BURACK: And, is it also
10 correct to understand that, although it's the goal of the
11 District to actually own the facility, you are hoping to
12 be able to enter into an agreement with PNGTS to actually
13 operate and develop the emergency plans for the M&R
14 facility?

15 MR. WILLING: That's right. They would
16 operate the portion of the project that involves natural
17 gas. They would not be the operator of the project for
18 the landfill gas piece until it meets the natural gas
19 pipeline, just in the area of the M&R Station.

20 CHAIRMAN BURACK: Is there any
21 specialized training or other specialized equipment that
22 you're anticipating the District will need to have or to
23 develop or maintain, in order to be able to oversee the
24 operation of the landfill gas portion of the pipeline?

1 MR. WILLING: Those plans are indefinite
2 at this point. Our discussions with the earlier purchaser
3 of the mill, before the current purchaser, were along the
4 lines of the mill actually providing some of the personnel
5 to do that. And, we would have entered a contract with
6 them. I don't know if we will make the same arrangement
7 with this purchaser. But the District will either provide
8 the services itself using its own staff or enter into a
9 contract with the mill or enter into a contract with
10 another third party to do that.

11 CHAIRMAN BURACK: Thank you. Would I be
12 correct in understanding that, prior to this time, other
13 than the piping from the landfill to the flare itself, and
14 to the sulphur treatment system that you have there, that
15 that's the extent of the Landfill District's -- the
16 District's staff experience in managing a system that
17 involves landfill gas?

18 MR. WILLING: Yes. The District staff's
19 experience to date is centered on operation of a
20 collection system, a flare, sulphur treatment equipment
21 and other equipment at the landfill.

22 CHAIRMAN BURACK: But would we be
23 correct in understanding that, if this project does go
24 forward, the District is committed to ensuring that either

1 it has its own staff trained to conduct all operations
2 relating to the landfill gas line, or will contract with
3 others who are qualified to do that work?

4 MR. WILLING: That is correct.

5 CHAIRMAN BURACK: We also, at our 4:00
6 meeting today, talked about and had questions about which
7 entity would, in fact, have jurisdiction relating to the
8 safety of different parts of the pipeline? Whether it's
9 the Public Utilities Commission, under the Safety Program
10 that's directed by Mr. Knepper here of the PUC, or whether
11 it would be through a branch of the federal government
12 under the Federal Energy Regulatory Commission, with an
13 acronym that perhaps you can refresh our recollection on,
14 Mr. Knepper.

15 DIR. KNEPPER: They call it "PHMSA",
16 which is Pipeline and Hazardous Materials Safety
17 Administration, P-H-M-S-A.

18 CHAIRMAN BURACK: Okay. So, one of
19 those two entities would have jurisdiction over some or
20 all parts of this pipeline, depending on, again, whether
21 it's an intrastate or an interstate pipeline. Would we be
22 correct in understanding that, whether it's ultimately
23 deemed to be subject to PUC's jurisdiction or PHMSA's
24 jurisdiction or PHMSA granting certain jurisdictional

1 abilities or oversight capabilities or authorities to the
2 PUC, that it's the intent of the District to essentially
3 agree to be subject to that jurisdiction, one or the other
4 or both?

5 MR. WILLING: That is correct.

6 CHAIRMAN BURACK: Thank you. Are there
7 other questions?

8 DIR. KNEPPER: I have two.

9 CHAIRMAN BURACK: Please.

10 DIR. KNEPPER: My question would be, if
11 there was an emergency on the line, where would the
12 closest people have to come from to respond to it?

13 MR. WILLING: That's a hard question for
14 us to answer at this point, given that we haven't made any
15 --

16 DIR. KNEPPER: I was just trying to get
17 a sense, if they had to travel from 20 miles away, 30
18 miles away, 50 miles. If you went into a PNGTS type of
19 arrangement, do they have to come from Canada or Vermont
20 or whatever? I'm just looking for a sense of that.

21 MR. WILLING: I mean, I would imagine
22 they have response capabilities nearby, but I don't know
23 exactly where it's located.

24 DIR. KNEPPER: Okay.

1 MR. WILLING: And, that's something,
2 obviously, we'll be discussing with you in the context of
3 the PUC process.

4 DIR. KNEPPER: And, the last question I
5 have is, it's not explicitly clear in here, but I'm
6 assuming, from the blended gas pipeline that runs from the
7 Metering and Regulating Station to the paper mill will be
8 a gas distribution line. That pipeline that taps off at
9 PNGTS will be a gas transmission line. And, that pipeline
10 from the landfill to the Metering and Regulator Station
11 would also be a gas transmission line, is that correct?

12 MR. WILLING: My understanding, I would
13 consider them all to be distribution lines, since they're
14 all being built to distribute gas to a particular
15 end-user. Maybe it's subtleties in the characterization
16 that I don't appreciate, but --

17 DIR. KNEPPER: Okay. Thank you.

18 MR. WILLING: Yes.

19 CHAIRMAN BURACK: Other questions at
20 this time from the Committee? Attorney Iacopino.

21 MR. IACOPINO: Anybody from the
22 Applicant can answer this, but could you please tell us
23 whether you've had conversations with municipal
24 responders, like the fire department, police department,

1 safety services, about this project? And, can you just
2 tell us what those contacts have been?

3 MR. WILLING: Yes. I don't know that
4 we've had detailed discussions yet with the fire
5 departments. We know that, as part of our site plan
6 approval, which was a conditional approval in both
7 municipalities, that those were among the conditions that
8 were required. So, we're not allowed to go forward under
9 those approvals until we make those contacts. And, those
10 are something -- those contacts are something I'm sure we
11 will make in the coming weeks.

12 MR. SCHMIDT: The conditional approval
13 is required to be reviewed by the fire departments before
14 construction, and a follow on that would be with respect
15 to operations and response.

16 MR. IACOPINO: I assume that the Berlin
17 Fire Department, and probably Gorham as well, have some
18 experience with the pipeline, because they have the PNGTS
19 pipeline coming through town. So, I'm sure they have some
20 training. Do you -- does any part of your conditional
21 approval require you to provide any kind of training, to
22 either the fire department or any other safety service
23 organization?

24 MR. WILLING: Yes, I don't know. We

1 actually have copies of our approvals right here, if you
2 want them.

