



January 16, 2010

## **Asphalt plant wins a round One environmental review waived in Westford; foes to fight**

By Prudence Brighton, Sun Correspondent

WESTFORD -- The Route 40 Clean Air Coalition has been denied its request for a "fail-safe" review of the air-quality permit granted by the state Department of Environmental Protection to the asphalt plant proposed for 540 Groton Road.

But a group of North Chelmsford residents have been allowed to appeal the same permit granted by the DEP. And Chelmsford town officials may become involved in that appeal to the DEP. A preliminary hearing is scheduled for Wednesday.

The Route 40 coalition challenged the air-quality permit under the Massachusetts Environmental Policy Act (MEPA), which is overseen by the state's Executive Office of Environmental Affairs.

Two separate state agencies, both functioning under the EOE, are involved in the appeals.

The DEP granted a conditional air-quality permit last fall, but is allowing residents of Scotty Hollow in North Chelmsford to appeal.

As a state agency, MEPA conducts reviews of the environmental impacts of development projects and other activities that require state approvals.

"We're pleased, but not surprised," said Scott Tranchemontagne, spokesman for Newport Materials, which is proposing the asphalt plant. Experts working for Newport Materials have conducted extensive tests and modeling of environmental concerns.

Because of that extensive testing, "We were confident of the outcome of the appeal," said Tranchemontagne. And Newport Materials is equally confident that the DEP decision "will stand"

in the appeal by the Scotty Hollow residents.

But the Route 40 Clean Air Coalition remains hopeful because the National Heritage Endangered Species Program (NHESP) must review the proposal and its impact.

"It's our understanding that while MEPA denied our appeal, they also confirmed Newport is required to submit a new filing to NHESP to determine if their project will have a detrimental impact on protected species," said Alisa Nahkasian-Holsberg, a Westford resident and member of the coalition.

MEPA declined to review the DEP decision, however, because the modeling data presented did not exceed legal thresholds that would trigger a re-evaluation of the permit. An NHESP decision that protected species would be affected, however, would require a MEPA review.

The North Chelmsford residents are appealing because the Scotty Hollow condominiums are among the nearest dwellings to the proposed plant, which is now before the Westford Planning Board for site-plan approval and a special permit.

On Tuesday, the Chelmsford Board of Health heard from Scotty Hollow residents and from Nakashian-Holsberg.

According to Selectman Eric Dahlberg, who was present at the meeting, the Board of Health was "implored" to support in the appeal. The Board of Health was interested, but hesitant without knowing whether it would be legal and whether they would have the support of town counsel.

At Wednesday night's meeting of the selectmen, Town Manager Paul Cohen said that it would be legal and that town counsel would be available to the Board of Health.

Selectmen Chairwoman Clare Jeannotte said that the DEP had received a six-page report from Air Quality Associates that raised questions about the data presented by Newport Materials.

That report "made me feel -- and apparently the DEP feel -- that it is worth another look," said Jeannotte.

Selectmen authorized Jeannotte, in consultation with Cohen, to take preliminary steps to support the appeal. A decision needs to be made by Tuesday because of the preliminary hearing is the next day. Jeannotte was authorized to make that decision on behalf of the board.

Several months ago, Jeannotte attended a Westford Planning Board meeting to speak on behalf of her board. She delivered the news that selectmen voted unanimously to oppose the asphalt plant.

Attorney John Giorgio, of the Kopleman and Paige law firm, acts as town counsel for both Westford and [Chelmsford.Cohen](#) raised the possibility of an eventual conflict. If the Westford Planning Board were to approve the asphalt plant and Chelmsford went to court to block it, Cohen said special counsel would probably be necessary.

"But it's not even clear that this plant qualifies under Westford's zoning for light manufacturing," said Cohen. The Westford board could decide that it does not qualify and deny the permit.

Jeannotte said she would like to see the North Chelmsford residents actively fundraising to support the appeal as the Route 40 Clean Air Coalition has raised funds to support its effort before the Westford Planning Board.

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