

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE
ORDER AND NOTICE OF PUBLIC HEARING
ACCEPTANCE OF REQUEST
AND
PROCEDURAL ORDER**

March 26, 2015

PLEASE TAKE NOTICE that a Subcommittee of the Site Evaluation Committee for the State of New Hampshire will conduct a public hearing on May 7, 2015 at 6 p.m. The meeting shall be held at Newington Town Hall Auditorium located at 205 Nimble Hill Road, Newington N.H.

The business of the Site Evaluation Committee at said hearing shall include the following docket and any other business that is lawfully before the Committee:

Docket Number 2015-01

**Request of SEA-3, Inc. for Exemption
from the Approval and Certificate Provisions of RSA Chapter 162-H**

Background

On January 7, 2015, SEA-3, Inc. (SEA-3), filed a Request for Exemption from the Approval and Certificate Provisions of RSA Chapter 162-H (Petition) with the New Hampshire Site Evaluation Committee (Committee). SEA-3 currently owns and operates a propane storage and distribution facility located at 190 Shattuck Way, Newington, Rockingham County (Site). SEA-3's Petition asked the Committee to determine that the construction of five additional rail unloading berths, storage facilities, and associated equipment at the Site should be exempt from the approval and certification provisions of RSA ch. 162-H:1. After reviewing the filing and its supporting documentation, the Chairman of the Committee determined that the Petition did not include information sufficient for the Committee's consideration of the exemption request. On

January 30, SEA-3 was notified that additional information was required for the Committee to review the request for exemption. On February 27, 2015 SEA-3 supplemented its filing as requested by the Chairman.

Determination of Sufficient Information

RSA 162-H:4, IV, authorizes the Committee to consider a request for exemption from the requirements of RSA 162-H after it has received and accepted an application for a certificate of site and facility or a “request for exemption with sufficient information to enable the committee to determine whether the proposal meets the requirements” of RSA 162-H:4, IV, (a)-(d). In this case SEA-3 did not file an application for a certificate of site and facility. Rather SEA-3 filed a request for exemption. As noted above, the Chairman of the Committee determined that the Petition did not contain sufficient information and SEA-3 made a supplemental filing

The supplemental filing consisted of a letter from counsel for SEA-3 and included a statement from SEA-3 regarding the processes and operation of the proposed equipment and various portions of the operating manuals used by SEA-3 to operate the existing facility. In addition the supplemental filing contained the certified record of proceedings before the Surface Transportation Board, the Newington Zoning Board of Adjustment, the Newington Planning Board, and the Rockingham County Superior Court.

The supplemental filing complies with the request made by the Chairman of the Committee on January 30, 2015. Review of the request for exemption and the supplemental filing indicates that the Committee now has sufficient information from which it can determine whether the proposed changes and additions to the existing facility meet the requirements of RSA 162-H:4, IV (a)-(d). The request for exemption is hereby accepted.

Nature and Location of Facility

SEA-3 owns and operates a propane storage and distribution facility located at the Site. The existing facility and associated equipment at the Site were exempted from the requirements of RSA 162-H in 1995. The Site contains two parcels of real estate owned by SEA-3: (i) 7.02 acres to the west of the Newington Branch trail that lies partly within Newington's General Industrial Zoning District and partly within the Waterfront Industrial and Commercial Zoning District (Upper Lot), and (ii) 3.92 acres located within Newington's Waterfront Industrial and Commercial Zoning District with frontage on the Piscataqua River on the other side of the Newington Branch trail (Lower Lot).

SEA-3 seeks to construct five additional rail unloading berths, three 90,000 gallon above ground storage tanks, a condenser, condenser cooling unit, dryer and heater, mechanical building, refrigeration equipment, and associated pipelines and accessory equipment.

The proposed improvements appear to be a sizable change or addition to the existing facility. According to SEA-3, the purpose of the proposed improvements is to facilitate the off-loading, processing and distribution of liquid propane gas delivered to the facility by rail-car. The proposed improvements will allow SEA-3 to offload additional quantities of propane from the rail berth, pump it to the Lower Lot storage tanks, send it to the dryer and condenser, refrigerate it and, ultimately, pipe it to the primary storage tanks located on the Upper Lot for storage.

