

A special meeting of the Planning Board for the Town of Moreau, Saratoga County, State of New York was held virtually through Zoom and at the Moreau Town Hall, 351 Reynolds Road, Moreau, NY 12828 on the 12th day of January 2022 at 9:00 am.

Town of Moreau  
Planning Board Meeting  
Wednesday, January 12, 2022

**Planning Board Members Present:**

John Arnold	Planning Board Member
Gerald Bouchard	Planning Board Member
Meredithe Mathias	Planning Board Member
Ann Purdue	Planning Board Member
Erik Bergman	Planning Board Member
Adam Seybolt	Alternate Planning Board Member

**Also Present:**

Jim Martin	Zoning Administrator
Katrina Flexon	Meeting Secretary
Mike Sundberg	DEC Air Division
Kevin Wood	DEC Solid Waste Program Region 5
Beth McGee	DEC
Raymond Apy	Saratoga Biochar
Andrew Millsbaugh	Saratoga BioChar Consultant from Sterling Environmental
Bryce Meeker	Saratoga Biochar Consultant

Chairperson Jensen was not present for this special meeting. Mr. Arnold took over duties as Chairperson for this meeting in his absence.

This is a special meeting of the Planning Board held in a virtual format with officials of the NYS Department of Environmental Conservation (DEC) to gather information in association with the Planning Board's assessment of potential environmental impacts associated with the referenced project. The discussion is in association with the coordinated review by the Planning Board as Lead Agency for the environmental assessment under the State Environmental Quality Review Act (SEQRA) and DEC as an involved agency. The anticipated format of the discussion is as follows: Introduction of meeting participants. Brief summary of project description and current status in the review and permitting process. Review and discussion of questions as submitted by Planning Board members Related follow-up discussion. Meeting adjournment. The anticipated length of the meeting is one hour.

The Meeting was called to order by Chairperson Arnold at 9:06am.

**Chairperson Arnold** This is a special meeting called to order to gain information and details from in the case DEC specialists engineers to help us determine our determination for SEQR on the

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Saratoga BioChar Solutions project. There were some product or process in the SEQR that led us to large or moderate to large situations and we didn't seem to understand or at least as a board I didn't feel comfortable as a board member deciding whether the remediation that was proposed was adequate. The members of the board were invited to this special meeting they've been asked to send in questions in writing ahead of time, and of course all questions will be addressed not only the written ones but any that come up today in today's meeting.

Chairperson Arnold I don't know if you want to start with our questions for discussion or if you want to have Saratoga BioChar just give a quick introduction to their projects or can we dispense with that?

Mr. Martin Well I think given the shortness of time here, I think we only have an hour with the DEC folks, I think everybody on the call from DEC as well as town people are aware of the project. I didn't see a need for that unless Ray, is there some sort of update or anything you need to provide us with?

Mr. Apy No Jim. Thank you for offering.

Chairperson Arnold Well as far as I'm concerned this is an information gathering meeting anyway.

Mr. Martin That's correct, there was never any anticipation of any action being taken, any business being performed.

Chairperson Arnold Then moving right along, do you want each of the members that are here to present their questions or would you like me to just read them.

Mr. Martin I think that's between you and the members I think its fine if you just read them. At some point I want to have a chance for everybody to ask additionally questions or follow up but let's start with what we have.

Chairperson Arnold Then I'm going to ask Jerry to read his because he does a good job with them, can you do that Jerry?

Mr. Bouchard Not a problem.

Chairperson Arnold Thank you.

Mr. Bouchard Good Morning. My questions will all center around pretty much the same subject, which was what I struggled with during the environmental review that we preformed. Questions one, and I'm asking some guidance from DEC here is how we categorize the applicant's stated anticipated CO2 outputs in terms of their impact and I'm putting that in terms of the environmental assessment form that we were filling out. So, when we are asked to determine what is the impact how do we categorize what the applicant has stated their output to be.

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Mr. Martin Is someone from DEC able to address that question?

Mr. Sundberg Yeah This is Mike Sundberg, DEC Air Division. I don't know how on that form how you would, what you would call medium or high. I know they have to submit a climate leadership community project protection act, a demonstration basically to show that they're compliant with the law, and basically that's the CO2 emission.