3 MR. SCHMIDT: I'm pretty sure that the
4 current conditional approvals were just reviewed by those
5 departments, and they weren't overly detailed, so not
6 specific requirements for operations or maintenance.

7 MR. IACOPINO: I know that the
8 construction schedule has not yet been finalized, because
9 you're -- because it's a design/build project. But do you
10 generally know how the pipe materials are going to be
11 transported to the construction site? And, in what
12 lengths and what type of transportation methods are going
13 to be used?

14 MR. SCHMIDT: Lee, you know the length?

15 MR. RANSOM: Comes in 40-foot lengths.

16 MR. SCHMIDT: Do you know the lengths
17 that those pipes come in?

18 MR. RANSOM: 40-footers on flat beds.

19 MR. SCHMIDT: 40-foot pipelines on flat
20 beds coming up?

21 MR. IACOPINO: Do you know -- are you
22 going to require overweight licenses from the Department
23 of Transportation or any kind of a special -- special
24 permits through the Department of Transportation?

1 MR. RANSOM: I don't believe so at this
2 time, no, sir.

3 CHAIRMAN BURACK: And, sir, your name,
4 just for the record is?

5 MR. RANSOM: Lee Ransom, with R.H. White
6 Construction.

7 CHAIRMAN BURACK: Lee Ransom?

8 MR. RANSOM: Ransom, R-a-n-s-o-m.

9 CHAIRMAN BURACK: Thank you, Mr. Ransom.

10 MR. IACOPINO: And, I guess maybe
11 Mr. Ransom will have to answer this question as well, is,
12 during the site visit today, it was pretty clear that
13 there will probably be some blasting that will have to
14 occur. Have you, if your company were to ultimately get
15 this contract, have you -- do you have any experience in
16 the past with the Department of Safety's regulations for
17 blasting and the Department of Transportation's rules for
18 the transportation of blasting materials?

19 MR. RANSOM: We subcontract our blasting
20 at this time. Years ago, we used to do our own blasting.
21 And, every one of our suppliers have their own license.
22 So, we're aware of the rules/regulations. And, we don't
23 do any transporting of that right now. We subcontract it
24 out.

1 MR. IACOPINO: But you recognize that
2 there might be certain licenses that you'll have to obtain
3 through Department of Safety and perhaps the Department of
4 Transportation?

5 MR. RANSOM: Uh-huh.

6 CHAIRMAN BURACK: I'm sorry, the answer
7 was "yes"?

8 MR. RANSOM: Yes.

9 CHAIRMAN BURACK: Thank you.

10 MR. IACOPINO: Mr. Schmidt, you
11 mentioned earlier, did you say one of the easements that
12 you have to get is from Public Service?

13 MR. SCHMIDT: I'm not sure I said that,
14 Mike. There is, I understand, an easement to -- I don't
15 know if "easement" is the correct term, but there is a --

16 MR. WILLING: I think that's a consent
17 to cross an easement.

18 MR. SCHMIDT: To cross -- PSNH has a
19 fairly significant utility line, and we are crossing that.
20 So, I don't believe it's -- the correct term is an
21 "easement", but it's an approval to cross that, that line.

22 MR. IACOPINO: Do you own the -- I'm
23 sorry. Do you own the property where the --

24 MR. SCHMIDT: It's on the District's

1 property. And, actually, PSNH has an easement across the
2 District's property.

3 MR. IACOPINO: So, you're all right with
4 the landowner, you just need to negotiate the terms of how
5 you're going to cross the easement that you've given to
6 Public Service?

7 MR. SCHMIDT: Yes. Yes, that's correct.
8 Yes.

9 MR. IACOPINO: I don't have any other
10 questions.

11 CHAIRMAN BURACK: Thank you. Other
12 questions at this time from the Committee members?
13 Commissioner Ignatius.

14 CMSR. IGNATIUS: Thank you. I have a
15 couple of questions about the landfill gas itself. And,
16 I'll give you three different questions, and then let you
17 answer it how best it flows for you. How much is
18 currently expected to be taken through this project? How
19 many years do you expect there to be that level of gas
20 available? And, is there anything in this project that
21 would make it difficult for the landfill to expand in the
22 future, if that would -- otherwise would be a plan that
23 the landfill would want to expand and get even larger?

24 MR. SCHMIDT: The current landfill gas

1 -- the landfill is currently generating, it was between
2 650 to 700 standard cubic feet per minute. At the moment,
3 it's actually -- we just recently did some improvements
4 and I think it was running at 810, 810 standard cubic feet
5 per minute the other day. The current, and we do
6 anticipate that the landfill gas generation will increase
7 as the landfill continues to receive additional waste,
8 there will be additional gas generated. The current
9 design that we're looking at is for the -- is a 1,200
10 standard cubic feet per minute of landfill gas. And, the
11 District currently is actually in the final stages of a
12 permit modification for the landfill that will extend the
13 landfill life from today, in the vicinity, I'm not sure
14 exactly what the number is, but 40 to 50 years. It's a
15 significant length of time that they have. And, they have
16 some number, a lesser amount that's currently permitted.
17 So, it's a long-term process. And, as long as the
18 landfill is accepting waste, that generation will not
19 decrease. Once the landfill stops accepting waste or if
20 it had a significant decrease in the quantity that it
21 accepted, it will decrease over time, because this is a
22 long-term -- this is a long-term endeavor that the
23 landfill will be generating the gas.

24 At this point, if the landfill were to

1 start taking more waste and went over the design capacity
2 of this, we would have to flare the excess or make
3 modifications to get the rest of the gas down the hill if
4 that were to happen. And, at this point, the mill is
5 planning on taking -- we're planning on the mill taking
6 all of the landfill gas that's generated. And, the
7 current energy requirements, as we understand them, are
8 much more significant than the landfill gas. So, they
9 will be able to take it for -- as long as the current --
10 unless the current situation changes.

