

Admin #408

The State of New Hampshire

T. E. LANDRY

MAR 15 1979

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Water Supply and Pollution Control Commission
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Concord 03301

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March 7, 1979

Mr. Warren A. Harvey, Vice President
Public Service Company of New Hampshire
1000 Elm Street
Manchester, New Hampshire 03105

Subject: Merrimack Generating Station
(NPDES Permit No. NH0001465)

Dear Mr. Harvey:

The purpose of this letter is to inform you of the action taken by the Commission at its meeting on February 14, 1979 in connection with the company's January 26, 1979 request relating to proposed NPDES permit modifications.

Please be advised that the Commission unanimously voted to accept the modifications, with the changes suggested by the Fish and Game Department (copy of February 9, 1979 memorandum enclosed), which the company intends to propose to EPA for consideration in its forthcoming permit reissuance proceedings. A copy of the Commission minutes concerning this matter is also enclosed.

With regard to the question of implementing the proposed modifications during the remainder of the current permit period, we have, as instructed by the Commission, consulted with Edward N. Damon, Assistant Attorney General, whose advice is set forth in a memorandum dated March 2, 1979 (copy enclosed). This matter has also been discussed with Mr. T. E. Landry of the EPA who indicated that a request from the company for modification of the current NPDES permit to reflect the proposed changes would receive prompt consideration.

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Office of the State Engineer



Mr. Warren A. Harvey
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If we can be of further assistance, please feel free to call
on us.

Sincerely,

Russell A. Nylander, P.E.
Associate Sanitary Engineer

RAN/hyv

Enclosures

- cc: Edward N. Damon, Esq.
- Mr. Charles F. Thoits III (w/enc.)
- Mr. T. P. Frost
- ✓ Mr. T. E. Landry (w/enc.)

The purpose of this letter is to inform you of the results of the Commission's meeting on February 14, 1979. The Commission met with the company's January 22, 1979 report regarding the proposed permit modifications.

It was advised that the Commission unanimously voted to deny the modifications, with the change suggested by the firm and the Department copy of February 9, 1979 memorandum enclosed. The company intends to propose to EPA for consideration of the permit modification proceedings. A copy of the Commission minutes regarding this matter is also enclosed.

With regard to the question of implementing the proposed modifications during the remainder of the current permit period, we were as instructed by the Commission, consulted with Edward J. Larson, Assistant Attorney General, whose advice is set forth in memorandum dated April 2, 1979 (copy enclosed). This matter was also discussed with Mr. T. E. Landry of the EPA who indicated that a request from the company for modification of the current permit would reflect the proposed changes would require permit modification.

RC

STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION

CFT **DATE** February 9, 1979

FROM Charles F. Thoits III, Chief **AT (OFFICE)**
Inland & Marine Fisheries Div. Fish & Game Dept.

SUBJECT Merrimack Station NPDES Permit No. NH0001465
Modification

TO William A. Healy, P.E.
Executive Director
Water Supply & Pollution Control Commission
Prescott Park
105 Loudon Rd.
Concord, NH 03301

We have reviewed the modifications presented in the proposed Merrimack Station NPDES Permit and find most of the changes satisfactory. We, therefore, recommend no substantial changes. However, our staff suggests the following:

- 1) One page 1 of the attachment under a(2) paragraph 1, line 3 delete "20,000 or more" and insert "significant numbers of". Significant numbers are referred to in a(1), a(2), a(3) first paragraph will be construed to mean a substantial increase in the population of shad or salmon residing within or migrating passed the Merrimack generating station.
- 2) One page 2 a(1) paragraph 2, line 2; page 1 a(2) paragraph 2, line 2; page 2 b paragraph 2, line 2; insert "and on advice of the Fish and Game Department" after the word "shall" and before the phrase "determine when the reactivation of this program".
- 3) One page 4 (Dissolved Oxygen and pH Monitoring) under a. and b. where the word river inlet is mentioned, it is the understanding of the Fish and Game staff that the river inlet will be used as the control station and should be so noted in this permit. A station number such as (N-10) should be assigned to the river inlet so that its location is understood.

CFT/nkc

In answer to a question by Vice Chairman Fincher as to where the money would come from in the event that the State did lose the case, it was explained by Mr. Healy that 75% would be paid by EPA from grant funds, 20% by the State from State aid grant funds, and 5% by the communities involved. He added that even if the State lost the case, it is believed unlikely that the award would be for the full amount. He also was of the opinion that the Commission is reasonably secure insofar as the merits of the case are concerned.

