

Attachments for

DE 12-014

Asset ID 10801

New Hampshire REC Market Application - Coventry Clean Energy (Asset ID 10801)

Questions from Application:

13. Description of the facility – Washington Electric Cooperative built a landfill gas burning generation facility and commenced operations in July, 2005. The original facility included three Caterpillar engine-generator sets each rated at 1,600 kW for a total installed gross generating capacity of 4.8 MW.
14. NA
15. NA
16. NA
17. NA
18. NA
19. NA – Unit is located within the New England control area
20. Vermont Certificate of Public Good Attached
21. Interconnection Study – VELCO analyzed the impact of the facility connecting to their system and the grid. The details of their study were filed as part of the facility receiving a permit from the state of Vermont. See the following attached files for details:
 - a. Transmission Analysis LaForest Prefiled – FINAL.pdf
 - b. Transmission Analysis DLL Exhibits.pdf
22. Description of the interconnected to regional power grid – The project is connected to the WEC Irasburg transmission line which then connects to VELCO. There is a substation located at the landfill which consists of three major components. The first component is a 4.16 kV-46 kV step-up substation. This consists of a 4.16 kV generation bus where the output of the generators is connected. The output will then be stepped up to 46 kV through a 4.16 kV-46 kV transformer. Finally, a 46 kV circuit breaker is provide for protection to the substation. The second major component of the interconnection is a 46 kV line from the landfill to the VELCO Irasburg Substation. This line is 7.4 miles long. The final component of the interconnection is the 46 kV circuit breaker and metering at the VELCO Irasburg Substation. The breaker is necessary to provide protection for line faults and the metering for measurement of the net output of the generators. The project is connected to the regional power grid at this substation in Irasburg.
23. MA and RI Class 1 Certified – Attached
24. The output of the facility is settled in the ISO-NE market systems and is therefore verified through the ISO-NE market system. All output is currently being reported in the NEPOOL GIS system
25. NA
26. See attached affidavit from Avram Patt, WEC General Manager

27. The project is already Massachusetts and Rhode Island Class 1 certified and is therefore registered in the NEPOOL GIS system. Washington Electric Cooperative is currently seeking application in the New Hampshire renewable markets in an effort to expand its ability to sell RECs to interested parties/utilities in New Hampshire.

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6925

Joint Petition by Washington Electric Cooperative,)
Inc. ("WEC"), Vermont Electric Power Company,)
Inc. ("VELCO"), Citizens Communications)
Company ("CZN"), and Vermont Electric)
Cooperative, Inc. ("VEC") for a certificate of)
public good, pursuant to 30 V.S.A. Section 248,)
authorizing: (1) WEC to construct an electric)
generation station in Coventry, Vermont; (2) WEC)
and VELCO to make improvements to the Irasburg)
substation; and (3) WEC, VEC and CZN to)
construct 46 kV transmission lines in Coventry and)
Irasburg, Vermont, including provisions for)
distribution system construction by CZN and VEC)

Entered: 6/4/2004

CONDITIONAL
CERTIFICATE OF PUBLIC GOOD ISSUED
PURSUANT TO 30 V.S.A. SECTION 248

IT IS HEREBY CERTIFIED that the Public Service Board of the State of Vermont this day found and adjudged that the **construction of the Coventry Project, which consists of a landfill gas generating facility, 7.2 miles of 46 kV transmission line, and improvements to the Irasburg Substation, located in Coventry and Irasburg, Vermont,** will promote the general good of the State, and a Conditional Certificate of Public Good ("CPG") is hereby issued to Washington Electric Cooperative, Inc. ("WEC"), Vermont Electric Power Company, Inc. ("VELCO"), and Vermont Electric Cooperative, Inc. ("VEC"),¹(collectively, "Petitioners"), subject to the following conditions:

1. Construction, operation and maintenance of the facility shall be in accordance with the plans and evidence submitted in this proceeding.
2. Petitioners must file all permits necessary for the Project with the Board, upon receipt.
3. In the event that a necessary permit application is denied, Petitioners must notify the Board within 24 hours after receiving such a denial.
4. Construction shall be in accordance with the plans as submitted in these proceedings. Any material deviation from these plans must be approved by the Board.

1. The petition was originally joined by Citizens Communications Company ("CZN") to construct the 46 kV transmission lines, including provisions for distribution system construction. Since the petition was filed, however, CZN's distribution lines have been acquired by VEC, and CZN no longer operates as a utility in the State of Vermont. CZN's interest in this petition has been assumed by VEC. A motion to withdraw was filed by CZN on May 14 and granted on May 26, 2004.

5. Petitioners must obtain all necessary permits and comply with any conditions that the permits might contain.

6. Petitioners must file all permits necessary for the Project with the Board, upon receipt.

7. In the event that a necessary permit application is denied, Petitioners must notify the Board within 24 hours after receiving such a denial.

8. Site preparation and construction of the generation facility may commence after Petitioners receive the necessary conditional use determination and stormwater permits, but prior to the issuance and filing of the Air Quality Permit, Endangered Species Takings Permit, and FAA determination. However, the engine generators may not be installed until such time that an Air Quality Permit is issued and filed with the Board.

9. Improvements at the Irasburg Substation may not commence until the Endangered Species Permit is received, but may commence construction (but not operation) prior to the issuance and filing of the Air Quality Permit.

10. Construction of the transmission line may commence prior to the issuance and filing of the Air Quality Permit, but no earlier than July 15, 2004. WEC and VEC shall have up to twelve months from the issuance of the CPG to complete the underbuild.

11. This CPG shall become fully effective upon satisfaction of all the conditions listed above.

DATED at Montpelier, Vermont, this 4th day of June, 2004.

SERVICE	<u>s/ Michael H. Dworkin</u>)	PUBLIC
)	
)	
	<u>s/ David C. Coen</u>)	BOARD
)	
)	
	<u>s/ John D. Burke</u>)	OF VERMONT

OFFICE OF THE CLERK

Filed: June 4, 2004

Attest: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Agency of Natural Resources
Department of Environmental Conservation

Notice of Issuance of Conditional Use Determination #2003-540

Please be notified, as per Section 8.4 of the Vermont Wetland Rules, that the request for a Conditional Use Determination received from Dori Barton, representative for Joe Gay of New England Waste Systems, Inc. for the construction of a landfill gas-to-electricity generation facility within the 50-foot buffer zone of a Class Two wetland has been approved on this 2nd day of AUGUST, 2004.

It was found by the Agency of Natural Resources that this conditional use will not result in any undue, adverse effects to the protected functions of the significant wetland located adjacent to the current landfill site and Airport Road in Coventry, Vermont.

Complete copies of the decision can be obtained by calling the Water Quality Division at 802-241-3770 or writing to the address below. Any person with an interest in this matter can appeal this decision pursuant to 10 V.S.A. Section 1269. Any notice of appeal must be filed (ie: received) at the Water Resources Board, National Life Records Center Building, Drawer 20, Montpelier, VT 05620-3201 (telephone (802) 828-3309) within 30 days of the date of the decision.


for Mic Metz
District Wetlands Ecologist
Water Quality Division
Department of Environmental Conservation
10 North Building
103 South Main Street
Waterbury, Vermont 05671-0408

MM:pu

cc: Distribution List

DIAMOND & ROBINSON, P.C.

ATTORNEYS AT LAW

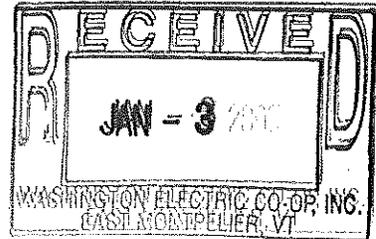
MONTPELIER AND NEWPORT, VERMONT
www.diamond-robinson.com

15 EAST STATE STREET
P.O. BOX 1460
MONTPELIER, VERMONT 05601-1460
TEL. (802) 223-6166
FAX (802) 229-4457

Joshua R. Diamond, Esquire
E-mail: jrd@diamond-robinson.com

December 30, 2004

Susan M. Hudson, Clerk of the Board
Vermont Public Service Board
112 State Street
P.O. Drawer 20
Montpelier, Vermont 05620-2701



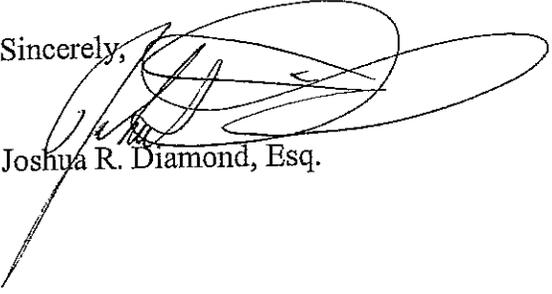
Re: Docket Number 6925

Dear Ms. Hudson:

Enclosed please find for filing, the signature page to the draft Air Quality Permit, previously filed with the Board on or about November 24, 2004. Also enclosed for filing is our Certificate of Service.

Please do not hesitate to contact me with any questions.

Sincerely,


Joshua R. Diamond, Esq.

JRD/ml
Enclosures
cc: WEC, Inc.
Service List

- (71) This Operating Permit shall expire on December 16, 2009. The Permittee shall submit to the Agency a complete application for renewal of the Operating Permit at least twelve (12) months before the expiration of the Operating Permit. If a timely and administratively complete application for an operating permit renewal is submitted to the Secretary, but the Secretary has failed to issue or deny such renewal before the end of the term of this Operating Permit, then the Permittee may continue to operate the subject source and all terms and conditions of this Operating Permit shall remain in effect until the Secretary has issued or denied the operating permit renewal. However, this Operating Permit shall automatically expire if, subsequent to the renewal application being determined or deemed administratively complete pursuant to §5-1006 of the *Regulations*, the Permittee fails to submit any additional information required by the Secretary as well as information pertaining to changes to the Facility within thirty (30) days or such other period as specified in writing by the Secretary. [§§5-1011 and 5-1012(a) of the *Regulations*] [§§5-1005(c) and 5-1012 of the *Regulations*]
- (72) The conditions of this Permit as set forth above supercede all conditions contained in all prior Permits issued by the Air Pollution Control Division to the Permittee for this Facility. [10 V.S.A. §§556(c) and 556a(d)]

The Agency's issuance of this Air Pollution Control Permit relies upon the data, judgment, and other information supplied by the Permittee. The Agency makes no assurances that the air contaminant source approved herein will meet performance objectives or vendor guarantees supplied to the source Permittee. It is the sole responsibility of the Permittee to operate the source in accordance with the conditions herein and with all applicable state and federal standards and regulations.

Dated this 16th day of December, 2004, in the town of Waterbury, county of Washington, state of Vermont.

Agency of Natural Resources

Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

By: Richard A. Valentinetti
Richard A. Valentinetti, Director
Air Pollution Control Division

de
A2 NEWSVT Landfill - Coventry

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 6925

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Corporation ("CZN"), and Vermont Electric)
Cooperative, Inc. ("VEC") for a Certificate of)
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authorizing: (1) WEC to construct an electric)
generation station in Coventry, Vermont;)
(2) WEC & VELCO to make improvements to)
the Irasburg substation; (3) WEC, VEC & CZN)
to construct 46 KV transmission lines in Coventry)
and Irasburg, Vermont, including provisions for)
distribution system construction by CZN and)
VEC.)

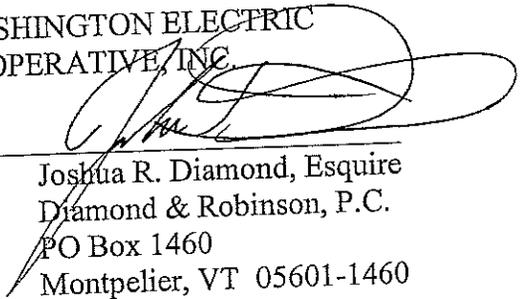
CERTIFICATE OF SERVICE

NOW COMES Washington Electric Cooperative, Inc., by and through its attorneys, Diamond & Robinson, P.C., and hereby certifies that copies of the signature page to the draft copy of the Air Quality Permit, were mailed to members of the Service List, attached hereto, by pre-paid, first class U.S. Mail on December 30, 2004.

Dated at Montpelier, County of Washington and State of Vermont, this 30th day of December, 2004.

WASHINGTON ELECTRIC
COOPERATIVE, INC.

By _____


Joshua R. Diamond, Esquire
Diamond & Robinson, P.C.
PO Box 1460
Montpelier, VT 05601-1460
(802)-223-6166

DIAMOND &
ROBINSON, P.C.
ATTORNEYS AT LAW
P.O. BOX 1460
MONTPELIER, VERMONT
05601-1460

(802) 223-6166

cc: WEC, Inc.
Service List

Section 248 Service List

Geoffrey Commons, Esq.
Vermont Department of Public Service
Chittenden Bank Building
112 State St., Drawer 20
Montpelier, VT 05620-2601

Joshua R. Diamond, Esq.
Diamond & Robinson, P.C.
15 East State St.
PO Box 1460
Montpelier, VT 05601

Thomas N. Wies, Esq.
Vermont Electric Power Company, Inc.
366 Pinnacle Ridge Avenue
Rutland, VT 05701

Michael L. Burak, Esq.
Burak Anderson & Melloni, PLC
PO Box 787
Burlington, VT 05402-0787

David Englander, Esq.
Vermont Agency of Natural Resources
103 South Main St. – Center Building
Waterbury, VT 05671-0301

VERMONT FISH AND WILDLIFE DEPARTMENT

103 South Main Street, 10 South
Waterbury, VT 05671-0501
802-241-3700

ENDANGERED AND THREATENED SPECIES PERMIT

STATUTORY AUTHORITY: 10 VSA SECTION 5408

1. PERMITTEE: Vermont Electric Power Company, Inc. (VELCO)
366 Pinnacle Ridge Road
Rutland, VT. 05701
2. PRINCIPAL OFFICER: Sandy Rowe, Environmental and Transmission Engineer
(802) 770-6273
3. EFFECTIVE DATE: upon signature EXPIRES: 12-31-2004
4. AUTHORIZED SPECIES: Greene's Rush (*Juncus greenei*)
5. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED:
Existing VELCO substation in Irasburg, VT.
6. CONDITIONS AND AUTHORIZATIONS:
 - A. General conditions set out in 10 VSA, Ch. 123 are hereby made a part of this permit. All activities authorized herein must be carried out in accord with and for the purposes described in the application submitted. Continued validity or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.
 - B. The validity of this permit is also conditioned upon strict observance of all applicable foreign, federal, local or other state laws.

(see page 2 for further conditions and authorizations)
7. REPORTING REQUIREMENTS: Annual report due on **31 January 2005**, within 30 days of permit expiration. Initial report will include a site plan indicating the locations of the transplants.

8. ISSUED BY: Elizabeth McLain DATE: 7/12/04
Elizabeth McLain, Secretary
Agency of Natural Resources

ENDANGERED AND THREATENED SPECIES PERMIT

STATUTORY AUTHORITY: 10 VSA SECTION 5408

Page 2

VELCO

Greene's Rush

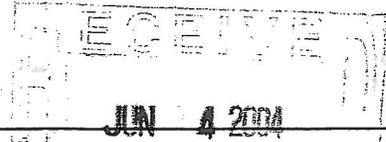
EXPIRES: 12-31-2004

6. CONDITIONS AND AUTHORIZATIONS (continued):

- C. Allowed to take up to three plants of Greene's Rush that occur adjacent to the existing electrical substation in Irasburg.
- D. Taking is allowed only in conjunction with the landfill gas to electricity generation project proposed by Washington Electric Cooperative at the Coventry landfill. As proposed this project requires an expansion of the substation to accommodate a new power line. The substation must be expanded due to safety code requirements, and the new line may not be closer to the existing facility than proposed by the applicant. It is understood that expanding the substation in other directions would either result in taking even more plants or would not meet safety code requirements.
- E. The applicant will clearly mark and sign the limits of the work area to assure that there is no accidental intrusion into the two remaining Greene's Rush sub-populations by equipment or material.
- F. The applicant shall make their best effort to transplant the three Greene's Rush plants to an area contiguous with either of the two sub-populations and outside the proposed work area. The plants will be hand dug by spade and watered once a week until the end of the growing season (first frost). If 1 inch or more of rain occurs, watering need not occur until the following week.
- G. The applicant will perform management to improve the habitat in the surrounding area. This will include cutting of saplings and shrubs in the vicinity of the two sub-populations and performing limited soil scarification with hand tools. This will happen in the year of transplanting and in subsequent years as required.
- H. The applicant will clearly mark the transplant locations on a site plan (with a copy provided to NNHP) and unobtrusively in the field to facilitate their relocation and will monitor them for a period of ten years. The permittee may petition to terminate this monitoring requirement after five years provided they can demonstrate that the transplants are secure.



State of Vermont



Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation
State Geologist
RELAY SERVICES FOR HEARING IMPAIRED
1-800-253-0191 TDD>VOICE
1-800-253-0195 VOICE>TDD

AGENCY OF NATURAL RESOURCES
Department of Environmental Conservation

WATER QUALITY DIVISION

103 South Main Street
Building 10 North
Waterbury, VT 05671-0408

FAX 802-241-3287
TEL 802-241-3770

June 22, 2004

New England Waste Services of Vermont
Larry Lackey
3 Pitkin Court
Montpelier, VT 05602

Re: Authorization to Discharge Permit No. 3160-9015

Dear Mr. Lackey,

Enclosed is your copy of an Authorization to Discharge pursuant to General Permit 3-9015, which has been signed by the Director of the Water Quality Division on behalf of the Commissioner of the Department of Environmental Conservation.

This authorizes the discharge of treated stormwater runoff from Phase IV of the Coventry Landfill and the Waste-to-Energy facility located on Airport Road in Coventry, Vermont to wetlands contiguous to the Black River, unnamed tributaries to Lake Memphremagog, and groundwater.

Please read this authorization to discharge carefully and note the inspection and reporting requirements, and other operating conditions including payment of annual operating fees.

If you have any questions, please call me at (802) 241-3776.

Sincerely,

Stephanie Lanphear
Environmental Technician
Stormwater Management Section

Enclosures

cc:

Matthew Poirier, P.E., Sanborn Head & Associates
Charles Gallagher, Act 250 District Coordinator

Permit Number 3160-9015
Project ID Number SJ91-0001

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AUTHORIZATION TO DISCHARGE UNDER
GENERAL PERMIT 3-9015

A determination has been made that the applicant:

New England Waste Services of Vermont, Inc.
3 Pitkin Court
Montpelier, VT 05602

meets the criteria necessary for inclusion under General Permit 3- 9015. Here after the named applicant shall be referred to as the permittee. Subject to the conditions of General Permit No. 3-9015, the permittee is authorized to discharge stormwater from Phase IV of the Coventry Landfill and the Waste-to-Energy facility located on Airport Road in Coventry, Vermont to wetlands contiguous to the Black River, unnamed tributaries to Lake Memphremagog, and groundwater.

Manner of Discharge:

S/N 01: Stormwater runoff from the western portion of the Phase III lined landfill cap and the landfill perimeter access road to a detention basin that discharges via culvert and grass swale to wetlands contiguous to the Black River.

S/N 02: Stormwater runoff the eastern portion of the Phase III lined landfill cap, the perimeter access road, and the landfill-gas-to-energy facility to a detention basin that discharges to groundwater via a dry well, and via culvert to wetlands contiguous to the Black River.

S/N 05: Stormwater runoff from the eastern portion of the Phase IV lined landfill cap, access road, the maintenance facility, to a detention basin that discharges via riprap-lined swale to an unnamed tributary to Lake Memphremagog.

S/N 06: Stormwater runoff eastern portion of the Phase IV visual soil berm, and the western portion of Airport Road, to a dention basin that discharges via riprap-lined swale to an unnamed tributary to Lake Memphremagog.

S/N 08: Stormwater runoff from the southern portion of the Phase IV visual soil berm, and berm access road, to a detention basin that discharges via culvert and swale to an unnamed tributary to Lake Memphremagog.

S/N 03, 04, & 07 are not included in the manner of discharge because these discharge points do not include any areas of new impervious surface.

Design: This project shall be constructed and operated in accordance with the site plans and details designed by Sanborn, Head & Associates, Inc.

(Sheet 1, Phase IV Post-Development Drainage, dated 4/04; 2A of 2, dated 5/04; Sheet 2B of 2, dated 5/04; Sheet 2C of 2, dated 5/04; Sheet 1, Detention Pond 1, dated 4/04; Sheet 2, Detention Pond 2, dated 4/04; Sheet 3, Detention Pond 3, dated 4/04; Sheet 4, Detention Pond 4, dated 4/04; Sheet 5, Details, dated 4/04; Sheet 6, Details, dated 4/04).

By reference, the above noted plans are made part of this authorization.

Compliance with General Permit 3-9015 and this Authorization

The permittee shall comply with this authorization and all the terms and conditions of General Permit 3-9015, including the payment of annual operating fees to the Department. A billing statement for such fees will be sent to the permittee each year. The first year's statement is enclosed. Any permit non-compliance, including a failure to pay the annual operating fee, constitutes a violation of 10 V.S.A. Chapter 47 and may be grounds for an enforcement action or revocation of this authorization to discharge.

Transferability

This authorization to discharge is not transferable to any person except in compliance with Part VI.D. of General Permit 3-9015. A copy of General Permit 3-9015 is available from the Department via the internet at http://www.vtwaterquality.org/Stormwater/sw_3-9015_finalpermit.pdf

Changes to Permitted Development

In accordance with Part V.G. of General Permit 3-9015, the permittee shall notify the Department of any planned development or facility expansions or changes that may result in new or increased stormwater discharges. The Department shall determine the appropriateness of continued inclusion under General Permit 3-9015 by the modified development or facility.

Semi-Annual Inspection and Report

The stormwater collection, treatment and control system authorized herein shall be properly operated and maintained and shall be inspected at least twice per year, once in the spring after snowmelt and once in the fall prior to snow fall. The inspection shall evaluate the operation and maintenance and condition of the stormwater collection, treatment and control system. The permittee shall prepare a semiannual inspection report on a form available from the Department. The permittee shall, by November 1st and June 1st of each year, submit an inspection report to the Department.

Restatement of Compliance

Every 3 years, the permittee shall submit to the Department a written statement signed by a designer that the stormwater collection, treatment and control system authorized herein is properly operating and maintained. The first re-statement of compliance is due June 22, 2007. Failure to submit a designer's restatement of compliance shall constitute a violation of General Permit 3-9015 and may result in the revocation of this authorization to discharge.

Filing of this Authorization with Local Land Records

In accordance with Part VI.M. of General Permit 3-9015, the permittee shall file a copy of this authorization to discharge in the land records within seven (7) days of its issuance and a copy of the recording shall be provided to the Department within fourteen (14) days of the permittee's receipt of a copy of the recording from the local land records.

Effective Date and Expiration Date of this Authorization

This authorization to discharge shall become effective on June 22, 2004 and shall continue until June 22, 2014. The permittee shall reapply for coverage at least sixty (60) days prior to June 22, 2014.

Dated at Waterbury, VT this 22 day of JUNE, 2004.

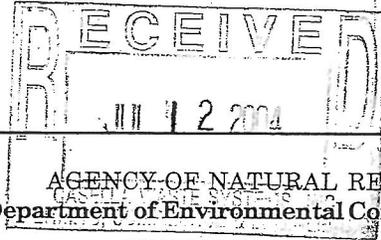
Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

By Thomas Willard
Thomas Willard, Acting Director
Water Quality Division



State of Vermont

Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation
State Geologist
RELAY SERVICES FOR HEARING IMPAIRED
1-800-253-0191 TDD>VOICE
1-800-253-0195 VOICE>TDD



AGENCY OF NATURAL RESOURCES
Department of Environmental Conservation

WATER QUALITY DIVISION

103 South Main Street
Building 10 North
Waterbury, VT 05671-0408

FAX 802-241-3287
TEL 802-241-3770

July 8, 2004

John Gay
New England Waste Services of Vermont, Inc.
P.O. Box 866
Rutland, VT 05701

**RE: Construction General Permit – Landfill Gas-To-Energy Project
NOI #3544-9001**

Dear Mr. Gay:

Enclosed please find the Landfill Gas-To-Energy Project authorization under General Permit 3-9001(2003) to discharge stormwater for the installation of a landfill gas-to-energy system, including the construction of a soil building pad, building with power plant, and detention basin, effective immediately. Also attached is a Notice of Termination form pursuant to Part VI(D) of the Construction General Permit. This form must be returned to the Department when the requirements of Part VI(D) are met. Until then, weekly inspections are required to be performed.

Be advised that if your project is located in an impaired watershed, there may be special monitoring and reporting requirements. Read the General Permit carefully to ensure compliance with its terms. You can view the permit on-line at:
http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_cgp.htm.

Please note that all contractors involved in earth disturbing activities must obtain Co-Permittee status prior to commencing their construction activities. Reference Part II(I) of the permit regarding Co-Permittee requirements for contractors and sub-contractors. At the time of this authorization we have not been notified of any Co-Permittees. The Department must be notified of any Co-Permittees before they can start work at the site. There is a simple Co-Permittee request form that can be downloaded at the website given above, or you may use the enclosed Contractor Request for Co-Permittee Status form.

Landfill Gas-To-Energy Project
NOI #3544-9001
July 8, 2004
Page 2

While you are being authorized under this permit, please be advised that, due to the nature of general permits, authorization by the Department does not necessarily indicate that your Plan meets the conditions of the CGP, only that the project is eligible for coverage under the permit. Therefore, our staff may visit your site in the near future to review the Plan and its implementation with the On-Site Plan Coordinator.

This permit contains a number of requirements that must occur during construction. Read the permit carefully to stay in compliance. If you have any questions about the Construction General Permit and your obligations under this permit, please contact Kim Greenwood at 241-3779. Good luck with your project this construction season.

Sincerely,



Thomas Willard, Acting Director
Water Quality Division

c: David E. Adams; Sanborn, Head & Associates, Inc.
Encl: NOI, NOT, Co-Permittee Form

TW/dw

PUBLIC NOTICE

NOTICE OF INTENT TO DISCHARGE STORMWATER RUNOFF
FROM A CONSTRUCTION SITE SUBJECT TO GENERAL PERMIT NO. 3-9001 (2003)

NOTICE OF INTENT NO. 3544-900

1. Applicant (Owner): New England Waste Services of Vermont, Inc.

Legal Entity: Private State Municipal Other: _____

2. Address of Applicant: P.O. Box 866, Rutland, Vermont 05701

Telephone: (802) 223-7221

e-mail: None

Fax: (802) 223-7128

3. Name of Project: Landfill Gas-To-Energy Project

Act 250 Permit No., if one: Section 248 permit pending

Description: Installation of a landfill gas-to-energy system. Includes the construction of a soil building pad, building with power plant, and detention basin.

Wetland CUD No., if one: Pending

FCWA Section 404 Permit No., if one: No

4. Location of Construction Site (include map): West side of Airport Road approximately 1.2 miles south of junction with VT Route 5 in Coventry, Vermont.

Lat: N44°54'

Long: W72°14'

5. Name of Receiving Water(s) (include map): Lake Memphremagog and the Black River

6. Estimated Area to be Disturbed (Acres): 3.1

7. Estimated Start Date: Summer 2004

6/1/2004 due

Estimated End Date: October 15, 2004

If construction is planned between October 15 and May 1, has a site-specific Winter Erosion Prevention and Sediment Control Plan been included? Yes No

8. On-Site Plan Coordinator: Mr. Lenny Wing

Telephone: (802) 334-8300

Fax: (802) 334-2476

9. Application fee enclosed: \$250

Date of Application: April 23, 2004

10. Erosion Prevention and Sediment Control Plan Preparer Certification: I hereby certify that I have read General Permit 3-9001 (2003) and that the erosion prevention and sediment control plan was developed in accordance with the provisions of that general permit and using the principles and techniques outlined in Handbook (see General Permit, Part III.B). I further certify that there is reasonable assurance that construction activities, if done in accordance with the erosion prevention and sediment control plan, will not cause a stormwater discharge that violates Vermont Water Quality Standards.

Signature of Plan Preparer: David E. Adams

Title: Project Manager

P.E. No., if one: VT 7012

CPESC No., if one: _____

Print or Type Name: David E. Adams

Company: Sanborn, Head & Associates, Inc.

Telephone: (802) 288-9119

Fax: (802) 288-9779

Landowner Certification: I hereby certify that I have read General Permit 3-9001 (2003) and agree to abide by its terms. I also certify that an erosion control plan has been developed and will be implemented in accordance with General Permit No. 3-9001 (2003) and as Authorized Representative I will inform any agents acting on my behalf of the requirements of this plan and shall ensure that a copy of this plan is available on site at all times. I understand that any contractor involved in earth disturbing activities must become a co-permittee under this project and that the Request for Co-Permittee Status Form(s) must be signed by the contractor(s) and filed prior to their engaging in project construction activities.

I also certify that, concurrent with the filing of this Public Notice/Notice of Intent with the Department of Environmental Conservation, I have also filed copy of this Public Notice/Notice of Intent with the municipal clerk in the municipality(ies) in which the discharge(s) will occur.

Signature of Applicant or Authorized Representative: John Gray

Title: ENGINEER

Print or Type Name: JOHN GRAY

For Department Use Only:

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AUTHORIZATION TO DISCHARGE

A determination has been made that the proposed construction activities qualify for coverage under General Permit 3-9001 (2003). Subject to the conditions of General Permit No. 3-9001 (2003), the applicant is hereby authorized to discharge stormwater runoff from a construction site as described in this Notice of Intent Number 3544-9001.

Dated at Waterbury, Vermont this 7 day of July, 2002^{klb}₄

Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

By Thomas Willard
for Wallace McLean, Director
Water Quality Division

PUBLIC COMMENT

Public comments concerning this Notice of Intent to discharge under General Permit No 3-9001 (2003) are invited and must be submitted within 10 days of receipt of this Notice by the Municipal Clerk. Comments should address how the application complies or does not comply with the terms and conditions of General Permit No. 3-9001 (2003). A letter of interest should be filed by those persons who elect not to file comments but who wish to be notified if the comment period is extended or reopened for any reason. All written comments received within the time frame described above will be considered by the Department of Environmental Conservation in its final ruling to grant or deny authorization to discharge under General Permit No. 3-9001 (2003). Any person may, within thirty (30) days of the final decision by the Department of Environmental Conservation to grant or deny authorization to discharge, appeal the ruling to the Vermont Water Resources Board pursuant to 10 V.S.A. Section 1263(b) and 1269.

Send written comments to: VT Department of Environmental Conservation
Water Quality Division, Hydrology Section
103 South Main Street, Building 10 North
Waterbury, VT 05671-0408

Please cite the NOI number in any correspondence.

A copy of General Permit No. 3-9001 (2003) may be obtained by calling (802) 241-3770; by visiting the Department at the above address between the hours of 7:45 am and 4:30 pm; or by downloading from the Water Quality Division's Web site at www.vtwaterquality.org.

INFORMATION FOR MUNICIPAL CLERK

Title 10 Chapter 47 §1263(b) provides for the public notice of an applicant's intent to discharge stormwater runoff from a construction site. Please post this notice in a conspicuous place for 10 days from the date received. If you have any questions, contact the Water Quality Division of the Department of Environmental Conservation at (802) 241-3771. Please date this below as to when it was posted. Thank you for your assistance.

DATE OF POSTING: _____

ORIGINAL TO STATE : ONE COPY TO MUNICIPAL CLERK : ONE COPY FOR APPLICANT



State of Vermont

Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation
State Geologist
RELAY SERVICES FOR HEARING IMPAIRED
1-800-253-0191 TDD>VOICE
1-800-253-0195 VOICE>TDD

RECEIVED
JUL 12 2004
AGENCY OF NATURAL RESOURCES
Department of Environmental Conservation
WATER QUALITY DIVISION
103 South Main Street
Building 10 North
Waterbury, VT 05671-0408
FAX 802-241-3287
TEL 802-241-3770

July 8, 2004

John Gay
New England Waste Services of Vermont, Inc.
P.O. Box 866
Rutland, VT 05701

**RE: Construction General Permit – Landfill Gas-To-Energy Project
NOI #3544-9001**

Dear Mr. Gay:

Enclosed please find the Landfill Gas-To-Energy Project authorization under General Permit 3-9001(2003) to discharge stormwater for the installation of a landfill gas-to-energy system, including the construction of a soil building pad, building with power plant, and detention basin, effective immediately. Also attached is a Notice of Termination form pursuant to Part VI(D) of the Construction General Permit. This form must be returned to the Department when the requirements of Part VI(D) are met. Until then, weekly inspections are required to be performed.

Be advised that if your project is located in an impaired watershed, there may be special monitoring and reporting requirements. Read the General Permit carefully to ensure compliance with its terms. You can view the permit on-line at:
http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_cgp.htm.

Please note that all contractors involved in earth disturbing activities must obtain Co-Permittee status prior to commencing their construction activities. Reference Part II(I) of the permit regarding Co-Permittee requirements for contractors and sub-contractors. At the time of this authorization we have not been notified of any Co-Permittees. The Department must be notified of any Co-Permittees before they can start work at the site. There is a simple Co-Permittee request form that can be downloaded at the website given above, or you may use the enclosed Contractor Request for Co-Permittee Status form.

PUBLIC NOTICE

NOTICE OF INTENT TO DISCHARGE STORMWATER RUNOFF
FROM A CONSTRUCTION SITE SUBJECT TO GENERAL PERMIT NO. 3-9001 (2003)

NOTICE OF INTENT NO. 3544-900

1. Applicant (Owner): New England Waste Services of Vermont, Inc.

Legal Entity: Private State Municipal Other: _____

2. Address of Applicant: P.O. Box 866, Rutland, Vermont 05701

Telephone: (802) 223-7221

e-mail: None

Fax: (802) 223-7128

3. Name of Project: Landfill Gas-To-Energy Project

Act 250 Permit No., if one: Section 248 permit pending

Description: Installation of a landfill gas-to-energy system. Includes the construction of a soil building pad, building with power plant, and detention basin.