11 CMSR. IGNATIUS: Thank you.

12 MR. SCHMIDT: Did I get them all?

13 CMSR. IGNATIUS: I think you did. And,
14 it reminded me of something that you had mentioned when we
15 were on a site visit that might be worth putting on the
16 record tonight. I think you had said that, "if the" --
17 "if everything is built as proposed, you would still
18 maintain the flare capability at the landfill." So that,
19 if for some reason the pipeline had to be shut down --

20 MR. SCHMIDT: Right.

21 CMSR. IGNATIUS: -- temporarily or
22 longer, you would be able to flare it off?

23 MR. SCHMIDT: Yes. For maintenance,
24 there will be a time, if you had to do maintenance on the

1 compressor, you would have to shut down the gas going to
2 the mill for a short period of time. And, the flare will
3 be maintained and it will be controlled, so that as soon
4 as -- for whatever reason, the gas wasn't going to the
5 mill, it would go back to the flare.

6 CMSR. IGNATIUS: Thank you.

7 MR. SCHMIDT: Yes.

8 CHAIRMAN BURACK: Other questions at
9 this time from the Committee?

10 (No verbal response)

11 CHAIRMAN BURACK: All right. Seeing
12 none at this moment, are there any cards from members of
13 the public with questions that they would like to have me
14 present to the Applicant? We have not received any cards
15 to date. So, we will assume, at this time anyway, there
16 are no questions from the public.

17 And, what I'd like to do now is to move
18 to comments from the public. Again, so far, we have three
19 members of the public who have asked to be able to speak
20 this evening. And, those, and we'll take them in this
21 order, the first will be Thomas McCue, the second will be
22 Paul Grenier, and the third will be Guy Lopez. Are there
23 any other members of the public here this evening who
24 would like to have an opportunity to say a few words about

1 the project?

2 (No verbal response)

3 CHAIRMAN BURACK: All right. Very well.
4 Let us start then with Thomas McCue.

5 MR. McCUE: Thank you. Welcome, I guess
6 "welcome back" is more appropriate, to Berlin. I'm here
7 this evening to speak in support of the Committee
8 exempting this project from further review by the
9 Committee. I am the City of Berlin's representative to
10 AVRDD. I'm a member of the Berlin City Council. I am
11 the *ex officio* member of the Berlin Planning Board. So,
12 I'm pretty familiar with this project as well. And, as
13 we're all aware, this project is also critical to the
14 continued survival and sale of the paper mill in Gorham.
15 And, as was touched on a little earlier, all of the member
16 communities of the District have been actively involved in
17 this, because we are, in effect, going out on a limb and
18 making a substantial contribution to build this project.

19 But, in addition to the jobs at the mill
20 that would be saved by this project and the continued
21 operation of the mill, and over half of those people do
22 live here in Berlin. In addition to that, I know the
23 other aspect of this that was important to lots of folks
24 is the fact that, if the pipeline is completed and done,

1 that's a major improvement to that asset. And, even if
2 the paper-making aspect has further difficulties or
3 whatever becomes there, if that plant has the ability to
4 operate with natural gas, with the blended gas, it makes
5 it a much more appreciated asset, and certainly much less
6 likely to be torn down. Were that site to ever be torn
7 down, as someone facetiously said to some folks, that "the
8 problem down there is they won't even be left with a
9 chemical recovery boiler and a stack to fight about what
10 happens with it." So, it's very important.

11 The other aspect, too, and why all the
12 member communities unanimously had supported this project,
13 was that the paper mill at one time was a substantial
14 source of revenue to the District. And, so, it will be in
15 the benefit and in the best interest of all the
16 communities to be piping our gas down and selling it to
17 the mill. So, as far as the -- and the exemption, I think
18 as we're seeing here tonight, this project has been very
19 thoroughly vetted, and will continue to be highly
20 regulated. And, again, therefore, I think exemption in
21 this case is completely appropriate. Thank you very much.

22 CHAIRMAN BURACK: Thank you very much,
23 Mr. McCue. Paul Grenier.

24 MAYOR GRENIER: Mr. Chairman, members of

1 the Committee, I'm the Mayor of the City of Berlin. And,
2 my capacity on the Solid Waste District is I'm also a Coos
3 County Commissioner. And, I serve on the Solid Waste
4 District as the County's representative of the
5 unincorporated places. So, we did go through the
6 permitting process of the landfill portion of that, of
7 which I took part in.

8 I'm not going to waste a lot of your
9 time. I think that this project is needed for the
10 continued survival of the paper mill. It will increase
11 cash flow between 700 to a million dollars a month in
12 energy savings. That makes this mill from "lose a little
13 money, make a little money", depending on the cyclical
14 times of the paper industry, to at least give it some
15 solid footing to make money so that this industry can
16 recover in this area.

17 I was once an employee of that mill, and
18 I've been downsized. But most of the fellows that are
19 still working there are my age or older. And, the
20 economic impacts of the permanent closure of that mill
21 would be devastating to the area, but really devastating
22 to those working families who have limited skill-sets, you
23 know, in today's labor market.

24 So, I would ask the Committee to not to

1 delay. The exemption is appropriate, because there's a
2 single customer. We're not looking to sell gas. In fact,
3 the Solid Waste District did have some discussions about
4 teeing off at the M&R Station for future development.
5 And, I reminded the rest of the Committee that that would
6 create a whole certain sets of different regulatory
7 processes. And, the Solid Waste District is not a
8 utility. We were kind of asked to jump into this breach
9 because we had the resource. And, as this project
10 evolved, we were not only going to supply the mill the
11 landfill gas, but we were, because we're a municipal
12 agency, we were the agency who was able to receive federal
13 funds to make the natural gas project a viable project for
14 the mill. So, the Solid Waste District really broadened
15 its scope of this project.

16 So, I would ask a timely acceptance of
17 this exemption. And, if you would excuse me, Mr.
18 Chairman, Mr. McCue and I have to go upstairs for other
19 City business. But I want to thank you very much for
20 coming to Berlin, welcome to our fair city, and appreciate
21 your time.

22 CHAIRMAN BURACK: Thank you very much,
23 Mayor Grenier. And, thank you for making this room
24 available to us this evening. If you do have a written

1 statement you'd like to submit for the record, we'd be
2 happy to receive it. Likewise, if any other members of
3 the public have written statements they would like to
4 submit, we're happy to receive those as well.