Mr. Martin If I could pause right there, my impression of the discussion we had when we went over this, for example it says in section six impacts on air item A: If the proposed action requires federal or state air emissions permits the action may also emit one or more greenhouse gases at or above the following levels, and then small item I the very first one is more than a thousand tons per year of carbon dioxide, our initial preliminary response to that was moderate to large impact may occur because the applicant said yes they're going to be more than a thousand tons per year. As lay people we have no idea what that means relatively speaking, is a thousand tons a year a lot and is a problem that can't be mitigated, and we need an impact statement? Or is that something that's fairly typical, can be mitigated and relatively speaking is not that bad? Jerry am I framing that pretty well?

Mr. Bouchard Yes.

Mr. Martin Okay so that's the question.

Chairperson Arnold Jim the only thing is, it wasn't like is it more than a thousand and we were looking at an estimate of about 1200. It is It more than a thousand and I think the estimate that was given was 100,000.

Mr. Martin Yes, that's correct. That's a good point to make.

Chairperson Arnold It was 100 times more than bar that we were given.

Mr. Martin So in relative terms is that something to be concerned about? Or is that typical for a facility like this? I mean we need some context.

Mr. Millspaugh This is Andrew from Sterling, can I add a little more context to that from our end. So as you just mentioned the part of the struggle at the meeting was that this question in the Part Two is a thousand tons per year or more and what we are describing is that the application is upwards of 90,000 tons per year but the threshold in the regulations for minor an major facility permits and designation is 100,000 tons per year. So, this is still a minor facility in that context but there was some difficulty grasping why the Part Two was focusing on a thousand tons per year.

Mr. Martin Mike?

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Mr. Sundberg Yeah, 100,000 tons is the threshold for what we call new source review project, those are the biggest of the big, this is not that big but it's pretty close to the level.

Mr. Wood Hey Mike this is Kevin Wood, I think I remember you saying this is going to get a state facility permit.

Mr. Sundberg Yes, this is not large enough to get a title 5 permit, it's close but it's not that big.

Mr. Wood What the major source threshold for CO2 for title 5.

Mr. Sundberg It's 100,000 tons.

Mr. Martin So when you do the permit review, the permit application, what has to be demonstrated to make this something that received a permit.

Mr. Sundberg They would get a registration, if it was a small facility. That means all of their emissions are less than half of the title 5 level. That was the main one that they were close to which his 100,000 tons per year of NOx.

Mr. Martin Okay so what has to be done for that to be permitted.

Mr. Sundberg They have to demonstrate that the impacts, the ambient impacts in the neighborhood is okay basically they have to tell us the emissions are going to be, we'd have to have them stack tests for some of them to make sure that they are correct, they'd have to do some modeling to make sure that the impacts of those emissions are not above our guidelines. If they can do all of that then we give them a permit.

Mr. Martin Okay and what are your guidelines?

Mr. Sundberg We have a list of every single toxic chemical you can imagine, and we have an allowable limit for each of them.

Mr. Martin And if they're on or under that limit they get a permit?

Mr. Sundberg If they are under that limit we will give them a permit normally, Yes.

Chairperson Arnold So I guess the question is from our board is when we see what we consider to be a moderate to large impact which is not 100 times over, its 90 times more than the baseline then on the EAF we're going to put down that this is a moderate to large impact now it asks us what is the remediation of that, is the remediation of that studies that you make them do to get the permit, and then testing that you do as a state agency from that point forward to make sure they're complying with their permit.

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Mr. Sundberg Well we won't be testing them for CO2, but they will have to do a demonstration up front to show that they've done everything they can to minimize them and it complies with the act.

Chairperson Arnold Okay.

Mr. Martin Ok, I'm going to ask the applicant then, what is your likelihood of being able to comply with the act and get a permit?

Mr. Apy This is Ray Apy, our likelihood is 100%, we've already overestimated the CO2 and CO2 equivalents.

Mr. Martin Okay, thank you. Then my question is back to DEC, I've done a little bit with this kind of thing trying to get a solid waste facility permitted in California, in the South coast air quality management district. What had to be done there is we had to demonstrate that the emissions we were putting into the air was going to be mitigated through our buying down other emission producers in the district. Is something of a similar fashion done here in other words say if they are going to put 90,000 tons of CO2 into the atmosphere, do they have to demonstrate that they are doing something to counteract that and keep this at a net neutral?