Wetland CUD No., if one: Pending

FCWA Section 404 Permit No., if one: No

4. Location of Construction Site (include map): West side of Airport Road approximately 1.2 miles south of junction with VT Route 5 in Coventry, Vermont.

Lat: N44°54'

Long: W72°14'

5. Name of Receiving Water(s) (include map): Lake Memphremagog and the Black River

6. Estimated Area to be Disturbed (Acres): 3.1

7. Estimated Start Date: Summer 2004

6/1/2004

Estimated End Date: October 15, 2004

If construction is planned between October 15 and May 1, has a site-specific Winter Erosion Prevention and Sediment Control Plan been included? Yes No

8. On-Site Plan Coordinator: Mr. Lenny Wing

Telephone: (802) 334-8300

Fax: (802) 334-2476

9. Application fee enclosed: \$250

Date of Application: April 23, 2004

10. Erosion Prevention and Sediment Control Plan Preparer Certification: I hereby certify that I have read General Permit 3-9001 (2003) and that the erosion prevention and sediment control plan was developed in accordance with the provisions of that general permit and using the principles and techniques outlined in Handbook (see General Permit, Part III.B). I further certify that there is reasonable assurance that construction activities, if done in accordance with the erosion prevention and sediment control plan, will not cause a stormwater discharge that violates Vermont Water Quality Standards.

Signature of Plan Preparer: David E. Adams

Title: Project Manager

Print or Type Name: David E. Adams

P.E. No., if one: VT 7012

CPESC No., if one: _____

Company: Sanborn Head & Associates, Inc.

Telephone: (802) 288-9119

Fax: (802) 288-9779

Landowner Certification: I hereby certify that I have read General Permit 3-9001 (2003) and agree to abide by its terms. I also certify that an erosion control plan has been developed and will be implemented in accordance with General Permit No. 3-9001 (2003) and as Authorized Representative I will inform any agents acting on my behalf of the requirements of this plan and shall ensure that a copy of this plan is available on site at all times. I understand that any contractor involved in earth disturbing activities must become a co-permittee under this project and that the Request for Co-Permittee Status Form(s) must be signed by the contractor(s) and filed prior to their engaging in project construction activities.

I also certify that, concurrent with the filing of this Public Notice/Notice of Intent with the Department of Environmental Conservation, I have also filed copy of this Public Notice/Notice of Intent with the municipal clerk in the municipality(ies) in which the discharge(s) will occur.

Signature of Applicant or Authorized Representative: John Gray

Title: ENGINEER

Print or Type Name: John Gray

For Department Use Only:

VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AUTHORIZATION TO DISCHARGE

A determination has been made that the proposed construction activities qualify for coverage under General Permit 3-9001 (2003). Subject to the conditions of General Permit No. 3-9001 (2003), the applicant is hereby authorized to discharge stormwater runoff from a construction site as described in this Notice of Intent Number 3544-9001.

Dated at Waterbury, Vermont this 7 day of July, 2002⁴

Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

By Thomas Willard
for Wallace McLean, Director
Water Quality Division

PUBLIC COMMENT

Public comments concerning this Notice of Intent to discharge under General Permit No 3-9001 (2003) are invited and must be submitted within 10 days of receipt of this Notice by the Municipal Clerk. Comments should address how the application complies or does not comply with the terms and conditions of General Permit No. 3-9001 (2003). A letter of interest should be filed by those persons who elect not to file comments but who wish to be notified if the comment period is extended or reopened for any reason. All written comments received within the time frame described above will be considered by the Department of Environmental Conservation in its final ruling to grant or deny authorization to discharge under General Permit No. 3-9001 (2003). Any person may, within thirty (30) days of the final decision by the Department of Environmental Conservation to grant or deny authorization to discharge, appeal the ruling to the Vermont Water Resources Board pursuant to 10 V.S.A. Section 1263(b) and 1269.

Send written comments to:
VT Department of Environmental Conservation
Water Quality Division, Hydrology Section
103 South Main Street, Building 10 North
Waterbury, VT 05671-0408

Please cite the NOI number in any correspondence.

A copy of General Permit No. 3-9001 (2003) may be obtained by calling (802) 241-3770; by visiting the Department at the above address between the hours of 7:45 am and 4:30 pm; or by downloading from the Water Quality Division's Web site at www.vtwaterquality.org.

INFORMATION FOR MUNICIPAL CLERK

Title 10 Chapter 47 §1263(b) provides for the public notice of an applicant's intent to discharge stormwater runoff from a construction site. Please post this notice in a conspicuous place for 10 days from the date received. If you have any questions, contact the Water Quality Division of the Department of Environmental Conservation at (802) 241-3771. Please date this below as to when it was posted. Thank you for your assistance.

DATE OF POSTING: _____

ORIGINAL TO STATE : ONE COPY TO MUNICIPAL CLERK : ONE COPY FOR APPLICANT

Landfill Gas-To-Energy Project
NOI #3544-9001
July 8, 2004
Page 2

While you are being authorized under this permit, please be advised that, due to the nature of general permits, authorization by the Department does not necessarily indicate that your Plan meets the conditions of the CGP, only that the project is eligible for coverage under the permit. Therefore, our staff may visit your site in the near future to review the Plan and its implementation with the On-Site Plan Coordinator.

This permit contains a number of requirements that must occur during construction. Read the permit carefully to stay in compliance. If you have any questions about the Construction General Permit and your obligations under this permit, please contact Kim Greenwood at 241-3779. Good luck with your project this construction season.

Sincerely,



Thomas Willard, Acting Director
Water Quality Division

c: David E. Adams; Sanborn, Head & Associates, Inc.
Encl: NOI, NOT, Co-Permittee Form

TW/dw

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6925

Joint Petition by Washington Electric Cooperative, Inc.))
("WEC"), Vermont Electric Power Company, Inc.))
("VELCO"), Citizens Communications Company)
("CZN"), and Vermont Electric Cooperative, Inc.)
("VEC") for a certificate of public good, pursuant to 30)
V.S.A. Section 248, authorizing: (1) WEC to construct)
an electric generation station in Coventry, Vermont;)
(2) WEC and VELCO to make improvements to the)
Irasburg substation; and (3) WEC, VEC and CZN to)
construct 46 kV transmission lines in Coventry and)
Irasburg, Vermont, including provisions for
distribution system construction by CZN and VEC

**Hearing at
Montpelier, Vermont
June 2, 2004**

Order entered: 6/4/2004

PRESENT: Edward McNamara, Hearing Officer

**APPEARANCES: Joshua R. Diamond, Esq.
Diamond & Robinson, P.C.
for Washington Electric Cooperative, Inc.**

**Geoffrey Commons, Esq.
for Vermont Department of Public Service**

**David C. Englander, Esq.
for Agency of Natural Resources**

**Thomas N. Wies, Esq.
for Vermont Electric Power Company, Inc.**

**Michael L. Burak, Esq.
Burak Anderson & Melloni, PLC
for Vermont Electric Cooperative, Inc.**

I. INTRODUCTION

This case involves a joint petition filed by Washington Electric Cooperative, Inc. ("WEC"), the Vermont Electric Cooperative, Inc. ("VEC"), and Vermont Electric Power Company, Inc. ("VELCO") (collectively, the "Petitioners") on December 22, 2003, and amended and supplemented through May 7, 2004.¹ The petition requests a certificate of public good ("CPG") under 30 V.S.A. § 248 authorizing:

- (1) WEC to construct an electric generation station in Coventry, Vermont;
- (2) WEC and VELCO to make improvements to a substation in Irasburg, Vermont; and
- (3) WEC and VEC to construct a 46 kV transmission line from the Coventry generating facility to the Irasburg substation.¹

WEC seeks to construct a landfill gas-fired electric generation facility, to be located at the Waste USA Landfill (the "Landfill") in Coventry, Vermont. The purpose is to supply WEC with renewable energy sufficient to meet a substantial portion of its baseload requirement.¹

Construction involves three elements (collectively, the "Coventry Project" or Project):

(a) the construction of the generation facility, which will combust the landfill gas, being flared currently, in engine-generators that will have the ability to produce approximately 4.8 MW of power. The generation facility will also include a substation that steps up the generated electricity for transmission (collectively referred to as the "generation facility");

(b) the construction of approximately 7.2 miles of 46 kV transmission line that will take the power from the generation facility to VELCO's Irasburg substation, where the electricity will be wheeled to WEC's distribution system. The corridor for this transmission line will be placed primarily along Airport Road, Coventry Station Road, and Routes 5 and 14. As the transmission line runs near or along the rights of way of preexisting distribution lines in VEC's territory, WEC and VEC will jointly construct the transmission line, including the underbuild of VEC's distribution lines to replace its current distribution lines; and

1. Additional prefiled testimony and associated exhibits were filed on January 28, March 25, February 12, May 3, and May 7, 2004.

2. **The petition was originally joined by Citizens Communications Company ("CZN") to construct the 46 kV transmission lines, including provisions for distribution system construction. Since the petition was filed, however, CZN's distribution lines have been acquired by VEC, and CZN no longer operates as a utility in the State of Vermont. CZN's interest in this petition has been assumed by VEC. A motion to withdraw was filed by CZN on May 14 and granted on May 26, 2004.**

3. There is currently a pending docket before the Board concerning the creation of a wholly-owned WEC subsidiary, called the Coventry Clean Energy Corporation ("CCEC"), to operate the generation facility.

(c) the modification of VELCO's Irasburg substation to interconnect the new 46 kV transmission line from the generating facility to VELCO's bulk transmission grid. Modifications to the Irasburg substation will include construction to extend the existing bus, a new breaker to protect against line faults, and metering equipment.

On March 25, 2004, a public hearing was held in Coventry, Vermont. Notice of the public hearing was sent to all parties and interested persons on March 4, 2004. In addition, notice of the public hearing was published in **The Newport Daily Express on March 5, 2004, and March 12, 2004. The public hearing was held as scheduled at 7:00 p.m. at the Coventry Community Hall, 168 Main Street, Coventry, Vermont. Two members of the public attended, both of whom declined to provide comments on the Project.**

On May 19, 2004, the Vermont Department of Public Service ("Department" or "DPS"), the Vermont Agency of Natural Resources ("ANR"), VEC and VELCO filed a Stipulation in which all the parties agreed that the Board should issue a CPG with conditions. The Stipulation becomes ineffective if it is not approved in its entirety.¹ The specific provisions of this stipulation are described in the findings below.

A status conference and technical hearing were held on June 2, 2004.

II. FINDINGS

Based on the substantial evidence of the record and the testimony presented at the hearing, I hereby report the following findings to the Board in accordance with 30 V.S.A. § 8.

Background and Project Description

1. The Co-petitioners are companies as defined by 30 V.S.A. § 201 and as such are subject to the Vermont Public Service Board's ("Board" or "PSB") jurisdiction pursuant to 30 V.S.A. § 203. Petition at ¶ 1.
2. WEC seeks to develop and construct a landfill-gas-fired electric generation facility at the

4. I note that the more common standard is whether a stipulation is "approved in all material aspects," as this provides the Board flexibility to impose non-material changes that do not effect the underlying substance of a stipulation.

landfill located in Coventry, Vermont, owned by New England Waste Services of Vermont, a wholly-owned subsidiary of Casella Waste Systems, Inc. ("Casella"), to provide WEC with renewable energy sufficient to meet a substantial portion of its baseload requirement. Patt pf. at 4. The Coventry Project is designed to meet WEC's goal of replacing its power supply lost as a result of the expiration of the Vermont Yankee nuclear power contract with affordable and stable long-term power. In addition, the Coventry Project is consistent with WEC's policy of favoring environmentally friendly and socially responsible energy policies. Patt pf. at 7-8.

3. The Coventry Project consists of three components. They are: (a) construction of the generation facility; (b) construction of approximately 7.2 miles of 46 kV transmission line from the generation facility to VELCO's Irasburg substation; and (c) modifications to VELCO's Irasburg substation to interconnect the new 46 kV transmission line from the generating facility. Petition at ¶ 9.

4. The proposed generation facility will combust the landfill gas (currently being flared) in three 1.6 MW engine-generators to produce electricity for a total capacity of 4.8 MW. Tr. 6/2/04 at 8 (Patt); Deane pf. at 5-6. The generation facility will be sited in the northerly portion of the Landfill on a $\frac{3}{4}$ -acre earth pad in close proximity to the current maintenance garage (which will be razed by Casella). Murphy pf. at 6-7; exhs. WEC-204, WEC-903, WEC-904, WEC-911.

5. The proposed building that will house much of the generating facility is anticipated to be approximately 6900 square feet, two-thirds of which will be occupied by engine generators. The building will be constructed to be of sufficient size to enable an additional engine generator if WEC should receive a permit to uprate the project.¹ The remaining space will be used to house the switch gear, office and maintenance room. The building will have a maximum height of 24 feet with an exhaust stack for each engine exiting the ends of the building. These stacks may be five to ten feet higher than the roof line. The generating facility will also have diked areas designed to hold lubricants and any other liquids used in the operation and maintenance of the equipment, as well as contain any waste-water and any other contaminating liquids generated

5. WEC has stated its intention to uprate the Project at some future time. Tr. 6/2/04 at 7-8 (Patt).

from the processing of the gas and maintenance of the facility. Murphy pf. at 7; tr. 6/2/04 at 37-38 (Murphy).

6. The generation facility will also include a step-up substation. The substation will contain a 4.16 kV generation bus where the output of the generators will be connected. The output will then be stepped up to 46 kV through a 4.16 kV-46 kV transformer. The transformer size will be 5000 kVA, capable of handling 7000 kVA. A 46 kV circuit breaker will provide protection to the substation against shortages and overloads. Crocket pf. at 4, 6; exhs. WEC-302, WEC-303.

7. WEC, through its subsidiary CCEC, have entered into a 33-year lease with Casella for the gas rights and land where the generation facility is to be located. CCEC shall pay Casella a base quarterly charge of \$250 plus 30% of the net cash benefits that CCEC receives from the Renewable Energy Production Incentive program and the monetization of renewable tax credits. In addition, WEC will purchase the gas collection system, associated permits and agreements from Casella for \$255,000. Faryniarz pf. at 4, 12; exhs. WEC-2, WEC-4.

8. The second component of the Project involves the construction of approximately 7.2 miles of 46 kV transmission line that will transport the power from the generation facility to VELCO's Irasburg substation, where the electricity will be wheeled to WEC's distribution system. Patt pf. at 5. The corridor for this transmission line will be placed primarily along Airport Road, Coventry Station Road, and Routes 5 & 14. Because the transmission line runs near or along the rights of way of preexisting distribution lines in VEC's territory, WEC and VEC will jointly construct the transmission line, including the underbuild of VEC's distribution lines to replace its current distribution lines, which are either reaching the end of their useful life or could benefit from a relocation where the lines are currently located offroad. Exhs. WEC-419, WEC-420; Abendroth pf. at 4-5; Letourneau pf. at 4-6.

9. Starting at the Irasburg substation, the line will travel north adjacent to the current VELCO corridor for approximately 2800 feet. The new line will exit the corridor and travel roadside, paralleling Route 14 northbound, in an overbuild with VEC's lines. Clapp supp. pf. 1/28/04 at 5-6; exhs. WEC-420, WEC-TJC-Supp. 1c-1e. At the junction of Routes 5 and 14, the line will enter the junction starting on the west side of Route 14 at the Poutre property, traveling across the corner of the property owned by the Grace Brethren Church, cross Route 14 and travel through the properties owned by Libby and Royer. The line will then cross Route 5, travel along

the eastern side of Route 5, and rejoin the VEC corridor until the junction with Coventry Station Road. Clapp supp. pf. 1/28/04 at 6; Clapp supp. pf. 5/7/04 at 12-13; exhs. WEC-420, WEC-TJC-Supp. 1H-1I.

10. Prior to the junction with Coventry Station Road, the transmission line will leave the VEC corridor, whereupon it will enter Coventry Station Road traveling eastward and generally following the existing VEC corridor for approximately 2500 feet. Continuing along the Coventry Station Road for another 7700 feet, VEC's distribution lines would be relocated to the roadside from an existing cross-country line serving that same area. Clapp supp. pf. 1/28/04 at 6-7; exhs. WEC-419, **WEC-TJC-Supp. 1J-1P. Afterwards, the transmission line will exit Coventry Station Road to the north traveling cross country approximately 3500 feet and enter along the existing VEC corridor adjacent to Airport Road. The line will parallel Airport Road until it intersects with the existing three-phase distribution line serving the Landfill. Clapp supp. pf. 1/28/04 at 7; exhs. WEC-419, WEC-TJC-Supp. 1R-1U.**

11. The transmission line will be constructed using a standard crossarm and insulator construction. In addition, the line will be constructed as an overbuild of the existing VEC distribution lines where the lines run concurrently. Crocket pf. at 5; exh. WEC-304. The height of the poles will be 40 feet where the line is built as a sole-use transmission line and 50-55 feet where the line will be built as an overbuild of the existing distribution and telephone lines. Crocket pf at 7. While VEC's underbuild would initially be constructed in a single-phase 7.2 kV circuit, the design would be sufficient to handle the installation of a three-phase 12.47 kV distribution circuit. Abendroth pf. at 6; Letourneau pf. at 6-7.

12. The third component of the Coventry Project involves the modification of VELCO's Irasburg Substation to interconnect the new 46 kV transmission line from the generating facility to VELCO's bulk transmission grid. Modifications to the Irasburg substation will include construction to extend the existing bus, a new breaker to protect against line faults, and metering equipment. To accommodate the addition, the substation fence will be expanded eighteen feet in the southeast direction to allow for proper safety clearances from the fence to energized substation components and to allow safe access for vehicles and equipment to pass. Crocket pf. at 5; Johnson pf. at 4; exhs. WEC-306, VELCO-815, VELCO-816, VELCO-817.

Stipulation

13. On May 19, 2004, WEC, DPS, ANR, VEC, and VELCO submitted a Stipulation, which states that the parties agree that the Board should issue a CPG for the proposed Project provided that all of the terms of the Stipulation are met. Exh. Joint-1 at ¶ x.

14. In the Stipulation, the parties agree that the Board should include the following conditions in a CPG for the Project:

- (a) WEC, VEC, and VELCO, by themselves and/or through their designated agent(s), shall not commence construction including site preparation on the Coventry Project until the following environmental permits are obtained and filed with the Board:
 - (i) Draft Air Quality Permit from ANR to operate the electric generating engines;
 - (ii) Conditional Use Determination by ANR allowing erosion control measures at the generation facility to be located within the 50-foot buffer of a Class II wetlands;
 - (iii) Federal Aviation Administration ("FAA") determination that generation facility and transmission lines, as mitigated, will not cause an obstruction or hazard to the operation of the Newport/Coventry airport;
 - (iv) Endangered Species Takings Permit from ANR authorizing the takings of the *juncus greenei* located next to the Irasburg substation;
 - (v) General Construction permit from ANR for the generating facility;
 - (vi) Storm water discharge/ operating permit from ANR for the generating facility;
 - (vii) Act 250 Permit approving Casella's Phase IV expansion.
- (b) Notwithstanding the above, WEC, VEC, and VELCO, by themselves and/or through their designated agent(s) may commence with the following phased construction schedule absent the following permits:
 - (i) Construction of the generation facility may commence prior to the issuance and filing of the Air Quality Permit, Endangered Species Takings Permit, and FAA determination. However, the engine generators may not be installed until such time that a Draft Air Quality Permit is issued and filed with the PSB;
 - (ii) Construction of the Irasburg substation modifications may commence prior to the issuance and filing of the Air Quality Permit;
 - (iii) Construction of the transmission lines may commence prior to the issuance and filing of the Air Quality Permit.
- (c) Construction of the transmission lines shall not commence earlier than July 15, 2004. WEC and VEC shall have up to twelve months from the issuance of the CPG to complete the underbuild.
- (d) In the event the output of the plant increases above 5 MW, WEC will have performed, at its cost, a system impact study. In the event the VELCO Northern

Loop project is not completed, or is substantially delayed, and should CVPS rebuild the Lowell to Johnson line and/or upgrade the Lowell transformer, WEC will pay the incremental costs attributed to the increased system exposure from the Coventry project. Based on the impact indicated from the VELCO study, CVPS estimates the increased system exposure with a 4 MW project, for which WEC would be responsible, should be approximately 4.5% for the Lowell to Johnson line and 5% for the Lowell transformer.

Exh. Joint 1.

15. The Stipulation contains other provisions, including but not limited to provisions relating to WEC's providing the DPS and ANR with copies of, and the opportunity to comment on, all filings made under the Stipulation, as well as provisions relating to the Stipulation's ineffectiveness if it is not approved in its entirety, its nonprecedential nature, and the parties' acknowledgment of the Board's continuing jurisdiction to resolve disputes arising under the Stipulation. Exh. Joint-1, ¶ x.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

16. The Coventry Project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This finding is supported by findings 17 through 18, below.

17. Reviews of the Coventry Project were requested from the Town of Irasburg, Town of Coventry, and the Northeastern Vermont Development Association ("NVDA"). Neither the towns nor the NVDA have submitted any objections. All three have waived their 45-day advance notice requirement for reviewing the project as provided by 30 V.S.A. § 248(f). Clapp pf. at 7; exhs. WEC-402, WEC-402A, WEC-403, WEC-403A, WEC-404, WEC-404A.

18. The Town of Irasburg does not have a Town Plan, but its Select Board previously reviewed the project, as of December, 2003, and voiced approval. The Coventry Town Plan's policy on utilities is that if a commercial site can, in the eyes of the State of Vermont, support its

proposed use, then it can be established in the town and will be supplied with town-managed roads and schools. In addition, by recognizing wood as an alternative oil, gas, or coal, the NVDA indicates a preference for diversity in the region's capacity to produce energy. Accordingly, the Coventry Project is consistent with the relevant planning documents. Clapp pf. at 7-8; exhs. WEC-405, WEC-406.

Need for Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

19. The Coventry Project is required to meet present and future demand for service, which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and load management measures. This finding is based upon an assessment of WEC's projected resource supply/demand balance over the long-term planning horizon. Faryniarz pf. at 15.

20. WEC's need for energy capacity over the next twenty years will likely range between 7 to 13 MW. WEC's unmet capacity requirements over the planning horizon are on average 10 MW. Accordingly, the Coventry Project is needed to meet approximately 22% of WEC's projected unforced capacity ("UCAP") requirements on average by 2008, and a significantly greater fraction of its total projected energy requirements. Faryniarz pf. at 16, 18; exhs. WEC-103a, WEC-103b, WEC-103c.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

21. The Coventry Project will not adversely affect system stability. The Coventry Project will have little to no impact on local thermal performance. The Coventry Project will have no adverse impact on local stability performance. The Coventry Project's impact on local short-circuit duty will be minimal and result in no additional equipment requiring replacement. The Coventry Project's impact on New England losses will be minimal, but generally beneficial. LaForest pf. at 14-15. This finding is further supported by findings 22 through 31, below.

22. VELCO performed four sets of analyses to examine the impact of the project at 4 MW of output. ISO-NE would require a system impact study of the project should it increase its output above 5 MW. LaForest pf. at 4.

23. The Irasburg substation has a normally closed connection with the CVPS Lowell 46 kV station, which, in turn, connects to the CVPS Lowell-Johnson 34.5 kV line via a 46 to 34.5 kV transformer. The Irasburg 46 kV substation has two normally open lines, one southeast to Barton and another north to Newport. LaForest pf. at 5; exhs. VELCO-802, VELCO-802a, VELCO-803.

24. The CVPS Johnson-Lowell 34.5 kV line was built in the late 1950s. The CVPS Lowell-Irasburg 46 kV line was completed in 1973. LaForest pf. at 5, 6. One local subtransmission path potentially can suffer overloads given the right set of coincident conditions. That path includes the CVPS Lowell 46/34.5 kV transformer (summer rated at 15/20 MVA) and the Lowell-Johnson 34.5 kV line, which has a 22 MVA summer rating and a 29 MVA winter rating (based on its 4/0 ACSR conductor). LaForest pf. at 6; exh. VELCO-804.

25. There are currently two problems faced by the local transmission/subtransmission network. The first is that the current transmission/subtransmission network cannot support local load (at St. Johnsbury) in the event of the loss of the St. Johnsbury-Littleton 115 kV line section. The other potential problem is that the Lowell 46/34.5 kV transformer and the Lowell-Johnson 34.5 kV line can become overloaded under a certain combination of system conditions. LaForest pf. at 7. The first problem was described and examined at length in the studies for the Northern Loop project. At current peak load levels the Northern Loop project allows loss of the St. Johnsbury-Littleton 115 kV while still providing the ability to supply the St. Johnsbury load. For the second problem, the exposure in actual system operation has been small but present nonetheless. LaForest pf. at 7; exh. VELCO-804.

26. VELCO's studies determined that the Project is not large enough to eliminate the supply concern for the St. Johnsbury area load for loss of the Littleton source at high load levels. In addition, the Project slightly increases flow from Lowell to Johnson when on-line, and this fact tends to exacerbate any overloads that might occur. Analysis indicates that there would be a limited number of hours of exposure given 2003 system conditions. The Project increases the

potential exposure from 5 summer hours to 13 based on data and the estimated impact of the Coventry Project. LaForest pf. at 7, 8; exh. VELCO-805.

27. The proposed VELCO Northern Loop project is designed to redistribute local flows such that for similar system conditions, no overloads are expected given identical system conditions. LaForest pf. at 9; exh. VELCO-806. Exhibit VELCO-806 (DLL-6) notes overloads in one or more of the 48 scenarios on up to four local transmission or subtransmission facilities. The only facilities to show an adverse impact with the WEC Coventry Project were the CVPS facilities (Lowell transformer and line). With the VELCO Northern Loop project in service, all of the overloads would be removed from the CVPS facilities. Given the WEC Coventry Project's assumed in-service date of early 2005 and the Northern Loop's assumed in-service date of mid-to-late 2005, there should be limited exposure to the overload. LaForest pf. at 10. The small adverse impact on the CVPS Lowell-Johnson 34.5 kV line and Lowell transformer will be eliminated once the VELCO Northern Loop project is in service. LaForest pf. at 14.

28. WEC has agreed that (a) WEC will perform, at its cost, a system-impact study of the Project should it increase its output above 5 MW, and (b) in the event the VELCO Northern Loop project is not completed or is substantially delayed, and **should CVPS rebuild the Lowell-Johnson line and/or upgrade the Lowell transformer, WEC would be responsible for the incremental costs attributed to the increased system exposure from the Coventry project. Based on the impact indicated from the VELCO study, CVPS estimates the increased system exposure with a 4 MW project, for which WEC would be responsible, should be approximately 4.5% for the Lowell-Johnson line and 5% for the Lowell transformer.** Exh. WEC-910.

29. The Project's impact on New England system losses is minimal, but generally beneficial. The Project's impact on Vermont system losses is minimal, and varies from a small adverse to a small beneficial impact depending on system conditions and configuration. LaForest pf. at 15.

30. The operation of the Coventry Project at 4.8 MW, as opposed to the 4 MW initially studied by VELCO, will not (a) increase significantly the number of hours of exposure for thermal overloads on the Lowell-Johnson subtransmission corridor, (b) have any adverse impact on stability performance if out-of-step relaying is installed, (c) have any significant adverse impact on local short circuit levels, and (d) will not change any assumptions concerning the

relative loss impact of the Project. Exh. WEC-810.

31. The project's stability performance was tested, in scenario projections, against a standard stability database (with load defined at 45% of peak and maximum local generation on-line) against a design criteria fault (a 115 kV breaker failure at the Irasburg substation for a three-phase fault applied at the Irasburg end of the Irasburg-St. Johnsbury 115 kV line). For the previously identified test fault, the WEC project's generators lost synchronism with the power system. Until the units were tripped manually in the simulation, they caused 40 to 45% voltage dips at the Irasburg 46 kV station (and would cause the same dip for any [VEC] load connected to the station) and caused 35 to 40% dips for VEC's Lowell customers. This analysis was performed prior to WEC making a final choice on which generators to install, and VELCO used engineering judgement to complete the analysis. LaForest pf. at 11-13; exh. VELCO-DLL-8. To address this potential problem, the Coventry Project's generators will include out-of-step relaying. WEC's Request for Proposal ("RFP") for the generation facilities requires the vendor to furnish a complete relay protection scheme and relay coordination study. The RFP states specifically that "[t]he plant synchronizing equipment shall be able to provide protection for 'out of step/loss of synchronism' for the generators as well as the 46 kV transmission line and provided with utility grade relaying for that purpose." Exh. WEC-902.

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

32. The total cost to WEC for the Coventry Project will be approximately \$7.32 million. Faryniarz supp. pf. at 10. The cost of power to WEC from the Coventry Project is expected to be below projected market prices. The projected 20-year levelized net cost of power will be 4.3_/kWh, and the levelized rate for the first five years will be approximately 4.0_/kWh. Faryniarz supp. pf. at 14; exhs. WEC-105c, WEC-105d.

33. The Coventry Project will provide an economic benefit to the State by providing more than 9000 WEC members (consumers) with a low-cost, stable power source. WEC's 2003 Integrated Resource Plan ("IRP") indicates that the Coventry Project will result in an economic benefit to WEC ratepayers by providing them with the least-cost portfolio over the planning horizon. Faryniarz pf. at 35; exh. WEC-102.

34. The Coventry Project will benefit the State by ensuring continued reliable electric service for VEC's members by replacing facilities that have reached the end of their useful life.

Abendroth pf. at 8.

35. The Coventry Project will economically benefit the State more generally by providing power within Vermont without further burdening the Independent System Operator of New England ("ISO-NE") system with imported energy. Faryniarz pf. at 20. In addition, the power generated from the Coventry Project will provide an economic benefit to the State by satisfying an increasing statewide demand for power. Faryniarz pf. at 21.

36. The Coventry Project will also provide an economic benefit to the State through the avoided societal costs of emissions from alternative power sources. Faryniarz pf. at 33.

Aesthetics, Historic Sites, Air and
Water Purity, the Natural Environment and Public
Health and Safety

[30 V.S.A. § 248(b)(5)]

37. The Coventry Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety. This finding is supported by findings 38 through 77, below, which are based on the criteria specified in 10 V.S.A. §§ **1424 a(d) and 6086(a)(1) through (8) and (9)(K)**.

Outstanding Resource Waters

[10 V.S.A. § 1424 a (d), 30 V.S.A. § 248(b)(8)]

38. The Coventry Project will not affect any Outstanding Resource Waters of the State as identified by the Water Resources Board. None of the streams or other waters in the vicinity of the proposed project are so designated. Clapp pf. at 10.

Water Pollution

[10 V.S.A. § 6086(a)(1)]

39. The Coventry Project will not result in undue water pollution, as described in findings 40-46, below.

40. Erosion control will be maintained during construction of the generation facility through an Erosion Prevention and Sediment Control Plan ("EPSCP"). The EPSCP has been filed with the Vermont Department of Environmental Conservation by Casella in furtherance of the Construction General Permit for the generation facility. Murphy supp. pf. at 9.

41. Stormwater runoff from the generation facility will be treated through several measures including, but not limited to, the following: (a) the earthpad will be sloped mildly so that surface runoff will flow to a wet pool located on the southern boundary where storm water will be detained to allow any collected sediment to settle out; (b) the wet pool will contain weir openings to control the rate of water discharge; (c) a trash rack will accompany the wet pool to trap debris and other significant floatables; (d) outflow from the wet pool will be directed to a dry well that incorporates a 2.5-foot sump in the lower portion of the dry well and a drain hole in the upper portion to provide a location for future capture of sediment and soils that escape the wet pool; (e) crushed stone will surround the dry well to allow percolation of the stormwater for recharge; (f) dry well discharge will be directed over a vegetated slope that is upgradient of a Class 2 wetland; and (g) severe flooding will be controlled by allowing overflow to discharge from the wet pool via an emergency spillway that leads to a riprap-lined channel. These measures are designed to adequately handle peak storm water flows and provide for stormwater treatment practices and discharge in a controlled manner that will ensure no undue adverse impact on the State's water resources. Murphy supp. pf. at 12, 15-17; exhs. WEC-907a, WEC-907b, WEC-907c.

42. Landfill gas at the generation facility will be chilled to remove the moisture prior to its combustion in the engines. The moisture or condensate will be mixed with the leachate already produced at the Landfill and trucked off-site to water treatment facilities. The condensate pumping mechanism will be designed to handle peak condensate generation from flaring plus the generating operation. Accordingly, the condensate generated from the project will not cause undue water pollution. Murphy pf. at 11-12; exh. WEC-902.

43. There will be no discharge to the groundwater at the generation facility. The generating facility will not have a shower or bathroom facility. Casella's bathroom and shower facilities nearby will be made available to WEC, CCEC, and their agents. Murphy supp. pf. at 4-5. Minor amounts of waste water from plant wash downs will be collected in diked areas designed to hold

lubrication oils and other contaminating liquids. The waste water will be processed in an oil-water separator, and the separated water will be mixed with condensate for further treatment. Oils will be disposed of at a licensed facility. Murphy pf. at 12-13. Therefore, wash-down waste water will not cause an undue adverse impact on water purity or create any undue adverse water pollution. Murphy pf. at 9.

44. A containment system will prevent any undue water pollution in the event oil leaks from the transformer at the step-up substation. A dike around the transformer at the step-up substation foundation will collect any leaking oil. The oil collected by the dike will flow to a precast concrete tank with sufficient volume to contain the entire volume of the oil in the transformer. The tank will also contain an oil-water separator, which will allow water to run off into the existing storm drainage area while retaining any oil that leaks from the transformer or regulators. Crocket pf. at 6-7; exh. WEC-308.