5 MAYOR GRENIER: Thank you very much.

6 CHAIRMAN BURACK: You're very welcome.

7 Mr. Lopez.

8 MR. LOPEZ: Thank you very much. My
9 name is Guy Lopez. I'm a Berlin resident. I'm also a 34
10 and a half year employee of the mill. I represent or am
11 part of a workforce of about 250 current employees. And,
12 when I heard about this project coming to fruition, I said
13 "here's an opportunity to significantly reduce the impact
14 of energy costs that the mill has." And, we see what
15 other mills have gone through the last ten years, and this
16 mill is no different.

17 But, I think, with the -- this project
18 that all these people are working hard at would
19 significantly allow us to go back to what we do best, make
20 paper. And, I think that the quicker this project gets
21 approved and is allowed to be built, will allow the
22 potential new owner, and, again, as you mentioned before,
23 that's -- although the discussions are changing daily.
24 But I think the biggest piece that a potential owner saw

1 in this facility, besides a diamond-in-the-rough, because
2 of the work ethic we do have here and the history we have
3 of making a good product, at a reasonable price, and being
4 competitive in the marketplace, is the ability to save
5 energy costs in the long-term plans of owning this
6 facility.

7 Again, it's, you know, the employees in
8 there are hoping that this will happen. And, again, it's
9 a big impact in the community, the families of Berlin.
10 And, again, I thank you for your time, your efforts, and
11 everybody that is either here or is not here tonight that
12 has been part of this process, you know, we thank you.
13 And, hopefully, time -- time is critical. And, we know
14 the project will take a number of months to be built. But
15 the quicker that project is done, and it is supplying the
16 mill with a alternative energy source that will not cause
17 this place to shut down in the near future because of
18 energy costs would be good for everybody.

19 So, in closing, thank you very much.

20 CHAIRMAN BURACK: Thank you very much,
21 Mr. Lopez. Are there any other members of the public who
22 would like to make a statement regarding this matter
23 before the Committee?

24 (No verbal response)

1 CHAIRMAN BURACK: Very well. Thank you.
2 Are there any other questions from members of the
3 Committee at this time of the Applicant?

4 (No verbal response)

5 CHAIRMAN BURACK: All right. Members of
6 the Committee, ready then to deliberate at this time on
7 the request for exemption?

8 DIR. SCOTT: Yes.

9 CHAIRMAN BURACK: Anybody need a break?
10 Folks ready to proceed? Okay. Let me then just remind
11 members of the Committee that the standard that we are
12 applying here is the standard that appears in RSA 162-H:4,
13 specifically IV. And, I did read this into the record
14 earlier in our 4:00 p.m. session, but I'll just summarize
15 it here again, just to refresh your recollections, and for
16 the benefit of those who were not here previously.

17 Again, in essence, what this provision
18 of the statute says, that in cases where we determine that
19 other existing statutes provide adequate protection of the
20 objectives that are set forth in the purpose statement of
21 the statute, which is RSA 162-H:1, that we may, within 60
22 days of receipt of a filing of a request for exemption
23 that contains sufficient information to enable us to
24 determine whether the proposal meets the requirements set

1 forth in the -- below here, and after holding a public
2 informational hearing in a county where the energy
3 facility is proposed, which would be this hearing this
4 evening here in Coos County, that we could then exempt the
5 Applicant from the approval and certificate provisions of
6 this chapter, provided that we can determine that four
7 requirements are met.

8 And, again, those four requirements are
9 as follows: First, that "existing state or federal
10 statutes, state or federal agency rules or municipal
11 ordinances provide adequate protection of the objectives
12 of RSA 162-H:1." The second requirement that would have
13 to be satisfied is that a review of the application or [in
14 this case] the request for exemption reveals the
15 consideration of the proposal by only selected agencies
16 represented on the committee is required and that the
17 objectives of RSA 162-H:1", again, the "purpose" section
18 of the statute, "can be met by those agencies without
19 exercising the [full panoply of] provisions of [this
20 statute]." The third requirement would be if "response to
21 the application or request for exemption from the general
22 public indicates that the objectives of [the statute,
23 specifically the "purpose" section] are met through the
24 individual review processes of the participating

1 agencies." And, finally, the fourth, that a finding that
2 "all environmental impacts or effects are adequately
3 regulated by other federal, state, or local statutes,
4 rules, or ordinances."

5 So, what I would propose to do,
6 recognizing that we have, in fact, received a request for
7 exemption, that it contained a fair amount of information,
8 that we have now had a chance to ask questions about and
9 to get further clarification on, that we take each of
10 these four elements in turn and discuss them, each of them
11 through. And, then, after having had that full discussion
12 amongst all of us, then we can take a -- consider one or
13 more motions to determine how we wish to proceed.

14 Is that agreeable to everyone as a way
15 to move forward here?

16 (No verbal response)

17 CHAIRMAN BURACK: Okay. So, let us
18 first then discuss this first element, which is that the
19 "existing state or federal statutes, state or federal
20 agency rules or municipal ordinances provide adequate
21 protection."

22 Yes. I'm sorry. Let's -- I've gotten
23 ahead of ourselves here. Let's start first with a
24 discussion of whether we feel there is sufficient

1 information provided to us to be able to make this
2 determination. Any discussion on this point?

3 CHAIRMAN BURACK: Commissioner Below.

4 CMSR. BELOW: Thank you. I think there
5 is. And, I think it's helpful to look at what the
6 objective stated in 162-H:1 is, which, if I might just
7 read part of that?

8 CHAIRMAN BURACK: Please do.

9 CMSR. BELOW: It says that "the
10 Legislature finds that it is in the public interest to
11 maintain a balance between the environment and the need
12 for new energy facilities in New Hampshire; that undue
13 delay in the construction of needed facilities be avoided
14 and that full and timely consideration of the
15 environmental consequences be provided; that all entities
16 planning to construct facilities in the state be required
17 to provide full and complete disclosure to the public of
18 such plans; and that the state ensure that the
19 construction and operation of the energy facilities is
20 treated as a significant aspect of land-use planning in
21 which all environmental, economic, and technical issues
22 are resolved in an integrated fashion, all to assure that
23 the state has an adequate and reliable supply of energy in
24 conformance with sound environmental principles."