Mr. Sundberg We don't require that at this time. We would do something like that for NOx, if they were over 100,000 tons. They would have to buy NOx credit emissions from someplace else, but if they are under 100,000 tons they don't have to do that.

Mr. Martin So it sounds like they are meeting the standard as per the permit anyhow.

Mr. Sundberg Yes.

Chairperson Arnold Jerry would you like to roll into your second questions?

Ms. Purdue Can I ask one more question before we move on because Jerry's question is very similar to one I asked. Mike made a comment in the context of registration that the applicant would demonstrate the ambient impacts on the community. If I heard you correctly Mike what is that?

Mr. Sundberg Yes, they have to model the emission of all the toxics and demonstrate through that model that the highest impact anywhere outside of the facility is underneath our guidelines.

Mr. Martin Ann, does that answer your question?

Ms. Purdue Ok so they would have to do that in the context of the full permit as well.

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Mr. Sundberg They would have to do that before they would even get a permit, they would have to show us that modeling. Once they're built they would have to do some stack testing to demonstrate that the inputs to the model were correct.

Ms. Purdue Have you gotten that data yet?

Mr. Sundberg We have not.

Ms. Purdue Ok, that's all I have.

Mr. Bouchard Okay my second question. How do we determine whether or not we've got everyone that needs to weigh in at this point? Is that something that DEC takes care of during the permitting? When we start talking about whatever level of output are and their impacts on areas other than Moreau, I don't know how to quantify how far the impacts reach, I'm looking for DEC to tell me if there is something here Moreau needs to be doing in terms of engaging neighboring communities? Does that happen during the licensing and permitting review you folks preform?

Mr. Sundberg The permit is public notice for 30 days. The public can ask us for any of the information that we've used in the permit process. I don't know if you remember but we went through this kind of thing with Lehigh a few years ago.

Mr. Wood Mike, it's different too if it's a title 5 facility, there are some notifications that have to be made to neighboring states and what not right?

Mr. Sundberg Yes, for the title 5 we would notify Vermont.

Mr. Martin But they're not at that threshold because title 5 is 100,000 tons.

Mr. Sundberg right 100 tons of NOx or 100,000 of CO2.

Ms. Purdue Do you have a public hearing with the community?

Mr. Sundberg We have a public notice that goes in the paper and it goes on our website, if there is demand for it we may require a public hearing. We haven't held a public hearing in this region in over a decade I believe for an air permit.

Mrs. McGee So when it comes to holding a public hearing that would be based on the amount of public interest and feedback that we get during the public comment period, if we get significant comment from the public them we would have to decide if a public hearing is necessary. Typically, like Mike was saying it's not something we have to typically had to do in the past but that doesn't mean that wouldn't be required on this project.

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Mr. Bouchard In my mind that satisfies my question in terms of are we doing what we need to do. Last question from me is I am wondering if DEC has any guidance they can offer, any information for us that we may need in terms of the EAF in understanding the applicants process, meaning this process that's being used to convert the solid waste into the end product. Is there anything that the state has that would be useful to us in making the determination in regard to the EAF.

Mrs. McGee Well, I can't speak as to the technical aspect of the process, I'll leave that up to Kevin and Mike to do that, but what I would try to assure the Town of is the fact that DEC is still reviewing this application, we review these applications very closely and they have to meet our permanent issuance standards before we can move forward with the process. I realize the SEQR form is a little daunting, there's a lot of questions on there but in addition to that SEQR documentation that you're doing is this very large and thorough review by the state agency. So, I feel like that should give you some level of comfort in trying to work through that SEQR process and answer those questions.

Chairperson Arnold This is John Arnold, I think the sticking point we ran into with the EAF was the fact that we reached a point where in this case the Carbon Dioxide had significantly exceeded the bar that was put on the SEQR form as far as considered to be an impact. We considered it moderate to high impact because it was 90 times more than that bar, but then we are asked what mitigating factors are put into place or remediation to manage this and I think we are trying to figure out what we can consider a remediation from our viewpoint. Is that remediation your permit process or DEC testing or what is it that we can consider that remediation to move forward on this SEQR.