45. There will be minimal contour changes resulting from the expansion of the Irasburg substation. Silt fencing and the existence of sandy soils will prevent sediment from reaching the waters of the State and prevent undue, adverse water pollution. Clapp supp. pf. 3/25/04 at 6; exh. VELCO-818.

46. The transmission line corridor will be primarily roadside. As such, brook crossings as well as the crossing of the Black River will occur where a road or, in some cases, another utility line already crosses. There should be no additional impact to these waterbodies. Furthermore, any additional crossing would not be unduly adverse to the integrity of the brook banks or waters given the minimal stream bank disturbance required for such crossings. Clapp pf. at 11; Clapp supp. pf. 1/28/04 at 4; exhs. WEC-410, WEC-420.

Air Pollution

[10 V.S.A. § 6086(a)(1)]

47. The Coventry Project will not result in undue or unreasonable air pollution because the anticipated net emissions of air contaminants (after accounting for reductions by diverting the equivalent Landfill gas from the Landfill flare to the generating facility) will be within the acceptable limits of the State's Best Achievable Control Technology standards, which will apply to the generating facility. Murphy supp. pf. at 7; exh. WEC-905. A formal Air Quality Permit

application will be prepared and submitted by WEC's contractor selected to build the generation facility. ANR's Air Pollution Control Division has determined that WEC is likely to obtain an Air Quality Permit. Murphy supp. pf. at 8; exh. WEC-906.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

48. The Coventry Project is located within three watersheds: the Black River; Barton River; and Lake Memphremagog. It appears that each of the three watersheds has a drainage area of less than 20 square miles, and that this project would, therefore, involve one or more headwaters regions. Based upon the findings in paragraphs 40-46, above, the Coventry Project will not unduly impact any water resources within these three watersheds. Clapp pf. at 14.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

49. The project as designed will meet the applicable health and environmental conservation regulations regarding the disposal of wastes, and will not involve the injection of waste materials or any harmful toxic substances into ground water or wells. Clapp supp. pf. 3/25/04 at 13-14. This finding is further supported by findings 42 through 44, above.

Water Conservation

[10 V.S.A. § 6086(a)(1)(C)]

50. The Irasburg substation and transmission line will not require a water supply. Clapp pf. at 15. The generation facility will not utilize a significant supply of water. Water demand will be limited given that the generation facility will not have a bathroom or shower facilities. Potable drinking water and non-potable water for the closed-loop engine cooling system will be provided by bottled water supplies and trucked trailers, respectively. Murphy supp. pf. at 6.

Floodways**[10 V.S.A. § 6086(a)(1)(D)]**

51. None of the Project components are located in a 100-year flood boundary or floodplain. Clapp pf. at 16.

Streams**[10 V.S.A. § 6086(a)(1)(E)]**

52. The proposed generation facility and Irasburg substation are not located in close proximity to any streams. The construction of the transmission line will not alter the natural condition of any streams. The following measures will be employed to prevent any adverse impacts caused by the transmission line construction: (a) no poles will be placed within existing stream channels; (b) tree and other vegetation removal from stream banks will be minimized; and (c) there will be no significant enlargement or modification of clearing limits associated with the existing power line corridor crossings on the brooks. Clapp pf. at 16. Accordingly, there will be no undue, adverse impact upon streams caused by the Coventry Project.

Shorelines**[10 V.S.A. § 6086(A)(1)(F)]**

53. There are no shorelines within the vicinity of the Coventry Project, and therefore, there will be no impact on shorelines. Clapp pf. at 17.

Wetlands**[10 V.S.A. § 6086(a)(1)(G)]**

54. The Coventry Project will not create an undue, adverse impact upon wetlands. There is a Class II wetland in the vicinity of the generation facility. The current VEC distribution corridor, which serves the maintenance garage at the Landfill, passes through a Class II wetland. The transmission line from the generation facility will pass through this same corridor. This is an "allowable use" under ANR policy because the transmission line will use the same number of poles of similar size and will not require the corridor to be widened. Clapp supp. pf. 1/28/04 at 4-5. WEC has agreed to replace the respective poles at such time when the earth is frozen or dry

in order to reduce potential impacts to the wetlands. In addition, portions of the stormwater management facilities – a sedimentation basin – will impact the 50-foot buffer of the Class II wetland. However, it will not impact the Class II wetland itself. Accordingly, ANR's Department of Environmental Conservation, Water Quality Division, has determined that a conditional use determination is likely to be issued for the construction of the stormwater management facilities. Clapp supp. pf. 5/7/04 at 5-6; exh. WEC-415.

Sufficiency of Water And Burden on

Existing Water Supply

[10 V.S.A. § 6086(a)(2) & (3)]

55. The Irasburg substation and transmission line will not require a water supply. Clapp pf. at 15. The generation facility will not utilize a significant supply of water. Water demand will be limited given the fact that the generation facility will not have a bathroom or shower facilities. Potable drinking water and non-potable water for the closed-loop engine cooling system will be provided by bottled water supplies and trucked trailers, respectively. Given this modest use of water, the Coventry Project will not place a burden upon any existing water supply. Murphy supp. pf. at 6.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

56. The Coventry Project will not result in unreasonable soil erosion or reduce the ability of the land to hold water. This finding is supported by findings 57 through 62, below.

57. The Landfill is currently regulated by the Vermont Department of Environmental Conservation and its Solid Waste Program. As such, WEC's generation facility will be required to operate in conformity with the erosion control measures required under the Solid Waste Certificate at the Landfill. Murphy pf. at 9; Clapp pf. at 14.

58. An EPSCP to manage soil erosion has been filed with the Vermont Department of Environmental Conservation by Casella, in furtherance of both the Construction General Permit and Storm Water Discharge Permit applications as part of its Phase-IV expansion of the solid

waste facility which includes the construction of the generation facility. Elements of this plan as they related more specifically to stormwater management are set forth in finding 42, above.

59. In addition, the EPSCP manages soil erosion with the following temporary measures during construction: (a) installation of a stone blanket at the construction site entrance; (b) silt fencing at all downgradient locations of the construction work area facing any wetlands and buffer zones; (c) hay bales in areas with suspected high erosion potential, including the area bordering the northern and eastern limits of the construction pad; (d) seeding and mulching of disturbed soil areas that will be exposed for more than 15 days; and (e) planned and sequenced earthwork activities so that stormwater conveyance structures are constructed and stabilized prior to performing the remaining earthwork in areas tributary to the conveyance structures. Murphy supp. pf. at 10-11, 12-13; exhs. WEC-907a, WEC-907b, WEC-907c, WEC-907d.

60. Permanent runoff control measures include the following: (a) establishment of permanent vegetation over disturbed areas that will minimize long-term soil losses due to erosion; (b) modification to the existing detention basin located to the south of the generation facility site to temporarily store and then discharge storm water in a controlled manner; (c) a drainage swale from the detention basin to the proposed wet pool discharge structure; (d) installation of a culvert between the intermediate discharge structure and the wet pool discharge structure; and (e) installation of rip-rap energy-dissipation aprons. Murphy supp. pf. at 11.

61. The expansion of the Irasburg substation will result in minimal contour changes. The relatively flat site, adequate silt fencing, and the presence of sandy soils will prevent sediment from reaching waters of the State. Clapp supp. pf. 3/25/04 at 6; exh. VELCO-818.

62. Construction of the 46 kV transmission line will involve minimal earth disturbance for pole placements. Given the minimal earth disturbance for the line construction, there will be no unreasonable soil erosion. Clapp pf. at 19.

Traffic and Transportation Systems

[10 V.S.A. § 6086(a)(5)]

63. All components of the Coventry Project will be designed not to cause unreasonable congestion or unsafe conditions with respect to use of transportation systems. Clapp pf. at 19-20.

64. The potential impacts upon local roads relate to construction of the Coventry Project's transmission line and will be addressed through the use of a local sheriff to control traffic during construction. Clapp pf. at 20.

65. The Coventry Project will not have an undue adverse impact on the Newport State Airport. The generating facility and transmission lines will be located to the north end and south end of the airport runways. The Vermont Agency of Transportation ("AOT") has determined that the generating facility will not present a danger to aircraft. In addition, AOT has determined that the poles along Airport Road that are located north of runway 23 should not present any concerns. The poles that will cross the southern tip of the airport property near runway 36 may be considered an obstruction that could be remedied with marked lighting. Whether mitigating measures will be needed depends upon an evaluation by the FAA. WEC has submitted an application for this evaluation and expects a response by mid-July. In the event the FAA determines that the proposed poles create an obstruction to the flight path, this can be effectively mitigated with an appropriate lighting protocol (such a protocol would consist of placing 100-watt, steady-state, red bulbs atop the transmission poles that present a hazard – see finding 74). Clapp supp. pf. 5/7/04 at 6-8; exhs. WEC-416a, WEC-416b, WEC-417, WEC-418, WEC-422.

Educational Services

[10 V.S.A. § 6086(a)(6)]

66. The Coventry Project will not adversely impact the local school system or educational services. Clapp pf. at 21.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

67. The Coventry Project will not place an unreasonable burden on the ability of any involved municipalities to provide municipal services. Other than traffic control during construction, which will be provided at WEC's expense, the Coventry Project will not require any municipal or governmental services. Clapp pf. at 21.

**Aesthetics, Historic Sites or Rare
And Irreplaceable Natural Areas**

[10 V.S.A. § 6086(a)(8)]

68. The Coventry Project will not have an undue adverse effect on the scenic or natural beauty, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 69 through 73, below.

69. There are no historic sites or rare and irreplaceable natural areas in the general vicinity of the Coventry Project that will be impacted. Clapp pf. at 29.

70. The generating facility and its step-up substation will be located on a landfill, which is out of visual sight from those passing along Airport Road. Clapp pf. at 25.

71. The transmission lines for the Coventry Project will be set in a surrounding area that can be described as a mix of agricultural and wooded land, with very low density and widely dispersed residential homes. There are electric transmission and distribution lines already in place along roadsides in the vicinity of the proposed project, often traversing cross-country. Existing pole heights vary between 30-50 feet, and most lines are open wire. The proposed transmission line will use wooden poles 40-55 feet high with an open wire design to maintain compatibility with the area. To mitigate against any adverse impact on open areas along Coventry Station Road, lines will be placed on the north side to the extent possible to avoid impacts on the views to the south. Clapp pf. at 23-24.

72. The area surrounding the proposed transmission lines can be generally described as very rural with a limited number of illuminated streets, parking lots, and buildings. One particular exception is the beacon tower located on the Newport State Airport's southern property line that has a 600-watt strobe light. Clapp supp. pf. 5/7/04 at 8.

73. The FAA may require 100-watt bulbs covered by red globes on transmission line poles near the southern property line of the Newport State Airport. However, these poles will be located within a wooded area that should effectively screen any required lights. Clapp pf. at 7, 8-9; exhs. WEC-416B, WEC-419.

Discussion

Based on the above findings, I conclude that this project will not have an undue adverse effect on the aesthetics or scenic and natural beauty of the area. In reaching this conclusion, I have relied on the Environmental Board's methodology for the determination of "undue" adverse effects on aesthetics and scenic and natural beauty as outlined in the so-called Quechee Lakes decision. Quechee Lakes Corporation, #3W0411-EB and 3WO439-EB, dated January 13, 1986.

As required by this decision, it is first appropriate to determine if the impact of the project will be adverse. The project would have an adverse impact on the aesthetics of the area if its design is out of context or not in harmony with the area in which it is located. If it is found that the impact would be adverse, it is then necessary to determine that such an impact would be "undue." Such a finding would be required if the project violates a clear written community standard intended to preserve the aesthetics or scenic beauty of the area, if it would offend the sensibilities of the average person, or if generally available mitigating steps would not be taken to improve the harmony of the project with its surroundings.

Given the facts of this case, I find that the Coventry Project will not have an adverse effect on the aesthetics. The site of the generation facility and the Irasburg substation are either behind existing woods or placed in the midst of a landfill, which screen these facilities from view. The proposed transmission lines will generally fit within the surrounding area.

Even if the transmission lines were determined to have an adverse impact on aesthetics, such an adverse impact would not be undue because there is no written community standard that will be violated, the project will not offend the sensibilities of the average person, and WEC has proposed to take all reasonable available mitigating steps to harmonize or fit the project with the surroundings. The Board's assessment of whether a particular project will have an "undue" adverse effect based on these three standards should be significantly informed by the overall societal benefits of the project.¹

6. Docket 6884, Order of 4/21/04 at 20-21.

Necessary Wildlife Habitat and

Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

74. The Coventry Project will not have an undue, adverse impact on any necessary wildlife habitat and endangered species, as demonstrated by findings 75 through 77, below.

75. The generation facility will not create an undue, adverse impact upon the Class II wetlands nearby the site, as set forth in finding 53, above.

76. To avoid any adverse impacts to the upland sandpiper and the grasshopper sparrow, WEC will not construct its transmission lines during the time period of May 1 through July 15. Clapp supp. pf. 5/7/04 at 5; exh. WEC-414.

77. The construction of the Irasburg substation expansion will impact the endangered plant species *juncus greenei*, located on the east-side of the facility, for which a takings permit will be required. VELCO has applied for the takings permit that proposes to transplant the impacted plants to two large habitats nearby. The Vermont Department of Fish and Wildlife has granted such permit applications under similar circumstances. Clapp supp. pf. 5/7/04 at 4-5; exhs. WEC-413, WEC-421.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

78. The proposed substation will not unnecessarily or unreasonably endanger the public or quasi-public investments in any governmental public utility facilities, services, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of the public's use or enjoyment of or access to such facilities, services, or lands. The project will not impact such facilities, services or lands, except for the Newport State Airport. Clapp pf. at 27. For the reasons set forth in finding 65, there will be no undue, adverse impact upon the public investment in the Newport State Airport.

Consistent With Least Cost Integrated Plan

[30 V.S.A. § 248(b)(6)]

79. The Coventry Project is consistent with WEC's Least-Cost Integrated Plan or Integrated Resource Plan (hereinafter "IRP"), which was filed with the Board in October, 2003, and pending approval in Docket No. 6896. Faryniarz pf. at 35; exh. WEC-102.

80. WEC's participation in the Coventry Project is consistent with the goals of its IRP to improve reliability and efficiency of its power delivery system by replacing facilities that have reached the end of their useful life. Abendroth pf. at 9.

Discussion

No party has put on evidence as to the Coventry Project's consistency with WEC's approved IRP. In October, 2003, WEC filed an IRP with the Board, but, as of this date, it has not been approved by the Board. However, I note that the legislative act creating the Section 248(b)(6) requirement states that the Board may grant a CPG:

for a utility which does not have an approved least cost integrated plan; provided that the board (sic) shall consider in its review under that section those environmental effects which the utility must consider in developing a least cost integrated plan.¹

The Department has filed a letter indicating that it supports approval of the power supply portion of WEC's proposed IRP, which extensively examines the costs and benefits of the Coventry Project. Review of WEC's filed IRP leads me to conclude that the Coventry Project is consistent with the principles of least-cost planning. Consequently, I conclude that there is sufficient information to make a positive finding for this criterion.

Compliance With Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

81. The Coventry Project is consistent with the 20-Year Electric Plan because it will provide affordable, sustainable, safe, and environmentally sound power. Electricity from the Coventry Project is generated from landfill gas, and it will improve the diversity of power

7. P.A. No. 259, § 8 (1992 Vt., Adj. Sess.).

supply resources, which is one of the paramount objectives of the 20-Year Electric Plan. In addition, the Coventry Project will help VEC improve system reliability, consistent with the 20-Year Electric Plan, by replacing distribution lines that are at the end of their useful life and/or relocating distribution lines from an off-road locations to roadside locations. Faryniarz pf. at 40; Abendroth pf. at 9; exh. DSP-1, 202(f) Determination dated May 21, 2004.

Existing Transmission Facilities

[30 V.S.A. § 248(b)(10)]

82. The Coventry Project can be economically served with the planned transmission facilities. The overall cost of the Coventry Project, including the planned transmission facilities, will provide inexpensive and reliable power as explained in finding 29, above. Furthermore, the transmission route chosen by the Coventry Project was the most functional and economical of the various choices available to WEC. Faryniarz pf. at 42-45; Crocket pf. at 8-9; exhs. WEC-102, WEC-301.

83. There will be no undue adverse effect on Vermont utilities or customers. *See* findings 21-31, above.

III. DISCUSSION

The Coventry Project, overall, has significant merit; however, there are two issues that require further discussion and analysis in order to explain why I can recommend that the Board issue a CPG for the Project. The first is the lack of evidence for certain of the environmental criteria under Section 248. The second, related, issue is the financial risk that is imposed upon WEC's customers by proceeding with construction of the Project prior to receiving all necessary permits. These issues are discussed in detail below.

The Stipulation filed in this Docket proposes that the Board issue an order that would allow construction of one component of the project prior to WEC's receipt of all necessary permits for another component of the project. For example, under the Stipulation, WEC could commence site preparation for the generation facility prior to receiving the takings permit necessary to make the necessary improvements at the Irasburg Substation. Commencement of site preparation is conditioned, however, upon the receipt of all permits necessary to commence

construction of the generation facility. The Stipulation further provides that WEC could not install the generators at the site prior to receiving an air quality permit from ANR. This would be a departure from the Board's customary practice in Section 248 cases, although not without Board precedent.¹ WEC claims, and I agree, that such a departure is warranted in this instance.

WEC is currently receiving a significant portion of its power from the New Milford, Connecticut, landfill gas generator. This contract is set to expire on December 31, 2004. If the Coventry Project is not on-line prior to this date, WEC will need to obtain significant amounts of power through the market. Such action is likely to incur significant costs for WEC ratepayers.¹

At the same time, the approach requested in the Stipulation also exposes WEC customers to some financial risk. It is possible that WEC could finish site construction and not receive the air quality permit or the takings permit. If that were to occur, WEC ratepayers could be faced with stranded costs. The Board has approved such arrangements previously, although only for investor-owned utilities.¹ This distinction is important because, while with an investor-owned utility, stranded costs would be borne by its shareholders rather than ratepayers, no such protection exists for ratepayers of an electric cooperative. I raised this issue in a memorandum to the parties, dated May 20, 2004. WEC's response pointed out that, pursuant to 30 V.S.A. § 248(c), WEC is required to obtain a vote from its membership, at a duly warned meeting, prior to construction. Therefore, WEC members will decide collectively, through a democratic process, whether to incur this financial risk. I am persuaded by WEC's arguments to the extent that WEC members are fully informed of the financial risks inherent in proceeding with construction prior to obtaining the necessary permits.¹ Avram Patt, the general manager of WEC, has agreed to explicitly note this risk in the warning for the meeting.¹ WEC will submit proposed language on this issue to the Department and the Board for review prior to mailing to its members.

WEC has failed to provide sufficient evidence to make positive findings for two criteria

8. See Docket 5323, Order of 9/26/89; Docket 6792, Order of 7/17/03 at 35-39.

9. Memorandum in Support of WEC's Request for a Conditional Certificate of Public Good, June 1, 2004, at 8-9.

10. Docket 5323, Order of 9/26/89 at 52.

11. For a thorough discussion on Section 248(c), and more specifically, the importance of the democratic process in utility customer's acceptance of risks, see Docket 5330-D, Order of 3/1/91.

12. Tr. 6/2/04 at 44-45.

of Section 248 — impact on wetlands, and impact on wildlife. Rather than presenting affirmative evidence that there will be no impacts under these criteria, WEC relies on the opinions of ANR personnel that permits are likely to be issued. In a recent Order, the Board stated:

[if an] applicant's design is not sufficiently complete to allow the Board to make affirmative findings on each of the statutory criteria . . . a certificate could be issued, but it would not authorize site preparation and construction until the applicant presented adequate evidence on each statutory criterion and parties and the public have a reasonable opportunity to respond to the new information. While this practice may be within the Board's discretion under *In re Velco* [131 Vt. 427, 1973], we cannot see what practical value it would offer to the Petitioners, and it clearly creates some uncertainty for the public. Thus, in those circumstances, we conclude that, after the petitioner files the necessary additional site-specific evidence, other parties must have an opportunity to review it and may seek further hearings *if* the new information presents genuine issues of material fact. However, because of the evidentiary concerns expressed above and the need for fairness, we will issue such conditional certificates only in extraordinary circumstances.¹

Given the specific circumstances presented in this Docket, I conclude that such a conditional certificate should be issued for the Coventry Project. The Stipulation provides that the petitioners will not commence construction of any specific portion of the Project prior to receiving the necessary permits. The Stipulation further provides that parties must have a chance to review and comment upon the permits once they are issued. WEC faces a potentially significant financial exposure if a CPG is not issued soon by the Board. Additionally, no party opposes any component of the Project and the agency that would issue the necessary permits has indicated that it is likely that the requisite permits will be granted.

For these reasons, I conclude that there is sufficient justification for the Board to authorize a conditional CPG, and further conclude that the Stipulation sufficiently ensures that site preparation or construction will not commence prior to receipt of all the necessary permits.

IV. CONCLUSION

13. Docket 6792, Order of 7/17/03 at 37-38 (citations omitted).

Based upon the evidence in the record, I conclude that the Board should approve the Stipulation filed on May 19, 2004, and issue a conditional CPG for construction of WEC's Coventry Project with the conditions set forth in the attached proposed Order.

Th parties have waived the issuance of a proposal for decision pursuant to 3. V.S.A. § 811.

Dated at Montpelier, Vermont, this 4th day of June, 2004.

s/ Edward McNamara

Edward McNamara, Esq
Hearing Officer

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings, conclusions, and recommendations of the Hearing Officer are adopted.
2. Construction of the Petitioners' Coventry Project will promote the general good of the State of Vermont, and a conditional certificate of public good to that effect shall be issued.
3. The Stipulation filed by the parties on May 19, 2004, is accepted and approved. Compliance with all terms of the Stipulation is required.
4. Construction shall be in accordance with the plans as submitted in these proceedings. Any material deviation from these plans must be approved by the Board.
5. WEC must obtain all necessary permits and comply with any conditions that the permits might contain.
6. WEC must file all permits necessary for the Project with the Board, upon receipt.
7. In the event that a necessary permit application is denied, Petitioners must notify the Board within 24 hours after receiving such a denial.
8. Site preparation and construction of the generation facility may commence after Petitioners receives the necessary conditional use determination and stormwater permits, but prior to the issuance and filing of the Air Quality Permit, Endangered Species Takings Permit, and FAA determination. However, the engine generators may not be installed until such time that an Air Quality Permit is issued and filed with the Board.
9. Improvements at the Irasburg Substation may not commence until the Endangered Species Permit is received, but the construction (but not operation) may commence prior to the issuance and filing of the Air Quality Permit.
10. Construction of the transmission line may commence prior to the issuance and filing of the Air Quality Permit, but no earlier than July 15, 2004. WEC and VEC shall have up to twelve months from the issuance of the CPG to complete the underbuild.
11. WEC shall submit proposed language concerning the financial risk to WEC members of proceeding with construction prior to obtaining all necessary permits with the Board and the Department for review prior to mailing to its members.

12. This CPG shall become fully effective upon satisfaction of all the conditions listed above.

Dated at Montpelier, Vermont, this 4th day of June, 2004.

<u>s/ Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT

s/ John D. Burke)

OFFICE OF THE CLERK

FILED: June 4, 2004

ATTEST: s/ Susan M. Hudson
Clerk of the Board

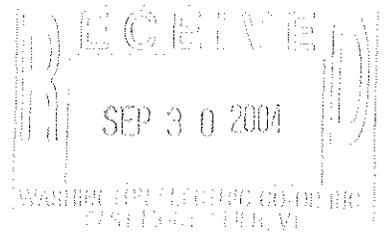
NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

DIAMOND & ROBINSON, P.C.

ATTORNEYS AT LAW

MONTPELIER AND NEWPORT, VERMONT
www.diamond-robinson.com



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P.O. BOX 1460
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TEL. (802) 223-6166
FAX (802) 229-4457

Joshua R. Diamond, Esquire
E-mail: jrd@diamond-robinson.com

September 28, 2004

Susan M. Hudson, Clerk of the Board
Vermont Public Service Board
112 State Street
P.O. Drawer 20
Montpelier, Vermont 05620-2701

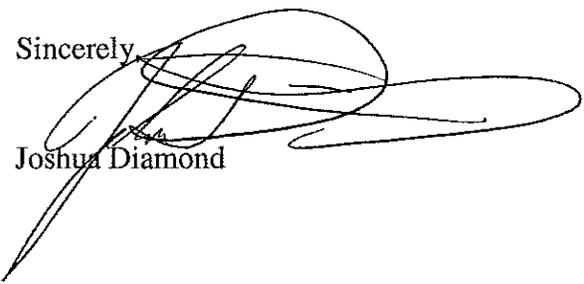
Re: PSB Docket No. 6925.

Dear Ms. Hudson:

Pursuant to the Vermont Public Service Board's Order in the Docket referenced above, please find the enclosed FAA Determinations for poles around the Coventry Airport.

Specifically, these FAA Determinations are for poles 3, 4, 5, 6, 7, & 8 that are located south of the airport. The FAA is no longer requiring marking or lighting for these poles. These FAA Determinations supercede the previous filing on or about August 31, 2004, which originally required marking and lighting.

Sincerely,


Joshua Diamond

cc: WEC
Service List

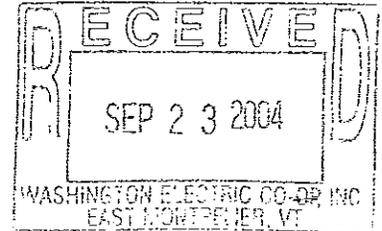


Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-918-OE
Prior Study No.
2004-ANE-686-OE

Issued Date: 9/20/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651



**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWERLINE PP3
Location: NEWPORT, VT
Latitude: 44-52-31.73 NAD 83
Longitude: 72-13-15.28
Heights: 34 feet above ground level (AGL)
987 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K.

This determination expires on 3/20/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7523. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-918-OE.

Signature Control No: 392376-311546

(DNE)

James Powers
Specialist

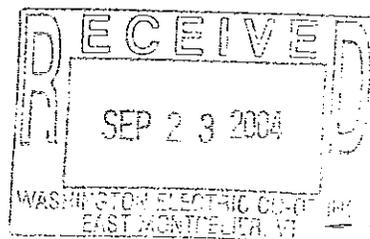


Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-919-OE
Prior Study No.
2004-ANE-562-OE

Issued Date: 9/20/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651



**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWERLINE PP4
Location: NEWPORT, VT
Latitude: 44-52-30.8 NAD 83
Longitude: 72-13-12.43
Heights: 34 feet above ground level (AGL)
994 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K.

This determination expires on 3/20/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7523. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-919-OE.

Signature Control No: 392378-311548

(DNE)

James Powers
Specialist

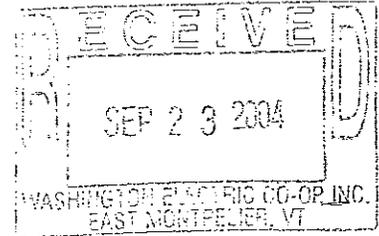


Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-920-OE
Prior Study No.
2004-ANE-563-OE

Issued Date: 9/20/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651



**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWERLINE PP5
Location: NEWPORT, VT
Latitude: 44-52-29.79 NAD 83
Longitude: 72-13-9.47
Heights: 34 feet above ground level (AGL)
1021 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K.

This determination expires on 3/20/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7523. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-920-OE.

Signature Control No: 392379-311552

(DNE)

James Powers
Specialist

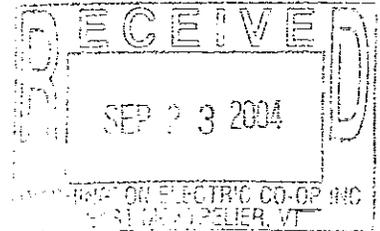


Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-921-OE
Prior Study No.
2004-ANE-564-OE

Issued Date: 9/20/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651



**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWERLINE PP6
Location: NEWPORT, VT
Latitude: 44-52-28.68 NAD 83
Longitude: 72-13-6.26
Heights: 34 feet above ground level (AGL)
1032 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K.

This determination expires on 3/20/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

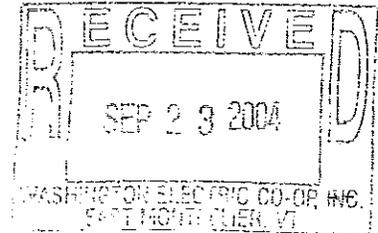


Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-922-OE
Prior Study No.
2004-ANE-565-OE

Issued Date: 9/20/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651



**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWERLINE PP7
Location: NEWPORT, VT
Latitude: 44-52-27.73 NAD 83
Longitude: 72-13-3.43
Heights: 34 feet above ground level (AGL)
1024 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K.

This determination expires on 3/20/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7523. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-922-OE.

Signature Control No: 392381-311556

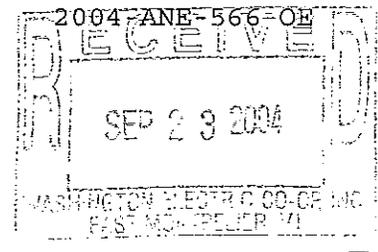
(DNE)

James Powers
Specialist



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-924-OE
Prior Study No.



Issued Date: 9/20/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWERLINE PP8
Location: NEWPORT, VT
Latitude: 44-52-28.92 NAD 83
Longitude: 72-13-1.27
Heights: 34 feet above ground level (AGL)
1013 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking and/or lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K.

This determination expires on 3/20/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

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A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7523. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-924-OE.

Signature Control No: 392383-311558

James Powers
Specialist

(DNE)

DIAMOND & ROBINSON, P.C.

ATTORNEYS AT LAW

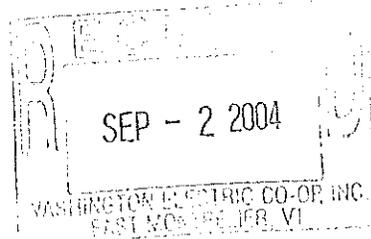
MONTPELIER AND NEWPORT, VERMONT
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P.O. BOX 1460
MONTPELIER, VERMONT 05601-1460
TEL. (802) 223-6166
FAX (802) 229-4457

Joshua R. Diamond, Esquire
E-mail: jrd@diamond-robinson.com

August 31, 2004

Susan M. Hudson, Clerk of the Board
Vermont Public Service Board
112 State Street
P.O. Drawer 20
Montpelier, Vermont 05620-2701



Re: PSB Docket No. 6925

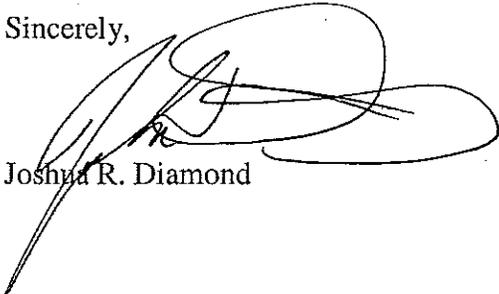
Dear Ms. Hudson:

Pursuant to the Vermont Public Service Board's Order in the Docket referenced above, please find the enclosed FAA Determinations regarding poles around the Coventry Airport.

FAA Determinations for Power Poles 86 87 and 88 reflect utility poles located north of the airport. FAA Determinations for Power Poles 3, 4, 5, 6, 7, and 8 reflect utility poles located south of the airport. The Washington Electric Cooperative, Inc. ("WEC") intends to comply with the lighting requirements required by the determinations

It is noted that WEC has requested reconsideration of the FAA Determinations for Power Poles 3 through 8 based upon updated elevation data showing that poles would be less obtrusive. The FAA might not require the lighting for these respective poles given this new data. WEC will share any changed results with the Public Service Board upon receipt.

Sincerely,


Joshua R. Diamond

Enclosure
cc: WEC
Service List



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-686-OE
Prior Study No.
2004-ANE-561-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 3
Location: NEWPORT, VT
Latitude: 44-52-31.73 NAD 83
Longitude: 72-13-15.28
Heights: 39 feet above ground level (AGL)
992 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), &12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office ~~any time the project is abandoned or:~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept appraised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-686-OE
Prior Study No.
2004-ANE-561-OE

Issued Date: 7/16/2004

AVRAM PAFT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 3
Location: NEWPORT, VT
Latitude: 44-52-31.73 NAD 83
Longitude: 72-13-15.28
Heights: 39 feet above ground level (AGL)
992 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office ~~any time the project is abandoned or~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

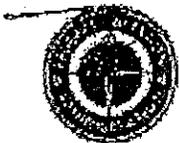
X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-562-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 4
Location: NEWPORT, VT
Latitude: 44-52-30.8 NAD 83
Longitude: 72-13-12.43
Heights: 39 feet above ground level (AGL)
999 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5(Red), &12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office ~~any time the project is abandoned or~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination is subject to review if an interested party files a petition on or before 8/15/2004. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, Airspace and Rules Branch - ATO-R, Federal Aviation Administration, 800 Independence Ave. Rm. 423, Washington, D.C. 20591.

This determination becomes final on 8/25/2004 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.



Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT. 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 6
Location: NEWPORT, VT
Latitude: 44-52-28.68 NAD 83
Longitude: 72-13-6.26
Heights: 39 feet above ground level (AGL)
1037 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure could not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5(Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or:~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept appraised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-565-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 7
Location: NEWPORT, VT
Latitude: 44-52-27.73 NAD 83
Longitude: 72-13-3.43
Heights: 39 feet above ground level (AGL)
1029 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure could not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4, 5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or:~~

 At least 10 days prior to start of construction
(7460-2, Part I)

 Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-566-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 8
Location: NEWPORT, VT
Latitude: 44-52-28.92 NAD 83
Longitude: 72-13-1.27
Heights: 39 feet above ground level (AGL)
1018 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or:~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of

Issued Date: 7/1/2004

AVRAM PATT
WASHINGTON ELECTRIC CORPORATION
P.O. BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: Pole #86
Location: COVENTRY, VT
Latitude: 44-53-46.18 NAD 83
Longitude: 72-13-31.32
Heights: 39 feet above ground level (AGL)
952 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does exceed obstruction standards but would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4, 5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

NA At least 10 days prior to start of construction
(7460-2, Part I).

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional information.

This determination expires on 1/1/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION

BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7525. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-705-OE.

Signature Control No: 387595-287798

(EBO)

Angel Cases
Specialist

Attachment(s)
Additional Information

7460-2 Attached



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

T. Clapp
Aeronautical Study No.
2004-ANE-705-OE
Prior Study No.
2004-ANE-487-OE



Federal Aviation Administration
 New England Regional Office
 12 New England Executive Park-ANE-520
 Burlington, MA 01803

Aeronautical Study No.
 2004-ANE-702-OE
 Prior Study No.
 2004-ANE-485-OE

Issued Date: 7/1/2004

AVRAM PATT
 WASHINGTON ELECTRIC CORPORATION
 P.O. BOX 8
 EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POLE #88
 Location: COVENTRY, VT
 Latitude: 44-53-39.25 NAD 83
 Longitude: 72-13-30.92
 Heights: 43 feet above ground level (AGL)
 949 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does exceed obstruction standards but would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

At least 10 days prior to start of construction
 (7460-2, Part I)

Within 5 days after the construction reaches its greatest height
 (7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional information.

This determination expires on 1/1/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION

MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7525. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-702-OE.

Signature Control No: 387539-287796

(EBO)

Angel Cases
Specialist

Attachment(s)
Additional Information

7460-2 Attached



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-714-OE
Prior Study No.
2004-ANE-486-OE

Issued Date: 7/1/2004

AVRAM PATT
WASHINGTON ELECTRIC CORPORATION
P.O. BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: Pole #87
Location: COVENTRY, VT
Latitude: 44-53-42.68 NAD 83
Longitude: 72-13-31.13
Heights: 43 feet above ground level (AGL)
948 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does exceed obstruction standards but would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

At least 10 days prior to start of construction
(7460-2, Part I)

Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept appraised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional information.

This determination expires on 1/1/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION

ST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (781)238-7525. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2004-ANE-714-OE.

Signature Control No: 387794-287815

(EBO)

Angel Cases
Specialist

Attachment(s)
Additional Information
Frequency Data

7460-2 Attached



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-562-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 4
Location: NEWPORT, VT
Latitude: 44-52-30.8 NAD 83
Longitude: 72-13-12.43
Heights: 39 feet above ground level (AGL)
999 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4, 5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office ~~any time the project is abandoned or~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination is subject to review if an interested party files a petition on or before 8/15/2004. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, Airspace and Rules Branch - ATO-R, Federal Aviation Administration, 800 Independence Ave. Rm. 423, Washington, D.C. 20591.

This determination becomes final on 8/25/2004 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.



FEDERAL AVIATION ADMINISTRATION
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-563-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 5
Location: NEWPORT, VT
Latitude: 44-52-29.79 NAD 83
Longitude: 72-13-9.47
Heights: 39 feet above ground level (AGL)
1026 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is (are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4, 5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or:~~

At least 10 days prior to start of construction
(7460-2, Part I)

Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Federal Aviation Administration
New England Regional Office
12 New England Executive Park-ANE-520
Burlington, MA 01803

Aeronautical Study No.
2004-ANE-564-OE

Issued Date: 7/16/2004

AVRAM PATT
WASHINGTON ELECTRIC COOPERATIVE
PO BOX 8
EAST MONTPELIER, VT. 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 6
Location: NEWPORT, VT
Latitude: 44-52-28.68 NAD 83
Longitude: 72-13-6.26
Heights: 39 feet above ground level (AGL)
1037 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or~~

N/A At least 10 days prior to start of construction
(7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
(7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept apprised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Federal Aviation Administration
 New England Regional Office
 12 New England Executive Park-ANE-520
 Burlington, MA 01803

Aeronautical Study No.
 2004-ANE-S65-OE

Issued Date: 7/16/2004

AVRAM PATT
 WASHINGTON ELECTRIC COOPERATIVE
 PO BOX 8
 EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 7
 Location: NEWPORT, VT
 Latitude: 44-52-27.73 NAD 83
 Longitude: 72-13-3.43
 Heights: 39 feet above ground level (AGL)
 1029 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4, 5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or:~~

 At least 10 days prior to start of construction
 (7460-2, Part I)

 X Within 5 days after the construction reaches its greatest height
 (7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept appraised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
- (b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of



Issued Date: 7/16/2004

AVRAM PATT
 WASHINGTON ELECTRIC COOPERATIVE
 PO BOX 8
 EAST MONTPELIER, VT 05651

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has completed an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, if applicable, Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure Type: POWER POLE 8
 Location: NEWPORT, VT
 Latitude: 44-52-28.92 NAD 83
 Longitude: 72-13-1.27
 Heights: 39 feet above ground level (AGL)
 1018 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure should be marked and/or lighted in accordance with FAA Advisory Circular 70/7460-1 AC 70/7460-1K, Obstruction Marking and Lighting, red lights - Chapters 4,5 (Red), & 12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office, ~~any time the project is abandoned or:~~

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 (7460-2, Part I)

X Within 5 days after the construction reaches its greatest height
 (7460-2, Part II)

As a result of this structure being critical to flight safety, it is required that the FAA be kept appraised as to the status of the project. Failure to respond to periodic FAA inquiries could invalidate this determination.

See attachment for additional condition(s) or information.

This determination expires on 1/16/2006 unless:

- (a) extended, revised or terminated by the issuing office.
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**STATE OF VERMONT
ENVIRONMENTAL BOARD
DISTRICT ENVIRONMENTAL COMMISSION #7**

RE: New England Waste Services of Vermont, Inc.
PO Box 866
Rutland, VT 05701

Application #7R0841-8
**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AND ORDER**
10 V.S.A., §§ 6001 - 6092

I. INTRODUCTION

On November 7, 2003, NEWSVT filed an application for an Act 250 land use permit amendment for a project described as construction of Phase IV which will allow continuing operation at the Company's double-lined landfill, including staged development of an additional 44.5 acres of double-lined landfill with leachate collection facilities, perimeter access road, double-lined steel, above ground leachate storage tank, visual berm and stockpiling of excess soil. The project is located on Airport Road in the town of Coventry, Vermont.

The tract of land consists of 965 acres with 44.5 acres involved in the project area. The Applicant's legal interest in the property is ownership in fee simple.

The District Commission, in issuing this land use permit amendment, has relied on the facts which are contained in the documents on file identified as Exhibits 1 through 63 and the evidence received at a Pre-hearing Conference held on December 23, 2003, a site visit, and hearings held on February 19, 2004, March 18, 2004, and April 6, 2004. The hearing was finally adjourned on November 8, 2004, with the conclusion of Commission deliberations.

II. SUMMARY AND INTRODUCTORY FINDINGS

With the issuance of these Act 250 findings the District 7 Commission concludes its one year review of New England Waste Services of Vermont, Inc.'s (NEWSVT) application to expand the Coventry landfill. We have greatly appreciated the patience and efforts of the Applicant and the assistance and healthy scrutiny of the MRC of Memphremagog (MRC), which served as the sole non-applicant, and non-statutory party to the review and proceedings.

We note that this is the first time in an Act 250 proceeding that a Canadian entity has participated as a party to an application review. Such participation has been appropriate given the significant interest that Quebec shares with Vermont in protecting the long-term health and environmental security of Lake Memphremagog.

To quote directly from an MRC filing on June 18, 2004, "The need to protect Lake Memphremagog from potential sources of pollution cannot be overstated, given its importance to the U.S. and Canada as a highly-valued natural resource, a recreational/tourist destination and a drinking water supply for approximately 150,000 people."

After considerable analysis, all parties to this application appear to agree that NEWSVT (the Applicant) has designed a "state of the art" disposal facility. The project site is situated between Lake Memphremagog and the Black River which discharges into the lake. The proximity of the landfill to these water bodies has raised concern. However, the comprehensive design of this double-lined "dry tomb" facility combined with the naturally protective role played by the deep and pervasive clay soils beneath and surrounding the project cells, render this landfill a "low risk" facility. To date there is no evidence that the existing landfill facility has, in any way, impacted the water quality of the Memphremagog basin. However, a low risk facility is not a no-risk facility. The MRC /City of Sherbrooke analysis of the existing and planned facilities (The Teknika Report) states that their "...analysis demonstrates that the existence and operation of the Coventry landfill, as regulated and authorized by the State of Vermont, does not constitute an unacceptable risk to the public health or the Lake Memphremagog ecosystem, **provided that the NEWSVT operates the landfill in compliance with all applicable permit and regulatory provisions.**" (emphasis added)

Thus, once a determination was reached that the landfill design and infrastructure were appropriate, most analysis and inquiry focused upon facility monitoring, maintenance, oversight, management, and long-term landfill security funding. Long term landfill security funding is the necessary, prudent financial guarantee of easily available landfill maintenance and repair funds that, in our opinion, must be available more than thirty years after the facility has been closed and capped. Throughout this document we refer to such a longer term landfill security fund as the "Post-Post-Closure Trust Fund" or "the Fund". Readers should keep in mind that separate and distinct financial mechanisms (insurance bonds) required by the State of Vermont Solid Waste Program and the EPA presently provide funding availability insurance for the first 30 years (post-closure) following landfill closure. This funding is not proposed to be changed though we are reserving the right to continue to examine the adequacy of this shorter-term, post-closure funding. By contrast, the Post-Post-Closure Fund is something we think is essential to cover the years that follow the initial 30 year post-closure period.

Post-Post-Closure funds are essential and must be available for an indefinite period of time because there is no definitive time period beyond which this landfill can be declared permanently and unequivocally stabilized. The Commission has been persuaded by the MRC's arguments that the most reliable form of security is a permanent fund that cannot be compromised by changes in ownership, the market, solvency, bankruptcy or other unplanned events that can jeopardize other, less failsafe, forms of security.

It is this District Commission's finding that the proposed facility can safely serve Vermont's waste disposal needs only if monitoring and oversight is enhanced and only if a long-term post-post-closure fund is created and adequately funded. The need for such a fund was well documented in the Teknika Report prepared on behalf of the MRC and the City of Sherbrooke.

Our key findings and conclusions outlined below address, among other things, the concerns and recommendations outlined in the MRC's final position paper dated June 18, 2004. We believe that closely following the MRC outline here is an appropriate approach given that the issues covered in the MRC position paper were central to our review.

It should be noted that a majority of the conclusions reached and strategies adopted herein were arrived at through the cooperative working relationship established between the Applicant and their engineering and hydro-geologic consultants and the MRC and their engineering consultants. Many of the conditions of the Permit were reached as a result of cooperative study, analysis and informal negotiations.

Introductory Findings: a thru m

- a. The applicant has not requested and the Commission has not considered testimony or other information on the impact of treating and discharging landfill leachate at treatment facilities within the watershed area of Lake Memphremagog. Therefore, such discharge is prohibited without further review and hearing by this Commission. MRC's rights to participate in any future review of this matter shall be fully preserved.
- b. The unlined landfill cells (the so-called Nadeau cells that pre-date the Applicant's ownership of the Coventry facility) pose an unacceptable degree of risk to the Lake Memphremagog watershed. These unlined cells must be moved into the new lined cells. An application to accomplish this goal will need to be submitted to the Commission within six months of issuance of the Phase IV Land Use Permit considered herein.
- c. The District Commission finds that the present post-closure (first 30 years following closure) bonding limits and funding availability guarantees for the Coventry facility may not be adequate given the lack of long term performance and maintenance data on landfills. The Commission will retain jurisdiction over post-closure funding, security and financial guarantees and will further reserve the right to examine this issue in tandem with our continuing review of the post-post- closure (period after the first 30 years following closure) funding.
- d. The District Commission finds that the applicant's project could pose a risk to the Lake Memphremagog watershed because landfills, wherever they exist, pose water quality risks. The facility considered herein is well designed. Its engineering has benefitted from all the lined landfills that have come before it. Yet, there are no guarantees. The Teknika Report documents the potential risks and the potential for facility failure that all landfills are, today, designed to avoid. However, there is no long term data for the District

Commission to rely upon regarding the life expectancy of the liner. There are no guarantees that the under-drain system will always function as designed, that the liner won't tear, that equipment operators won't make mistakes, that the cap won't breach and that the dry tomb won't become saturated more than 30 years after closure. To be able to make positive findings in the area of water quality protection, the District Commission will require long term financial safeguards designed to guarantee protection of the general environment and the Lake Memphremagog basin in particular. Therefore, a trust fund must be established for the so-called post-post-closure period (beyond 30 years). The Commission shall require, as a condition of this permit, that upon the opening of Phase IV for receipt of solid waste, the Applicant shall contribute \$1.00 (one dollar) United States currency, per ton of waste accepted thru the facility gate, which amount shall be deposited into an approved post-post-closure trust fund. This fund shall be managed and utilized in accordance with directions outlined later in these findings, and in accordance with any additional directions provided by the commission. The District Commission shall retain continuing jurisdiction over all aspects of the Post-Post-Closure Fund, its development, establishment, management and over ultimate use and dissemination of its funds.

- e. The MRC has demonstrated that both they and the City of Sherbrooke, have a direct interest in the operational success of the NEWSVT landfill. Applicants will provide the MRC and the City of Sherbrooke with all of the analytical data and other environmental testing results concurrently with their required data submissions to the Vermont Agency of Natural Resources.
- f. A landfill oversight committee shall be established and shall serve as an independent observer and monitor of landfill operations. The group will function, in part, for the purpose of independently reporting on landfill operations and activities and will have direct access to the District Commission through the District Coordinator. The group will have access to all data, reports, monitoring results and other information generated under the requirements of this and other state and federal permits. This group will have both Canadian and US representation. (See further description and findings under Criteria 1B Findings of Fact)
- g. The District Commission recognizes that there is a further need for close monitoring by an independent engineer during critical periods of landfill cell development, including, but not limited to the installation and sealing of the liner, grading of protective sand layers and the during installation of leachate collection systems. The Commission shall require that an independent licensed professional engineer, responsible to the Commission, be present on site during the installation of the leachate collection system(s) and landfill liner as well as at other times when attention to engineering detail and

standards is critical. Applicants will be required to provide the funds necessary to such additional, independent engineering oversight.

- h. We are requiring new, additional, expanded ground water monitoring and the installation of new monitoring wells in accordance with a plan jointly developed by the Vermont ANR and the Applicant's hydro-geologic consultants.
- i. The Commission believes that aggressive 24hour per day, motion sensitive video monitoring of the landfill facility will contribute to the long-term safety of the watershed. The Commission will require that, prior to disposal of waste into a Phase IV cell, applicants will submit a video monitoring plan designed to cover all operations and landfill facilities on a 24 hour a day basis. Such monitoring data will be made available to all state and federal monitoring agencies, the District Commission and the newly formed Canadian-US representative oversight committee discussed elsewhere in these findings. The District Commission will retain jurisdiction over this matter until such time as a formal video monitoring plan is approved and fully operational.
- j. There is a need for an increased Agency of Natural Resources (ANR) on-site monitoring presence. The Commission will require the Applicant to work, in concert with ANR, to address the need for improved state agency oversight through a more regular and clearly defined on-site presence. The Commission will retain jurisdiction over this matter and will direct the District Coordinator to work with both parties to explore this issue and report back to the Commission prior to the opening of Phase IV for receipt of waste.
- k. Landfill sustainability issues (related to Act 250 criteria 1B, 9B, 9F and 9K) have not been fully explored. Sustainability practices are key to promoting responsible use and re-use of waste resources, generating energy from waste and preserving the life of landfills thru recycling, composting, energy conversion and creative use of the waste stream. The Commission will require the applicant to submit a report, prepared by a consultant with expertise in landfill sustainability issues, evaluating the potential for expansion of the serviceable life of Phase IV thru sustainability practices not now employed at the Coventry facility. The Commission will retain jurisdiction over this matter. This report must be submitted for Commission review within 2 years of the issuance of these findings and related permit.
- l. The Commission views the landfill as a work in progress. Because of the inherent risks of depositing much of the State's trash onto one single Northeast Kingdom tract of land, this project, through the various regulatory processes, is as much a public partnership as it is a privately owned business. We hope our findings reflect our belief that, no matter how well designed, this landfill is only as good as its management, oversight and security.

This is not a criticism of NEWSVT but a recognition of the nature of the business. Because we find that there is more study, evaluation and work to be done in several key areas related to the long-term well being of the region, the Commission is retaining jurisdiction over the facility, particularly in regard to the critical areas of monitoring, oversight, management practices, and financial responsibility beyond the eventual closure of this facility.

- m. The above finding put another way, the Commission finds that the Applicant has put forward a well designed project. Protection of the long-term health of the watershed will be accomplished through continued cooperation in regard to increased oversight, improved monitoring, improved landfill sustainability, protection of existing cells, the creation of a post-post-closure trust fund and adherence to the terms and conditions of this and other State and Federal permits, regulations and requirements.

III. JURISDICTION

Jurisdiction attaches because the project is a substantial change to a pre-existing development and thus constitutes "development" pursuant to Board Rule 2(A)(5).

IV. PARTY STATUS

A. Preliminary Party Status Determinations

Parties to this application who attended the hearing are:

1. The Applicant by John Ponsetto, Esq. and others.
2. The Town of Coventry as a Statutory Party.
3. The State of Vermont Agency of Natural Resources (ANR) by Elizabeth Lord, Land Use Attorney, through an entry of appearance filed with the District Commission.

The following persons or entities were admitted as parties, as indicated, pursuant to Environmental Board Rule 14(B):

4. MRC under Criteria 1, 2 and 3 as relates to the protection of water quality in Lake Memphremagog. (background on the party status of the MRC is detailed in two separate Commission rulings issued as Hearing Recess Orders and Memorandum.)

B. Final Party Status Determinations

Pursuant to 10 V.S.A. §6085(c)(2) and Board Rule 14(F), the District Commission made preliminary determinations concerning party status at the commencement of the hearing on this application. Prior to the completion of deliberations, the District Commission re-examined the preliminary party status determinations and found that the parties continue to qualify under the relevant criteria as stated above.

PROJECT DESCRIPTION

- i. NEWSVT has filed an application for a land use permit amendment to construct a 44.5(±) acre Phase IV extension of the Company's double-lined landfill located on Airport Road in Coventry, Vermont.
- ii. The Phase IV project will include the staged construction (4 cells) of a 44.5(±) acre double-lined landfill, leachate collection facilities, approximately 10,850 feet of perimeter access road, stormwater management facilities, stockpiling of excess soil on the abutting St. Onge farm, 550,000 gallon steel above ground double-lined storage tank, and a visual berm.
- iii. NEWSVT's property on Airport Road is the site of old unlined landfills (referred to as areas "A" and "B") which have been closed and capped, and double-lined landfill Phases I, II, and III. Phases I, II, and III have been permitted by the District Commission. NEWSVT is currently permitted to dispose of up to 240,000 tons of solid waste per year at the landfill and has submitted a separate November 8, 2004 amendment application to increase the annual limit to 370,000 tons per year.
- iv. In addition to the Act 250 Land Use Permit Amendment, the Phase IV landfill will also be regulated under the Agency of Natural Resources ("ANR") Solid Waste Management Facility Certification, Wastewater System and Potable Water Supply Permit, Air Pollution Control Permit, Wetland Conditional Use Determination, Stormwater Discharge Permit, Construction General Permit, and Pretreatment Discharge Permit. Phase IV is also subject to discharge permits which regulate leachate disposal at the Concord, New Hampshire, Plattsburgh, New York, and Burlington and Montpelier, Vermont wastewater treatment facilities.
- v. NEWSVT has applied to the Vermont Solid Waste and Air Quality Variance Board for a variance from the Solid Waste Regulations 300' setback to waters of the state, which include wetlands. The variance would allow NEWSVT to construct Phase IV 210' from wetlands to the west and 75' from wetlands to the east of Phase IV. NEWSVT has

requested a condition of permit that would allow construction of the variance provided that it is approved by the Variance Board.

- vi. Granting of the variance would extend the life of Phase IV 3.3 years at 240,000 tpy disposal rate, from 18.3 years to 21.6 years; and 2.2 years at the 370,000 tpy disposal rate, from 11.8 years to 14.0 years.
- vii. The NEWSVT landfill site has a long history of use as a solid waste storage site. Beginning in the 1970s, the site has been used as an unlined dump and junk car disposal site. It has also been used as an automobile race track.
- viii. NEWSVT is a wholly-owned subsidiary of Casella Waste Systems, Inc. ("CWS"). CWS through its subsidiaries operates solid waste facilities in Vermont and 19 other states. The facilities include 7 lined landfills, 37 collection operations, 33 transfer stations, 37 recycling facilities, and one waste-to-energy facility. (Lackey Testimony, 2/19/04).

Under Act 250, projects are reviewed based on the 10 criteria of 10 V.S.A., Section 6086(a) (1)-(10). Before granting a permit, the District Commission must find that the project complies with these criteria and is not detrimental to the public health, safety or general welfare.

V. FINDINGS OF FACT

SECTION 6086(a)(1) AIR POLLUTION:

1. The potential sources of air pollution at a landfill such as Phase IV are landfill gasses, dust, and noise.
2. The landfill gasses produced in Phases I, II, and III are collected and destroyed by an active gas collection system which was installed in 1998. Gas is collected and delivered to a flare which combusts the gas with a destruction rate of efficiency of at least 98 percent.
3. The gas collection system was expanded in 2001 and 2003 as the volume of waste disposed increased. The system will be expanded on an ongoing basis to include the proposed Phase IV.
4. NEWSVT is engaged in a gas-to-energy project in cooperation with the Washington Electric Cooperative (WEC). The project is subject to Public Service Board jurisdiction under § 248.

5. NEWSVT's application to ANR for the Air Pollution Control Permit required to operate the landfill including Phase IV is currently under review.(Adams Testimony, 2/19/04.)
6. Dust is and will be controlled during construction and operation of Phase IV and the stockpiling of soil on the St. Onge property by the application of water distributed by a dedicated water truck, application of sodium chloride, and proper maintenance of vegetated areas and gravel surface roads.
7. Sound level measurements at nearby residential areas demonstrate that sound generated by landfill equipment is at low levels similar to background sound levels in the area and well below EPA's 70 dba lifetime health exposure limit. (Adams Testimony, 2/19/04).
8. Hours of operation under Phase IV will remain unchanged. (7:00 a.m. to 4:00 p.m., Monday through Friday and 7:00 a.m. to 11:30 a.m. on Saturday).

Therefore, the District Commission concludes that construction and operation of the Phase IV landfill will not result in undue air pollution.

SECTION 6086(a)(1)(A) HEADWATERS:

9. The site is characterized by steep slopes and shallow soils. The drainage basin in which the site is located (the Black River and Lake Memphremagog) is greater than 20 square miles. The elevation of the site is well below 1,500'. The site is not in a watershed for any public water supply and it is not considered to have groundwater that supplies significant recharge to a water supply aquifer.

Therefore, the District Commission concludes that the project is not located in a headwaters area as defined by the statute because it is not situated in an area of 20 square miles or less. The District Commission concludes that the project will meet applicable health and environmental conservation regulations regarding the reduction of the quality of the ground and surface waters.

SECTION 6086 (a)(1)(B) WASTE DISPOSAL:

INTRODUCTION TO CRITERION 1(B) FINDINGS:

Our Criterion 1(B) findings incorporate our concerns, rationale and general thinking in regard to overall protection of water quality as well as the underlying data, information and facts upon which we have relied. The findings are extensive and require some explanation.

First, we are providing/incorporating the key conditions of the Project's Solid Waste Certification. The Certification is only granted where a solid waste facility successfully demonstrates compliance with Vermont's Solid Waste Rules and other state and federal permit programs. The Certification is a technical review of the project's design and construction and operations plans conducted by the Solid Waste Management Program staff within Vermont's Agency of Natural Resources. We are reiterating the conditions here for the ease of those readers who may not have participated in ANR's review process and for those who may be unaware of the document itself. A copy of the full certification is available through the District 7 Coordinator or the ANR Solid Waste Office in Waterbury, Vermont.

Second, we have divided the remaining criteria 1(B) findings into two distinct sections.

The first section incorporates much of the testimony and supporting documentation provided by the Applicant and also incorporates a number of findings or proposed conditions reached through joint review and informal negotiations between the applicant, the MRC and their consultants. These findings are supportive of the proposed design and operation of the Coventry facility and they detail the technical justification for the proposed expansion of this facility.

The second section focuses on findings derived, in large part, from the MRC testimony and, particularly, the Teknika Report. These findings are generally supportive of the proposed design and operation of the Coventry facility too...but only to a point. Support wains where good engineering with the best materials available ends and nature, time, the elements, history, human error and other uncertainties begin. No one can guarantee that a perfectly installed liner system won't, in time, fail. No one can guarantee that the ground water under-drains will always perform as designed or that the landfill cap will not eventually breach. No one can guarantee that errors will not be made when sealing the liners together, when grading the protective sand layers, when moving equipment over the installed system or when inspecting a load of trash arriving for disposal.

Some readers may find our findings in these two distinct sections contradictory. We do not. Our findings in this second section, generated largely from the Taknika Report are, in our view, not so much contradictory of other findings as they are a well-taken cautionary note. In other words, with landfills, planning for success is not enough. You also need to be ready and able to handle failures should they occur. The Teknika findings form much of the basis for our requirement of a Post-Post-Closure Trust Fund (not simply an insurance bond) to guarantee that adequate funds will be available, long into the future, in the event that any or all of the landfill systems designed to protect us today encounter problems down the road.

We will discuss this further in the discussion and conclusion section of our 1(B) findings.

AGENCY OF NATURAL RESOURCES SOLID WASTE CERTIFICATION:

The terms and conditions of the facility's Solid Waste Certification are incorporated into these findings and are fully enforceable under the project's Act 250 permit. (Note: These conditions reflect a tonnage increase not yet approved by the District 7 Commission.)

The certification conditions are as follows:

- C1. The Permittee shall construct, develop, and operate the Facility in accordance with the terms of this Certification and with the applicable provisions of State law, including the Rules. Compliance with this certification does not relieve the Permittee from complying with all applicable local, State, and Federal laws.
- C2. The following documents submitted as part of the application are hereby incorporated by reference in this certification:

Comprehensive Water Quality Monitoring Program (Monitoring Program), original document dated January 10, 2003, prepared by Heindel and Noyes and final revisions dated May 12, 2004;

Hydrogeologic Site Characterization (Site Characterization), original document dated January 10, 2003, prepared by Heindel and Noyes and final revisions dated May 12, 2004;

Demonstration of Compliance with Water Quality Standards (Compliance Document), original document dated January 10, 2003, prepared by Heindel and Noyes and final revisions dated May 12, 2004;

Design Report, Phase IV (Design Report) original document dated January 20, 2003, prepared by Sanborn, Head and Associates, Inc. (SHA) and final revisions dated May 12, 2004;

Phase IV Design Drawings NEWSVT (Design Drawings), original document dated January, 2003, prepared by SHA and final revisions dated May 12, 2004;

Facility Management Plan (FMP), original document dated January 20, 2003, prepared by NEWSVT and final revisions dated July, 2004; and,

Solid Waste Management Facility, Facility Recertification and Phase IV Development, Certification Application (Certification Application), original document dated January, 2003 prepared by NEWSVT and final revisions dated June 22, 2004.

Additions or alterations to these documents, including but not limited to construction change orders, must be approved by the Agency prior to implementation. Material or substantial additions or alterations which justify the application of conditions different or absent from the Certification may be cause for modification or amendment of this Certification.

- C3. Prior to disposal of solid waste in Phase IV, the Permittee shall establish horizontal and vertical benchmarks in accordance with § 6-702(d)(3) of the Rules.
- C4. The Permittee shall not dispose of any solid waste into any new cell of Phase IV until the registered professional engineer in charge submits a written certification to the Program that Phase IV was constructed in accordance with the approved plans, specifications, approved change orders, and requirements of this Certification and the Rules.
- C5. The Permittee shall notify the Program in writing prior to disposing of any solid waste into any new cell of Phase IV.
- C6. The Permittee shall install markers indicating the limit of waste containment as shown on page 20 of 36 of the Design Drawings. The limit of waste markers shall remain until the landfill slopes have reached final slope elevation.
- C7. The Permittee shall maintain an approved financial responsibility instrument pursuant to Subchapters 9 and 10 of the Rules; with § II(A) of the *Procedure Addressing Closure Cost Estimates for Solid Waste Landfills*; and, with § II(C) of the *Procedure Addressing Post-Closure Care and Post-Closure Certification of Solid Waste Landfills*, both dated February 8, 1999.
- C8. The Permittee shall maintain a valid permit(s) for treatment of leachate throughout the term of this certification. The Permittee shall dispose of leachate in Vermont only at a permitted wastewater treatment facility and only after a Pretreatment Discharge Permit is obtained from the Wastewater Management Division.

COMPLIANCE SCHEDULE

- C9. On or April 1, 2005 and annually each certification year, the Permittee shall remit to the Program the annual application fee equal to the annual operating capacity in accordance with 3 V.S.A. § 2822. If the Permittee does not remit the required annual application fee, **this certification will be subject to revocation or suspension under §6-307 of the Rules.**

- C10. On or before January 1, 2005, the Permittee shall revise the FMP to identify the steps to be taken when the average daily leachate flow in the secondary leachate collection system for all Phases of the lined landfill exceeds 20 gallons per acre per day over a calendar month.
- C11. On or before January 1, 2005, the Permittee shall revise the FMP to provide for collection and treatment of water from any underdrain discharge location that exceeds Vermont Water Quality Standards.
- C12. On or before February 1, 2005 and February 1, 2007, the Permittee shall review the approved closure and post-closure care plans and the closure and post-closure cost estimates and shall submit to the Program written documentation that provides the information required by § 6-1006(a)-(c) of the Rules, consisting of either:
- a. a report that certifies that the closure and post-closure plans are consistent with current operations and regulations and either provides revised closure and post-closure cost estimates or indicates that there have been no changes to the closure and post-closure cost estimates; or
 - b. an application for modification or amendment of this Certification due to substantive changes to the closure or to the post-closure plan.
- C13. On or before February 1, 2005 and annually thereafter, the Permittee shall adjust the closure and post-closure cost estimates for inflation in accordance with § II (A) of the *Procedure Addressing Closure Cost Estimates for Solid Waste Landfills* and with § II(C) of the *Procedure Addressing Post-Closure Care and Post-Closure Certification of Solid Waste Landfills*, both dated February 8, 1999.
- C14. The Permittee shall retain a registered engineer to perform an annual inspection of the landfill during the month of May each Certification year. At a minimum, the engineer shall evaluate the actual landfill development and the daily operations for conformance with the FMP and the requirements of the Rules, this certification and applicable Solid Waste Management Procedures. The engineer shall inspect and evaluate the integrity of the final cover system for those portions of the landfill that have been previously closed. The Permittee shall notify the Program concerning any non-compliance with this certification or any emission or discharge noted by the engineer and take corrective action in accordance with § 6-703 of the Rules. The engineer shall develop any recommendations necessary for improving the management of the landfill. In consultation with the Program, the Permittee shall implement those recommendations approved by the Program.

RE-CERTIFICATION

- C15. On or before April 05, 2009 the Permittee shall apply for re-certification of the Facility, or submit a schedule for implementation of the closure plan.

MATERIALS AND SITE MANAGEMENT, NON DISPOSAL COMPONENT MANAGEMENT

Materials Management

- C16. Phases I, II, III, and IV is certified for a maximum allowable capacity of 2,500 tons of solid waste per day and 370,000 tons of solid waste per year for disposal. The operating capacity at the time this certification is issued is set at 2,500 tons of solid waste per day and 250,000 tons of solid waste per year. The yearly tonnage acceptance calculation shall begin on April 1 and end on March 31 each certification year. Upon written request and submittal of the appropriate additional application fees by the Permittee, the Program may authorize increases in the annual operating capacity up to 370,000 tons of solid waste per year. Such increases may be authorized without a permit amendment.
- C17. Any request to increase the annual operating capacity in an amount that exceeds the maximum allowable annual capacity of 370,000 tons of solid waste per year or the maximum allowable daily capacity over 2,500 tons of solid waste per day will require the Permittee to apply for an amendment to the Certification pursuant to § 6-305 of the Rules.
- C18. Acceptable wastes for disposal in Phases I, II, III, and IV are limited to municipal solid waste, construction and demolition debris (C&D), de-watered sludge or biosolids, approved uniform solid waste, and any other non-hazardous waste which is not prohibited by Conditions 19 and 20.
- C19. The disposal of any regulated hazardous waste is prohibited. Wastes subject to regulation as hazardous waste are identified in Subchapter 2 and 3 of Vermont's Hazardous Waste Management Regulations. It is the responsibility of the Permittee to determine that all wastes disposed of are non-hazardous.
- C20. Pursuant to 10 V.S.A. § 6621a, the disposal of the following solid wastes in the Facility is prohibited: lead-acid batteries, mercuric oxide batteries, waste oil, white goods (large appliances), tires, nickel cadmium batteries or other rechargeable batteries, paint (except solidified water based paint), paint thinner, paint remover, stains, varnishes, and labeled mercury added consumer products.