1 So that -- I think that summarizes the
2 purposes of the whole chapter on the Site Evaluation
3 Committee. And, I think that, in this context, I think
4 scale has to be kept in mind. And, in fact, if we look at
5 RSA 162-H:2, VII, which defines an "energy facility", at
6 the end of Section (a), it talks about "energy
7 transmission pipelines that are not considered part of a
8 local distribution network" as the kind of facilities that
9 rises to the level of review. And, I think there's some
10 -- maybe some technical arguments as to whether this is
11 purely a distribution facility versus, perhaps, some
12 transmission. The little short lateral from the clearly
13 interstate transmission line to the Metering and
14 Regulation Station might technically be considered
15 "transmission". But the overall purpose is to distribute
16 energy to a single user, which I think, in scale, is
17 probably less than the kind of scale facility that's
18 generally contemplated by the statute, of kind of 30
19 megawatt or greater in general.

20 So, I think that though there might be a
21 technical basis for the Site Evaluation Committee to
22 review it, if you look at the purposes of the statute, the
23 kind of information that's been provided, in the first
24 instance, we -- I think there have been adequate

1 information that's been presented in the petition for
2 exemption for us to be able to determine whether it
3 satisfies the requirements for an exemption.

4 CHAIRMAN BURACK: Further discussion of
5 this issue of sufficient information having been provided?
6 Director Stewart.

7 DIR. STEWART: I think, with regard to
8 Alteration of Terrain and Wetlands Permits, the Applicant
9 has articulated a pathway to get the -- the Wetlands
10 Permit Application has not yet been submitted, but the
11 wetlands have been delineated. And, the Applicant has
12 indicated a pathway to obtain the permit. And, certainly,
13 the Department of Environmental Services Wetlands Bureau
14 has the capability to review and ensure that adequate
15 environmental protection will occur. And, with regard to
16 Alteration of Terrain, that review has already occurred.

17 So, I think, with regard to at least
18 those two elements of the permitting, that there's
19 adequate information to conclude that EFSEC should waive
20 its -- the requirement.

21 CHAIRMAN BURACK: Thank you. Director
22 Scott.

23 DIR. SCOTT: And, just to add also, on
24 the environmental permitting side, I think it's important

1 to note, first of all, what information the Applicant
2 can't provide yet, because, as it's being developed, I
3 think it's been clearly demonstrated that it will fall
4 under the purview of the agency.

5 Second of all, I just want to note also,
6 to the extent that the SEC did not take jurisdiction,
7 those permits still have a public process that they must
8 go through. So, there's still opportunity for the public
9 to vet any issues through the agency.

10 CMSR. BELOW: And, likewise, I think
11 that the state and federal regulations that apply, in
12 terms of the regulations of safety, apply regardless --
13 regardless of the Committee's review. Whether the Site
14 Evaluation Committee did a full site review or not, the
15 same safety regulations would apply. And, the Safety
16 Division at the PUC would still have the same relative
17 authority to inspect and for compliance with the federal
18 and state safety requirements.

19 CHAIRMAN BURACK: I think one of the
20 interesting things about this project is that it is a
21 design/build project. But, as I believe that we have seen
22 from the submittals we've received and from the questions
23 and answers that we've had today, that the fact that this
24 is a design/build project does not, in and of itself,

1 frustrate the overall permitting requirements. That the
2 permitting requirements are still going to apply, all the
3 rules and regulations that are there are still going to
4 have to be met. It's just that the details are simply not
5 available to us at this certain moment, because they're
6 not available to the Applicant yet. But they know that
7 they will have to develop those details in order to
8 ultimately be able to obtain their permits.

9 And, so, from the standpoint of just
10 sufficiency of information, it does seem to me that we do
11 have sufficient information at this point to be able to
12 make a determination that they have a path to be able to
13 get to -- to get to approvals, subject to all of the
14 applicable requirements.

15 I might also note that we have received,
16 I believe, sufficient information relating to the zoning
17 and planning aspects of this project at the municipal
18 level. That is, we have heard reports on all the public
19 hearings that have been held, the applications made to the
20 three communities affected. We do have in the record, in
21 the submittals, copies, I believe, of the hearing or
22 meeting minutes, as well as decision documents, from each
23 of the three communities, relating to at least the
24 conditional site plan reviews, and, in the case of the

1 unincorporated place of Success, actual building permits
2 as well. And, we understand, again, because it's a
3 design/build project, that there may need to be certain
4 modifications, and there will have to be some finalization
5 of those. But I think we have received sufficient
6 information to give us the comfort that those have been
7 addressed. Just as I believe we have received sufficient
8 information relating both to the Natural Heritage Bureau
9 filings that have been made, as well as the Division of
10 Historic Resources filings that have been made.

11 So, my sense as well is that we have
12 received sufficient information for us to be able to make
13 the determination that we've been asked to make. Director
14 Morin.

15 DIR. MORIN: I just want to add one
16 thing. A couple times it's been brought up
17 "design/build", I just want to point out that the
18 Applicant has mentioned schedule being one of the primary
19 reasons for that. But there are many reasons to do
20 design/build, and many positive reasons for that kind of
21 engineering process. In this particular project,
22 design/build may be a very good fit for that, to keep your
23 designer on throughout the process, given potential
24 changes and so forth. So, I think, in terms of where

1 they're at and what they're trying to pull together, and
2 the dynamic situation of the mill, design/build may
3 actually be, you know, one of the favorable mechanisms for
4 construction of this project. And, that really hasn't
5 been mentioned as a positive, but really could be.

6 CHAIRMAN BURACK: Thank you, Director
7 Morin. Any further discussion with respect to the
8 sufficiency of the information that's been submitted?

9 (No verbal response)

10 CHAIRMAN BURACK: Okay. We can come
11 back to that if anybody has further thoughts later.

12 Let us then turn now to the first
13 elements of the four requirements that would need to be
14 met for us to grant an exemption. The first, again, being
15 that the "existing state or federal laws or rules and
16 municipal ordinances provide adequate protection of the
17 objectives of [the statute]." And, again, Commissioner
18 Below did refresh for us the overall objectives, the
19 purpose of the statute. Anybody wish to pick up on this
20 point? Director Morin.