Mrs. McGee I think that might be a good question for our Air Program, Mike I don't know if you can speak to that, to what kinds of thing the facility is going to need to do in order to control CO2 emissions.

Mr. Sundberg Well, they have to submit an analysis showing they are doing everything they can and it's in compliance with the act. They're going to have to demonstrate to us as part of their application and our review process that those emissions are going to meet our permit issuance standards and if they can't do that we wouldn't be able to issue a permit.

Chairperson Arnold So they submit that to you but from our viewpoint is that adequate for us to say that remediation will take place or that this will be handled in the regulatory process.

Mrs. McGee I think that's up to the board to determine their level of comfort with that, but I would think if you said that the facility is going to need to demonstrate compliance with the state permit issuance standards, I would think that would be adequate justification and mitigation.

Chairperson Arnold Okay, does anyone else have anything further on this topic?

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Mr. Martin I have one more thing on the CO2, we're hearing that this is somewhere conservatively speaking somewhere in the range of 90,000 tons a year. What has been sold so to speak about this whole process of this fertilizer being produced is that it's going to in fact eliminate many forms of CO2 in the conventional handling of this feedstock. In other words when they get done making this fertilizer, ultimately this is supposed to somehow have a net positive in CO2 emissions in the broad macro view. Is that the case here and is why this is being view in such an environmentally positive process is that not correct. Ray?

Mr. Apy Thank you for directing the question our way, Yes to answer your question, first of all let's talk about a couple things relative to nomenclature, we would refer to it as a carbon negative project meaning we are going to sequester more carbon then we emit.

Mr. Martin Yeah, that's my point. That's why I'm hung up on this 90,000 being the gross number but, what is the ultimate impact here.

Mr. Apy The ultimate impact is to sequester more Carbon and Carbon Dioxide and Carbon Dioxide equivalents, things such as NOx and Methane which are normally emitted into the atmosphere from this waste material in various ways and capture all that as a solid in the fertilizer and put it back into the ground where it came from, where it belongs versus up in the atmosphere. Of course in that process we will have some CO2 emissions, so as you just framed that you are correct, that is what we are intending to do here and while I have the floor here I'd like to ask Mike a question and or anyone who is comfortable answering it. Is it my understanding that Carbon Dioxide itself is not normally considered a waste under hazardous waste regulations at the EPA level or NYS? I just want to clarify that because I think the word toxic materials was used earlier. Secondly, it was my understanding from the outcome of the planning board meeting from December 13<sup>th</sup> the question was What would CO2 emissions of this quantity mean for the community of Moreau relative to human health and so I wonder if we could focus the end of this conversation back to that.

Mr. Martin Yeah that's a good point.

Mr. Sundberg Yeah, we don't consider CO2 a toxic, the toxics would be more things like Mercury, and PFAS.

Chairperson Arnold Okay, if we could move back into our questions then. Meredith, would you like to take a shot?

Mrs. Mathias Yes, one of my questions was when the DEC permits, do they look at other regional out putters since there are several in Glens Falls along the river. Do they look at this community cumulatively?

Mr. Sundberg We do not look at it cumulatively, we look at the highest point of impact and those are always spread out. The impact from Finch Paper would not be where your impacts would be.



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Mr. Wood Hey Mike don't they use the ambient monitoring network to kind of look at the cumulative impacts of things in certain areas and whether or not they're meeting the ambient air quality standards.

Mr. Sundberg Yeah, there is really none of that around here.

Mr. Wood Okay.

Mrs. Mathias Okay, when there is a complaint to DEC is the municipality made aware of that?

Mr. Sundberg Normally Not.

Mr. Wood I would say from my perspective, generally not, unless we happen to know or have dealt with the code enforcement officer on issues at the facility in the past we might reach out to that person and discuss it, but if that's not the case then not typically.

Chairperson Arnold So in general it's a one and done thing. Once we approve the facility, then we hand it off to DEC and you guys take responsibility for that facility at that point forward as far as this goes, as far as the permitting and any actions to that permit.

Mr. Sundberg With the exception of traffic and noise, we don't deal with that those are local kinds of issues that are dealt with by code enforcement.

