

Before the NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

ORIGINAL	
N.H.P.U.C. Case No.	DW 08-088
Exhibit No.	#11
Witness	Panel 2 Grant
DO NOT REMOVE FROM FILE	

20 October 2008

Re: PUC Docket No. DW 08-088, Hampstead Area Water Company (HAWC)
 "Regulatory capture" of DES by HAWC

Debra A. Howland, Executive Director
 N.H. Public Utilities Commission
 21 S. Fruit Street, Suite 10
 Concord, N.H. 03301-2429

Dear Ms. Howland:

As part of the discovery process for PUC docket DW 08-088, the PUC staff asked a question (question 1-8) of HAWC that elicited in response, a copy of an e-mail exchange between John Sullivan of HAWC and Rick Skarinka of DES. **(Attachment)** Please note that the e-mail from Skarinka is in response to a previous e-mail from Sullivan which, in turn, references a previous contact from DES to HAWC about extra funds HAWC can benefit from.

This e-mail exchange is significant in that it strongly seems to indicate that DES has crossed the line and is actively involved and committed to the interests of HAWC to the point of tipping HAWC off to additional funds available, encouraging HAWC to go after them, and, even more significantly, urging HAWC to move forward quickly in securing those funds. How can DES be involved as a supposed neutral, objective license application reviewer when appearances seems to support that they have crossed the line and violated neutrality and propriety?

HAWC originally applied for a \$920,000 loan from PUC to put in a waterline connection between Atkinson and Hampstead – a connection which violates TWO overwhelmingly-passed warrant articles at two Atkinson's recent Special Town Meetings (that Atkinson water shall not be sold or pumped out of town.). HAWC specified on their original application that \$920,000 was the amount they needed.

Then Rick Skarinka of DES contacted HAWC and tipped them off to the fact that \$1,100,000 was actually available and urging HAWC to **"Please move forward as soon as possible."**

DES's job is **NOT** to act as HAWC's enabler or "fund finder" for state funds available to HAWC and then to urge HAWC's quick action in going after those funds.

Note how Sullivan responded to Skarink's tip and urging: -- by increasing the amount of HAWC's budget request, and advising DES that HAWC had now **"up-dated our budget for the interconnection....Our initial loan approval was for \$120,000 but you had mentioned that there were extra funds available."**

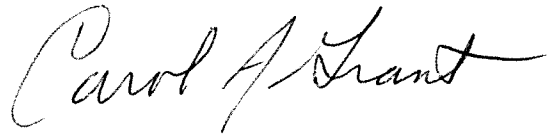
Please also note that Sullivan then asked Skarinka's assistance in reviewing HAWC's new budget request before sending it to PUC. **"I have attached a copy of our budget for your review."**

Sullivan actually seems to expect DES to provide (continue to provide?) such direct and improper assistance.

DES is not supposed to be acting as an agent or advisor for HAWC, tipping them off and helping them get additional funds for their private commercial enterprise, or assisting HAWC by co-writing or reviewing HAWC's budget requests before HAWC sends them to PUC. The final budget request that HAWC sent to PUC would now appear to have been a **co-application jointly submitted** by HAWC and DES.

This relationship between HAWC and DES exhibited throughout the e-mail, appears to be a case of "regulatory capture"—where a state agency has too closely identified with the applicant whose application, the state is **supposed** to be objectively and neutrally reviewing. DES is **supposed** to be a neutral, objective, un-involved license application reviewer and **not** acting as a co-petitioner / co-applicant with the water company and actively working towards this private company's interests.

At past public hearings in Atkinson, there has been strong and wide-spread belief that DES is basically in HAWC's pocket and is HAWC's enabler instead of an objective, neutral state agency, -- a feeling that DES is not acting in the town's best interests, but instead in HAWC's commercial interests. Exchanges of e-mails and actions such as this encourage and support those feelings in town about the bias and impropriety of DES's regulatory actions with regard to HAWC and the existence of regulatory capture of DES by HAWC.

A handwritten signature in black ink, reading "Carol A. Grant". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Carol Grant (Mrs.)
Atkinson Intervener

19 Crown Hill
Atkinson, N.H. 03811
(603) 362-4848

Attachment: Copy of Email

Copies: NH PUC Service List

John Sullivan

From: Skarinka, Rick [Richard.Skarinka@des.nh.gov]
Sent: Tuesday, May 20, 2008 3:11 PM
To: John Sullivan
Subject: RE: DWSRF Loan - Atkinson\Hampstead Interconnection

Staff 1-8

John: We have \$1,100,000 available for your project. Please move forward as soon as possible. Rick Skarinka

-----Original Message-----

From: John Sullivan [mailto:John@LewisBuilders.com]
Sent: Monday, May 19, 2008 1:55 PM
To: Skarinka, Rick
Cc: Harold Morse; Charlie Lanza
Subject: DWSRF Loan - Atkinson\Hampstead Interconnection



Rick,

We have updated our budget for the interconnection. Currently we would need \$1,100,000 to fund the project. Our original loan approval was for approximately \$920,000 but you had mentioned that there were extra funds available.

I have attached a copy of our budget for your review.

If the new amount is acceptable we will file with the PUC for approval of the funding.

Please review and let me know.

Thanks,
John

John Sullivan
Lewis Builders Development, Inc.
Hampstead Area Water Company, Inc.
54 Sawyer Ave.
Atkinson, NH 03811
Phone: 603-362-5333
Fax: 603-362-4936
Website: www.lewisbuilders.com www.hampsteadwater.com
E-mail: john@lewisbuilders.com

9/15/2008