21 DIR. MORIN: I guess, and I'm not sure
22 if this is the exact right place to put this, I can't
23 remember what point you were at off the top of my head.
24 But I'd just like to, in terms of the environmental

1 impact, compared to a brand-new facility, I do feel this
2 is also relatively less impact than a new generation
3 facility providing renewable or any other kind of power.
4 That you have an existing source, and very little
5 construction actually to avail oneself of it. So that the
6 impact overall is less than we, you know, normally see on
7 an average project that would come before this Commission.
8 And, in that, I feel that the existing permits and
9 agencies and processes they have to go through is more
10 than adequate, given that this is a very minor kind of
11 modification to avail themselves of that energy resource.

12 CHAIRMAN BURACK: Thank you. Director
13 Scott.

14 DIR. SCOTT: I do feel that the existing
15 regulations protects properly, for many reasons. But,
16 again, as we discussed, the only thing I could think of,
17 frankly, in my questioning this afternoon at 4:00, was
18 maybe sound and noise. I think we've well established
19 that there's no residences nearby. Aesthetics, I think
20 most of us would agree that a pipeline like this is
21 relatively in keeping with the historical use of this,
22 that particular area.

23 So, those are a couple things that I
24 could think of perhaps may not be regulated otherwise, but

1 those don't seem to be issues here. So, I think we're
2 well covered with the existing regulatory scheme.

3 CHAIRMAN BURACK: Director Ignatius.

4 CMSR. IGNATIUS: Thank you.

5 CHAIRMAN BURACK: Commissioner Ignatius.

6 CMSR. IGNATIUS: One of the things that
7 we've heard about is the level of review that the three
8 municipal entities have already given to the project.
9 And, that is different than some projects that we've seen
10 in the past in this Site Evaluation Committee. There's a
11 structure in place, particularly, well, I guess in all
12 three, really, Success using the Coos County
13 Commissioners, a structure in place for reviewing a
14 project, to having a public opportunity for comment,
15 having a sort of regulatory infrastructure within the
16 community to evaluate a project. And, when we have areas
17 that don't have that level of municipal structure, the
18 role of the Site Evaluation Committee is greater in trying
19 to help give that level of scrutiny. In my mind, there's
20 adequate structure here in place, and we don't need to
21 recreate that or go through an additional process that the
22 communities have already done.

23 CHAIRMAN BURACK: Commissioner Below.

24 CMSR. BELOW: And, just to expand on

1 that a bit, I think it's significant to note that the
2 District itself is a political subdivision of the state
3 that is organized for a public purpose, and is, in fact,
4 governed and regulated by nine municipalities and the
5 County, Coos County itself. So, in that sense, the public
6 is well represented, and the decisions about it represent
7 public decisions. And, that point was made that each of
8 the municipalities and the County had to approve the
9 expenditure of funds. So, in that sense, there's a good
10 degree of self-regulation that helps to achieve the
11 purposes/objectives of the statute.

12 CHAIRMAN BURACK: Thank you. Other
13 observations, again relating to this first requirement for
14 the exemption?

15 (No verbal response)

16 CHAIRMAN BURACK: Okay. If not, let's
17 turn to the second, which is that "a review of the
18 application or request for exemption reveals that
19 consideration of the proposal by only selected agencies
20 represented by the committee is required and that the
21 objectives of [the statute] can be met by those agencies
22 without exercising the provisions of RSA 162-H." And, I
23 would respectfully suggest here that I -- what I think
24 we've heard this evening and learned today from the site

1 visit is that there really is a very limited number of
2 state agencies that would have direct jurisdiction over
3 this project. One of those would be the Public Utilities
4 Commission, particularly in respect to the safety issues,
5 and, at least for the moment anyway, given a determination
6 that it would be serving a single entity, it does not
7 appear to be a "public utility". And, therefore, there
8 would not appear to be any additional regulatory scrutiny
9 or authority to be exercised by the Public Utilities
10 Commission.

11 The other state agencies that would
12 clearly have direct and possibly ongoing review or
13 jurisdiction over the project would be the Department of
14 Environmental Services; with respect to the operation of
15 the landfill itself, air permitting issues, as well as
16 issues related to the construction of the project under
17 either Wetlands or Alteration of Terrain Permits.

18 We've also heard that there are two
19 other agencies that did some review or provided some
20 scrutiny of the project, but determined that, at least at
21 this time, there is no basis for any further exercise of
22 review or jurisdiction with respect to the project.

23 So, unless folks are aware here of any
24 other state agencies that would have any significant

1 involvement here, it does appear that there really are
2 only two agencies that would, in fact, and are now
3 exercising jurisdiction.

4 CMSR. IGNATIUS: Well, Mr. Chairman, I
5 think we've heard that Safety will have a role in any of
6 the blasting authorization. But those standards are in
7 place independent of the Site Evaluation Committee.

8 CHAIRMAN BURACK: Correct.

9 CMSR. IGNATIUS: They can go forward.
10 They don't need us to manage that process. And,
11 Department of Transportation I assume will have a role in
12 the building of the road up to -- maybe not? There will
13 be -- we did hear, and perhaps they can clarify, but we
14 did hear that there will be a road cut off of Shelby
15 Street to take -- am I wrong here? Everyone is looking at
16 me like I'm crazy. So, maybe I misunderstood.

17 MR. WILLING: We can comment on that.

18 MR. SCHMIDT: Want me to comment on
19 that?

20 CHAIRMAN BURACK: Mr. Schmidt, do you
21 want to address the issue of roads, and whether the
22 Department of Transportation, from your perspective, will
23 have any --

24 MR. SCHMIDT: Yes. The one road

1 crossing that is in the project actually is -- it's not a
2 DOT, it's not a state road. And, as best as I understand
3 it, it's also not a city road. It's actually, as
4 constructed, most of it's on the District's property, some
5 of it's on other -- on Great Lakes Hydro's property. And,
6 there's a right-of-way that the City -- the City and a
7 couple other -- and the hydro have rights-of-way across
8 it. But it's actually a private road, constructed across
9 the private properties. So, DOT does not have
10 jurisdiction there.

11 CMSR. IGNATIUS: Thank you.

12 CHAIRMAN BURACK: And, I might, just to
13 follow up on that, point out again that the Department of
14 Transportation is represented on the Site Evaluation
15 Committee, although there is not a DOT member here on this
16 panel for this proceeding, but the Department of Safety is
17 not a member of the Site Evaluation Committee.