Mr. Wood Well we have a noise provision in solid waste regulations that they would have to meet so we to some extent deal with noise.

Chairperson Arnold Okay.

Ms. Purdue This is Ann, I have a quick related question, that is whether and how you monitor compliance once the permits issued and how frequently do you monitor.

Mr. Sundberg Well in this case, they're going to have an oxidizer and they are going to have scrubbers. The permit requires them to continuously monitor the temperature of the oxidizer to make sure that it is working the way it should and the pressure drop and the scrubbers probably the PH in the scrubbers, and they're required to monitor that. When we do an inspection we check on them, but we don't have continuous monitors of the emissions.

Chairperson Arnold So they will have a test graph that's printed up of every day, some type of a sensor that's monitoring it then you look at the records of those test results.

Mr. Sundberg Yes.

Mr. Martin How often do you do that Mike?

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Mr. Sundberg With a title 5 every year, with a state facility permit not that often, sometimes only once every 5 years.

Mr. Wood So on the solid waste side, under their permit they would be required to submit an annual report to us which includes all the test data for the inbound and outbound materials as the regulation requires. We would do inspections for our permitted facilities at least once a year, if there are compliance issues more frequently than that.

Ms. Purdue I think I heard you say that you do not monitor CO2 emissions?

Mr. Sundberg That's correct. We don't actually monitor anything from the site. We'll have them do a stack test, and we'll check the emissions during the test. The monitoring is basically on their control devices, but we don't monitor the emissions of CO2 or really anything.

Chairperson Arnold I See, Meredith do you want to read your last question.

Mrs. Mathias When there is a permit renewal does the municipality have an opportunity to weigh in with any comments?

Mr. Sundberg Any significant permit is public noticed and there's the 30-day period to make your comments.

Mr. Martin Does that occur at renewal as well, when its renewed?

Mr. Sundberg Yes, that's at renewal or any significant modification.

Mr. Bouchard This is Jerry Bouchard can you tell me how often they get re-permitted?

Mr. Sundberg A state facility permit is every 10 years.

Mr. Wood The solid waste permit would be every 5 years.

Mr. Bouchard Thank you both.

Chairperson Arnold Ann, would you like to ask your questions?

Ms. Purdue I think that as Ray noted a few minutes ago, our primary concern is the impact of this particular facility on human health in the community. My first question relates very much to that issue. Are there any BioChar facilities like this one in the state of New York and if there are where, what type of biosolids do they process and what has been their impact on air quality and other environmental measures like noise odor traffic in the community.

Mr. Meeker This is the first one.

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Ms. Purdue That's what I thought, I saw an experimental one in Cornell.

Mr. Wood There is one out near Syracuse that, it's not really BioChar but I think it's a manure pyrolysis type of operation if I'm not mistaken. We really don't have any of these biosolids or processes like this one, we do have other biosolid processing facilities but not of this nature.

Ms. Purdue Yeah, I think the ones I saw were agricultural in nature.

Mr. Wood Yeah.

Ms. Purdue Have you seen or reviewed any of these biochar facilities in any other states?

Mr. Wood No. I don't know how many there are actually. Ray, or anybody, do you guys know where these are in other areas?

Mr. Apy This is Ray, I'll chime in and I'll probably ask Bryce to chime in as well, I believe there is one I production or still in construction in New Jersey but the intent of that facility is energy generation and biochar is a moderate output of it, the plant is not intended to produce a Carbon fertilizer so it's a bit different but it has a lot of similarities. Bryce do you want to add to that.

Mr. Meeker Yes, there is a similar company that's in New Jersey, they also have a facility in Kentucky or Tennessee they're basically using biosolids and gasification which is very similar to what we're doing. They're designing one in New Jersey very close to New York City opening shortly that's a competitor of ours basically.

Mr. Martin You said its opening shortly so that's gone through permit review and has been permitted, approved and under construction?

Mr. Meeker I believe in the state of New Jersey Yes.

Mr. Apy That's my understanding Jim, Yes.

Mr. Millspaugh Jim this is Andrew with Sterling Environmental, there is a similar process performed in Schenectady wastewater treatment plant that's located there that is primarily for waste for energy production for the biochar type product as a waste byproduct but that is a similar process that currently has a state air permit that's been reviewed and is in operation.