The Petition, the supplemental filing, written public comments, and other information pertaining to this matter may be reviewed during business hours at:

New Hampshire Department of Environmental Services
29 Hazen Drive
Concord N.H. 03301

or on the Committee's website: www.nhsec.nh.gov.

Authority for Hearing

The Committee's authority to undertake these proceedings is set forth at RSA 162-H:4, IV.

Intervention and Public Comment

A person demonstrating that his or her rights, duties, privileges, immunities or other substantial interests are affected by this proceeding may file a motion to intervene. Any person wishing to intervene in this matter shall file a motion to intervene on or before April 22, 2015. Motions to intervene should comply with the requirements of RSA 541-A:32 and N.H. Code Of Administrative Rules, Site 202.11 and shall be filed with:

Jane Murray, Secretary
NH Site Evaluation Committee
New Hampshire Department of Environmental Services
29 Hazen Drive
Concord N.H. 03301

Objections to motions to intervene shall be filed by May 1, 2015.

The Committee has received a number of written comments on the request for exemption. Additional written comments will be accepted through the conclusion of the proceeding. Motions, objections, and written comments may be e-mailed to Ms. Murray at:

Jane.Murray@des.nh.gov

At the public hearing, the Committee will allow SEA-3 to make a presentation. The Committee will then hear public comment on the request for exemption. The Committee will also consider motions to intervene, if any are filed. In addition the Committee will review the request for exemption and determine whether the matter requires an adjudicatory hearing. If it is determined that an adjudicatory hearing is not necessary, the Committee may deliberate on the merits of the request or may determine that further proceedings are necessary.

Designation of Subcommittee

RSA 162-H:4-a, III, permits the Committee to act through a subcommittee of three members. Pursuant to RSA 162-H:4-a, III, the following members of the Committee are designated to serve on the Subcommittee that shall consider and either approve or deny the request for exemption:

Roger Hawk, Public Member

Martin P. Honigberg, Presiding Officer

Thomas S. Burack, Department of Environmental Services

Each state agency member may designate a senior administrative employee or staff attorney from his or her agency to sit in his or her place on the subcommittee. *See* RSA 162-H:4-a, IV.

Any party whose interests may be affected by this proceeding may object to the matter being assigned to a three person subcommittee on or before April 22, 2015. *See* RSA 162-H:4-a, IV.

ORDER AND NOTICE

It is hereby ordered that the request for exemption and the supplemental filing made by SEA-3 now provide sufficient information from which the Committee may determine whether the request for exemption meets the requirements of RSA 162-H:4, IV (a)-(d); and

It is hereby further ordered, that a Subcommittee of the New Hampshire Site Evaluation Committee for the State of New Hampshire, will meet in public session for consideration of

matters pending in the above referenced docket on May 7, 2015 at 6 p.m. at the Newington Town Hall Auditorium located at 205 Nimble Hill Road, Newington;

It is hereby further ordered, that SEA-3, Inc., shall cause a copy of this Order and Notice of Public Meeting, Acceptance of Request and Procedural Order to be published no later than April 3, 2015, in the New Hampshire Union Leader or New Hampshire Sunday News which are newspapers of regular statewide circulation;

It is hereby further ordered, that SEA-3, Inc., shall cause a copy of this Order and Notice of Public Meeting and Procedural Order to be published in an additional newspaper of regular circulation in Rockingham County on or before April 3, 2015. In addition, SEA-3, Inc., shall publish a display ad in said newspaper advising the public of the date, time, place, and subject matter of the public hearing in Docket Number 2015-01 on or before April 3, 2015;

It is hereby further ordered that SEA-3 shall file affidavits documenting the publication of this Order and Notice on or before April 24, 2015.

It is hereby further order that motions to intervene in this proceeding must be filed on or before April 22, 2015. Objections to Motions to intervene shall be filed by May 1, 2015;

It is hereby further ordered that any objection to the designation of a three person subcommittee by a person with an interest affected by this proceeding shall be filed on or before April 22, 2015;

By Order of the Site Evaluation Committee, this twenty-sixth day of March 2015.



Martin P. Honigberg
Chairman and Presiding Officer
NH Site Evaluation Committee