18 So, is there anything further then with
19 respect to this second element of the requirements here?

20 (No verbal response)

21 CHAIRMAN BURACK: Okay. No further
22 discussion at this time on that.

23 The next item relates to the "Response
24 to the request for exemption from the general public

1 indicates that the objectives of [the statute] are met
2 through the individual review processes of the
3 participating agencies." And, again, I think we're
4 already had discussion, and Commissioner Below pointed
5 this out, that we have heard testimony from both members
6 of the general public, as well as representatives of the
7 City of Berlin, as well as of the District itself,
8 indicating that they are not only in support of the
9 project, but that they are working through the individual
10 review processes, again, of the various agencies we've
11 been talking about this evening, including the PUC, the
12 Department of Environmental Services, as well as the
13 municipalities in which the project would be located, to,
14 in fact, meet the objectives and purpose of the statute as
15 spelled out in RSA 162-H:1.

16 Is there further -- Director Scott.

17 DIR. SCOTT: I'd just like to point out
18 also that, certainly, to my knowledge, I do not believe
19 the Site Evaluation Committee has received one negative
20 comment or any word of any aggrieved party, from the
21 public or anywhere else, on this project. And, I would
22 read that to mean that certainly that nobody has any
23 issues with the existing regulatory authorities without
24 the SEC being involved.

1 CHAIRMAN BURACK: Thank you. I might
2 also just note here that, pursuant to the statute, we keep
3 our public comment periods open in all matters pending
4 before the Committee until the date when we actually issue
5 a final decision in a particular matter. But, again, as
6 you point out, to date, I'm not aware that we've received
7 any comment, particularly any negative comment, regarding
8 the project.

9 Is there any further discussion then of
10 this element?

11 (No verbal response)

12 CHAIRMAN BURACK: If not, let's turn to
13 the fourth element, which is that "all environmental
14 impacts or effects are adequately regulated by other
15 federal, state, or local statutes, rules, or ordinances."
16 And, again, I believe that Director Morin has already
17 spoken to this point earlier, in one of her observations
18 during our deliberative process here. But is there
19 further discussion or further observations anybody would
20 like to offer on this point? Commissioner Below.

21 CMSR. BELOW: I think a number of the
22 earlier comments also addressed this issue and support a
23 finding that this requirement is met.

24 CHAIRMAN BURACK: I think it's worth

1 pointing out that each one of the departments, including
2 the municipal ordinances that we talked about when we were
3 discussing the first element for the exemption, are, in
4 fact, entities that administer various statutes, rules, or
5 ordinances. And, so, this is, in some way, it's just
6 another way of looking at that same question again. We
7 really already talked through all of these. But all those
8 entities that we discussed before, in fact, do have
9 different authorities that they are exercising with
10 respect to this project. Director Ignatius.

11 CMSR. IGNATIUS: Thank you. In many of
12 the cases that we hear at the Site Evaluation Committee,
13 we look to see if there is an undue environmental impact.
14 In this case, it's a positive environmental impact, to
15 have the methane gas taken off and not just flared, and
16 the Application discusses that, and the consequences of
17 methane in the atmosphere. And, so, I think it's
18 particularly strong, from an environmental perspective,
19 that, with relatively little disturbance, some, but
20 relatively little disturbance, you can attain not only a
21 cheaper fuel source, but you can have some very beneficial
22 environmental benefits by taking that gas and no longer
23 flaring it into the atmosphere.

24 CHAIRMAN BURACK: Thank you for that

1 observation.

2 CMSR. BELOW: As well as displacing fuel
3 oil consumption.

4 CHAIRMAN BURACK: Any other observations
5 with respect to any elements of the statutory provisions
6 here? Mr. Knepper.

7 DIR. KNEPPER: I guess I just would like
8 to echo some of the previous comments. I think the PUC
9 Safety Division is probably the most impacted of the
10 agencies. The statute talked about the "undue delay of
11 construction of needed facilities", and I think that's
12 really what the essence that I heard here tonight is.
13 And, although, sometimes I'm a little bit -- would like
14 more information than is often offered in design/build
15 situations, because they haven't done the design yet, I
16 feel pretty fairly confident that we will vet that out
17 through the Safety Division at the PUC on any of the
18 issues that we have at hand. So, I'm in favor of the
19 exemption.

20 CHAIRMAN BURACK: Thank you. Any
21 further discussion before we move to a motion?

22 CMSR. IGNATIUS: Just one other
23 observation. This is not the first time we've been asked
24 to consider an exemption for a landfill gas pipeline

1 project. UNH did the same thing a number of years ago;
2 successfully, it received an exemption. It's constructed
3 and operating well. And, I think it was the appropriate
4 decision then and would be appropriate this time as well.

5 CHAIRMAN BURACK: Thank you. Director
6 Scott.

7 DIR. SCOTT: I'd also add more locally
8 here that, my understanding is, the Portland gas line we
9 were talking about joining with also went through the same
10 process, if I remember correctly. And, furthermore, as
11 we've kind of already discussed, I would argue, given
12 that, I think we're in agreement, I'm certainly in
13 agreement, that the existing regulatory scheme already
14 covers well. We've had no public requests whatsoever for
15 Site Evaluation Committee to step in. I would strongly
16 question the value added of the SEC taking jurisdiction of
17 this.

18 CHAIRMAN BURACK: Thank you. Any other
19 comments or observations?

20 (No verbal response)

21 CHAIRMAN BURACK: All right. If not,
22 would someone --

23 CMSR. BELOW: Mr. Chairman, I would move
24 that the Committee exempt the Applicant from the approval

1 and certification provisions of this Chapter, pursuant to
2 the Application that was made by the Androscoggin Valley
3 Regional Refuse Disposal District.

4 DIR. SCOTT: Second.

5 CHAIRMAN BURACK: We have a motion and a
6 second. Is there discussion of the motion?

7 (No verbal response)

8 CHAIRMAN BURACK: Anybody wish to offer
9 anything further? I recognize that we had significant
10 discussion really of this motion before the motion was
11 actually made, which perhaps explains why there's no
12 further discussion. But I will just offer the observation
13 that my sense is consistent with that, that I think has
14 been expressed in the motion, that, in fact, this is a
15 matter that is being addressed certainly very adequately
16 by all of the existing regulatory processes, both at the
17 state and the local level. And, my sense is that we can
18 have confidence that this, if we are to offer or grant the
19 exemption, it will be handled appropriately.