Mr. Meeker BioChar is in a lot of areas, more and more in heavily wooded throughout the west coast and Rockies, there's quite a few smaller producers doing it from wood and throughout a lot of the south a lot of the forestry industry produce Biochar from wood, I guess what's unique here is we're doing it from more or less a different resource biosolids.

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Ms. Purdue So when the DEC has a project new of this kind of nature, something they have not reviewed before. Do you exercise a higher or different level of scrutiny relative to human health and other environmental impacts?

Mr. Sundberg we make them do more stack testing if they're unique. If there are other ones that have already been built in other places and we have information on them, this one here we don't really have any information other than some estimates.

Ms. Purdue So how does the stack test relate to the human health impact?

Mr. Sundberg Well any toxics that we think might be emitted, they have to model to make sure that the modeled impacts are okay. They stack test to show that what they modeled is actually accurate.

Ms. Purdue Did the similar project in New Jersey go through an EIS/

Mr. Apy Ann this is Ray Apy if I may, I'll do my best to answer that questions or at least provide additional information. I do have access to a New Jersey department of environmental protection reason for application document. It's a PDF dated 12/01/2020. I'd be happy to provide the link to that from there you can probably find out quite a bit about it.

Ms. Purdue Thank you that would be helpful.

Mr. Sundberg I'd like that too.

Mr. Apy Would you like me to funnel that through you Jim?

Mr. Martin Yes, please do and I'll distribute from there.

Mr. Apy Very well.

Mr. Wood So to answer that same question on the solid waste side, although we don't have any of these facilities in New York State we do have a regulation for them. It's a subpart 362-1 which I can provide a link to if you'd like. So, we are looking at the project relative to that regulation and in this case our permitting is handled out of a regional office but because this was a new animal to us we did seek the guidance of our central office. Biosolids experts to assist us with the review.

Chairperson Arnold When we do traffic study, and we're having a public hearing usually traffic comes up and people address the fact that there's a lot of traffic, maybe we shouldn't do this project and usually what we find is if traffic hits a certain threshold the remediation isn't just don't do the project, the remediation is that someone may have to put in a turn lane, traffic light or four-way in. In this case you're talking about going through the permitting process, looking at the modeling checking it for engineering and the doing stack tests. If you do stack tests and you find

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that their estimates for output or whatever gases are there exceeds state limits, there's obviously been some remediations if they move to a federal permit or whatever the next size facility up, but is there remediation like can they just bump up the scrubbers or adapt their production system to meet those standards that they say they can meet. In this case in particular Saratoga BioChar, I believe this is a three-phase they're going to start with one processing phase and then if that goes well then they will bump up to the second and the final one is the third phase. Is it possible that the remediation for any failure to meet state permit requirements or SEQR requirements would simply be to back it off a little bit, is that possible?

Mr. Sundberg Its conceivable that we would say you can't build the third phase if the emission impacts were too high. If they can't meet the guidelines they'd either have to reduce production or put on more controls.

Mr. Martin So it is possible to modify or simply reduce the output.

Mr. Sundberg Right, once they do the stack testing, for example NOx, they're really close to the title 5 level for three units. If the NOx comes in higher on the first one than they expected then they will not be able to build all three.

Chairperson Arnold Ok, alright.

Mr. Meeker We agree with that approach, that's the intent in our design of having three phases so we will be able to test the first unit before we put on the second and third unit. We will do our best to modify them so we can achieve the capacity we desire but if we can't do it then we may not build that third line.

Ms. Purdue I'm going to condense some of my questions I think, because some of the questions have been answered in one form or another, my questions is whether DEC might consider conditions on a permit of this type, perhaps lowering the maximum limit or whatever else might happen, whether it's a compliance measure or something else. Or do you simply issue a permit if it meets the baseline requirements.

Mr. Sundberg Yeah, they have to meet the baseline requirements up front, and as long as they do that, we wouldn't put on more restrictions.

Mr. Wood I would say the same would hold true on the solid waste side as well, Mike said at the beginning of the conversation, doesn't happen very often but if for whatever reason we had substantial public comment about some particular issue we might put a permit condition on it to try to address that comment but our regulations are pretty specific in terms of what they have to do how the materials received, stored, processed, the end product testing there is a lot to it so we really just reference those requirements in the permit along with their operating plan and that becomes their enforceable under their permit.