For the purposes of this certification the following definitions shall apply:

- a. "Implemented Waste" means all solid waste that originates from a municipality that manages it in accordance with a solid waste implementation plan approved by the Secretary;
 - b. "Non-Implemented Waste" means all solid waste that originates from a municipality that does not have a solid waste implementation plan approved by the Secretary;
 - c. "Processed Municipal Waste" means all solid waste which originates from a municipality that does not have a solid waste implementation plan approved by the Secretary but has the ordinance, facilities, and programs required by Condition 21 below; and,
 - d. "Approved Uniform Solid Waste" means solid waste that has been determined in writing by the Secretary to be uniform and does not contain yard waste, marketable recyclable materials, hazardous waste from households, or hazardous waste from small quantity generators.
- C21. With the exception of Approved Uniform Solid Waste, prior to the receipt of any waste from a municipality, regardless of whether it is a Vermont or non-Vermont municipality, the Permittee shall first submit to the Agency a written certification by the municipality that (a) yard wastes, hazardous wastes and recyclables are removed from the waste stream according to the approved solid waste implementation plan, or (b) that the municipality provides the following:
- a. Recycling facilities. Each municipality shall provide for drop-off facilities for all marketable recyclables, with no charge to residents at the point of drop-off. Recycling facilities must be operational a minimum of two weekdays from the hours of 7:00 am – 10:00 am. and 3:30 pm - 5:30 pm and on Saturdays, from 8:00 am – 12:00 pm. The facilities must collect at least those recyclable materials listed in 10 V.S.A. § 6622(b)(3). Municipalities with resident populations of less than 1,500 need only hold collections during the Saturday morning hours listed above. Curbside collection programs may be substituted for drop-off facilities, if approved by the Agency;
 - b. Mandatory source separation ordinance. Each municipality shall enact a mandatory source separation ordinance which meets the standards of 10 V.S.A. § 6622, and which requires source separation of hazardous waste generated by households and by conditionally exempt generators, and source separation of waste materials specified in 10 V.S.A. § 6621a;

- c. Yard Waste Management Area. Each municipality shall establish a management area for collection and composting of yard waste, in accordance with Subchapter 11 of the Rules. The area must be open to the public for a substantial period of time during at least one weekend day each week from May 1 to November 1 of each year;
 - d. Hazardous Waste Collection. Each municipality shall provide either a permanent facility that provides ongoing collection, or a mobile collection program which provides for collection of hazardous waste from households and hazardous waste from conditionally exempt generators at least four (4) times per year for municipalities or Solid Waste Districts with a total population of 4,000 persons or more, and at least three (3) times per year for municipalities or Districts with a total population of less than 4,000 persons. The cost of collection of hazardous waste from households may be offset by either a per capita charge to the residents of the municipality or District or by a charge at the point of drop-off not to exceed \$5 per vehicle. Programs under this paragraph shall be reasonably available to the general public, in terms of hours of operation and location, as determined by the Secretary; and,
 - e. Public information program. At least once every quarter, each municipality shall distribute public notices describing the materials to be separated from the waste stream, the principal requirements of any source separation ordinance, the location of all facilities and a telephone number to call for additional information. Each year, a yearly summary report shall be made available at town meetings.
- C22. The Permittee shall not accept for disposal at the Facility “Non-Implemented Waste” which does not meet the “Processed Municipal Waste” standards unless the Permittee applies for and the Agency issues an amendment to this Certification. The Permittee may accept “Approved Uniform Solid Waste” only in accordance with the standards set forth in the Secretary’s written approval for that waste.
- C23. The Permittee shall not accept for disposal implemented waste or processed municipal waste originating from any municipality which does not provide opportunities for the collection of mercury containing lamps (e.g. fluorescent bulbs) and other mercury added consumer products (switches, thermostats, thermometers, etc.) as listed under 10 V.S.A. § 6621d(a). This requirement is considered met where, at minimum, these collection opportunities are made available as part of the ongoing hazardous waste collection programs as described in approved municipal solid waste implementation plans or, in the case of processed municipal waste, the municipalities from where the waste originates

have made these collection opportunities available during normally scheduled hazardous waste collection programs.

- C24. The Permittee shall not dispose recyclable materials previously source separated by the hauler or the commercial or residential customer unless authorized under Condition 25.
- C25. Source separated recyclables may only be disposed in the Phases I, II, III, and IV upon prior approval in writing by the Secretary. Approval by the Secretary is contingent on the review of information provided by the Permittee and the Secretary finding that:
- a. the costs for marketing the recyclable materials exceeds 110% of the posted, non-discounted landfill tipping fee; or,
 - b. due to contamination, the recyclable materials are not marketable, based on the sum of the costs for cleaning, sorting and marketing of the materials exceeding 110% of the posted, non discounted landfill tipping fee; or,
 - c. no markets for the recyclable materials exist anywhere, regardless of cost to recycle them.
- C26. The Permittee shall ensure that all solid waste disposed in Phases I, II, III, and IV complies with the liquid waste disposal limits included in the Agency's *Procedure Addressing Liquid Waste Disposal Restrictions in Municipal Solid Waste Landfills*, dated February 8, 1999 (Liquid Waste Procedure).
- C27. The Permittee shall conduct random inspections of incoming loads of solid waste and manage wastes removed in accordance with Section 4.0 of the FMP.

Site Management

- C28. The Permittee may accept solid waste between the hours of 7:00 am to 4:00 pm Monday through Friday, and between the hours of 7:00 am to 11:30 am on Saturdays. All other routine landfill operations, such as inspections, maintenance, repairs, monitoring and application of daily cover will be conducted between the hours of 6:00 am and 6:00 pm Monday through Saturday. The Facility's operational hours for accepting solid waste and other routine landfill operations may be expanded without amendment to this Certification upon written approval from the Secretary upon a showing of need. Such a showing shall include special events such as Green-Up day, a natural disaster, or other unforeseen circumstances that are outside of the control of the Permittee.
- C29. The depth of leachate shall not exceed twelve (12) inches at any location on the primary liner, except following a 25-year/24 hour or greater storm event. Following such an

emergency, leachate may be stored on the liner for a maximum of five (5) days. Leachate collection tanks shall be managed in accordance with Sections 5.1, 5.2 and 5.3 of the FMP.

- C30. The Permittee shall comply with the run-on and run-off control system requirements included in the Agency's *Procedure Addressing Requirements For Run-On/Run-Off Control Systems for Municipal Solid Waste Landfills*, dated June 9, 1994.
- C31. The Permittee shall operate the landfill with personnel and equipment identified in Section 3.10 of the FMP.
- C32. The Permittee shall cover all exposed waste at the end of each operating day, or at more frequent intervals if necessary, to control disease vectors, fires and odors, to prevent blowing litter and to discourage scavenging by animals. When earthen material is used it shall be a minimum thickness of six (6) inches. Upon written request, the Secretary may grant the Permittee approval in writing for the use of an alternative daily cover material, in accordance with the Agency's *Procedure For Approval of Alternative Daily Cover at Solid Waste Facilities*, dated February 8, 1999. Currently approved alternative daily covers are listed in Section 3.8 of the FMP.
- C33. The Permittee shall inspect for and pickup litter at and around the Facility daily. The Permittee shall inspect for and pick up litter along both sides of Airport Road and both sides of Route 5, from the intersection of Route 5 and Route 14 to Airport Road weekly.
- C34. The Permittee shall require that all waste hauling vehicles leaving the Facility are properly cleaned to prevent off-site litter.
- C35. In the event any of the monitoring wells established as part of the approved water quality monitoring program are destroyed or rendered unusable, the Permittee shall replace those monitoring well(s) in accordance with the Agency's *Procedure Addressing Ground Water Quality Monitoring and Responses When A Ground Water Standard is Reached or Exceeded at Municipal Solid Waste Landfills*, dated February 8, 1999 (Ground Water Procedure) prior to the next scheduled sampling date.
- C36. In the event of an unplanned temporary shut down of the Facility, the Permittee may construct and operate the contingency transfer station as described in Section 10.4 of the FMP.
- C37. Electric generation operations shall not interfere with landfill construction, operation, closure and post-closure. Any landfill gas that is not used or otherwise destroyed in the production of electricity must be destroyed using a flare or equivalent. The Permittee is

ultimately responsible for managing the landfill gas collection system and for the proper destruction of landfill gas.

Non Disposal Solid Waste Components

- C38. All solid waste and recyclable materials collected at the drop-off shall be managed in accordance with Section 6.0 of the FMP.
- C39. No more than four roll-off boxes of tires shall be stored at the Facility at any time.
- C40. All used motor oil collected at the Facility shall be managed in accordance with Subchapter 8 of the Vermont Hazardous Waste Management Regulations.

MONITORING REQUIREMENTS

- C41. The Permittee shall maintain records of all monitoring data required by Conditions 42 through 48 at the landfill office and make them available for State Inspection.
- C42. The Permittee shall record leachate flow from the primary and secondary leachate collection systems to the leachate storage tanks during each working day. Records shall be made separately for Phases I, II, III and IV. In addition, the Permittee shall record the quantity of leachate removed from the leachate storage tanks.

For each load of leachate shipped, the Permittee shall record the quantity of leachate, the date shipped, and the identity of the wastewater treatment facility receiving the shipment.
- C43. Explosive gas monitoring shall be performed monthly for the detection of off-site migration of methane and weekly for the detection of methane in Facility structures and other buildings on the Facility site in accordance with the Agency's *Procedure Addressing Explosive Gas Control at Municipal Solid Waste Landfills*, dated June 9, 1994 (Explosive Gas Control Procedure). If methane levels exceed 25% of the lower explosive limit (LEL) in Facility structures or other buildings on site or if the LEL is exceeded on the Facility site or at the property boundary, the Permittee shall take immediate action in accordance with the requirements of the Explosive Gas Control Procedure.
- C44. During the first week of each month, the Permittee shall collect field measurements for temperature, pH and specific conductance from the underdrain system outlets for Phases I, II, III, and IV. Field measurements shall be performed at the underdrain discharges as shown on approved Environmental Monitoring Plan, Sheet 36 of 36 of the Design

Drawings. Estimated discharge in gallons per day shall be determined from each underdrain discharge point.

C45. During the months of May and October of each certification year, the Permittee shall retain a qualified professional to perform groundwater quality monitoring. Sampling locations shall include the groundwater monitoring wells described in Section 2.1 of the Monitoring Program and shown on the Environmental Monitoring Plan, Sheet 36 of 36 of the Design Drawings. All groundwater samples shall be collected and analyzed in accordance with § III C of the Agency's Ground Water Procedure. In addition, the Permittee shall analyze all monitoring well samples for dissolved iron and manganese. Antimony, barium, beryllium, cobalt, selenium, silver, thallium or vanadium may be deleted from the ground water monitoring program if the Permittee makes the demonstration contained in Appendix C of the Ground Water Procedure and has received written approval from the Secretary.

C46. During the months of May and October of each certification year, the Permittee shall retain a qualified professional to perform surface water monitoring and underdrain monitoring. Sampling locations shall include the surface water and underdrain monitoring locations described in Section 2.2 of the Monitoring Program and shown on the Environmental Monitoring Plan, Sheet 36 of 36 of the Design Drawings. The following laboratory analyses shall be performed on all surface water and underdrain outlet water samples:

- Chemical Oxygen Demand;
- Biological Oxygen Demand;
- Total Sodium, Total Chloride,
- Hardness expressed as mg/l CaCO₃;
- The following total metals: Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Manganese, Mercury, Nickel, and Zinc;
- Volatile Organic Compounds utilizing EPA Method 8260; and,
- Semi-Volatile Organic Compounds utilizing EPA Method 8270.

Field tests for temperature, pH, and specific conductance shall be performed on samples from each sample location.

C47. During the months of May and October of each certification year, the Permittee shall retain a qualified professional to perform leachate monitoring. Monitoring shall be performed by collecting a grab sample consisting of leachate collected from the primary leachate collection system separately for Phases I, II, III and IV. In addition if the average daily secondary detection system flow exceeds 20 gallons per acre per day in any of the secondary detection systems, a grab sample of liquid shall be collected from that

secondary detection system. The following laboratory analyses shall be performed on all primary and secondary samples:

- Chemical Oxygen Demand;
- Biological Oxygen Demand;
- Total Sodium, Total Chloride,
- The following total metals: Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Manganese, Mercury, Nickel, and Zinc;
- Volatile Organic Compounds utilizing EPA Method 8260; and,
- Semi-Volatile Organic Compounds utilizing EPA Method 8270.

Field tests for temperature, pH, and specific conductance shall be performed on samples from each sample location.

- C48. The Permittee shall continue with the monitoring program to assess the effectiveness of bird management as described in Sections 3.12 and Exhibit D of the FMP. In addition, the monitoring program shall include the following:
- a. a detailed quantitative observation of towering (circling) gulls and crows above the active landfill and a determination if the towering gulls cross air traffic flight patterns; and
 - b. an analysis by the Bird Management Consultants to determine if the location and operation of the Facility is increasing the likelihood of bird/aircraft collisions over what would exist with only closed and capped landfills at the site.

REPORTING REQUIREMENTS

- C49. On or before June 30 each Certification year, the Permittee shall submit to the Program a copy of the engineer's written evaluation, any recommendations for improving the management of the landfill and a schedule for implementation of the recommendations pursuant to Condition 14.
- C50. In accordance with Section 6-703 of the VT SWMR, the operator shall submit a report to the Solid Waste Program within five working days of the receipt of any information indicating non-compliance with any term or condition of certification. Any discharge or emission which poses a threat to public health and safety, a threat to the environment or the creation of a nuisance must be reported within 24 hours to the DEC, the local health officer, and the selectpersons of the affected municipalities. A written report shall be submitted to the same parties within seven days of the discharge or emission. The report

shall identify the discharge or emission that occurred, the type, quantity, and quality of waste, and the actions taken to correct the problem.

- C51. On or before March 1 each Certification year, the Permittee shall submit the adjusted closure and post-closure cost estimates for inflation pursuant to Condition 13.
- C52. On or before the 15th day of each month, the Permittee shall submit the following data to the Program:
- a. records of daily leachate flows required by Condition 42;
 - b. records of the quantity of leachate pumped, quantity of leachate shipped and the name of the facility receiving the leachate for the previous month as required by Condition 42;
 - c. field measurements for temperature, pH, specific conductance, and discharge volume from the underdrain system as required by Condition 44.
- C53. On or before January 31, April 30, July 31, and October 31, of each Certification year, the Permittee shall submit a quarterly report to the Program, on forms provided by the Program for (a) through (c) and on forms approved by the Program for (d) and (e). Quarterly reports shall be true, accurate and complete. The reports shall contain the following information:
- a. the quantity and quality of wastes by type, managed by the Facility;
 - b. the sources, by municipality, of all solid wastes delivered to the Facility;
 - c. the quantity, type and source of wastes used for alternative cover during the calendar quarter;
 - d. records of monthly and weekly gas monitoring results required by Condition 43; and,
 - e. a written evaluation of the effectiveness of the bird management program required by Condition 48.
- C54. On or before March 31 each Certification year, for each municipality disposing waste at the landfill, the Permittee shall submit to the Program a written certification by an independent consultant that (a) hazardous wastes and recyclables are removed from the

waste stream according to the approved plan, or (b) that the facilities, programs and ordinance required under Condition 21 were complied with for the previous year.

C55. Within 60 days after the dates of sampling required by Conditions 45, 46, and 47 of this Certification, the Permittee shall:

- a. For all groundwater samples, submit to the Program current and historic groundwater quality results, statistical evaluation, and narrative assessment in accordance with § III(E) of the Ground Water Procedure.

If the report and statistical evaluation concludes in a preliminary finding that parameters in ground water exceed any standard at a point of standards application, the Secretary may initiate a response in accordance with § III(F) of the Ground Water Procedure;

- b. For all leachate samples, submit to the Program current and historic leachate quality results, tabulated by sampling location through time. Include in the tabulated data the Maximum Concentration of Contaminants for the Characteristic of Toxicity in the Vermont Hazardous Waste Management Regulations; and,
- c. For all surface water and underdrain samples, submit to the Program current and historic surface water quality results and compare the results with the Vermont Water Quality Standards.

C56. The Permittee shall submit the data and evaluations required in Condition 55 above to the Gouvernement du Quebec Ministere de l'Environnement, Direction regionale de l'Estrie, 770 Gorette St., Sherbrooke, Quebec J1E 3H4, to MRC Memphrémagog, 455 rue MacDonald, bureau 200, Magog, Quebec J1X 1M2 and Ville de Sherbrooke 555, rue des Grandes-Fourches Sud, bloc B; C.P. 610, Sherbrooke QC J1H 5H9 Criteria for Major vs Minor or before January 31, each year for the results obtained from the preceding year.

CLOSURE AND POST-CLOSURE REQUIREMENTS

C57. The Permittee shall submit to the Program a notice of closure thirty days after the date the final volume of waste is received. Closure of any portion of Phases I, II, III and IV shall occur as described in the *Closure Section* of the Certification Application, Section 3.5 of the FMP, as described in Section 5.0 of the Design Report and as shown on Sheets 28 and Sheets 30 through 35 of the Design Drawings.

C58. No later than ninety (90) days after completion of the closure system for any portion of Phases I, II, III and IV, the Permittee shall submit certification of closure to the

Department, pursuant to Section 6-1002(i) of the Rules. This certification shall include a complete set of “record” engineering plans documentation of results of all material and quality assurance/quality control testing performed with respect to closure of the Facility, and documentation of any new or abandoned ground water monitoring wells and surface water sampling locations.

- C59. Post-closure maintenance and monitoring of the Facility shall occur in accordance with the *Post-closure Section* of the Certification Application.
- C60. The Permittee shall retain a registered engineer to perform an annual evaluation of the landfill during the month of May each Certification year. The engineer shall inspect and evaluate the integrity of the final cover system, gas collection system, and the leachate collection system for conformance with the Post-closure Plan and the requirements of the Rules, this certification and applicable Solid Waste Management Procedures. The Permittee shall notify the Program concerning any non-compliance with this certification or any emission or discharge noted by the engineer and shall take corrective action in accordance with § 6-703 of the Rules. The engineer shall develop any recommendations necessary for improving post-closure care of the landfill. By June 30 each Certification year, the Permittee shall submit to the Program a copy of the engineer’s evaluation, any recommendations for improving the post-closure care of the landfill and a schedule for implementation of the recommendations. In consultation with the Program, the Permittee shall implement the recommendations approved by the Program.

GENERAL CONDITIONS

- C61. In the event that the Secretary determines that corrective action is necessary to prevent or remedy damage to the public health and safety or to the environment, the Secretary reserves the right to require corrective action and a demonstration of financial responsibility for corrective action, in accordance with the Agency’s *Procedure Addressing Corrective Action and Financial Responsibility for Corrective Action at Solid Waste Landfills*, dated February 8, 1999.
- C62. If at any time during the term of this certification the Secretary finds there is no approved solid waste implementation plan for the area in which this Facility is located, or that the solid waste implementation plan for the area in which this Facility is located no longer includes this Facility, this certification may be subject to revocation or suspension under § 6-307 of the Rules.
- C63. The Permittee shall allow Agency personnel access to the Facility at any reasonable time to perform site inspections or other activities pursuant to 10 V.S.A. § 6609 as may be required to ensure compliance with this Certification, applicable statutes, and the Rules.

- C64. This Certification does not convey any property rights of any sort or any exclusive privilege, nor does it authorize any injury to private property or any invasion of personal rights.
- C65. This Certification is not alienable, transferable, or assignable.
- C66. This Certification supersedes any certifications and amendments issued previously under 10 V.S.A. § 6605 to the Permittee for the Facility, exclusive of any Categorical Certifications, which remain in full force and effect.

The District Commission shall require that all future certifications that may be issued be submitted to the District Commission and Coordinator for review and for determination as to whether changes to the certification trigger the need for further Act 250 review and permitting.

The project shall be implemented in accordance with the design that provides a minimum 300' setback from waters of state unless NEWSVT receives a variance from the Vermont Solid Waste and Air Quality Variance Board.

**COMMISSION FINDINGS BASED UPON APPLICANT'S TESTIMONY AND
COOPERATIVE ANALYSIS WITH TEKNIKA, INC.**

10. The major sources of wastewater that must be properly managed at a landfill are leachate and stormwater runoff.
11. Leachate is produced by precipitation as it passes through landfill waste. Phase IV, like Phases I, II, and III, is designed to collect and manage leachate. The leachate containment design consists of a double-liner system with primary and secondary leachate collection systems.
12. Underdrain systems were constructed beneath the first three phases to depress groundwater levels at least six feet (6') below the base of the secondary liner. The underdrains discharge to the north and west on slopes above the Black River wetlands.
13. An underdrain system will be constructed with the development of Phase IV to provide a minimum of six feet (6') of separation between groundwater and the secondary liner.
14. The underdrain system will consist of 8" diameter perforated pipe embedded in crushed stone in accordance with the approved engineering plans and will discharge to the wet area west of the landfill.

15. Underdrain pipe will also be provided below the toe of the side slope around the entire Phase IV footprint in accordance with the approved engineering plans.
16. An additional underdrain will be located south of Phase IV, cell 1, 2 and 3 near the middle of Phase IV.
17. The underdrain pipe has a capacity to handle 655 gpm and is significantly oversized to adequately handle the predicted flow of 44 gpm.
18. The primary leachate collection system will be constructed above a primary 60-mil high density polyethylene liner and will consist of drainage geocomposite overlain by 18" of granular drainage blanket sand in accordance with the approved engineering plans.
19. The drainage geocomposite and granular drainage blanket provide media through which leachate will flow to collection piping. The piping will consist of a perforated 8" SDR-11 HDPE pipe surrounded by 1½" crushed stone and additional drainage geocomposite material in accordance with the approved engineering plans.
20. In base areas, the secondary system will consist of 12" of granular drainage blanket sand placed above the secondary liner and drainage geocomposite material. On side slopes the secondary system will consist of drainage geocomposite between primary and secondary liners. Leachate collection pipe will also be provided in the secondary system in accordance with the approved engineering plans.
21. The collection piping will drain to sumps located within each cell. Leachate will be pumped from the collection sumps to the doubled walled steel 550,000 gallon above ground storage tank using submersible pumps which will be connected to auxiliary generator(s) to provide power for the pumps in the event of a grid power failure. (Poirier Testimony, 02/19/04).
22. Leachate will be pumped from the storage tanks to a loadout structure located near the above- ground storage tank. Leachate will be transported to wastewater treatment facilities in Burlington or Montpelier, Vermont, Concord, New Hampshire, or Plattsburgh, New York.
23. Cleanouts will be provided for both the primary and secondary leachate collections pipes to provide access to the pipes for cleaning and video inspection as required.
24. The proposed above ground storage tank will be constructed of 2 individual storage tanks, one inside the other, with one roof structure covering both tanks. The roof structure will

- serve to prevent precipitation from entering the tanks and to minimize landfill gas related odors.
25. A concrete slab with a catch basin of sufficient size to collect all spilled leachate will be constructed within the building housing the loadout structure.
 26. As part of closure, Phase IV will be graded and capped with a synthetic liner final cover. The landfill grading and capping system is designed to reduce leachate generation by eliminating infiltration of precipitation into the waste.
 27. A stormwater management system for the NEWSVT facility has been developed to divert runoff around the facility; control stormwater runoff from the facility; control erosion, sedimentation, siltation and flooding; and limit the production of leachate.
 28. Stormwater runoff will be controlled with stormwater management components that have been designed to remove potential pollutants based on guidance in State of Vermont Stormwater Management Manuals, Volumes I and II.
 29. Stormwater management components include grass lined swales, rock lined swales, and detention basins. All stormwater runoff from impervious surfaces created during the operation of the landfill will be collected and conveyed through one of the proposed detention basins before being discharged off-site.
 30. Stormwater Discharge Permit has been obtained from the State of Vermont Water Quality Division.
 31. During construction, erosion control facilities, including temporary sedimentation basins, temporary sediment traps, silt fencing with staked hay bales support, stone check dams, interceptor swales, and stabilized construction entrances will be utilized to limit the impacts of sediment and the amount of potential pollutants that leave the site.
 32. A General Permit for Stormwater Runoff from Construction Sites has been issued for the project by the ANR.
 33. Waste oil, batteries, cleaning fluids and other household hazardous wastes which are removed from the solid waste stream are to be temporarily stored in appropriate containers at the site for ultimate disposal off-site.
 34. The facility has developed and implemented a Spill Prevention, Control, and Counter-Measures Plan consistent with the requirements of federal regulations. In the event of a

spill, the Plan directs the facility staff on how to stop, control, and clean-up the spill in a quick, safe, environmentally sound manner. (Poirier Testimony, 02/19/04).

35. The facility has also developed and implemented a Storm Water Pollution Prevention Control Plan. The Plan identifies areas of the site that have potential to cause pollution and directs the facility staff on the best method for storing and handling materials to limit potential pollution hazards.
36. Over many years NEWSVT consultants have conducted extensive studies of the topography, soils, groundwater and surface water of the site and its surroundings. For 15 years the site has been monitored for ground and surface water quality. (Heindel Testimony, 03/18/04.)
37. The District Commission accepts the expert testimony presented that the soils at the site consist of extremely low permeability glacial till, and lake bottom clays ranging from 50' to 150' deep over the site, with about 96' of low permeability soils beneath the Phase IV footprint.
38. NEWSVT has developed an extensive ground and surface water monitoring system. The monitoring system today consists of 17 groundwater wells around the landfill; 4 are located upgradient of the landfill to collect background water quality data; 3 of the groundwater wells are located between the lined and unlined landfills; and 10 are located down-gradient of the landfills.
39. The monitoring system also consists of 4 surface water monitoring stations: one up and one down stream on the Black River; and one up and one downstream in the swale on the east side of the landfill. The monitoring system also consists of monitoring of the 3 underdrain systems of Phases I, II, and III. The monitoring system will be expanded to adequately track discharges from Phase IV.
40. Monitoring for a broad suite of chemicals is conducted twice a year in May and October at all ground and surface water monitoring sites. The underdrain system is also monitored monthly for early indicators of pollutants such as volume, temperature, conductivity, and ph. (Heindel Testimony, 03/18/04).
41. The District Commission accepts the expert testimony presented that monitoring of the 17 groundwater wells has detected no evidence of groundwater contamination from Phase I, II, and III lined landfills. (Heindel Testimony, 03/18/04).

42. The District Commission accepts the expert testimony presented that monitoring of the 4 surface water sites has detected no evidence of surface water contamination from the Phases I, II, and III lined landfills.
43. The District Commission accepts the expert testimony presented that monitoring of the underdrain system for early indicators of leakage has detected no leakage of the Phases I, II and III lined landfills.
44. The District Commission accepts the expert testimony presented that monitoring has detected contamination, the sources of which are the closed unlined landfills A and B and former uses of the site as a junk yard and automobile maintenance operation. Monitoring indicates that the contamination is localized and has not impacted the Black River.
45. NEWSVT agrees that it will substantially expand the water quality monitoring program surrounding this solid waste management facility as Phase IV of the lined landfill begins to receive solid waste. Sixteen new monitoring locations will be added to the network. The monitoring schedule will continue to be semi-annual, and samples will be analyzed for a comprehensive list of chemical parameters that is similar to the current list and that is required by the Solid Waste Management Facility Certification. (Heindel 05/24/04 Memorandum.)
46. NEWSVT will add a total of 10 additional groundwater monitoring locations will be added to the sampling network, resulting in a total of 27 groundwater monitoring locations. The 10 new locations will include 4 new upgradient monitoring wells and 6 new down-gradient wells. They will be placed down-gradient of Phase IV, and also down-gradient of the unlined landfills in the wetland near the Black River.
47. Four new surface water sampling stations will be added (one upstream and three downstream), in the general vicinity of Phase IV. The Phase IV underdrain will also be sampled.
48. Leachate from Phase IV will also be added to the monitoring program.
49. The District Commission accepts the expert testimony presented that there is no evidence that the landfills, either unlined or lined, have impacted the Black River. The wetlands between the landfills and the Black River provide a significant degree of treatment because of their low permeability soils, and the dilution and adsorption capacity of wetlands. (Heindel Testimony, 03/18/04).
50. The District Commission accepts the expert testimony presented that the closed unlined landfills are a continuing source of low level (not exceeding groundwater standards)

groundwater contamination. NEWSVT proposes to excavate the waste in the unlined landfills and place the waste into a double lined landfill, thus eliminating this source of groundwater pollution on the site. This permit is not contingent on removing the waste from the unlined landfills. (Heindel Testimony, 03/18/04).

51. NEWSVT has developed a contingency plan with steps that will be taken if elevated concentrations are detected at the underdrain discharge points. . (Underdrain Discharge Contingency Plan, dated April 5, 2004.)
52. The contingency plan steps include immediate notification of qualified water quality professionals; additional sampling of the underdrain discharge and down gradient surface water monitoring stations; and pumping and collection of the underdrain discharge if needed, until sampling indicates that results have dropped below trigger values. (Underdrain Discharge Contingency Plan).
53. In addition to its existing trash retrieval efforts in the vicinity of the landfill, NEWSVT has agreed with the ANR Department of Fish and Wildlife to conduct annual inspections of the Black River from a boat and on-foot inspections on a portion of the South Bay Wildlife Management Area (“SBWMA”) that abuts the landfill that can be seen from roads (50' to 100' into property). (Heindel Correspondence, April 19, 2004.)
54. NEWSVT has agreed to a voucher-based contribution of up to \$1,500 annually to the Department of Fish and Wildlife to be used by the Department for the removal of trash from other portions of SBWMA.
55. If approved by the Variance Board, Phase IV would be constructed approximately 75' from the wetlands to the east of the landfill and approximately 210' from the wetlands to the west of the landfill. (Heindel Testimony, 03/18/04).
56. The District Commission accepts the expert testimony presented that groundwater does not flow to the east and therefore the 300' setback does not provide a greater degree of protection to the east wetlands than does the 75' variance. In 1998, the Variance Board granted a variance to allow construction of Phase III closer than 300' to the wetland to the east. Phase III was constructed in compliance with the variance of 120' from an east stream. Water quality monitoring indicates that the landfill has not impacted ground or surface waters as a result of this Phase III variance. (Heindel Testimony, 03/18/04).
57. The District Commission accepts the expert testimony presented that groundwater does flow toward the west wetlands. However, a conservative worst-case modeling (in which all liners and underdrain fail and landfill leaks unabated for 25 years) predict an increase

of no more than 0.3 per cent in groundwater concentrations at the edge of the west wetlands.

58. The District Commission accepts the expert testimony presented that waters of the state to the west and east of the landfill are much lower in elevation than the level of the landfill and there is no possibility that movement of waters into the landfill could cause damage to Phase IV.
59. The District Commission accepts the expert testimony presented that given the remote location and small size of the streams to the west and east of the landfill there is no reasonable likelihood of human contact with the water in the streams. (Heindel Testimony, 03/18/04).
60. The District Commission accepts the expert testimony presented that protection of the environment and human health and safety is not in any measurable degree compromised under the variance scenario.
61. The District Commission accepts the expert testimony presented that Phase IV, other than if constructed with the variance, fully complies with the Solid Waste Management Regulations Siting Criteria for discrete disposal facilities such as landfills. (Heindel Testimony, 03/18/04).
62. The District Commission accepts the expert testimony presented that siting standards require a minimum depth to bedrock of 10'. Bedrock below the Phase IV liner system will range between 94' and 97'.
63. The District Commission accepts the expert testimony presented that siting standards require a minimum depth to groundwater of 6'. Groundwater depth measurements beneath the Phase IV liner footprint will range from 6' to 10' and will be controlled by the underdrain system.
64. The District Commission accepts the expert testimony presented that siting standards require a 1,000' distance between a drinking water source and the edge of waste in a waste management facility. The closest public community water system supplies are Newport, the source protection area of which is approximately 4,000' north of Phase IV and across the Black River and the Coventry water well, the source protection area of which is 2.5 miles to the southwest and up-gradient of Phase IV.
65. The District Commission accepts the expert testimony presented that the Newport State Airport's non-community public water supply is 5,000' south of Phase IV.

66. The District Commission accepts the expert testimony presented that there will be no off-property private water supplies down-gradient within 1,000' of Phase IV, by the time Phase IV begins receiving waste.
67. The District Commission accepts the expert testimony presented that the siting standards require a minimum distance of 50' to the property line. The closest property line is 320' from Phase IV. (Heindel Testimony, 03/18/04).
68. The District Commission accepts the expert testimony presented that the siting standards requires a maximum permeability of soils of 1×10^{-4} cm/sec. Permeability of soils in the area of Phase IV is about 1.1×10^{-5} cm/sec.
69. The Solid Waste Division conducts random unannounced inspections four times a year of trucks disposing of waste at the landfill. Based on past inspections the Division has not discovered the disposal of much unauthorized waste. (Bourdeau Testimony, 04/06/04).
70. The Solid Waste Division will conduct random inspections during construction of Phase IV. The Division recognizes that the placement of the substrata and liners are critical times to conduct inspections. (DiDominico Testimony, 04/06/04).
71. The Division also relies on the competence of licensed professional engineers to properly supervise construction and to certify that it has been done properly. (Bourdeau Testimony, 04/06/04).
72. The federal EPA and the states have begun discussing how lined landfills will be regulated beyond the 30 year post-closure era. It is argued by Applicant that waste will be stable after thirty years. With the five year certification term, the Division it is argued, will have time and opportunity to determine what financial security for post-post-closure maintenance may be required. (Bourdeau Testimony, 04/06/04).
73. Stress tests have been conducted on old liners. The results indicate that liners hold up well. (DiDominico Testimony, 04/06/04). However long term data is not available. Liners do, on occasion, fail.
74. Members of the public, during general public comment periods, expressed concerns about the long term (30 years and beyond) capability of the landfill to contain leachate, despite its current double liner state of the art design.
75. In response to that concern, NEWSVT conducted a "worst-case" evaluation to calculate the environmental impact of the uncontrolled discharge of leachate should all of the

safety systems fail. (Heindel and Noyes "Worst-Case Evaluation: NEWSVT Lined Landfills, May 17, 2004.)