20 I do have a question, having said that,
21 for counsel. That is, would there be any circumstances
22 under which we would expect that, if we were to grant this
23 exemption, that the Applicant would need to notify the
24 Committee of any changes in the project that could, in

1 fact, trigger a need for us to further review the project
2 and determine if it were appropriate for us to take
3 jurisdiction? That is, would there be any need for us to
4 modify the exemption or to leave a condition in the order
5 granting the exemption that would place such a condition
6 on the exemption?

7 MR. IACOPINO: Mr. Chairman, the
8 exemption which you are discussing granting would be an
9 exemption to the project that is contained within the
10 Application and the additional information that has been
11 provided to us, both in writing and during our hearing
12 here tonight. If there were to be some substantial change
13 in that information, then that might, well, if there is a
14 substantial change in the project, which is what would
15 change the information that has been provided to you, then
16 the Applicant may need to come back to the Committee,
17 advise of those substantial changes, perhaps seek an
18 exemption of the modified project or seek some other kind
19 of relief, depending upon the nature of the changes, and
20 when they occur.

21 But, as long as the project is
22 substantially similar to what has been presented to you,
23 and remains that way, I don't know of any reason why they
24 would have to come back to this Committee.

1 In the past, we have always encouraged,
2 even folks who have applied for and been granted
3 exemptions, to keep the Site Evaluation Committee advised
4 of changes, whether they be minor or otherwise. And, in
5 those cases -- well, I can't think of any where we haven't
6 been advised. But, certainly, we do know that these
7 changes oftentimes come up before these same state
8 agencies, and it hasn't been unusual for me, for instance,
9 to get a call from Tim Drew at DES, or somebody else at
10 another agency, and tell me that "well, there seems to be
11 a big change here. This might be something that the Site
12 Evaluation Committee might want to take a look at." So,
13 we do, from time to time, get calls like that.

14 But, as long as they go forward with the
15 project that they sought the exemption for, I don't know
16 of any reason why they would have to return to the
17 Committee.

18 CHAIRMAN BURACK: Yes. In this
19 instance, I think what we have heard is that there is a
20 possibility, again, this is as we understand it just
21 occurred within the last week, a possibility that there
22 could be some modifications at the end-use point at the
23 mill itself, that could necessitate a change in either the
24 size of the M&R facility or the diameter of the pipe

1 being, or maybe some other technical changes. And, I
2 think it really, certainly, my expectation would be, if
3 such changes do occur, that we would be notified of those,
4 that we would provide -- we would be provided with
5 notification, again, in summary fashion, of what the --
6 essentially what the final design elements are, just so we
7 have that for the record. But my expectation would be
8 that, if there were going to be some substantial changes,
9 even if it's just those changes that are made, we would
10 want to know those. But, if it was going to be something
11 more substantial than that, I think we would also want to
12 be notified.

13 But I'm sensing, Attorney Iacopino, that
14 you're not suggesting we need to make that a specific
15 condition of the Application, because that's an
16 expectation -- or, of an approval of exemption, because
17 that's an expectation we have of every party that comes
18 before us?

19 MR. IACOPINO: Right. And, also, I'm
20 not sure that we have the ability to condition an
21 exemption.

22 CHAIRMAN BURACK: That's right.

23 MR. IACOPINO: Once we exempt something
24 from the statute, then the statute no longer applies to

1 them, and they are subject to regulation by local
2 authorities, as well as the individual state agencies,
3 rather than this Committee. So that -- but it's only the
4 project that was exempted. If they decide to build
5 something that is not substantially similar to what they
6 presented, they run a big risk if they go forward without
7 coming back to us.

8 CHAIRMAN BURACK: Right. Very good.
9 Thank you. Any further discussion then of the motion?

10 (No verbal response)

11 CHAIRMAN BURACK: Everybody understand
12 the motion? The motion is to exempt the project from the
13 requirements, certification requirements of the statute,
14 of RSA 162-H.

15 So, if there is no further discussion,
16 I'd like to do this probably by roll call vote. If you
17 would please vote either yea, nay, or indicate that you
18 intend to abstain. And, we do note that, Director Morin,
19 you indicated that you had had some involvement, that you
20 serve on a committee that reviewed an application for one
21 of the grants, but you did not actually sit on that
22 proceeding?

23 DIR. MORIN: Exactly.

24 CHAIRMAN BURACK: Thank you.

1 MR. IACOPINO: Mr. Stewart?

2 DIR. STEWART: Yes.

3 MR. IACOPINO: Mr. Scott?

4 DIR. SCOTT: Yea.

5 MR. IACOPINO: Ms. Ignatius?

6 CMSR. IGNATIUS: Yes.

7 MR. IACOPINO: Mr. Below?

8 CMSR. BELOW: Yes.

9 MR. IACOPINO: Ms. Muzzey?

10 DIR. MUZZEY: Yes.

11 MR. IACOPINO: Mr. Knepper?

12 DIR. KNEPPER: Yes.

13 MR. IACOPINO: Mr. Simpkins?

14 DIR. SIMPKINS: Yes.

15 MR. IACOPINO: Ms. Morin?

16 DIR. MORIN: Yes.

17 MR. IACOPINO: Mr. Chairman?

18 CHAIRMAN BURACK: Yes.

19 MR. IACOPINO: Motion carries

20 unanimately.

21 CHAIRMAN BURACK: Very well. Again, on

22 behalf of the Site Evaluation Committee, I want to thank

23 the Applicant and all of its professional staff and the

24 members of the Applicant for bringing this matter before

1 us, and with your professionalism and diligence in meeting
2 the requests and needs of the Committee. And, also wish
3 to thank our stenographer for his great assistance here in
4 keeping up with all of us, and thank Attorney Iacopino.

5 We will issue a written order as soon as
6 practicable. Realistically, it could be -- we will try to
7 get it out as quickly as we can, but it's probably going
8 to be at least several weeks. Certainly, we will endeavor
9 to issue it within 30 days, and certainly before the end
10 of the year.

11 MR. WILLING: Thank you very much.

12 CHAIRMAN BURACK: Very good. We will
13 stand adjourned.

14 **(Whereupon the public informational**
15 **hearing ended at 7:52 p.m.)**