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Ms. Purdue So does the DEC monitor on an annual basis the compliance with the solid waste management permit.

Mr. Wood Yes, we try to inspect our permitted facilities once a year unless there are compliance issues if so we might do it more frequently than that.

Ms. Purdue So the permit that would be issued for air, or solid waste will basically give them a permit up to the particular limit that the permit would allow is that correct?

Mr. Wood Yeah, on the solid waste side, it would primarily be based on the volume of biosolids and wood waste that they're authorized to receive, that is kind of how we set the design limit for the site.

Ms. Purdue I think that kind of answers some of my other questions then.

Mr. Martin I thought your number four questions was particularly good and what I think resulted in this call essentially and that was: If you're permit levels 100,000 tons a year, why is it 1,000 tons a year in the EAF? That's a wide discrepancy that essentially resulted in this quandary we're in as a body that has to the form here. Why such a wide discrepancy? That's 100-fold.

Chairperson Arnold Well Jim, I might just give my input on that, I think that's because if it's over 1,000 per year we need to find some form of remediation, and that remediation in this case may be the permitting process and inspection of DEC.

Ms. Purdue The concern I think is that even with remediation they're not going to get down to 1,000 John.

Mr. Wood I don't think the 1,000 is the limit, Beth correct me if I'm wrong this is item 6A on the EAF form. This is kind of a screening tool, so the 1,000 isn't the limit necessarily it's just part of the screening process.

Mrs. McGee Yes it used as a tool to find out whether or not a permit is going to be needed.

Ms. Purdue So it would seem that the DEC does not really assess the project from the standpoint of the impact on the community for SEQR purposes, that your permitting process is limited to your baseline requirements and that we need to consider ourselves when it exceeds 1,000, what the impact is on the human health of the community.

Mrs. McGee Basically any SEQR lead agency for any project that's part of that step review, is determining impacts on local communities whether that be health impacts or traffic and noise any kind of impact from the project, that's what the SEQR review is.

Mr. Sundberg 1,000 tons is a tiny amount, I mean we have facilities that put out that in a day, and CO2 doesn't have any toxic impact on the local community. It's a greenhouse gas thing which is a global issue but there is no such thing as a local CO2 impact.

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Mr. Martin So there's no health impact per se.

Mr. Sundberg None.

Chairperson Arnold Well I wouldn't say there none, but it would take a much larger volume of CO2 to make health issues in the community. I mean there could be right? If there was a large enough amount of CO2 that is displaced other gases. That's fair to say.

Mr. Sundberg Until the greenhouse gas stuff came about, CO2 was not even regulated by the state.

Mr. Martin Okay, that's an important distinction that again as a lay person I was not aware of. This is an environmental concern in its cumulative impact in a wide area not a health concern in a local community. Is that a fair statement?

Mr. Sundberg That's correct.

Mr. Meeker I've had some direct experience with the toxicity of CO2, you literally have to be above a chamber that has 100% CO2, you stick your head inside the chamber its toxic but that's only because its 100% you would suffocate. There's very low risk from CO2 and high concentration, you have to be up to 100%, we're adding a small tiny fraction to our air supply in the local area.

Chairperson Arnold Ok thank you, Ann question number 7 was asking about assessing noise levels.

Ms. Purdue Yeah, the question is when you assess noise levels can you consider vegetative cover which is not situation on the applicant's property.

Mr. Wood So our noise standards, we don't encounter this very often.

Mr. Martin I think I can answer this one. I've done a lot of work in noise and to me it's all about the receptor point, this distances and then, what affects noise a tremendous amount is the variations in climate like seasonality clearing even level of humidity and obviously the state of the vegetative cover. It's a very complex subject matter, and highly dependent upon the generator the receptor and the conditions in between.

Ms. Purdue That makes good sense Jim, in the solid waste permit application the applicant noted that they failed the noise level tests without mitigation and the mitigation they proposed was vegetative cover which is not on their property.