76. The evaluation included several worst-case assumptions regarding all phases (79 acres) of the landfill, all of which were assumed to occur at the same time. The assumptions included:
- Failure of both liner systems and synthetic capping material;
 - All leachate passes into and out of the underdrain system unimpeded forever;
 - All leachate immediately reaches the Black River unimpeded and unaltered (treated or diluted) by the intervening wetlands and clean groundwater undetected and unremediated forever;
 - High volumes of leachate (33,000 gpd);
 - Low flow drought condition in the Black River, Barton River, and Clyde River flows (7Q10) continuous and forever;
 - Calculations were made based on one volatile organic compound (methylene chloride) and one metal (arsenic) that have the highest concentrations in the leachate relative to water quality standards;
 - Also included was a semi-organic chemical and pesticide requested by MRC pentachlorophenol and carbaryl.
 - Background concentrations in the Black River were based on the highest concentration of arsenic in historical record and laboratory detection levels for the other three chemicals (because they have not ever been or recently been detected.)
77. Calculations were made for each parameter at the mouth of the Black River and at the north end of South Bay of Lake Memphremagog.
78. The results of the calculations demonstrate that the discharge of leachate to the Black River would:
- i. Increase the level of arsenic of 3.0 ug/l to 3.4 ug/l (14%) at the mouth of the Black River; to 3.1 ug/l (4%) at the north end of South Bay. The Quebec drinking water standard for arsenic is 25 ug/l.
 - ii. Increase the level of Methylene Chloride of 5 ug/l to 5.3 ug/l (6%) at the mouth of the Black River and to 5.1 ug/l (2%) at the north end of South Bay. The Quebec drinking water standard for methylene chloride is 50 ug/l.

- iii. Not increase the levels of Pentachlorophenol of 4 ug/l at either location. The Quebec drinking water standard for Pentachlorophenol is 60 ug/l.
 - iv. Increased the level of carbaryl of 2 ug/l to 2.003 (0.2%) at the mouth of the Black River and 2.001 (0.05%) at the north end of South Bay. The Quebec drinking water standard for carbaryl is 9.0 ug/l.
79. In other words, according to the Heindel & Noyes study, even the catastrophic failure of the structure of the landfill (liner and caps) and the high concentrations of leachate flowing undetected, untreated, directly into the Black River forever would have no significant impacts, and would not cause exceedances of Quebec drinking water standards in Lake Memphremagog.
80. On April 13, 2004, NEWSVT and MRC consultants collected split samples of landfill leachate which were analyzed by laboratories in Quebec and Vermont. (Heindel and Noyes Composite Leachate Sample; April 13, 1004)
81. Inorganic, organic substances and pesticides including the pertinent Quebec drinking water standard parameters were analyzed.
82. The results indicated that there are no unusual or unexpected results.
83. Of the 13 inorganic substances 6 parameters were detected; of the 29 pesticides listed, the Vermont lab detected none; the Quebec lab detected 2 at low concentrations; of the 21 organic substances, only 2 were detected by both labs and 4 others were detected only by the Quebec lab.
84. The lab results were compared to Quebec drinking water standards. The results indicate that the leachate is relatively mild with few exceedances of Quebec's drinking water standards.
85. Of the 63 substances tested, only 6 exceeded Quebec drinking water standards:
- a. arsenic at 189 ug/l against the standard 25 ug/l;
 - b. boron at 6950 ug/l against the standard of 5000 ug/l;
 - c. cadmium at 9 ug/l against the standard of 5 ug/l;
 - d. chromium, total at 64 ug/l against a standard of 50 ug/l;
 - e. benzene at 6.3 ug/l against a standard of 5 ug/l; and
 - f. vinyl chloride at 3.1 ug/l against a standard of 2 ug/l.

86. As the result of negotiations between NEWSVT and MRC, the parties have agreed to the following which are included as conditions of this permit.
87. NEWSVT agrees to not dispose of landfill leachate at the Newport waste water treatment facility or anywhere within the watershed of Lake Memphremagog within five years of final Act 250 approval of the Phase IV expansion; provided, however, that prior to expiration of the five year period, NEWSVT may submit necessary permit applications seeking approval to dispose of landfill leachate within the watershed. MRC and the City of Sherbrooke preserve any and all rights they have on this issue, including the right to oppose any such permit applications.
88. NEWSVT agreed to use its best efforts to submit all necessary permit applications for the transfer of waste from the Nadeau unlined cells (“A” and “B”) to new lined cells by no later than October 31, 2004, and to diligently pursue all necessary regulatory approvals. (The Commission has extended this date to occur after issuance of this permit.)
89. NEWSVT agrees to develop an appropriate financial mechanism to address maintenance of the landfill during the post-post-closure period (after 30 years), and to submit a plan for review by the parties and District Commission and approval by the District Commission, prior to final determination of this Act 250 application. (This occurred but the Commission is proposing its own plan.)
90. NEWSVT agrees to provide the MRC and the City of Sherbrooke with all analytical and other environmental testing results, within the same time frames that they are submitted concurrently with their submission to Vermont ANR.
91. NEWSVT, MRC and the City of Sherbrooke agree that it is appropriate to establish a landfill oversight committee that will function as follows:
 - The committee will function under the auspices of the District Commission, through the District 7 Coordinator or his designee, and will provide periodic reports to the District Commission and the ANR.
 - The committee will make recommendations to NEWSVT on the development and the implementation of measures suitable to improve operation of the landfill as operation may have potential impacts on Lake Memphremagog.
 - The committee will be entitled to receive copies of all environmental data results submitted by NEWSVT to Vermont regulators; to be informed concurrently of any requests by NEWSVT to modify its operations and/or to amend its state permits/certifications; and to receive, upon request, any other documents transmitted by NEWSVT to ANR.
 - The committee will be provided with the opportunity to attend all meetings and

- inspections between NEWSVT and ANR.
 - The committee will have access to the Coventry site at reasonable times for inspections.
 - The committee members shall share the costs associated with the meetings which shall be held twice a year at the landfill. Members of the committee who retain expert consultants shall be responsible for their fees and expenses.
 - Committee membership would include, a minimum, a representative of NEWSVT, a Coventry resident and a member of the Coventry Selectboard (both appointed by the selectboard), a representative of a Vermont watershed protection group (appointed by the District Commission), a representative of MRC, a representative of the City of Sherbrooke, and such other members as the District Commission deems appropriate.
92. On a case by case basis, NEWSVT shall consider a request by the committee to fund projects the purposes of which are to improve the operation of the landfill in a manner that will protect or enhance the water quality of Lake Memphremagog.

COMMISSION FINDINGS FROM TEKNIKA, INC. ANALYSIS AND REPORT

93. The Lake Memphremagog watershed has an area of approximately 1 800 km². The major part of the watershed is in the United States that is to say approximately 71% of the total area. In the United States, three large rivers are tributaries of Lake Memphremagog: the Black River, the Barton River and the Clyde River. Lake Memphremagog is also fed directly by several small lakes and rivers. Among them are the Cherry River, Lake Lovering and Lake Nick. The total area of the lake itself is approximately 95 km².
94. The water of Lake Memphremagog is used as a drinking water supply and for recreational activities. The descriptions of its use, as well as the main participants involved in its usage are presented as follows:

The Government of Quebec and the State of Vermont are bound by the International Agreement of 1935 (International Lake Memphremagog Board, the level at which Lake Memphremagog should be maintained), which specifies the optimal minimum and maximum water levels to maintain on the lake. Since 1989 the two governments have signed an environmental cooperation agreement to assure the proper management of the lake. This agreement was renewed on December 4, 2003.

MRC was formed in 1981 and includes 17 municipalities. The permanent population is 43,500 and the additional seasonal population is approximately 20,000. Six municipalities are bordering Lake Memphremagog: Austin, Potton Township, Magog, Ogden, Stanstead Township and St-Benoît-du-Lac. In September 1995, the MRC adopted its first

Environmental Plan, identifying the necessary management procedures regarding landfill activities to maintain the good quality of the lake's drinking water supply.

The City of Sherbrooke has a special interest in maintaining the quality levels of the water of Lake Memphremagog because for more than 25 years the lake has supplied drinking water for 125,000 people out of its 140,000 residents. The City of Sherbrooke has signed with the MRC an environmental cooperation agreement to protect Lake Memphremagog and its watershed.

The City of Magog has also a main objective to maintain water quality levels in Lake Memphremagog because it serves as a source of drinking water for more than 16,000 residents. The City of Magog also manages the public beaches at the head of the lake.

95. Several municipalities are supplied with water from the lake. The cities of Sherbrooke and Magog, Potton Township and the abbey of Saint-Benoît-du-Lac draw their water directly from the lake.
96. Lake Memphremagog thus has a major importance with regard to the quality of the water and its improvement for the population of the area of Sherbrooke and that of the MRC.
97. Approximately 150,000 people are supplied by the four (4) municipal water intakes, serving Sherbrooke, Magog, Potton Township and the abbey of Saint-Benoît-du-Lac. There is also a private intake, Club Hermitage in the former Magog Township. Many houses located on the lake's shore have individual water intakes directly in the lake.
98. The cities of Sherbrooke and Magog pump, together, approximately 99% of the water intended for consumption purpose; this excludes the uptake made by private residences.
99. The first water intake coming from Newport is the one from Potton Township, which serves the tourist station of Owl's Head. The water intake is located at approximately 17 kilometres (10 miles) from Newport, on the west side of the lake.
101. The comprehensive and detailed analytical results, as requested by the drinking water regulation from the Québec Government, show for the four municipal intakes a good general drinking water quality from Lake Memphremagog.
101. Considering this good water quality of the lake, the water treatment process is simple for the cities of Sherbrooke and Megog: microscreening and disinfection are enough to provide a good physiochemical and microbiological quality. However, in the unlikely event that inorganic soluble pollutants and certain organic contaminants from the Coventry

landfill leachate eventually reach these water intakes, they would not be removed by this treatment.

102. Recreational activities are increasingly present on Lake Memphremagog which contributes to the tourist development of the region.
103. Lake Memphremagog is well recognized for its fishing and for water sports such as swimming and scuba diving. It is important to maintain a high water quality not only for these activities, but also for drinking water purposes, for the preservation and protection of fish species used for consumption and for maintaining a balanced aquatic environment.
104. In the Lake Memphremagog watershed, the fish resources are abundant and diversified. On the Québec side, 41 fish species from 13 various families have been found. Fish inventories have found that 29 species are unique to Lake Memphremagog. In the shallow part of the lake, the more abundant fishes are Perch, Rainbow Smelt, and Smallmouth Bass.
105. The most common species in the deep part of the lake are Lake Trout, Rainbow Smelt, Brown Trout, and Salmon. Johnny Darter, Mimic Shiner, Pumpkinseed Sunfish and Emerald Shiners are other fish species abundant in Lake Memphremagog.
106. In general, Lake Memphremagog's spawning areas are located in Vermont streams and wetlands. South Bay and Johns River are two main spawning areas. It is in their later development stages that the fish migrate to Lake Memphremagog's deep and cold section. Later on, they will come back to Vermont to spawn. In Québec, a majority of tributaries are well known for being fish sanctuaries and many species such as the Lake Trout and Rainbow Smelt spawn there.
107. In the central part of Lake Memphremagog, there is more than 15,000 m² of natural spawning area for Lake Trout. there are also more than 2,000 m² of artificial spawning areas that have been implemented.
108. Since 1951, thousands of salmon species have been stocked in the lake mainly in order to preserve the existing populations and for sport fishing: Brook Trout, Rainbow Trout, Brown Trout, and Salmon, Lake Whitefish, and also Blue Pike and Chain Pickerel.
109. Pollutant accumulations in lake water, mainly those which are known for bio-accumulating, will have an impact on human fish consumption. Already some species have limits on the amount that can be eaten by humans. For example, the Québec Environment Ministry recommends eating the Lake Trout of Lake Memphremagog with precaution.

110. The site of NEWSVT is located in the municipality of Coventry, which adjoins the municipality of Newport to the south-west in the State of Vermont. This landfill is located at less than 1 kilometre from Newport. The site manager is the company NEWSVT, which is also the owner of the site.
111. The solid waste landfill in Coventry predates 1970. Two former cells (without lining) were closed in 1992.
112. Since 1992, new cells were developed with synthetic linings according to the following phases:
 - Phase I: 6.7 acres
 - Phase II: 8.3 acres
 - Phase III: 19.2 acres
113. A request for a new phase, Phase IV, consists of a new 44.5 acre landfill cell with 8,300,000 cubic yards capacity, which will double the present landfill area. The cost of Phase IV is estimated to be \$22 million (US).
114. The NEWSVT site is located between the Black River, to the west, and South Bay to the east. The Black River is a tributary of South Bay. South Bay is the prolongation of Lake Memphremagog, south of Newport.
115. The surface water runoff from the Coventry landfill flows out mostly to the Black River, tributary of the South Bay which receives the balance of surface water of the NEWSVT site. According to hydrogeologic studies from NEWSVT's consultant, the underground water table flows out totally in the direction of the Black River.
116. The proposed project by NEWSVT aims to create new cells to increase the waste capacity (under a separate permit application) from 240,000 to 370,000 tons per year, for an estimated active lifespan between 20 to 30 years.
117. The waste materials authorized by the landfill are solid waste from residential and commercial sources. Construction and demolition wastes are authorized as well as dehydrated sludges from wastewater treatment plans, and any other material not prohibited by Vermont regulations.
118. Landfilling of hazardous waste is prohibited in the NEWSVT Coventry site by Vermont regulations. Twice a year, NEWSVT is allowed to receive domestic hazardous waste, at the entrance of the site and in specific containers specifically designed for that purpose. This waste is hauled and treated at other facilities.

119. Leachate originates from rain and snow melt which infiltrates the waste material. This liquid is collected by drains installed at the bottom of cells, and pumped afterwards to transfer reservoirs.
120. Depending on the amount of rain and the operating conditions, the leachate volume varies. According to data given by NEWSVT, the annual volume in 2003 was 4,770,000 gallons U.S. The number of tankers necessary to transport leachate out of the site in 2003 was 686. Since 1993, the leachate volume has increased from 306,716 gallons to 4,778,907 gallons last year. Phase IV is expected to increase gallonage to 7,755,885.

Leachate volume produced at the NEWSVT
 Coventry site

Year	Leachate Volume produce at the NEWSVT Coventry site____
1993 Phase I	306,716 GUS
1994 Phase I to II	703,970 GUS
1995 Phase I to II	590,188 GUS
1996 Phase I to II	2,011,068 GUS
1997 Phase I to II	2,146,888 GUS
1998 Phase I to III	1,709,507 GUS
1999 Phase I to III	1,831,739 GUS
2000 Phase I to III	2,105,728 GUS
2001 Phase I to III	2,261,311 GUS
2002 Phase I to III	3,543,438 GUS
2003 Phase I to III	4,778,907 GUS
PHASE I to IV (future)	7,755,885 GUS

Leachate Characterization

121. The leachate generated at the Coventry site is characterized by many inorganic and organic physiochemical parameters.

122. Some characterization results are available from 1992 up to April 2004, with samples taken four times per year. NEWSVT is required to do a sample test for each one of the cells.
123. The data on the leachate from different analysis results were obtained from NEWSVT's consultant, Heindel & Noyes, from the Agency of Natural Resources of Vermont, and from the joint sampling campaign conducted on April 13, 2004 by Taknika and Heindel & Noyes.
124. The laboratory analysis results from that sampling campaign conducted for the MRC and the City of Sherbrooke are presented in the appendix of the Taknika, Inc. Report.
125. Collected leachate is transported by tanker trailer to municipal wastewater treatment plants located out of the watershed of Lake Memphremagog in the U.S.
126. The wastewater treatment plants mentioned in NEWSVT documents as possible leachate receivers are as follows: Montpelier, Vermont; Burlington, Vermont; Plattsburg, New York; Glens Falls, New York, and Concord, New Hampshire.
127. NEWSVT has discussed the future possibility to treat leachate at the municipal wastewater treatment plant in Newport. Vermont Agency of Natural Resources representatives have indicated that to do so the company would have to obtain a permit before proceeding.
128. The possibility of treating the leachate waters at the Newport wastewater treatment plant has not been part of an actual request from NEWSVT.

Biogas management

129. The biogas generated by the landfill is extracted with the help of an active suction system and is presently burned with a gas flame system. A biogas flow of 1250 CFM was measured in October 2003. Two other gas flares operate on the old unlined landfill cells. However, the biogas generated by these old cells is collected with a passive caption system (without pressure). The gas flames operate at a temperature of 900 to 1300°F (500 to 700°C). For Phase IV, the old gas flare system will be replaced with a flare that has a higher capacity (5000 SCFM). The company has a joint project with an energy production firm to produce electricity by recovering the methane in order to generate 3 to 6 megawatts.
130. The atmospheric emission resulting from the biogas combustion does not represent a contamination risk to the water quality in the lake's watershed.

131. Approximately 99% of the volatile organic components (VOC) are destroyed and all the emissions conform to ambient air standards, according to the results obtained from the U.S. EPA atmospheric dispersion model ISCST.3, and by taking the biogas volume estimated by the LandGEM software from now until 2086. The estimated concentrations of methane and hydrogen sulfide taken from these two models at the limits of the landfill property, respect Québec's standards. It is evident that the contaminant dispersion, after about 8 km of dilution in the air between the Coventry site and the Canada-USA border, allows for the reduction of VOC concentrations if the fugitive emissions not collected by the landfill, and at the output of the gas flares are under the detection limits in the atmosphere.

THE NEWSVT LANDFILL'S CONTAMINATION RISKS TO THE LAKE

132. The principal contamination risk of Lake Memphremagog's water quality stem from the contaminant contributions contained in the leachate.
133. The contaminants in the leachate could reach the lake by the following ways:
- Migration of the leachate water from old cells to the Black River.
 - By accidental contributions:
 - tearing of the membrane and leaking leachate towards the Black River;
 - future tank rupture and leaking of the leachate waters toward the Black River;
 - leakage into a stream that is a tributary to the lake due to a tanker truck spill during leachate transportation.

(The Black River, a tributary of Lake Memphremagog, is located downgradient of the Coventry site which would facilitate the transport of accidental spills towards Lake Memphremagog.)

- The disposal of leachate at the Newport municipal wastewater treatment plant.

Modeling and simulation calculations have been made to evaluate the discharges and contaminant concentrations to Lake Memphremagog, according to the different scenarios mentioned above. A bioaccumulation risk evaluation of some contaminants traced in the food chain with all data available has been made as well. This section summarizes the results obtained from these technical evaluations.

Migration of ground water

134. In NEWSVT's emergency measure plan, Heindel & Noyes (H&N) has modeled the leachate migration through the synthetic lining cells from Phases I to IV during the operation or the post-closure period of the landfill. The choice of hypothesis, the safest critical scenarios and the results of this modeling have been verified, recalculated and therefore validated by Teknika, Inc.
135. The simulation results showed that the contamination risks to the ground water were very low for iron and manganese and were nonexistent for organic substances. Finally, we have to take into account that the landfill site's subsoil already has a low permeability with an average test in situ of $K = 1.4 \times 10^{-5}$ cm/sec. If the average permeability is 1.4×10^{-5} cm/sec, the soil is located in a clay zone where liquid migration is very slow, 4.4 m/y or 440 meters in 100 years.
136. Due to the soil's low permeability and the high level of the water table, the leachate that could leak due to a tearing of the triple lining would be captured by the drains collecting the water table under the new cells. This scenario is considered among the accidental possibilities.
137. This scenario was also evaluated by Heindel & Noyes in their own risk analysis study. This evaluation has been made assuming that there would not be an on-going monitoring after the post-closure period, and that the precipitations and later, generation of leachate, could pass through all three geomembranes (capping and at the bottom), and reach the underdrain system and go directly for discharge in the Black River. (See Heindel & Noyes, Worst-Case Evaluation.)
138. The results of this simulation have indicated that Québec's drinking water standards would be respected at the north end of South Bay for all the restraint parameters to public health. The contribution in arsenic (As) coming from the Black River which would receive 33,000 GUS/d of leachate, during the post-closure period could increase from 3.0 to 3.1 ug/l. The arsenic concentration will be below the lowest detection level as for all others analyzed risk parameters (methylene chloride, pentachlorophenol, and a pesticide as carbaryl). The calculations of this model have also been verified by Teknika, Inc. with the scenario of a future treatment at the wastewater plant at Newport and for which the efficiency would be zero.
139. The former Nadeau unlined cells present additional concerns. Some wells at the bottom of the Nadeau landfill slopes show concentrations of contaminants. The contaminants flow through the soil and their resurgence is not established. NEWSVT and the Agency of Natural Resources have taken actions to add two new observations wells in the wetlands, between the foot of the old unlined landfill and the Black River. There is agreement of all parties that following the migration is necessary, and that future action is

necessary because eventually any contaminant that would reach the surface water is at risk of being discharged in Lake Memphremagog.

140. It has been evaluated that if in fact there would be leachate resurgences from the old cells to the swamp, a certain retention and absorption in the swamp would reduce the contaminant concentrations that could reach the Lake Memphremagog via the Black River.
141. If there is resurgence of leachate upstream of the marshy zone, a certain liquid volume of the marsh will ensure a retention time allowing for the biological activity of the marsh and its physiochemical component to contribute to retain certain contaminants and to break up certain organic substances.
142. It is under discussion that NEWSVT proposes to remove the waste from the former Nadeau unlined cells, and to bury the waste in new lined cells, in order to recuperate this area and to extend the lifespan of the landfill (Phase V).
143. This approach of "land mining" could be beneficial, if all the leachate produced by the old dump, as well as all the other present leachate, will be transported to be treated outside the watershed of Lake Memphremagog.

Accidental Contributions

144. For the three (3) forms of accidental contributions, Teknika, Inc. proceeded to make a discharge model and simulation directly at Newport without considering any retention by absorption, and/or absorption, contaminants loss and transformation in the sediments or in the water of Lake Memphremagog according to the following extreme scenarios:
 1. Maximal leachate discharge through the three (3) torn linings which are found under the cells, directly into the lowering drains of the water table to the Black River which is an affluent to Lake Memphremagog: It is supposed that at a continual leakage for one month; this leak would occur once every five years, during 60 years; the concentrations used were the maximum values obtained from the past year's analyses.
 2. Leakage due to a tanker transporting leachate for treatment: Every year during a 60 year period, a 6,500 gallon U.S. tank (25 m³) spills its load completely and assuming that maximal contaminant concentrations are found in the leachate.

3. The rupture of the future reservoir 550,000 gallons U.S. (2,100 m³) planned in Phase IV for the expansion of the site: Once in the life span of the site, the reservoir that is totally full of leachate of average concentration discharges its entire contents at the entrance of the lake at Newport.
145. In terms of pollutant loads, it is the rupture of the reservoir filled to capacity with leachate which presents the greatest risk for the lake in terms of instantaneous important contribution. The design of the tank has more than 50% of its capacity 350,000 gus (1,300 m³) available to receive the leachate resulting from an episode of exceptional rain of a recurrence of once in 25 years, according to criteria of the Agency of Natural Resources. The average concentration is considered because of the dilution of the leachate by rainwater.
146. In collaboration with two researchers from the Department of Chemical Engineering from the University of Sherbrooke, a leachate discharge and dispersion simulation was done from Newport to the first water intake in Canadian territory, in Potton Township located at 17 km (10 miles) from Newport.
147. The results of that study showed that the discharge coming from Newport would flow along the western side of the lake where Potton Township's water intake is located and where the polluted maximal diluted concentration would necessarily go through it.
148. At this water intake, the volume of the lake and the contribution of water from tributary rivers assure that the dilution of the contaminants will result in concentrations being under the regulation of drinking water quality of Québec and the Canadian recommendations for the preservation of the aquatic environment for fresh water.
149. Applicant has not applied for the ability to bring leachate to Newport for treatment. the Commission would require a review of such a proposal.

Site Monitoring and Post-Closure

150. NEWSVT adheres presently to a closure plan for the Coventry landfill, which will be in effect in case of any eventual closure during the operational time frame or after the closure expected between 2025 and 2035 when the full capacity of the cells have been reached. The company is also subject to a 30-year post-closure plan. These two plans are in accordance with the Vermont Solid Waste management Regulations and the "Procedure Addressing Post-closure Care and Post-closure Certification at Solid Waste Landfills"(February 8, 1999).

151. NEWSVT and its consulting engineering firm have estimated approximately 8 million dollars U.S. for the closure and 2.3 million dollars for the post-closure (in 2003 dollars, present value with an interest rate of 5% and an inflation rate of 2.5%).
152. The Vermont Agency of Natural Resources considers that these two plans and the estimated costs conform to the present regulations.
153. Québec's requirements in the matter of financial guarantees for post-closure management are, however, different from those in Vermont. Québec requires annual contributions to a trust fund (rather than a surety bond), during the entire operational time frame of the site, in an amount that will add-up to a total value corresponding to the amount needed for the post-closure. That way, each year of the operational life span of the site an amount of money "x \$m³" of the waste deposited will be put in the trust fund.
154. As in Vermont, which uses a surety bond to be reviewed every two years, Québec adjusts the contributions in the trust fund once every five years. In both cases the evolution of the funds is evaluated and afterwards a notification is made that informs as to the situation of all contributions. In Québec, if the conclusion is reached that there is not enough money to ensure the proper closure for the years that are left, the Ministry can demand to increase the deposits made to the trust fund. According to the Solid Waste North American Association (SWANA), the trust funds method is "The most fair and equitable means to assure the availability of adequate and guaranteed funds at the time they are needed."
155. Opinions diverge in the USA as well as in Québec about the duration of the post-closure period (that is, whether 30 years will be enough) and also if the magnitude of the funds required will be sufficient. Given that a landfill with geosynthetic membranes (without leachate recirculation) is considered to be the equivalent of a "dry tomb", meaning that the biodegradation of the refractory organic substances will not be completely finished after 30 years, additional post-30 year maintenance may be required yet the trust fund (or surety bond) will be depleted.
156. According to many specialists in the field of landfills (e.g. the "dry tomb" concept), as long as the wastes are contained in the cells, there is no environmental contamination risks, in other words, all the heavy metals and the persistent chemical substances are securely contained. If some day an unforeseen event happens (e.g. settling, rupture of a pipe, infiltration of unwanted water, landslide by erosion, wear and tear of the linings after many decades during or after the post-closure period), there is a possibility that precipitation will run through the final cover and humidify the "dry tomb" and could even, for example, produce leachate in 40 to 50 years. In the worse case scenario if the bottom of the cell deteriorates, contamination of the ground water could result. Because

it is almost impossible with a visual inspection to verify if the lining is damaged (because of the sandwich design with 60 cm of soil over the lining) especially after the post-closure period, long term risks cannot be adequately assessed. Applying the Precautionary Principle, in the face of uncertainty it would be appropriate for NEWSVT to develop a method for inspecting the integrity of the lining to avoid infiltration of precipitation in 10, 100, or 200 years.

157. This is why the U.S. EPA recognized that landfills designed according to the "dry tomb" concept are not able to protect the quality of the environment for its long life. The EPA mentioned.

"Even the best liner and leachate collection system will ultimately fail due to natural deterioration, and recent improvements in MSW landfill containment technologies suggest that releases may be delayed by many decades at some landfills."

158. There are also other concerns regarding the problems of the post-closure funding care.
159. The MRC and the City of Sherbrooke report argues that NEWSVT's proposed post-closure funding does not include unexpected costs (e.g. membrane repair in the bottom of the cell or at the top, remediation of ground water if some contamination occurs, important damage to pump or to gas flare systems, etc.), assuming that an event (or more) happens during the 30-year post-closure period, or afterwards. It thus appears that the funding could be insufficient, and consequently that an unexpected failure of the landfill could have some negative impacts on the environment and on Lake Memphremagog.
160. A review of the requirements relating to the post-closure management in other U.S. states and in Canada showed that the calculation methods to estimate post-closure costs vary from one site to another, depending on the local conditions, on the current legislation of the state or the province, on the number of piezometric wells to sample and to analyze, the ratio of volume/area of landfill, the leachate and biogas type for process treatment, the special requirements in the permits, the type of cover and other conditions.
161. We, therefore, cannot compare the total value of funding put in reserve or the buried wastes unitary rates $\$/m^3$ for landfills with approximately the same burial capacity or the same annual arrival rate (t/year). There is therefore no possible comparisons that could be exposed to the criticisms of a specialist in the field.
162. However, with the preceding warning as a premise, it is possible to demonstrate the great differences between some landfills in Québec and in the United States (Post-closure funding), as presented in table 3 of the full Teknika, Inc. Report.

163. In summary, the MRC and the City of Sherbrooke are very concerned about the sufficiency of the post-closure fund. The 2.3 million dollars US budget planned by NEWSVT to perform post-closure activities does not include any expansive extras. It is not possible to know what will happen after the end of the post-closure period. Who will be responsible after 30 years and who will pay the bill to do the post-post-closure plan? Because there will be definitively some work to be done, considering the landfill design ("dry tomb concept"), no specialist at this moment can certify that the actual post-closure life span is 30 years.
164. The guarantees on the lining's perpetual integrity do not exist. Thus, it will be necessary to make sure that they stay in good condition, and to do so, it is necessary to offer additional financial guarantees in case of liner decay or other cap or underdrain failure.
165. All of these concerns should be addressed by the State of Vermont, and by NEWSVT in a continuing hearing process, in order to assure that there will be no risk of contamination of Lake Memphremagog in the very long term.

Discussion and Conclusion

The above findings outline the risks associated with landfills everywhere. In general, no matter how well-designed the facility, landfills can be mis-managed, liner systems can be poorly installed, liner systems can simply fail. It is possible for under-drains to collapse or fail, for caps to rupture, for systems to malfunction. In regard to this request to expand an existing landfill facility, and, looking thru the lens of Vermont environmental law and Act 250's ten criteria, the Applicant is essentially asking this Commission to put our faith into advanced engineering, into this state of the art facility and into their track record of good stewardship and landfill management. We are going to do that. This Commission is impressed with both the design and the track record of the facility as borne out by 15 years of monitoring data.

However, we are also impressed by the carefully outlined concerns of the MRC and Teknika, Inc. Considering alone that there is no definitive proof that the plastic liners the proposed system relies on will maintain their integrity beyond the 30 years they are guaranteed to last, we need to consider the possibility that corrective work will, someday, be required. In today's dollars, constructing Phase IV alone will exceed a cost of 20 million dollars. What will significant repairs to the facility cost 50 years following closure? The answer, right now, is that we really don't know. This Commission is going to retain jurisdiction over this matter. We will conduct additional hearings in an effort to find an answer. However, in the short term we are requiring the prudent allocation of money today and we are taking other precautions, through our permit conditions, that we feel confident will limit the risk that time and the elements bring to all landfills. Without such immediate precautions and advanced financial planning, neither this nor

any other lined landfill, in our opinion, can comply with Vermont's Act 250 water quality protection criteria.

We are going to require the establishment of a Post-Post-Closure Trust Fund as suggested by the MRC. By placing one dollar - per ton of trash hauled to this landfill - into the Trust Fund, it will be possible, based upon an estimate of 300,000 to 370,000 tons of waste per year and based upon an interest rate of 5.5%, to set aside between 10 and 13.5 million dollars over the next 20 years of landfill operation. The requirement of this one-dollar per-ton assessment will commence upon the date of the opening of Phase IV for receipt of solid waste. The trust fund assessment will be on all waste brought to the gate of the landfill facility as of that date. Management of the Trust shall be, first and foremost, for adequate guarantee of maintenance and repair of the facility more than 30 years beyond its closure. Other uses of the fund will need to be scrutinized by a Trust Fund management committee and this Commission. We will, under our reserved and continuing jurisdiction over this matter and over the Trust Fund, consider whether other uses of the Trust Fund are appropriate for further mitigation of regional or watershed impacts recognizable under Act 250. Such utilization of funds might include but not be limited to, funding of enhancements to improve the water quality of the Lake Memphremagog watershed, funding of studies or projects aimed at increased landfill sustainability, recycling or waste to energy projects, funding for enhancement of fish and wildlife protections within the region, funding for further investigation of Fund management and oversight options, funding to further study and analyze the Fund's appropriate value/level and financial needs in light of changing markets, new information or increasing demand for landfill space. The Commission is aware that all of these issues have yet to be detailed. Our conscious choice is to issue the Land Use Permit prior to finalization of all of the details involved. We believe this is appropriate given the fact that we are not waiting to create the Fund itself. The Fund will be growing as we define its form and function. We retain continuing jurisdiction over all aspects of the Post-Post-Closure Fund and we reserve the right to reopen hearings on this matter as necessary and appropriate to provide structure, direction and oversight per the goals and interests discussed above.

Through permit conditions we will require: the creation of an independent oversight committee as agreed upon by the Applicant and the MRC; the establishment of a video monitoring program aimed at 24 hour surveillance of the facility; development of expanded ground water monitoring as agreed upon by the Applicant and the Vermont Fish and Wildlife Department. Additionally, we will require the Applicant to fund the hire of an independent licensed professional engineer, reporting directly to the District Commission, to insure independent oversight of key landfill liner and other infrastructure installation.

We will also encourage and attempt to facilitate an increased, on-site, operations oversight presence by representatives of the Vermont Agency of Natural Resources Solid Waste Program. We strongly believe that Vermont state waste management professionals must be on site during the construction period for Phase IV and continuing on-site regularly thereafter.

