

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 11-157

GORHAM PAPER AND TISSUE, LLC

**Petition for License to Construct, Operate and Maintain a Landfill/Methane Gas Pipeline
Over and Across the Public Waters of the Androscoggin River in Berlin**

Order *Nisi* Granting License

ORDER NO. 25,267

September 9, 2011

On July 18, 2011, Gorham Paper and Tissue, LLC (GPT) filed a petition pursuant to RSA 371:17 requesting a license to construct, operate and maintain a landfill/methane gas pipeline along an existing privately-owned bridge of GPT, over and across the Androscoggin River in Berlin, New Hampshire. The proposed landfill/methane gas pipeline will be supplied from a landfill situated near the east bank of the Androscoggin River in Success, New Hampshire, owned by the Androscoggin Valley Regional Refuse Disposal District, and would supply fuel for a paper mill owned by GPT located on the west bank of the Androscoggin River in Gorham, New Hampshire. (GPT is also constructing a second, natural gas, pipeline across the Androscoggin River that was the subject of Order No. 25,255 (July 26, 2011), under Docket No. DG 11-138). GPT would mount the proposed landfill/methane gas pipeline along the disused railroad bridge owned by GPT, approximately 300 feet in length; GPT states that it will retrofit and repair its railroad bridge to render it suitable for mounting of the proposed landfill/methane gas pipeline. GPT also states that it is in ongoing consultations with the New Hampshire Department of Environmental Services (NHDES), the City of Berlin, and the Town of Gorham

regarding its project, and that GPT intends to secure all necessary NHDES, City of Berlin, and Town of Gorham approvals. GPT has also secured easement rights for construction of the pipeline from the owner of the land abutting the disused railroad bridge on the eastern shore of the Androscoggin River, Great Lakes Hydro America, LLC.

In summary, GPT states that the requested license may be exercised without substantially affecting the rights of the public in the public waters of the Androscoggin River. In addition, GPT affirms that minimum safe pipeline clearances above all water surfaces will be maintained at all times and the use and enjoyment by the public will not be diminished in any material respect as a result of the pipeline bridge crossing over the Androscoggin River. (In particular, the proposed pipeline crossing will not extend below the current clearance level of the disused railroad bridge, thereby enabling recreational river users to pass below the bridge without hindrance). Accordingly, GPT requests that the Commission approve the license petition and, by means of an order *nisi*, grant GPT a license to construct and maintain a landfill/methane gas pipeline over and across the public waters of the Androscoggin River as specified in the petition.

On August 8, 2011, based on its review of the filing and related communications with GPT, Commission Staff filed a recommendation that GPT's petition be approved subject to a series of conditions related to ensuring safe operation of the proposed pipeline crossing of the Androscoggin River (Safety Conditions), safe ongoing operation of the pipeline across these public waters being an inherent component of the public rights standard specified by RSA 371:20. *See* Staff Recommendation of Randall Knepper, Safety Division Director, dated August 8, 2011.

RSA 371:17 provides that “[e]very corporation and individual desiring to cross any public water or land for any purpose herein defined shall petition the [C]ommission for a license in the same manner prescribed for a public utility.” Permissible purposes include the construction of a pipeline over any of the public waters of this State, which would encompass GPT’s proposed crossing of the portion of the Androscoggin River covered by this petition, a river segment listed on the DES official list of public rivers and streams. *See* http://des.nh.gov/organization/divisions/water/dam/public_waters/index.htm.

Based on the information presented by GPT and the review and recommendation of Staff, we find that the license requested by GPT pursuant to RSA 371:17 may be exercised, subject to the Safety Conditions requested by Staff, without substantially affecting the public rights in the affected public waters, including the right to safe enjoyment of such waters, as required for approval under RSA 371:20. We find that the crossing is for the public good and we approve the petition on a *nisi* basis in order to provide any interested party the opportunity to submit comments on said petition or to request a hearing, subject to the following Safety Conditions:

