Message

From: Wintrob, Paul [Wintrob.Paul@epa.gov]
Sent: 10/24/2018 4:44:56 PM
To: Nicole.Gibeau@international.gc.ca; morgan.whalen@canada.ca; Danielle.Chesky@international.gc.ca; guy.letourneau@canada.ca; arash.shahsavarani@canada.ca; steve.cobham@canada.ca; Felicia.Minotti@international.gc.ca
CC: Teel, Pam [Teel.Pam@epa.gov]; Katchinoff, Julien M [katchinoffjm@state.gov]; Dunlap, Ellen M [DunlapEM@state.gov]; 'So, Rachel' [SoR@state.gov]; Dunn, Alexandra [dunn.alexandra@epa.gov]; Szaro, Deb [Szaro.Deb@epa.gov]; Gutro, Doug [Gutro.Doug@epa.gov]; Conway, Timothy [Conway.Tim@epa.gov]; McGuire, Karen [Mcguire.Karen@epa.gov]; Chow, James [chow.james@epa.gov]; Moraff, Kenneth [Moraff.Ken@epa.gov]; Hamjian, Lynne [Hamjian.Lynne@epa.gov]; Melanson, Kate [Melanson.Kate@epa.gov]
Subject: FW: Lake Memphremagog Responses
Attachments: ATT00001.txt; EPA Canada Questions.pdf

Hello Nicole, Morgan, Danielle, Guy, Arash, Steve, Felicia:

Our state colleagues at the Vermont Department of Environmental Conservation have pulled together their responses to the Lake Memphremagog follow-up questions that Nicole sent to me. I am forwarding VT DEC's email, which includes their attached response as a PDF file "EPA Canada Questions" as well as the original questions posed, and EPA R1's request for assistance from VT DEC.

Included in VT DEC responses are the details on Act 250. I have copied the text below: please note the Oct 29 deadline to request an Act 250 hearing.

Question 2: Can we please get clarification of the permitting and Act 250 process and a timeline?

Response 2: On June 13th, the Act 250 District Commission , recessed the proceeding regarding the expansion of NEWS-VT pending information to be filed by the facility operator, on or before November 30, 2018. In their recess order, the Act 250 Commission provided that parties would have 15 days from the date of receipt of the required information to provide information in response.

On October 19th, the Act 250 District Commission filed a Memorandum of Decision stating that:
*The District #7 Environmental Commission (Commission) received and is reviewing the Solid Waste Management Faciltiy (*sic*) Certification dated October 12, 2019, and may reconvene the hearing. Pursuant to Rule 19(C), the Commission hereby notifies parties of their right to request a reconvenend (*sic*) hearing, to rebut the presumption. Any such request shall be filed on or before October 29, 2018. IF the hearing is reconvened, the persons and entities which requested untimely party status (…) will be allowed limited rights to participate as Friends of the Commission, after all admitted parties have had an opportunity to present evidence and cross-examine, to the extent that time is reasonably available, so as to not cause unfair delay. Reference is also made to Rule 19(F) concerning the effect of presumptions.*

The effect of the October 19th Decision is as follows: 1) The new October 29th deadline allows parties the opportunity to request a hearing for the express purpose of rebutting the presumption of compliance afforded to the Solid Waste Facility Certification; 2) The previous November 30th deadline has been superseded; and, 3) the District Commission is considering whether to reconvene the hearing of its own motion. This means that even if no parties come forward by October 29th to request a hearing, the Commission may still decide that a hearing is needed. The Decision is silent on the Memphremagog Regional Commission's requests for the Commission to address concerns regarding the treatment and discharge of leachate.

All information regarding this proceeding can be viewed on the Vermont Act 250 Database, at https://anrweb.vt.gov/ANR/vtANR/Act250SearchResults.aspx?Num=7R0841-13.

Please let me know if you have any follow-up questions or if I can assist in any other way.