Also, at the time this Commission considers the Applicant's plans for moving/protecting/securing the old unlined landfill areas (A & B), we will require that the Applicant provide a master plan presentation outlining future plans to utilize other areas of the project site/area for continued, planned landfill expansion. What we hope to gain from such a presentation is some level of advanced insight as to where, in the Applicant's view, we may be headed next. Such insight will help us prepare, not only for future amendment applications but also for the discussions and rulings that will need to take place under the auspices of our continuing jurisdiction over Phase IV.

With the creation of long-term guaranteed funding, separate and distinct from other required post closure insurance and bonding, and with newly imposed oversight, monitoring and independent engineering verification, it is our opinion that continued operation of the facility through Phase IV can meet Act 250's water quality criteria and protections in both the short and longer terms.

The District Commission concludes that Phase IV will meet applicable health and department of environmental conservation regulations and will not result in the injection of waste materials or harmful or toxic substances into groundwater or wells.

SECTION 6086(a)(1)(C) WATER CONSERVATION:

166. No new plumbing fixtures are proposed as part of the Phase IV development.

The District Commission concludes that the project utilizes the best available technology for water conservation.

SECTION 6086(a)(1)(D) FLOODWAYS:

167. The Commission concludes that Phase IV will not be located in any floodway or floodway fringe.

SECTION 6086 (a)(1)(E) STREAMS AND SECTION 6086(a)(1)(F) SHORELINES AND SECTION 6086(a)(1)(G) WETLANDS:

168. The Black River is approximately 1,600' to the west and northwest of Phase IV. Based on over 15 years of monitoring it has been determined that the lined landfill has not impacted the water quality of the Black River or the small streams and wetlands located east and west of the landfill. (Heindel Testimony, 02/19/04; Barton Testimony, 03/18/04).

169. Excess soil will be stockpiled on the St. Onge property which borders on the east of South Bay of Lake Memphremagog. The St. Onge soil stockpile will be located at least 350' from the lake. (Barton Testimony, 03/18/04).
170. No vegetation will be disturbed within 350' of the edge of South Bay. (Barton Testimony, 03/18/04).
171. There are two wetland areas on the landfill site. One is located to the east of Phase III, approximately 50' off the edge of the existing access road. The second area is approximately 200' from the southwest corner of the landfill. (Barton Testimony, 03/18/04).
172. Wetland Conditional Use Determination is required to construct the new access road within a Class 2 wetland buffer zone. No construction will occur within a jurisdictional Class 2 wetland. (Barton Testimony, 03/18/04).
173. No construction is proposed within any stream or river corridor.
174. During construction in areas near streams, silt fencing with hay bales support will be placed down gradient of the work area to limit the potential for impact from sediment.
175. The project will not involve withdrawal from a stream, river, pond, or lake.
176. In response to the ANR concerns, NEWSVT has agreed that prior to the beginning of all stockpiling, the St. Onge meadows shall be mowed to prevent breeding and/or nesting of birds; from March 15 to July 15 there shall be no mechanical activity closer than 500' to the tree line adjacent to the SBWMA; stockpiling of soils shall be limited from October 15 through November 15; and NEWSVT shall plant a hedge of hard and soft woods at the eastern edge of the soil stockpile. (Barton Testimony, 03/18/03).
177. The District Commission accepts the expert testimony presented that groundwater does not flow from Phase III in an easterly direction toward the wetlands and swales to the east of the landfill. (Barton Testimony, 03/18/04; Heindel Testimony, 03/18/04).
178. Modeling under severe worst-case situation predicts that groundwater flow to the west will not cause a significant increase (0.3%) in ground or surface water concentrations of contaminants and no increase that would cause an exceedance of Vermont Groundwater Standards. (Barton Testimony, 03/18/04; Heindel Testimony, 03/18/04).

The District Commission concludes that Phase IV will not have an adverse impact on the natural conditions of shorelines, streams, or wetlands in the vicinity.

SECTION 6086(a)(2 & 3) WATER AVAILABILITY AND IMPACT ON EXISTING SUPPLY:

179. The non-potable water supply for the landfill employees is a drilled well near the scale house. The yield of the well is sufficient for the needs of the landfill and will be sufficient for Phase IV since there will be no increase in water usage. Potable water for employees is provided by bottled water. (Heindel Testimony, 02/19/04).
180. The nearest off-site water supply wells are more than 1,100' from the landfill and are hydrologically up-gradient and will not be affected by the operation of Phase IV. (Heindel Testimony, 02/19/04).

The District Commission concludes that Phase IV will have sufficient water and will not cause an unreasonable burden on existing water supplies. (Concerns regarding water quality of Lake Memphremagog are fully considered under Criterion 1(B).)

SECTION 6086 (a)(4) SOIL EROSION AND THE CAPACITY OF THE LAND TO HOLD WATER:

181. Erosion control consists of sedimentation basins and associated swales. Stormwater in the perimeter swales will be directed to sedimentation basins before discharge from the site. Stone check dams will be installed in the swales at 250' intervals and will be maintained during construction activities. (Poirier Testimony, 02/19/04).
182. Accumulated sediments in swales and sedimentation basins will be removed on a regular basis. Areas disturbed during construction will be seeded and mulched as soon as practicable after the work is completed. (Poirier Testimony, 02/19/04).
183. Phase IV will involve constructing a large visual berm and soil stockpiles for use as daily cover. A silt fence will be installed on the down-slope side of stockpiles and in other areas where sediment transport may take place. (Poirier Testimony, 02/19/04).
184. Intermediate vegetative cover will be placed on side slopes between April 15 and June 24, or between August 15 and October 15. The side slopes will be seeded and mulched with seed mix approved by the Vermont Handbook for Soil Erosion and Sediment Control for Construction Sites.
185. Construction specifications will require the contractor to maintain erosion and sediment control measures during construction. The Applicant shall provide the District Commission with the name and contact information for the individual responsible for the monitoring of erosion and sediment measures.

186. The surface water diversion ditches and sedimentation basins will be inspected regularly and at a minimum after each major storm.
187. Stormwater runoff from impervious areas created during construction of Phase IV will be collected and conveyed within swales to one of the sedimentation basins on site.

The District Commission concludes that the construction of Phase IV will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water.

SECTION (a)(5) TRANSPORTATION:

188. Main access to the landfill with the construction of Phase IV will remain U.S. Route 5 and Airport Road.
189. Operation of Phase IV at the currently permitted 240,000 tpy disposal rate will not increase the volume of truck traffic at the landfill. However, NEWSVT is seeking a permit to allow 5 - 10 additional daily road trips to allow the Company to sell excess soil generated during construction. (Poirier Testimony, 03/18//04).
190. NEWSVT is willing to accept a condition of permit that would limit landfill truck traffic south on Airport Road to local pickup of waste and emergency situations. (Poirier Testimony, 03/18//04).

Discussion and Conclusion

Traffic impacts will be more fully considered when reviewing a future request to increase the annual tonnage rates at the landfill. A separate proposal is before us to increase tonnage from 240,000 tons annually to 370,000 tons.

The District Commission concludes that Phase IV will not cause unreasonable congestion or unsafe conditions with respect to truck traffic.

SECTION (a)(5) TRANSPORTATION (Airport) AND SECTION 6086(a)(9)(K)
DEVELOPMENT AFFECTING PUBLIC INVESTMENTS:

191. The Newport State Airport is located south of Phase IV. The airport has two runways: a primary runway maintained year-round for day and night operation and a secondary runway which is not maintained in the winter and is not used for night time operation.

192. Phase IV has been designed with four cells. The distance from the southern limit of Phase IV Cell 4 to the end of the primary runway is about 3,300'. The distance to the end of the secondary runway is about 2,900'.
193. The Solid Waste Management Rules require that lateral expansion of a landfill located within 5,000' of an airport such as the Newport State Airport shall not pose a "bird hazard" to aircraft. A "bird hazard" is defined as "an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants." As required by federal law, the Federal Aviation Administration ("FAA") has been notified regarding the location of the construction of Phase IV. (Capen Testimony, 03/18/04; Lackey Testimony, 04/06/04).
194. Section 31 of the Solid Waste Management Facility Certification issued for Phase III requires NEWSVT to establish a monitoring program to assess the effectiveness of the bird management control program conducted at the facility. The control program had been prepared by Dr. David Capen, Associate Professor at the Wildlife and Fisheries Biology Program, University of Vermont.
195. Dr. Capen has monitored the presence of birds at the NEWSVT facility since 1992. (Application; Capen Testimony, 03/18/04).
196. Dr. Capen reports that gulls have been present in the area for many years. Lake Memphremagog provides an attractive habitat for gulls with the open water and sites for roosting. The airport itself and surrounding agricultural fields also attract birds to the area.
197. In response to an increase in the number of birds visiting the landfill, in 1996 a bird control program was instituted at the landfill.
198. In October 2001 an enhanced bird management program was established by NEWSVT and is currently being implemented at the site. This program is a cooperative effort between NEWSVT, the Vermont Agency of Transportation, and the United States Department of Agriculture. The program involves implementation of bird harassment techniques and habitat management at the airport, on the farmland between the airport and landfill, and at the landfill itself.
199. Dr. Capen's report, Appendix C of the Application, summarizes bird harassment and monitoring activities at the site since 1992. Dr. Capen concludes: "It is clear that aggressive bird management at both the landfill and airport, when sustained on a daily basis is effective in virtually eliminating any possible hazard to aircraft".

200. Dr. Capen's conclusion coupled with the proposed continuation of the current bird harassment and monitoring practices at the airport and landfill indicate that the Phase IV expansion will not pose a "bird hazard" to aircraft. (Capen Testimony, 03/18/04).
201. The FAA has agreed to NEWSVT's plan that will allow expansion of landfill into Phase IV Cells 1 and 2 during the 5 year term of the most recent Amended Solid Waste Management Facility Certification application. FAA's approval of the plan is conditioned upon NEWSVT relocating the in use section of the runway so that both runways are approximately 4,072' from Cell 2 of Phase IV. Expansion of Phase IV beyond Cells 1 and 2 will require relocation of runways to an area beyond 5,000' from all cells of Phase IV. (Lackey Testimony, 04/06/04; FAA Correspondence.)
202. There is possible evidence that there is less of a bird hazard with the operation of the landfill and the implementation of Dr. Capen's bird control program than without. (Capen Testimony, 03/18/04).
203. The District Commission will issue a Land Use Permit Amendment for all of Phase IV subject to the condition that NEWSVT complies with the proposal approved by the FAA.

The District Commission concludes that Phase IV will not cause unsafe aircraft conditions or endanger the public's investment with respect to the Newport State Airport.

SECTION 6086(a)(6 & 7) EDUCATIONAL AND MUNICIPAL SERVICES:

204. The development of Phase IV of the landfill will allow ongoing operations to continue and will not involve creation of new jobs. Phase IV will not have an affect on the provision of educational services of Coventry or of neighboring towns.
205. Phase IV will not cause an unreasonable burden on any of the local, municipal, and emergency services. (Wing Testimony, 04/06/04).

The District Commission concludes that Phase IV will not place an unreasonable burden on the ability of Coventry to provide educational or governmental services.

SECTION 6086 (a)(8) AESTHETICS, SCENIC BEAUTY, HISTORIC SITES AND NATURAL AREAS:

206. The visual appearance of the Phase IV site includes two large grass knolls which are the closed unlined landfills A and B, the permitted lined landfill Phases I, II, and III, a maintenance garage, office building, and truck scale.

207. The landfill site has been operated as a dump, junkyard, and lined landfill site for 25 years. Phase IV involves continued operation of this same type and character of existing lined facilities.
208. Phase IV when operated in accordance with dust and noise controls, fits and is in harmony with its surroundings. (Poirier Testimony, 03/18/04.)
209. A berm will be constructed between the landfill and Airport Road to mitigate/block the view from the road into the landfill. The Applicant shall landscape this berm area to harmonize and enhance its appearance with the public view as soon as seasonally possible following its construction.
210. Phase IV slopes will be seeded as development proceeds and mulched as soon as slopes are brought to final grade.
211. The berm and seeding will mitigate and lessen the visual impact of the landfill, including Phase IV.
212. The landfill is specifically referenced in the Coventry Solid Waste Management Plan and there is no known community standard on aesthetics that would prohibit the expansion of the landfill at this site.
213. Phase IV, when closed, will appear to be a large grassed hillside, a sight common in the area. Phase IV will not be shocking or offensive to the average person.

Discussion and Conclusion

This is a large landfill project and as such the visual impact of the facility from some vantage points is significant. A number of residences to the west of the facility on the ridge line running along and above Route 5 have a direct view of the facility but at a distance that mitigates the impact. Key for surrounding residences is dust control and maintaining strict operational hours. The Commission, as discussed elsewhere in these findings, will retain continuing jurisdiction over landfill monitoring and reporting efforts. It is our hope that, with improved oversight and monitoring, the landfill will be better able to make adjustments to further mitigate real impacts in regard to dust, litter and noise generation. We have done more aggressive analysis of the landfill's visual impact under other phase reviews. Our findings under prior phases are similar to those here as Phase IV is a continued expansion of an existing landfill facility.

In regard to odor impacts associated with the landfill, Phase IV will mitigate impacts with a continued aggressive methane collection effort. With the addition of a methane to power facility at the landfill, methane has become a valuable by-product of landfilling.

The Applicant will follow the adopted procedures for the covering of trash as outlined in their management plans and as required under their State, ANR, Certification of the facility. Operational hours will remain as previously permitted and as reiterated in the ANR Certification, the terms and conditions of that certification being enforceable under the Act 250 Land Use Permit. (See Criterion 1(B) findings - Solid Waste Certification.)

The District Commission concludes that Phase IV will not have an undue adverse affect on the scenic or natural beauty of the area.

SECTION 6086 (a)(8)(A) NECESSARY WILDLIFE HABITAT:

The following list of findings are in response to the Agency of Natural Resources concerns regarding wildlife and rare, threatened and endangered species near and at the proposed project. The Agency has reviewed these conditions and found that they are satisfactory for the protection and conservation of significant wildlife functions and values (See correspondence from John Austin, dated February 17, 2004.) The habitat management plan developed in cooperation with the Agency for this permit has been included in the following findings and determinations.

214. The limits of earthwork activities will not expand beyond those boundaries depicted on Sheets 3 of 3, entitled "Phase IV Design, Full Development Plan (included in original submittal). This boundary provides an approximately 300' buffer zone between the limits of the stockpile and the tree line adjacent to the wetlands associated with the South Bay Wildlife Management Area (SBWMA).
215. In the spring, prior to commencement of soil stockpiling, the St. Onge meadows shall be mowed to prevent breeding and/or nesting of birds in the meadow areas.
216. Soil stockpile activities in the St. Onge field shall be limited during the period of March 15 to July 15. During this time period, there shall be no mechanical activity closer than 500 feet to the tree line adjacent to the SBWMA, to accommodate the water-based bird-breeding season. The 500 foot buffer will be determined using taped measurements from the existing tree line at the time of construction, including installation of stakes with flagging installed at regular intervals to serve as visual cues to those working in the area of the buffer zone.
217. Soil stockpile activities in the St. Onge field shall not be limited during the period of July 16 through October 14.
218. Stockpiling of soils shall be limited during the period of October 15 through November 15. During this time period, there shall be no mechanical activity closer than 500 feet to

the tree line adjacent to the SBWMA, to accommodate recreation activities in the SBWMA.

219. A mixed hardwood/softwood hedge shall be planted at the eastern edge of the soil stockpile. The approximately 1800 foot long hedge shall be 20 feet in width, and planted two trees thick in a zigzag pattern. Approximately 100 trees will be planted 20 feet on center. Tree species to be planted include northern white cedar and red maple. Such a hedge will function as a visual and auditory barrier for near edge wildlife species utilizing the forest and wetlands. (See Habitat Management Area Plan dated 2/4/04, Sheet 2.)
220. A comprehensive conservation management strategy has been developed to mitigate potential impacts from the proposed Phase IV expansion on the habitat of the State threatened/endangered Grasshopper Sparrow.
221. The overall objective of the management plan is to make available management pods (undisturbed grassland habitat) at all times during the project life span. Management pods shall be planted with warm season grasses (if possible) or more likely cold season grasses and clover and/or alfalfa. An active pod shall not be mowed or hayed until after August 1. There shall always be available at least two active management pods at any given time. The pod locations are shown on the Habitat Management Plan.
222. Project years 1-3: Pod 1 (~18 acres) will be the vegetated side slopes of Phases I, II and Cells 1 and 2 of Phase III. It is assumed that during this time frame the existing soil stockpiles in the Phase IV footprint will be utilized to construct the proposed berm around the south and eastern extents of Phase IV. The existing soil stockpiles shall be mowed/hayed prior to May 15 to prevent breeding of the grasshopper sparrow on the property. The berm will be fully constructed in the first project year. This berm is to be planted with the management seed mix and maintained as grassland with occasional mowing (after August 1) to eliminate the establishment of woody vegetation. The berm (~22 acres) will be considered part of Pod 1 starting in project year 2.
223. Pod 2 will be the St. Onge Field (~32 acres in the management area). This field is to be planted with the alfalfa/clover mix and maintained as grassland with mowing to occur after August 1.
224. Excavated soils from Cell 1 of Phase IV will be stockpiled on the Mead parcel if needed. The excavation area shall be mowed prior to May 15 to prevent breeding of the grasshopper sparrow. When the Mead stockpile is complete, the pile will be seeded with the management seed mix and maintained as grassland with occasional mowing (after August 1).

225. Project Years 4-7: Pod 1 will be the same as during Project Years 1-3. Pod 2 will be inactive for mitigation. Pod 3 will be the Mead soil stockpile (~20 acres for the management area.), assuming that it is complete. The St. Onge property will no longer be considered in active mitigation pod if stockpiling has commenced. The St. Onge fields shall be mowed/hayed prior to May 15 during years that stockpiling is to occur to prevent breeding of the grasshopper sparrow on the property.
226. Project Years 7-15: Pod 1 will be the same as during Project Years 1-7. It is assumed that at some point permanent capping activities will be occurring in Pod 1. When capping is to occur, the area shall be mowed prior to May 15. Pod 2 will continue to be inactive for mitigation. Pod 3 will continue to be the Mead soil stockpile area. As Phase III and cells of Phase IV are filled, they shall be planted with the management seed mix and maintained as grassland with occasional mowing (after August 1) to prevent the establishment of woody vegetation.
227. Project Completion: Pod 1 (essentially the foot print of the entire landfill) and Pod 2 (Mead soil stockpile) will be maintained as grassland with occasional mowing after August 1. Pod 2 will revert back to an agricultural field with rotating crops of corn and hay.
228. Monitoring: Monitoring shall be conducted every 3 years during the life span of the project. The monitoring will consist of 2 site visits to active management pods during the breeding season. Monitoring will not be conducted upon completion of the project. When Phase IV is capped and seeded, the project will be considered complete. (See Habitat Management Area Plan dated 2/4/04, Existing Conditions Plan dated 2/4/04 and State Endangered and Threatened Species Permit Application.)
229. NEWSVT consultants identified the possible presence of the threatened grasshopper sparrow within the Phase IV expansion area. (Barton Testimony, 03/18/04).
230. NEWSVT and Vermont Fish and Wildlife Natural Heritage Program have agreed on the plan for habitat management throughout the landfill site to enhance the grasshopper sparrow habitat. The plan is set forth in the Vermont Fish and Wildlife Department of Endangered and Threatened Species Permit which is incorporated herein.

The District Commission concludes that Phase IV will not destroy or significantly imperil necessary wildlife habitat.

SECTION 6086 (a)(9) CONFORMANCE WITH THE CAPABILITY AND DEVELOPMENT PLAN:

The District Commission concludes that Coventry will be able to accommodate the total growth and rate of growth that will result from Phase IV, which is an ongoing continuing operation of the landfill.

SECTION 6086(a)(9)(A) IMPACT OF GROWTH:

The District Commission concludes that Coventry will be able to accommodate the total growth and rate of growth that will result from Phase IV, which is an ongoing continuing operation of the landfill.

SECTION 6086(a)(9)(B) PRIMARY AGRICULTURAL SOILS:

231. NEWSVT owns approximately 965 acres in Coventry. Based on soil maps prepared by the Natural Resource Conservation Service, 530 acres of NEWSVT land is considered primary agricultural soils ("PAS"). (Adams Testimony, 03/18/04).
232. Use of approximately 115 acres of PAS on the NEWSVT property has been previously permitted by the District Commission or was developed before Act 250 became law. (Adams Testimony, 03/18/04).
233. The 115 acres of PAS is 22% of the PAS on NEWSVT's property, a percentage this District Commission has previously found not to have a significant impact.
234. The Environmental Board has, in the past, ruled that use of 30% of PAS by a development is a significant impact which requires either compliance with the subcriteria of the criterion or an off-site mitigation agreement. *Re: Southwestern Vermont Health Care Corp., #8B0537-EB (02/22/01).*
235. Phase IV will use an additional 11 acres of PAS or an additional 2% of the total, for a total of 24% or 126 acres. (Adams Testimony, 03/18/04).
236. Use of 24% of the PAS on NEWSVT's property is not a significant impact on PAS, thus not requiring consideration of the subcriteria of the criterion or the necessity for entering into an off-site mitigation agreement.
237. Nonetheless, NEWSVT is willing to enter into an off-site mitigation agreement for PAS used in excess of the 20% used by NEWSVT or the number of acres in excess of 106 acres, or 20 acres. The agreement shall be with the Vermont Agency of Agriculture in accordance with the "Vermont Department of Agriculture, Foods, and Markets, Act 250 Off-Site Mitigation Procedure for Criteria 9(B)". (Adams Testimony, 03/18/04).

238. NEWSVT will pay \$29,900 as mitigation for the impact of the landfill on prime agricultural soils.

Discussion and Conclusion

- The Commission is accepting Applicant's offer of \$29,900 under an off-site mitigation agreement. While the mitigation assessment approach outlined in the findings is not strictly in accordance with this commissions usual approach to mitigation of agricultural soils, (we believe an assessment totaling the cumulative impact of the project on all ag-soils is appropriate in most circumstances) it is an appropriate approach here given the absence of discussion on this topic in past commission reviews and decisions. The original Act 250 decision issued in 1991 did not treat the project area soils as prime and some of the prime soils were used for landfilling prior to the inception of Act 250. Given the Applicant's reliance on past practices and decisions, the approach taken here seems fair and appropriate under the circumstances.

The District Commission concludes that with an off-site mitigation agreement between NEWSVT and the Agency of Agriculture or other form of equal compensation, Phase IV will not significantly reduce the potential of primary agricultural soils of NEWSVT's Coventry properties.

SECTION 6086(a)(9)(C) FOREST AND SECONDARY AGRICULTURAL SOILS:

239. The Commission concludes that the project will not significantly reduce the potential of any secondary agricultural soils or forestry soils.

SECTION 6086(a)(9)(D & E) EARTH RESOURCES & EXTRACTION OF EARTH RESOURCES:

240. Soils at the Phase IV site consist of glacial till which is generally fine grained and of low value as structural fill for roadway and building construction.

The District Commission concludes that earth resources have not been identified on the site and approved for extraction under a previous land use permit.

SECTION 6086(a)(9)(F) ENERGY CONSERVATION:

241. Ninety-nine per cent of the waste disposed of at the landfill is generated in Vermont. All of the municipal solid waste and construction and demolition debris delivered to the site is generated in Vermont. (Wing Testimony, 04/13/04).

242. If Phase IV is denied and when Phase III is closed in 2-3 years as projected, Vermont waste will have to be trucked to Seneca Meadows in western New York, a distance much further than Coventry. The longer haul will be less energy efficient than continuing to truck waste to Coventry. (Wing Testimony, 04/05/04).
243. Washington Electric Co-op's gas to electric project is regulated by the Public Service Board. The project will generate 4-6 megawatts of energy and will allow the Co-op to discontinue use of Vermont Yankee nuclear power. (Adams Testimony, Co-op Representative Testimony, 04/06/04).

Discussion and Conclusion

We want to make a couple of comments for the record. We generally understand and go along with the finding above indicating that Phase IV of the Applicant's landfill facility will provide a more energy efficient alternative to hauling Vermont's trash to western New York. Our question is, why is this the next best alternative? In regard to energy efficiency, hauling our waste from southern and western Vermont to northeastern Vermont only makes sense because we have not been successful in forming the public-private partnerships essential to getting more regional facilities on line. The Vermont Legislature needs to revisit our old Act 78 goals and determine how, in the future, and as oil tops 50 dollars per barrel, we can limit the distance that tractor trailers need to travel to find an environmentally sound disposal alternative.

The Commission is aware that there are new and evolving waste recovery or "sustainability" technologies being utilized, studied or investigated by other landfills in North America and around the world. The Applicant's new venture with Washington Electric Corp. using landfill gas/methane to generate electricity is an example of an innovative use of a waste resource. We are aware of other facilities that chip and burn waste wood for added electric generation. There is a facility that separates organic material, and food waste for composting generating both methane and a saleable product. The goal of such enterprise is simply utilization of waste resources. However, one of the benefits of aggressive waste recovery or utilization efforts is the gain of valuable landfill space. Obviously, the less waste you put into the landfill the longer the landfill can serve regional/state needs. We should be doing whatever is feasible to enhance landfill space and promote wise use of waste resources and landfill sustainability.

By permit condition we will require further investigation by the Applicant into sustainable practices. We will retain jurisdiction over this matter.

The District Commission concludes that the planning and design of Phase IV reflects the principles of energy conservation and, at present time, incorporates the best available technology for the efficient use or recovery of energy.

SECTION 6086(a)(9)(G) PRIVATE UTILITY SERVICES:

The District Commission concludes that there are no private utilities proposed for the project.

SECTION 6086(a)(9)(H) COSTS OF SCATTERED DEVELOPMENT:

244. Coventry receives an annual host community fee of over \$2.00 per ton from NEWSVT. The amount of the annual fee far exceeds the cost of providing municipal services to the landfill. (Wing Testimony, 04/06/04).
245. The landfill does not require specific municipal services of other towns in the region. (Wing Testimony, 04/06/04).

The District Commission concludes that the costs of public services caused by Phase IV will not outweigh tax revenues and benefits associated with the project.

SECTION 6086(a)(9)(J) PUBLIC UTILITY SERVICES:

246. Phase IV will not increase the burden of the landfill on public utilities or governmental service such as electric and telephone.

The District Commission concludes that public utility and governmental services are available to support Phase IV and Phase IV will not place an excessive demand on those services as a continuation of an ongoing operation.

SECTION 6086(a)(9)(K) DEVELOPMENT AFFECTING PUBLIC INVESTMENTS:

247. Based on its findings under Criteria 1, 5, and 8, the District Commission concludes that Phase IV will not have an adverse impact on the public's investment in the Newport State Airport, state highways, the Black River, Lake Memphremagog or the SBWMA.

Discussion and Conclusion

The Commission has put considerable thought into the impacts that the Coventry landfill will continue to have on the Northeast Kingdom Region. Impacts not only on public investments like the airport, the river and the Lake, but broader regional investments in tourism, water quality projects, economic development, area revitalization and roadways to name a few. We are of the opinion that there are regional impacts worthy of some form/degree of mitigation. However, these impacts remain less well defined than impacts for which we routinely require mitigation. With this Phase IV landfill expansion, the Coventry landfill becomes the largest facility of its

type in Vermont. In fact, if the planned increase in annual tonnage is approved, the Coventry facility will be positioned to accept the great majority of Vermont's trash as well as trash from out of state. We believe that there are impacts, generated by this project, to the Northeast Kingdom. We also recognize that placing a value on such impacts will not be easy and we are not attempting to manufacture an analysis for the purpose of issuing these findings. However, we will retain jurisdiction over the issue of mitigation for regional impacts. The purpose of retaining jurisdiction is to further study the matter, not impose undisclosed financial/mitigation responsibility under the Phase IV permit or under other permit applications that the Applicant has pending and before us. However, regional impacts should be studied and quantified. If appropriate such regional impacts should be mitigated.

As part of our retained jurisdiction over this matter, and over the trust fund detailed under our Criterion 1(B) findings, we will further explore whether it is appropriate to use any portion of the Post-Post-Closure Trust Fund for funding of enhancements to improve the water quality of the Lake Memphremagog watershed, funding of studies or projects aimed at increased landfill sustainability, recycling or waste to energy projects and funding for enhancement of fish and wildlife protections within the region. We add under this criteria our interest in further exploring whether it may be appropriate to use funds for projects aimed at offsetting identified regional impacts associated with the growth and expansion of the Coventry Landfill. We do not have the information to answer this question today. However, thru retained jurisdiction we will keep the matter open. By permit condition we will require that this be the subject of further review and consideration by the Applicant and this Commission.

SECTION 6086(a)(9)(L) RURAL GROWTH AREAS:

248. Therefore, the Commission concludes that this project is not located in a rural growth area as defined by the statute.

SECTION 6086(a)(10) CONFORMANCE WITH THE LOCAL OR REGIONAL PLAN:

The District Commission concludes that Phase IV complies with the Town and Regional Plans.

VI. SUMMARY CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, it is the conclusion of this District Environmental Commission that the project described in the application referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit #7R0-841-8, will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A., Section 6086(a).

VII. ORDER

Findings of Fact and Conclusions of Law and Order #7R0841-8
New England Waste Systems of Vermont, Inc.
Coventry, VT
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Based upon the foregoing Findings of Fact and Conclusions of Law, Land Use Permit #7R0841-8 is hereby issued.

Dated at St. Johnsbury, Vermont, this 12th day of November, 2004.

By _____
Eugene Reid, Chair
District #7 Commission

Commissioners participating in this decision:

Elizabeth Wilkel Keith Johnson

Exhibit List

Original Application Materials submitted on November 7, 2003.

1. Act 250 application packet including cover page, and Schedules A, B, E, F, and F Continued.
2. Municipal Impact Questionnaire Letters regarding Fire, Rescue, Police and Road Maintenance services.
3. Air Pollution Control Permit Application cover letter.
4. Storm Water Discharge Permit Application cover letter.
5. Agency of Transportation Permit Application including Sheets 1 through 3 of Phase IV Access Drive Design Drawings Site Plan.
6. Federal Aviation Administration notification letter.
7. Agency of Transportation aviation notification letter.
8. Dr. Capen's bird monitoring program report.
9. Cooperative bird management plan.
10. Dufresne-Henry Far Part 77 obstruction analysis.
11. Historic Preservation correspondence.
12. Vermont Natural Heritage Program correspondence.
13. Arrowwood Environmental, LLC's Wildlife/Endangered Species Reports.
14. Host Community Agreement.
15. Primary Agricultural Soils correspondence and documentation.
16. Ability to Serve-Electric.
17. Town of Coventry Municipal Plan.
18. 1992 Town of Coventry Solid Waste Implementation Plan.

19. 2003 Town of Coventry Revised Solid Waste Implementation Plan.
20. NVDA letter.
21. Sanborn, Head & Associates, Inc.'s Design Report, Phase IV, New England Waste Services of Vermont, Inc. including:
 - a. Facility Description and Siting
 - b. Landfill subgrade and base grading
 - c. Liner and leachate collection systems.
 - d. Landfill capping system
 - e. Gas management
 - f. Stormwater Management
 - g. Airport Related Correspondence/Reports
 - h. Technical Specifications
 - i. Design Calculations

Party Status Exhibits

22. MRC Presentation at hearing March 18, 2004.
24. Presentation by the Municipality of Stanstead Township, Quebec at hearing March 18, 2004.
25. Letter dated April 2, 2004, from Andrew Raubvogel, Esq. with reference to MRC's request for party status.
26. Letter dated April 2, 2004, from John Ponsetto, Esq. with reference to Environmental Board Party Status Rules.

Project Permit Exhibits

27. Agency of Natural Resources' Solid Waste Certification #OL510/SJ91-0001, dated October 4, 2004.
 - a. ANR's Responsiveness Comments dated March 1, 2004.
 - b. NEWSVT letter dated July 14, 2004 with re-certification bonding information.
28. Agency of Natural Resources' Construction General Permit #NOI 3160-9001 dated February 17, 2004.
29. Agency of Natural Resources' Wastewater System and Potable Water Supply Permit #WW-7-0240-1A, dated June 11, 2004.
30. Agency of Natural Resources' General Permit #3-9015 public notice letter dated June 7, 2004.
31. Agency of Natural Resources' Discharge Permit #3-9015 dated June 22, 2004.

Agency of Natural Resources' and Fish & Wildlife Comments

32. ANR Comments dated December 22, 2003 related to Criterion 8A.
33. ANR Comments dated March 18, 2004 related to Criteria 1, 1B, 1G, 9K, and 8A.
34. Water Quality Discussions with F&W dated March, 2004.
35. Letter from John Austin dated February 17, 2004, relative to protection and conservation of significant wildlife functions and values associated with South Bay wetlands.

General Exhibits

36. Ballistics Test information from New England Tank Systems, Inc. dated February 24, 2004.
37. ANR Agricultural Mitigation information dated March 10, 2004.
38. Letter from Heindel and Noyes dated April 19, 2004, with reference to water quality monitoring additions.
39. Letter from Arrowwood Environmental dated September 9, 2004, with reference to Nuisance Aquatic Plants study.
40. Letter from FAA dated March 19, 2004, with reference to Airport Bird Safety.
41. Letter from USDA dated January 16, 2004, with reference to bird safety.
42. Dr. David Capen's 2002 Bird Monitoring Program Monitoring Report.
43. NEWSVT letter dated February 13, 2004 to the FAA requesting amendment to December 19, 2003 letter siting objection to Phase IV expansion.
44. NVDA's letter of support dated October 9, 2003.
45. Town of Coventry Municipal Plan adopted June 10, 2003.
46. State of Vermont Revised Solid Waste Management Plan dated August 31, 2001, effective November 1, 2001.
47. ANR and Federal Permitting Information dated April 6, 2004.
48. Two sets of 6 photos from Howard Romero of Johnson, Vermont dated April 8, 2004, showing the narrow bridge near the landfill.

