

Date: 10/11/18

From: Mark Stein

To: Merrimack Station NPDES Permit File

Re: Telephone Call on 10/11/18 with Stephen Gidiere, Balch & Bingham, outside counsel to GSP

- On 10/4/18, I called Stephen Gidiere and got his answering machine. I left a voice-mail message indicating that I was calling to follow up on our 9/20/18 meeting and I asked him to call me back.

- On 10/11/18, he called me back. He apologized for taking several days to return the call.

- I explained that I had called to talk about 3 things:

- 1) scheduling our follow-up meeting
- 2) checking in on the information that we agreed to provide to them and that they agreed to provide to us; and
- 3) to ask them to reconsider whether at this point in time, a particular Enercon report submitted with PSNH's 2017 comments truly needs to be considered to be CBI, as it was designated by Enercon time

- With regard to the second item (information to be provided):

a) I indicated that I would email the slides we had presented at the 9/20/18 meeting. (Note: I sent them along a little while after getting off the phone.)

b) In response to a question regarding whether a permit can be modified in response to amended regulations which make the regulations less stringent. I explained that you generally could not relax a permit limit that had been based on a site-specific, BPJ application of a technology standard in response to a later promulgation of a less stringent national ELG. Anti-backsliding would generally preclude that, unless some exception to anti-backsliding applied. I also explained, however, that if the permit limit was based on a national ELG and then that ELG was later made less stringent, then EPA can modify the permit limit to make it less stringent if the permittee requests it. (Of course, WQS would need to be satisfied as well, but the question was about technology-based requirements.) I pointed to 40 CFR 122.62(a)(3) for this analysis.

c) he asked if we knew whether EPA would be amending the Voluntary Compliance Incentive requirements in the ELGs. I said that I didn't know, but would try to find out whether there was an answer that I could provide publicly.

d) He agreed that they would be sending us various discharge, intake and operational data, as discussed in the 9/20/18 meeting, including: Megawatt-hour output data; waste heat discharge data; hours of operation; condenser outlet temperatures; 15-minute discharge data; intake flow data; and

examples of permits that allow exceptions to permit conditions under certain emergency-type conditions

- **With regard to the third item (is the Enercon document CBI?),** he agreed to review whether they can withdraw the claim of CBI as to part or all of the record.

- With regard to the first item (next meeting), we agreed to see if we could meet the week of November 12 (they could not do it sooner due to GSP's President traveling outside the country over the next few weeks.

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