Best Regards,

Paul

Paul Wintrob
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From: Kamman, Neil [mailto:Neil.Kamman@vermont.gov]
Sent: Tuesday, October 23, 2018 4:25 PM
To: Wintrob, Paul <Wintrob.Paul@epa.gov>; Gutro, Doug <Gutro.Doug@epa.gov>; Melanson, Kate <Melanson.Kate@epa.gov>
Cc: LaFlamme, Pete <Pete.LaFlamme@vermont.gov>; Mary Borg <Mary.borg@vermont.gov>; Chuck Schwer <Chuck.Schwer@vermont.gov>; Cathy Jamieson <Cathy.Jamieson@vermont.gov>
Subject: Lake Memphremagog Responses

Doug, Kate, Paul,
In the attached, please find responses to the questions sent by Andrew Spejewski earlier this month. Please let me know if there are any questions. I am happy to get on the phone with you as needed for any clarification. Please note that for clarity, I made minor adjustments to the questions posed in the original email.

With Regards,

Neil C. Kamman, Senior Policy Advisor
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http://dec.vermont.gov/

From: Kamman, Neil
Sent: Friday, October 5, 2018 8:05 AM
To: Spejewski, Andrew <Spejewski.Andrew@epa.gov>; Bulova, Jessica <Jessica.Bulova@vermont.gov>; Bourdeau, Jeff <Jeff.Bourdeau@vermont.gov>
Cc: Wintrob, Paul <Wintrob.Paul@epa.gov>; Weitzler, Ellen <Weitzler.Ellen@epa.gov>; Abele, Ralph <abele.ralph@epa.gov>; Voorhees, Jeanne <voorhees.jeanne@epa.gov>; Downing, Jane <Downing.Jane@epa.gov>; Cassidy, Meghan <Cassidy.Meghan@epa.gov>; LaFlamme, Pete <Pete.LaFlamme@vermont.gov>; Schwer, Chuck <Chuck.Schwer@vermont.gov>
Subject: RE: Another round of Lake Memphremagog questions

Andrew,

Thanks for the heads up on these questions, and for making us aware of continuing questions. Please allow me to bring this up with appropriate folks here.

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From: Spejewski, Andrew <Spejewski.Andrew@epa.gov>
Sent: Thursday, October 4, 2018 11:14 AM
To: Kamman, Neil <Neil.Kamman@vermont.gov>; Bulova, Jessica <Jessica.Bulova@vermont.gov>; Bourdeau, Jeff <Jeff.Bourdeau@vermont.gov>
Cc: Wintrob, Paul <Wintrob.Paul@epa.gov>; Weitzler, Ellen <Weitzler.Ellen@epa.gov>; Abele, Ralph <abele.ralph@epa.gov>; Voorhees, Jeanne <voorhees.jeanne@epa.gov>; Downing, Jane <Downing.Jane@epa.gov>; Cassidy, Meghan <Cassidy.Meghan@epa.gov>
Subject: Another round of Lake Memphremagog questions

Neil – If you're not aware of this inquiry about Lake Memphremagog, Canada has had a few questions regarding water quality in Lake Memphremagog, and reached out to EPA and the U.S. State Department in a couple ways at the beginning of the summer (both an individual Member of Parliament and through their national Global Affairs Department). Since the main issues are of course nearly all DEC responsibility, we've through a couple rounds of getting information from DEC staff and passing it on. We're on another round of replying to clarifying questions, and since they're getting down to fairly specific, it seemed more efficient to forward you their questions in writing. I'm adding you this time to make sure the Commissioner's office is in the loop (I believe Regional Administrator Dunn called the Commissioner when we recently sent a reply to the Member of Parliament), and you might be able to help ensure the right people can answer – Jessica and Jeff have been very helpful on the WWTF and landfill permitting issues, but I don't know who could update on the Act 250 process, and would Ethan Swift be the best person to speak to water quality monitoring?

FYI, I'm in the water enforcement group in EPA Region I; the first questions ended up coming to me as EPA's regional water enforcement liaison to Vermont and so I've been continuing to coordinate, even though the questions also cover solid waste and water quality monitoring. Feel free to write or call me if you want more info on Canada's inquiry.

Jessica/Jeff -- Hey, we're going around again. I just copied the questions below, since it's getting down to pretty particular specific answers. It's up to you and Neil whether you want to put together one reply from DEC or give me your pieces directly; I'm happy to assemble things. EPA will pass the answers on to Canadian departments.

--Andrew Spejewski
Environmental Engineer
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Canada's questions:

Hi Paul,

Once again, a big thank you for the call last week. It was very much appreciated.