(8) Proposed permit modifications - Public Service Company of New Hampshire Merrimack Generating Station

Terrence Frost, referring to his memorandum prepared jointly with Russell Nylander, noted that the staff is in agreement, with minor exceptions, with the Public Service Company's proposed modifications in the permit to be reissued effective October 1, 1979. He called attention to the memorandum dated February 9, 1979 from the Fish and Game Department also approving the requested changes with the same three minor exceptions.

Mr. Warren Harvey, Vice President of PSC, spoke briefly explaining that it is standard procedure in applying for a new permit to submit any proposed modifications well in advance of the expiration of the current permit in order that any objections to such modifications can be explored prior to the effective date of the new permit. Thus, it appears only logical to get the Commission's reaction to such changes before going through the process of obtaining EPA approval. He further indicated that if the Commission had no objections to the proposal, the company would like to implement the proposed changes without further delay since some of the data now being collected are of no real value and merely result in expenditures which are not productive. It was his understanding that the proposed changes could be implemented during the remainder of the current permit period as long as they are approved by both the Commission and the Fish and Game Department without waiting until the new permit becomes effective.

There was considerable discussion regarding the Commission's authority to allow implementation of the proposed modifications without first holding a public hearing in the matter. Mr. Nylander pointed out that EPA's usual procedure for allowing public participation before reissuing the permit will have to be followed. In the meantime, the Commission could go on record as favoring the proposed changes in order that they may be submitted to EPA.

It was moved by Mr. Varotsis, seconded by Mr. McGee, and unanimously voted that the recommendations contained in the staff memorandum of February 7, 1979, regarding proposed modification of the Public Service Company NPDES Permit No. NH0001465 for its Merrimack Generating Station in Bow be approved, and that said modification of the biological monitoring program be implemented without delay provided

that Assistant Attorney General Tupper Kinder rules that such procedure is permissible.

(7) Report on Water Quality Management program

Robert Cruess, referring to the 22 memoranda mailed with the agenda material, noted that at a subsequent meeting he would like to deal with the recommendations which apply to the State; with regard to the land use controls and non-point source controls, agreement is recommended conditioned upon acceptance by the affected local communities. There have been some changes suggested by EPA, and additional memoranda regarding these changes will be available prior to the next meeting. Also, memos regarding the suggested modification of subsurface regulations will be prepared, indicating approval, non-approval, or conditional approval. These could be acted upon at the April meeting. Mr. Cruess suggested that the Commission might wish to have members of the Laconia Regional Commission available for questioning at the time action is taken on their recommendations. Commissioner Poltak indicated that his office concurs with the land use recommendations and would be glad to endorse any of the land use controls that are included in the plan.

(9) Certification of NPDES permits

Russell Nylander, Director of Industrial Wastes Division, explained that the three permits involved are the first in the reissuance of all the NPDES permits to industries throughout the State. The industries involved have now installed treatment facilities which are in operation and effluent limitations are being met. It was recommended that the three proposed permits be certified and further, that the NPDES permits be adopted as State permits granted pursuant to RSA 149:8, III (supp), as follows:

(a) A.C. Lawrence Leather Company, Inc., Winchester

It was moved by Mr. Varotsis, seconded by Mr. McGee, and unanimously voted that staff recommendations as contained in Mr. Nylander's memorandum of February 6, 1979, be approved; i.e., that EPA be provided with certification of an NPDES permit (NH0000183) to be reissued, pursuant to Section 401 of PL 92-500, to A.C. Lawrence Leather Co., Inc., Winchester, for the discharge of treated wastes from the company's woolskin tanning and finishing operations to the Ashuelot River.

(b) Central Screw Company, Keene

It was moved by Mr. Varotsis, seconded by Mr. McGee, and unanimously voted that staff recommendations as contained in Mr. Nylander's memorandum of February 6, 1979, be approved; i.e., that EPA be provided

STATE OF NEW HAMPSHIRE

INTER-DEPARTMENT COMMUNICATION

DATE March 2, 1979

FROM Edward N. Damon
Assistant Attorney General

AT (OFFICE) Attorney General
Environmental Protection Division

SUBJECT Bow Power Station

TO Terrence P. Frost
Water Supply & Pollution Control Commission

The other day you asked if Public Service Company needed EPA permission to discontinue biological monitoring at the Bow Power Plant under its present NPDES permit and if a public hearing is necessary before such discontinuance.

The answer to the first question is in the affirmative. Since the NPDES permit is a contract between Public Service and EPA, any change in its terms must have EPA's assent. Therefore, I suggest that Public Service should be advised to make their request to discontinue to EPA. For the same reason, the question of a public hearing is a federal matter, at least initially, to be determined by EPA.

END/jlh

Encl

x.c.

WAH
RAY ✓

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MAR 5 1979

WATER SUPPLY & POLLUTION
CONTROL COMMISSION