1. This approval is limited to the landfill/methane gas pipeline that is the subject of the instant docket;
2. GPT must submit to the Safety Division, for its review: specific details regarding the type of cathodic protective coating for the pipeline crossing and the thickness of the cathodic protective coating, in millimeters; confirmation that an ultraviolet light-resistant coating is being used for the pipeline; technical data sheets that verify the adequacy of protection provided by the pipeline’s coatings, including for those coatings applied to welded joints;

3. Shut-off valve(s) shall be installed upstream (in terms of gas flow) of the bridge crossing to provide adequate gas shutoff capability (the upstream valve may be located at the outlet side of the M&R Station in the vicinity of the bridge crossing). A shut-off valve downstream of the bridge crossing shall not be required on the condition that the nearby public highway crossing north of the railroad bridge crossing shall be accessible at all times to emergency response personnel. Also, GPT shall include provisions in its operating and maintenance procedures for the pipeline to address measures to shut down the pipeline promptly from either side of the Androscoggin River, as required during periods when emergency response vehicle and personnel accessibility is limited or delayed because of any future bridge maintenance projects or rehabilitation. In the alternative, GPT may install a downstream shut-off valve to ensure adequate shutoff capability at all times;

4. GPT shall visually inspect and leak survey the bridge crossing at a minimum of three (3) times per year, in accordance with N.H. Code Admin. R. Puc 508.04(f), and GPT must maintain accessible records of these inspections on file subject to inspection by the Safety Division;

5. GPT shall be subject, pursuant to N.H. Admin. Rules Puc 506.01, to the Safety Division's monitoring and inspection with respect to all aspects of the construction, installation, operation and maintenance of the landfill/methane gas pipeline on the bridge crossing; and

6. GPT shall operate and maintain the landfill/methane gas pipeline crossing over the Androscoggin River in conformance with the latest version of the Puc 500 Rules and the latest Code of Federal Regulations Part 192 amendment (49 CFR Part 192); also, all future alterations to the pipeline crossing that may impact the public shall be submitted to the Safety

Division for review, and shall conform to the Puc 500 Rules as well as the latest Code of Federal Regulations Part 192 amendment that are in place at the time of submittal of the alteration(s).

The petition and subsequent docket filings are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2011/11-157.html>

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, GPT is authorized, pursuant to RSA 371:17 *et. seq.*, to construct, maintain and operate the proposed landfill/methane gas pipeline over and across the public waters described in its petition and depicted in its July 18, 2011 filing, and supplemental filings with this Commission; and it is

FURTHER ORDERED, that GPT comply with all of the Safety Conditions listed in this Order *Nisi*; and it is

FURTHER ORDERED, that GPT shall provide a copy of this Order *Nisi* to the (i) City Clerk of Berlin, New Hampshire, (ii) Town Clerk of Gorham, New Hampshire, (iii) New Hampshire Attorney General and (iv) the owner of the land bordering on the eastern edge of said public waters (*i.e.*, Great Lakes Hydro America, LLC) by first class mail no later than September 16, 2011, and to be document by affidavit filed with this office on or before September 27, 2011; and it is

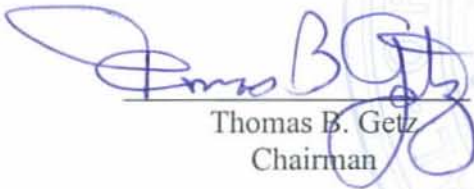
FURTHER ORDERED, that the GPT shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than September 16, 2011 and to be documented by affidavit filed with this office on or before September 27, 2011; and it is

the reason and basis for a hearing no later than September 23, 2011 for the Commission's consideration; and it is

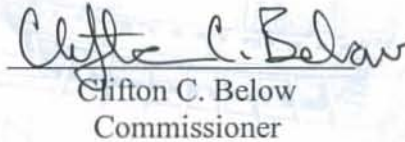
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than September 26, 2011; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective September 27, 2011, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

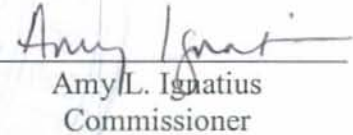
By order of the Public Utilities Commission of New Hampshire this ninth day of September, 2011.



Thomas B. Getz
Chairman



Clifton C. Below
Commissioner



Amy L. Ignatius
Commissioner

Attested by:



Debra A. Howland
Executive Director