Specific Site Exhibits

49. Heindel and Noyes letter dated August 1, 2001 with reference to May 2001 Water Quality Sampling.
50. Heindel and Noyes report of Hydrogeologic Site Characterization Lined Landfill, Phase IV dated January 10, 2003, submitted March 24, 2004.
51. Heindel and Noyes report of Comprehensive Water Quality Monitoring Program Unlined Landfills: Areas A & B and Lined Landfills: Phases I, II, III and IV dated January 10, 2003, submitted March 24, 2004.
52. NEWSVT letter dated July 19, 2004 to Solid Waste with reference to A & B Hydrogeological Characterization Proposed Drilling Plan.
53. Letter of Transmittal from Sanborn, Head & Associates dated March 2, 2004 including

- Set (12) of half sized presentation boards used at February 19, 2004 hearing, Typical Phase IV liner system cross-section detail, and revised water features presentation board including USGS topography as the base map rather than the ortho photo.
54. Heindel and Noyes letter dated May 17, 2004, Composite Leachate Sample; April 13, 2004.
 55. NEWSVT letter dated June 10, 2004, to Solid Waste with reference to Technical Review Comment Response.
 56. Heindel and Noyes letter dated May 17, 2004, Worst-Case Evaluation.
 57. Supplemental Information from Sanborn, Head & Associates, Inc., dated April 2004, received June 18, 2004, transmitting:
 - a. AOT Conditional Permit Approval dated November 18, 2003
 - b. Orleans County Sheriff's Department correspondence
 - c. Newport Ambulance Service, Inc. correspondence
 - d. town of Coventry Road Maintenance correspondence
 - e. Citizens Energy Services correspondence
 - f. Certified Mail Receipts
 - g. Wildlife Correspondence
 - h. Newport City Fire Department correspondence
 58. NEWSVT letter dated July 9, 2004 to Solid Waste with revised post-closure cost estimate.

Teknika Report and Key Post-closure Exhibits

59. Report from Teknika, Inc., dated May 26, 2004, submitted June 18, 2004 from MRC and the City of Sherbrooke.
60. Letter from Andrew Raubvogel, Esq. transmitting MRC's proposal dated June 18, 2004.
61. Letter from John Ponsetto, Esq. transmitting Cassella's response to MRC proposal dated August 5, 2004.
62. Letter from John Ponsetto, Esq., with reference to Post-Post-closure and Community Impact Funds dated September 21, 2004.
63. Letter from John Ponsetto, Esq., with reference to Post-Post-closure dated October 22, 2004.

ARTICLE III

Availability, Force Majeure and Liability

VTransco does not guarantee to transmit a constant supply of power and energy under this Agreement. VTransco will transmit for the Purchaser only such power and energy as are made available to VTransco under VELCO's or the Purchaser's contracts with the sources of the same, and VTransco makes no commitment to make available to the Purchaser any power or energy that is not available to it from those sources. If a source curtails the power and energy made available to VTransco under its contract with VELCO, the power and energy made available to the Purchaser from that source shall be reduced proportionately.

VTransco shall not be responsible in tort, contract or otherwise to the Purchaser for damages of any description whatsoever that may result from any interruption or failure of service or deficiency in the quality of service unless the interruption or failure or deficiency is the result of willful default by VTransco. Except in the case of such willful default, it is the intent of this Article III that the Purchaser shall assume the risks of interruption, failure or deficiency in quality or quantity of service caused by the hazards of the business to the same extent as if the Purchaser were itself operating transmission facilities for the purpose of supplying itself with electricity, and the Purchaser shall not be excused from making payment to VTransco of any charge referred to in Article IV by reason of the fact that VTransco is excused by the provisions of this Article III from transmitting electricity.

Issued by: Thomas N. Wies
VTransco - Managing Member Representative

Effective on: With notice, on or after June 20, 2006

Issued on: April 21, 2006

ARTICLE IV

Payment

Commencing on the effective date of this Agreement the Purchaser shall pay to VTransco for each month a transmission capacity charge determined by the following formula:

$$T = \frac{TC}{GP} \times SFP + PDP \times \frac{TCA}{TD}$$

Where T = Total Monthly Charge to Purchaser

DEFINITIONS

Purchaser = Purchaser of transmission services from VTransco under this Agreement. A Purchaser is an electric utility furnishing service within the state of Vermont or the Vermont Department of Public Service. For purposes of applying this tariff, the term "Purchaser's" or "of Purchaser" shall include such items as facilities, demand, sales, capability responsibility, load, peak, generating capacity and generating units of itself and of any other such utility for which the Purchaser is contracting to provide transmission over the VTransco system.

SF = Specific Facilities, which are those high-voltage transmission lines, substations and other appurtenances constituting a direct physical interconnection to the VTransco system and not constituting part of VTransco' looped transmission facilities, that are requested, used, and installed to benefit a requesting Purchaser of transmission service. Any new Specific Facility shall be allocated entirely to the requesting Purchaser of transmission service until the Purchaser provides VTransco with a written agreement under which additional Purchasers of transmission service agree to support a different allocation or until the Specific Facility shall have been in service for ten full years, at which time it shall become a part of Common Facilities.

For informational purposes only, the cost of Specific Facilities allocated to each customer as of the most recent July 1 is listed in Exhibit A. On July 1 of each year, VTransco will make an informational filing with the Federal Energy Regulatory Commission to update Exhibit A with the most recent data available at that time.

CF = Common Facilities, which are those VTransco facilities that comprise the

Issued by: Thomas N. Wies
VTransco - Managing Member Representative

Effective on: March 26, 2007

Issued on: January 25, 2007

state-wide, high-voltage transmission grid, interconnecting and serving the load centers of the State, and which are used in common by all Purchasers of transmission service on a state-wide basis, and any facilities that would otherwise be defined as Specific Facilities, but that were in service on 7/1/90 or that became Common Facilities after 10 years of service.

- GP = Total Gross Plant, which is equal to the original cost of all Common and Specific Facilities in service at the end of the second previous month.
- SFP = Original cost of Specific Facilities assigned to the Purchaser at the end of the second previous month.
- PDP = The Purchaser's Peak Billing Demand for transmission services of VTransco, expressed in kilowatts.
- FSDP = Purchaser's Foreign Sales Billing Demand = The greater of:
- (1) zero, or
 - (2) Purchaser's kilowatt sales of capacity to out-of-state purchasers that is delivered through the VTransco system in contracts of one month or greater duration during the second previous month; plus the sum of Purchaser's maximum daily kilowatt sales to out-of-state purchasers that are delivered through the VTransco system in contracts of less than one month duration during the second previous month, divided by 60; plus Purchaser's maximum one-hour peak load, in kilowatts, during the second previous month, less any portion of that peak delivered under other transmission tariffs; minus PP.
- TD = Total Billing Demand in kilowatts of all VTransco firm service Customers, equal to the sum of all Purchaser's PDP.
- CY = Current Year.
- PDP(CY) = Current Year Peak Billing Demand in kilowatts of the Purchaser.
- PP = Purchaser's Peak Load, which is the maximum one-hour peak, in kilowatts, of the Purchaser incurred in the twelve months period ending one month prior to the beginning of month for which billing is being rendered, less any portion of the Purchaser's peak that is delivered under other transmission tariffs and that does not utilize the VTransco system for

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

either primary or backup service.

CPP = The Purchaser's measure share, expressed in kilowatts, of the VTransco maximum Coincident Peak load experienced in the twelve months period ending one month prior to the beginning of the month for which billing is being rendered, less any portion of the Purchaser's share that is delivered under other transmission tariffs and that does not utilize the VTransco system for either primary or backup service.

IGAP = Purchaser's Internal Generation Adjustment, expressed in kilowatts, to be calculated each month for the second previous month for the Purchaser, which shall equal 50% of the Purchaser's entitlement to NEPOOL accredited generation capacity installed on or directly connected to the system of any Purchaser on July 1, 1990, plus Purchaser's entitlement to NEPOOL accredited generation capacity installed after 7/1/90 which is connected, with associated load, to the system of any Purchaser, to the extent that such capacity, in addition to previously installed capacity, does not exceed the historical peak load of such associated local load. If the Purchaser sells for a full month to an out-of-state purchaser an entitlement to internal generation for which an Internal Generation Adjustment would otherwise be granted, the Adjustment shall be retained by the seller.

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VTransco - Managing Member Representative

Issued on: April 21, 2006

The Purchaser's Peak Billing Demand will be determined by the following formula:

PDP(CY) = The larger of the following:

(1) $\frac{PP + CPP}{4} + FSDP$, or

(2) $\frac{PP + CPP}{2} - IGAP + FSDP$

TC = Total costs of VTransco for such month which shall mean the sums of the following for such month:¹

(1) All operating expenses, including the cost of purchased power, and including all expenses recorded in the following FERC accounts, if any:

- 401 Operating Expenses
- 402 Maintenance Expense
- 403 Depreciation Expense
- 404 Amortization of Limited Term Electric Plant
- 405 Amortization of Other Electric Plant
- 406 Amortization of Electric Plant Acquisition Adjustments
- 407 Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs
- 411.7 Losses from Disposition of Utility Plant
- 421.2 Loss on Disposition of Property
- 425 Miscellaneous Amortization
- 426.1 Donations
- 426.2 Life Insurance
- 426.3 Penalties
- 426.4 Expenditures for Certain Civic, Political and Related Activities
- 426.5 Other Deductions

(2) All fixed charges, including interest and amortization of debt discount and expense and premium on debt, plus

¹ References hereto to specific FERC Accounts are to accounts within the Uniform System of Accounts presented for public utility and licenses subject to the provisions of the Federal Power Act, 18 CFR Part 101, in effect as of April 1, 1992. Although changes in the designation of FERC Accounts thereafter may result in use of new or different account numbers for items enumerated herein, the Total Costs (TC) of VTransco to be recovered hereunder shall not be affected by such changes.

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VTransco - Managing Member Representative

Issued on: April 21, 2006

- (3) An amount equal to all taxes including taxes on or measured by income, including all expenses recorded in the following FERC accounts, if any:
- 408.1 Taxes other than Income Taxes, Utility Operating Income
 - 408.2 Taxes other than Income Taxes, Other Income and Deductions
 - 409.1 Income Taxes, Utility Operating Income
 - 409.2 Income Taxes, Other Income and Deductions
 - 410.1 Provisions for Deferred Income Taxes, Utility Operating Income
 - 410.2 Provision for Deferred Income Taxes, Other Income and Deductions
 - 411.1 Provision for Deferred Income Taxes – Credit, Utility Operating Income
 - 411.2 Provision for Deferred Income Taxes – Credit, Other Income and Deductions
 - 411.4 Investment Tax Credit Adjustments, Utility Operating Income
 - 411.5 Investment Tax Credit Adjustments, Non-utility Operations

plus

- (4) An amount for such month which, after provision shall have been made for all of the other costs including all taxes on or measured by income shall equal, on an annual basis, 11.5% of the par value of VTransco' outstanding Class A membership units, and 13.3% of the par value of VTransco' outstanding Class B membership units, as shown by VTransco' books as of the beginning of such month,
- (5) Less deductions for income received by VTransco during such month other than for income received for transmission of power pursuant to this Tariff, including all income recorded in the following FERC accounts, if any, other than income received from ISO New England for RNS service:

- 400 Operating Revenues
- 411.6 Gains from Disposition of Utility Plant
- 414 Other Utility Operating Income
- 419 Interest and Dividend Income
- 419.1 Allowance for Other Funds Used During Construction

Issued by: Thomas N. Wies
VTransco - Managing Member Representative

Effective on: April 6, 2007

Issued on: February 5, 2007

421 Miscellaneous Non-operating Income
421.1 Gain on Disposition of Property

TCA = Total Costs Adjusted, which is equal to TC less (a) any revenue received under this tariff for Specific Facilities and less (b) any revenue received from ISO New England for RNS service.

VTransco will bill the Purchaser hereunder as soon as practicable after the end of each month for all amounts payable by the Purchaser with respect to the particular month. Such bills shall be due and payable when rendered, shall include such detail as the Purchaser may reasonably request, and may be rendered on an estimated basis subject to corrective adjustments after rendition. Upon request by the Purchaser, VTransco shall provide estimates of such corrective adjustments.

Any amount due and remaining unpaid ten days following the date of issuance of bills shall bear interest at an annual rate, compounded monthly, equivalent to one hundred twenty percent of the current prime rate then in effect at The First National Bank of Boston, from the due date to the date payment is received by VTransco.

ARTICLE V

Transmission Service Provided

VTransco shall transmit the electricity for the Purchaser from the points at which the power and energy enters VTransco's facilities to such points on its system as the power and energy leave VTransco's facilities to enter the facilities of the Purchaser or an assignee of the Purchaser or a utility performing further transmission service on behalf of the Purchaser or its assignee. VTransco shall not be responsible for arrangements for transmission service other than on its own transmission facilities.

Issued by: Thomas N. Wies
VTransco - Managing Member Representative

Effective on: April 6, 2007

Issued on: February 5, 2007

ARTICLE VI

Losses and Metering

VTransco shall deduct, from the power and energy to be transmitted, losses incurred in transmission, determined in accordance with sound engineering methods, and including a proportionate amount of all allowances for losses on the systems of others pursuant to arrangements by VTransco for their use in the delivery hereunder of aforesaid blocks of power and energy.

If at any time any metering equipment is found to be inaccurate by more than two percent up or down, VTransco shall cause it to be made accurate and the meter readings for the period of inaccuracy shall be adjusted to correct such inaccuracy so far as the same can be reasonably ascertained, but no adjustment prior to the beginning of the next preceding month shall be made except by agreement of the parties or after determination by arbitration as provided in Article X hereof.

In addition to the regular routine tests, VTransco shall cause such equipment to be tested at any time upon request of and in the presence of a representative of the Purchaser. If such equipment proves accurate within two percent up or down, the expense of the test shall be borne by the Purchaser.

Any dispute arising under this Article VI that cannot be resolved by mutual agreement may be referred to arbitration as provided in Article X hereof.

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

ARTICLE VII

Filing Fees

The Purchaser shall be required to reimburse VTransco its pro rata share of any fee charged to VTransco by any state or federal body having jurisdiction for any filing made by VTransco with such body in connection with service to the Purchaser.

ARTICLE VIII

Regulation

This Agreement is made subject to present or future state or federal laws and to present or future regulations or orders properly issued by state or federal bodies having jurisdiction.

ARTICLE IX

Assignment

The rights and obligations of the Purchaser hereunder may not be assigned without VTransco' consent, except as provided in any Supplement hereto, and except in connection with the merger, acquisition or sale of substantially all of the assets of the Purchaser, or, in the case of the Vermont Department of Public Service, a transfer of its functions to another agency or entity.

ARTICLE X

Arbitration

In case any dispute shall arise as to the interpretation or performance of the Agreement which cannot be settled by mutual agreement, such dispute shall be submitted to arbitration. The parties to the arbitration shall if possible agree upon a single arbitrator. In case of failure to agree upon an arbitrator within fifteen days after the delivery by either party to the other of a written notice requesting arbitration, either party may request the American Arbitration Association to appoint the arbitrator. The arbitrator, after an opportunity for each of the parties

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
 VTransco - Managing Member Representative

Issued on: April 21, 2006

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Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Denis Levesque 4/11/06
Title: VILLAGE SUPERVISOR - Barton

Vermont Transco, LLC
FERC Rate Schedule No. 1

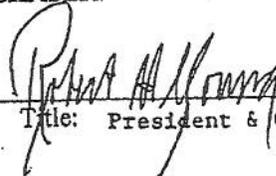
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By:  _____
Title: President & CEO

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Raymond Laroche 4/11/06
Title: Chair

Vermont Transco, LLC
FERC Rate Schedule No. 1

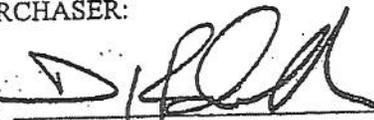
Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANS CO LLC

By: _____
Title:

PURCHASER:

By:  _____
Title: VP, General Counsel and
Corporate Secretary

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]* 4/10/2006

Title:

GM HARDWICK
ELECTRIC DEPT

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Paul DiLanna*

Title: *CO-CHAIR*

VILLAGE of HYDE PARK

ILL Regan
co-chair, BOT
VDHP

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 27 day of March, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: _____
Title:

PRINCIPAL
VILLAGE OF JACKSONVILLE

3/27/06

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Village of Ludlow Electric Dept*

By: *John J. Collins Jr.*
Title: *Treasurer/Controller*

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Craig T. Jayolter 4/4/06
Title: Interim Manager
DMW:L

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 29th day of MARCH, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: Village of Northfield

By: Janis Allard
Title: Mgr. 3/29/06

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: John Molloy III
Title: Village Manager

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 23 day of MARCH, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: [Signature] 2/23/06
Title: Swanton Village Manager

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 13

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 30th day of March, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: David C. Ballinger 3/30/06
Title: CEO

Vt. Electric Coop

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 29th day of April, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Mark Patt 4/29/06
Title: General Manager
Washington Electric Coop

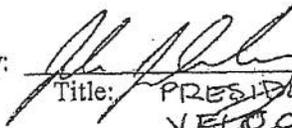
Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: 
Title: PRESIDENT & CEO OF
VETCO, THE MANAGER OF
VERMONT TRANSCO LLC
PURCHASER:

By: _____
Title: _____

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 20th day of April, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: _____
Title: General Manager

By: Barbara A. Cosgrove
Title: Assistant Secretary

Vt. Marble Co./OMYA

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this 8 day of MAY, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Forchester Electric Light & Power Co*

By: *Thomas Perce President*
Title: *5/8/06*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]*
Title: *Authorized Agent*

*Village of Readsboro Electric Light
Department*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Kerith C. Ryan*
Title: *MANAGER, LED Lyndonville Electric*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Mary Peabody* *vice chair*
Title:

Village of Johnson Electric Light Department

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

IN WITNESS WHEREOF, VTransco and the undersigned Purchaser have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of this ____ day of _____, 2006.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Barbara L Grimes
Title: General Manager
Burlington Electric

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 14

ACKNOWLEDGMENT OF ARBITRATION

Each party understands that this Agreement contains an agreement to arbitrate. After signing this document, each party understands that it will not be able to bring a lawsuit concerning any dispute that may arise and that is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, each agrees to submit any such dispute to an impartial arbitrator.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Denis Levesque
Title: Barton Village Supervisor

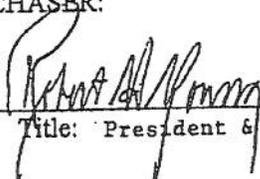
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By:  _____
Title: President & CEO

Vermont Transco, LLC
FERC Rate Schedule No. 1

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Raymond Laroche 4/11/06
Title: Chair

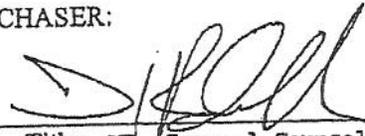
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: 
Title: VP, General Counsel and
Corporate Secretary

Vermont Transco, LLC
FERC Rate Schedule No. 1

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Dee New 4/10/2006
Title: GM HARDWICK
ELECTRIC DEPT

ACKNOWLEDGMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]*
Title:

CO-CHAIR
VILLAGE of Hyde PARK
12/17/17
co-chair,
village of Hyde Park.

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 14

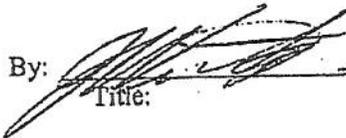
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By:  3-27-06
Title:

ACKNOWLEDGMENT OF ARBITRATION

Each party understands that this Agreement contains an agreement to arbitrate. After signing this document, each party understands that it will not be able to bring a lawsuit concerning any dispute that may arise and that is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, each agrees to submit any such dispute to an impartial arbitrator.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Village of Ludlow Electric Dept*

By: *John J. Poole Jr.*
Title: *Treasurer/Controller*

Vermont Transco, LLC
FERC Rate Schedule No. 1

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Craig T. Nayditer 4/4/06
Title: Interim Manager
M.W.L.

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 14

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Village of Northfield*

By: *David Record*
Title: *Mgr.* *3/29/06*

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 14

ACKNOWLEDGMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: John Morley III
Title: Village Manager

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 14

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Joseph A. Hogue 3/29/06*
Title: *Swanton Village Manager*

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 14

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]* 3/30/06
Title: CEO
VT Electric Coop

ACKNOWLEDGMENT OF ARBITRATION

Each party understands that this Agreement contains an agreement to arbitrate. After signing this document, each party understands that it will not be able to bring a lawsuit concerning any dispute that may arise and that is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, each agrees to submit any such dispute to an impartial arbitrator.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]*
Title: *General Manager*
4/27/06
Washington Electric Coop

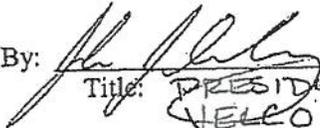
Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel
Issued on: April __, 2006

Effective on: June __, 2006

ACKNOWLEDGMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: 
Title: PRESIDENT & CEO of
VELCO, THE MANAGER
of VERMONT TRANSCO LLC

PURCHASER:

By: _____
Title: _____

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

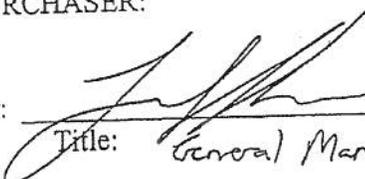
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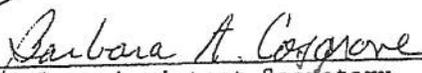
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: 
Title: General Manager

By: 
Title: Assistant Secretary

VT. Marble Co./OMYA

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Issued on: April __, 2006

Effective on: June __, 2006

ACKNOWLEDGMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Rochester Electric Light & Power Co.*

By: *Thomas Pierce*
Title: *3/8/06*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

ACKNOWLEDGMENT OF ARBITRATION

Each party understands that this Agreement contains an agreement to arbitrate. After signing this document, each party understands that it will not be able to bring a lawsuit concerning any dispute that may arise and that is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, each agrees to submit any such dispute to an impartial arbitrator.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Anthony Epp*
Title: *Anthony Epp*
*Village of Readsboro Electric Light
Department*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

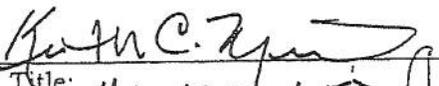
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: 
Title: *MANAGER, LED Lyndonville Electric*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

ACKNOWLEDGMENT OF ARBITRATION

Each party understands that this Agreement contains an agreement to arbitrate. After signing this document, each party understands that it will not be able to bring a lawsuit concerning any dispute that may arise and that is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, each agrees to submit any such dispute to an impartial arbitrator.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Mary Pearl ^{Vice} Chair
Title:

Village of Johnson Electric Light Department

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

ACKNOWLEDGMENT OF ARBITRATION

Each party understands that this Agreement contains an agreement to arbitrate. After signing this document, each party understands that it will not be able to bring a lawsuit concerning any dispute that may arise and that is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, each agrees to submit any such dispute to an impartial arbitrator.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Barbara L Grimes
Title: General Manager
Burlington Electric

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

Exhibit A

1991 Transmission Agreement
Specific Facilities*

Barton	0
Burlington	0
Central Vermont	0
Citizens	0
Enosburg	0
Franklin	0
Green Mountain	3,229,499
Hardwick	0
Hyde Park	0
Jacksonville	0
Johnson	0
Ludlow	0
Lyndonville	0
Morrisville	0
Northfield	0
Orleans	0
Readsboro	0
State of Vermont	0
Stowe	0
Swanton	0
Vermont Elec. Coop.	589,172
VT Marble	0
VPPSA	0
Washington	0

* The data provided in this Exhibit A is for informational purposes only.

Issued by: Leslie A. Cadwell
VT Transco - Managing Member Representative

Effective on: July 1, 2008

Issued on: July 1, 2008

Post-Retirement Benefits Other Than Pensions

For the purposes of Article IV payment, the SFAS No. 106 amount shown below will be included in Account No. 401

	1993 <u>(Actual)</u>	1994 <u>(Actual)</u>	1995 <u>(Projected)</u>
Total FAS-106 provision	\$80,940.00	\$82,512.00	\$81,287.00
Total benefits paid	(13,608.90)	(13,707.70)	(13,287.00)
401(h) contribution	0.00	(69,512.00)	(68,000.00)
SFAS-106 provision more (less) than benefits paid or funded	<u>\$67,331.10</u>	<u>(707.70)</u>	<u>0.00</u>

Issued by: Thomas N. Wies
VTransco - Managing Member Representative

Effective on: With notice, on or after June 20, 2006

Issued on: April 21, 2006

CRITERIA FOR "SPECIFIC FACILITIES"

Section 1. Design and Configuration

(a) Specific Facilities consist of high voltage (115 kV and above) facilities and, in the case of a substation (stepping down to a lower voltage), the transformer, secondary voltage transformer circuit breaker, appurtenances and ancillary equipment, controls and control circuitry. All such facilities must be designed and specified by VTransco or be in accordance with VTransco' designs and specifications and/or consistent with VTransco standard practice.

(b) High voltage Specific Facilities (without transformer) must be interconnected to the existing VTransco system by a high voltage circuit breaker, which must be designed and specified by VTransco, including ancillary devices, control and control circuitry, all in accordance with VTransco standard practice.

(c) Metering, telemetering, remote control and communications facilities must be provided in accordance with VTransco' standard practice then currently in use on its existing facilities of a similar nature.

(d) Administrative control of the Specific Facilities must be by VTransco for purposes of operating the Specific Facilities and the remainder of the VTransco system in accordance with VTransco' standard practice, so as to maintain safe and reliable delivery of power to the Specific Facilities and to the interconnected high voltage system. Included is the responsibility to operate according to NEPOOL and NPCC rules.

(e) Maintenance of the Specific Facilities must be performed by VTransco or according to VTransco standard practice with opportunity for VTransco to review maintenance practices with respect to their possible effect on the interconnected high voltage system.

Section 2. Initiation and Approval Process

(a) Whenever, as a result of the request of one or more Vermont utilities, VTransco studies, the studies of others, or other information, it appears to VTransco that the construction of Specific Facilities may be required, VTransco shall determine if such construction

(1) is consistent with VTransco' Mission to "design, construct, acquire, contract for, maintain and operate an optimal system of transmission facilities in Vermont as a part of an integrated regional network to serve the needs of the electric distributions companies in Vermont in a fair and efficient manner," and

(2) is consistent with the criteria for such construction set forth in 30 V.S.A., § 248 (b)(1), (2), (3), (4), (5) and (8).

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

(b) If VTransco does determine that the construction is consistent with the foregoing criteria, it shall seek the concurrence and agreement for the allocation of costs, pursuant to the 1991 Transmission Agreement, by the requesting and/or benefiting utility or utilities. VTransco shall then proceed to apply for a certificate of public good pursuant to 30 V.S.A. § 248. VTransco and the requesting and/or benefiting utility or utilities shall cooperate in the preparation and presentation of a filing with the Vermont Public Service Board under 30 V.S.A. § 248 and the securing of a § 248 certificate of public good.

(c) If VTransco determines that the proposed construction does not meet the criteria set forth in paragraph IIa, above, it will not initiate the process for Section 248 approval. If, however, the benefiting utility/utilities believe that the proposed facility does meet the above criteria, it/they may initiate a proceeding pursuant to Section 248 for approval of the construction. VTransco will cooperate with such utility/utilities to assure that the proposed construction meets VTransco criteria for design and configuration and will otherwise cooperate in the preparation of the application by providing technical information, design criteria, results of studies and similar information. Nothing contained herein, however, shall limit VTransco's rights to intervene in such proceeding or to refrain from intervening. If VTransco does intervene, it may assert such position on the merits of the application as it, in its sole discretion, determines; and it may offer testimony and/or argument as to why, in its judgment, the proposed construction does not satisfy the criteria of Section 248 and/or is inconsistent with VTransco's mission.

(d) If the requesting utility/utilities are granted a certificate of public good by the Public Service Board for a Specific Facility consistent with VTransco design and configuration standards, VTransco shall proceed in a timely fashion to design and construct it as a Specific Facility to be supported by the requesting utilities in the manner provided by the 1991 Transmission Agreement.

Section 3. Specific Facility/Cost Sharing

(a) If an improvement or addition is made to a Specific Facility during the ten years before it becomes a part of Common Facilities, and such improvement significantly changes the proportions of the use of the Specific Facility by the Purchasers supporting it, the Purchaser or Purchasers requesting the improvement shall provide VTransco with a written agreement among themselves and the Purchasers supporting the Specific Facility, with respect to the allocation of the support costs of the Specific Facilities for the remainder of the ten years, as well as the improvements thereto. If such an agreement is not presented to VTransco, VTransco may reallocate the support costs of the affected Specific Facilities on the basis of the Purchaser's or Purchasers' projected proportionate share of the peak demand on such facilities.

Section 4. Capital Improvements to Common Facilities

(a) A capital improvement to Common Facilities shall be deemed Specific Facilities if:

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

- (1) Construction of the improvement requires a Certificate of Public Good under 30 V.S.A., § 248, and
 - (2) the Common Facilities to which the improvement is made would be deemed Specific Facilities if constructed under the 1991 Transmission Agreement, and
 - (3) the improvement otherwise meets the definition of Specific Facilities, and
 - (4) the cost of the improvement project is greater than \$50,000.00 in 1992, indexed upward for succeeding years pursuant to the Handy-Whitman Index, and
 - (5) the improvement will increase the normal operating capacity of the improved facility by at least twenty percent.
- (b) In the case of improvements initiated by VTransco to meet capability or reliability requirements which have not been specifically requested by the Purchasers served by such facilities, support costs shall be allocated on the basis of the Purchaser's or Purchasers' proportionate share of the peak demand on such facilities during the calendar year preceding approval by the Public Service Board, but not including periods of abnormal operating conditions.

Issued by: Thomas N. Wies Effective on: With notice, on or after June 20, 2006
VTransco - Managing Member Representative

Issued on: April 21, 2006

ACKNOWLEDGEMENT OF ARBITRATION

I UNDERSTAND THAT THIS AGREEMENT CONTAINS AN AGREEMENT TO ARBITRATE. AFTER SIGNING THIS DOCUMENT, I UNDERSTAND THAT I WILL NOT BE ABLE TO BRING A LAWSUIT CONCERNING ANY DISPUTE THAT MAY ARISE, AND WHICH IS COVERED BY THE ARBITRATION AGREEMENT, UNLESS IT INVOLVES A QUESTION OF CONSTITUTIONAL OR CIVIL RIGHTS. INSTEAD, I AGREE TO SUBMIT ANY SUCH DISPUTE TO AN IMPARTIAL ARBITRATOR.

VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Daniel Pearce 4/11/06
Title: VILLAGE SUPERVISOR
Barton

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 23

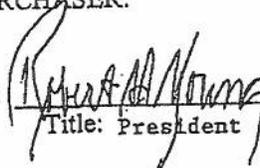
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By:  _____
Title: President & CEO

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Raymond Larose 4/11/06
Title: Chair

Vermont Transco, LLC
FERC Rate Schedule No. 1

Original Sheet No. 23

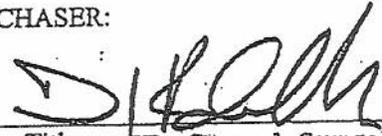
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: 
Title: V.P., General Counsel and
Corporate Secretary

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title: _____

PURCHASER:

By: *[Signature]* 4/10/2006
Title: _____
GM HARDWICK ELECTRIC
DEPT.

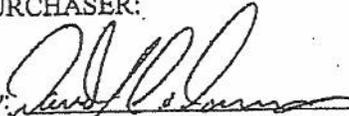
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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: 
Title: CO-CHAIR

VILLAGE of HYDE PARK

128. 17
co-chair
Village of Hyde Park

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By:  3-27-06
Title: PRESIDENT
VILLAGE of JACKSONVILLE

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Village of Ludlow Electric Dept.*

By: *John J. Poole Jr.*
Title: *Treasurer/Controller*

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Craig T. Dwyer 4/4/06
Title: Interim Manager
MW LLC

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Village of Northfield*

By: *Nancy Quinn*
Title: *MGR.* *3/29/06*

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: John Malley III
Title: Village Manager.

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: George Allene 3/23/06
Title: Swanton Village Manager

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]* 3/30/06
Title: CEO

VT. Electric Coop

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *[Signature]*
Title: *General Manager*
4/27/06
Washington Electric Coop

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

ACKNOWLEDGEMENT OF ARBITRATION

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: 
Title: *General Manager*

By: *Barbara A. Cosgrove*
Title: *Assistant Secretary*

Vt. Marble Co/OMYA

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER: *Rehoboth Electric Light & Power Co*

By: *Thomas Pava President*
Title: *5/8/06*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel
Issued on: April __, 2006

Effective on: June __, 2006

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Robert C. Casin*
Title: *Assistant Cashier*

*Village of Readsboro Electric Light
Department*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel
Issued on: April __, 2006

Effective on: June __, 2006

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Keith H. C. [Signature]*
Title: *MANAGER, CED Lyndonville Electric*

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: *Mary Leach* ^{VPC} *Chair*
Title:

Village of Johnson Electric Light Dept.

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006

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VERMONT TRANSCO LLC

By: _____
Title:

PURCHASER:

By: Barbara L Grimes
Title: General Manager
Burlington Electric

Issued by: Thomas N. Wies
Vice President, Secretary and General Counsel

Effective on: June __, 2006

Issued on: April __, 2006