Please find below a list of our follow up questions. Essentially, we'd like to get a solid sense of exactly where the project is in the permitting process and, to the extent possible, a better sense of the water quality monitoring requirements currently in place and expected to be in place under the new permits (understanding that this information may not be entirely available at this point). I hope these questions are clear and am happy to discuss/elaborate further.

I've also included a list of participants on last week's call. Please let me know if there are any errors in/additions to the U.S. list.

Thanks again for your ongoing help,

Nicole

- During the call, it was noted that a draft facility permit (we understand this is the Solid Waste Management Facility Permit) was published in earlier this summer, the public comment period is over, and Vermont is expected to issue a response.
  Question: when does Vermont expect to issue the Solid Waste Management Facility Permit? If we understand correctly, once the Solid Waste Management Facility Permit has been granted, the Act 250 process will resume. Can we please get clarification of the permitting and Act 250 process and a timeline?

- We understand that two additional permits will be required for landfill leachate:
  1) Pre-treatment permit issued to New England Waste Services Vermont (NEWSVT) by the Vermont Department of Environmental Conservation, which will require testing of leachate before treatment at WWTFs.
  Question: is there an expected timeframe for this updated permit to be complete? Can we find out more about testing that will be required under this permit?

  2) WWTF Discharge permit, issued to the City of Newport by Vermont Department of Environmental Conservation. The current permit is over ten years old and issuance of the new permit was pending while awaiting results of studies. Expect to have this permit out next year (2019).
  Questions:
  Can you please confirm whether this is the earlier permit, issued in 2004:
  https://anrweb.vt.gov/PubDocs/DEC/WSMD/Wastewater/permits/3-1241/3-1241_factsheet.pdf?
  Can you please provide more information on the studies, referred to above, required before issuance of the new permit?
  Can you please confirm that we understand the following correctly: testing on effluent, including toxicity, from the landfill is currently taking place. The results of this testing will determine the testing and monitoring requirements for the new permit to be issued in 2019. Is this testing what was being referred to, above?
  How do these two permits, pre-treatment and discharge, fit into the overall process for the landfill expansion? Can the expansion proceed before new permits are issued?

- During the call it was noted that VT has been quite aggressive in setting standards for PFAS. In 2016, Vermont updated its health advisory for drinking water to 20 parts per trillion.
  Questions:
  How does the 20 ppt compare across the U.S. and to EPA national standards?
  Does this standard apply to all classes of Vermont waters, like the Class B Lake Memphremagog? Does it apply within the water body itself or "at the tap" once water has been treated?

- We understand VT is considering requirements for PFAS testing in new permits for landfill.

Questions:
Which permits may require PFAS testing?
We understand, from news reports, that issuance of permits has been delayed until PFAS testing done. Could you share more information about PFAS testing that was done (e.g., was PFAS testing done on groundwater, lakewater, or both? Is it the Solid Waste Management Facility Permit that was delayed for this testing, or other permits as well?).

- Ongoing water quality monitoring in the lake: under the Clean Water Act, states must have a monitoring program and report to EPA every other year. VT DEC does monitoring.
  - **Question:** could we please have more information about the lake water monitoring being done by VT on Memphremagog (e.g., frequency, parameters, etc.)? Are there any plans to update/change these requirements based on the results of current studies being done re: the landfill?

Canada

Danielle Chesky - Canadian Embassy Washington
Nicole Gibeau – U.S. Transboundary Affairs Division, Global Affairs Canada
Steve Cobham - Bilateral Affairs and Trade Directorate, Environment and Climate Change Canada
Morgan Whalen - Bilateral Affairs and Trade Directorate, Environment and Climate Change Canada
Arash Shahsavarani - Water Quality Monitoring and Surveillance, Environment and Climate Change Canada
Guy Létourneau - Water Quality Monitoring and Surveillance, Environment and Climate Change Canada

U.S.

Julien Katchinoff – Office of Canadian Affairs, Department of State
Ellen Dunlap – U.S. Embassy Ottawa
Rachel So – U.S. Embassy Ottawa
Pam Teel - Canada Program Manager, Environmental Protection Agency
Jeanne Voorhees – Regional Water Quality Standards, EPA Region 1
Andrew Spejewski – EPA Region 1
Paul Wintrob – International Coordinator, EPA Region 1
Ralph Abele - Chief, Water Quality Branch, EPA Region 1