Mr. Millspaugh This is Andrew with Sterling, I'll just clarify and add some context to that. As part of the application process and following the state guidance on noise assessments the first thing

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you look at is all noise sources with no mitigation, so that would be this facility with no walls, no ceiling everything outdoors and only accounting for distance as the noise attenuation factor. So that's where the representation where it did not meet the noise standards in the state guidance that's for all the noise generating equipment is outdoors with no mitigation then taking into account mitigating factors that's walls of the building, ceiling of the building, and other factors that both the industrial park EIS noted for noise which was the vast vegetative surroundings. The noise guidance for the state also provides for noise attenuation associated with dense vegetation and increments of 100 feet. So that's where those factors came into the noise assessment mostly to provide the context of there's going to be walls, ceiling, distance, vegetation. If in the future that vegetation came down, the building is still going to provide the noise attenuation factors and as part of the solid waste permit and Kevin with these he could add on to this there is typically a noise study requirement where thee would actually have to be noise measurements taken to demonstrate compliance but right now it's all hypothetical because nothing is built its all based on assumptions and calculations, but once its built clients will have to demonstrate through actual measurements.

Chairperson Arnold This can all be remediated even if the vegetative cover disappears because you don't control it. It could be taken down by somebody who does control it right?

Mr. Wood Exactly so noise generating features like motors and grinders and anything like that can all be locally shielded in greater amounts, you can put more shielding around motors, you can put more noise attenuation in the building to mitigate that if it becomes an issue and things that are accounted for now and no longer there in the future. I just looked up our noise standard and the standards apply at residential locations adjacent to the facility, I was looking it up to see how it was characterized in the regulation. So, the noise study would basically have to be performed at the receptors not just at the property line.

Mrs. McGee I think to answer Ann's questions number 7 I would say that it's probably not appropriate to put an awful lot of weight on vegetative cover that's not on the applicant's property because that could be removed in the future and the applicant wouldn't have any control over that. So, I think that demonstrating that you can meet those noise requirements with that vegetative cover not being there would be most appropriate.

Mr. Martin I agree, and the other thing I think can be easily done unlike the air emissions, there are tons of information sources to site for light situations with grinders inside walls in similar environmental conditions that the applicant can access to give us a range of anticipated noise impact.

Mr. Wood Right.

Ms. Purdue What does DEC consider when determining whether it should be the lead agency in a project such as this.



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Mrs. McGee Well I think when we get a request from a local municipality to be lead agency we try to consider whether the overall impacts from are more of a local nature or something that the DEC would have more involvement with, I think in the case of a facility like this this impact on traffic, noise and all of that is more local in nature. So, I think that's why we determined it was most appropriate for the Town to be lead agency, so we agreed to that.

Ms. Purdue okay, I've got one last question. Given this type of project is new has the effectiveness of the proposed treatments of the emissions on limiting particulate matter been proven, tested or do you feel some level of confidence that the treatments work notwithstanding this is a new process.

Mr. Sundberg Yeah, we know what scrubbers and oxidizers can do and as long as there designed properly, they should work properly, they don't control NOx.

Chairperson Arnold So Nitrous Oxide then is controlled simply by not producing too much of it?

Mr. Sundberg Well, most of the NOx is not Nitrous Oxide, it's NO instead of N2O is what Nitrous Oxide is. Most of the NOx is NO or NO2 and scrubbers and oxidizers, well oxidizers even create NOx and the scrubbers don't stop it. There are treatments for NOx, but we would only require them if we thought that the emissions would have a toxic impact in the area.

Mrs. McGee Well, in terms of the treatment being proven to be effective, the process here is something new that we haven't seen before, but the technology used for the actual treatment is something that we're quite familiar with because it's been used in other facilities.

Chairperson Arnold So I guess I'm a little bit confused on NOx. What happens if you don't meet the states threshold for NOx?

Mr. Meeker If we don't reach the threshold we would either not build additional capacity or look for some process adjustments that could lower the NOx like catalytic injections and things in our process that could change the chemistry of the exhaust gas. Our intent for each individual line is to be one third of the threshold.

Chairperson Arnold Would that production vary depending on inputs?

Mr. Meeker Yes, it is related somewhat to the inputs.

Chairperson Arnold Okay. Anything else from the planning board on this? Has anything else come up for questions on this.

Ms. Purdue Yes, I have a fast one and that is whether DEC would consider monitoring this facility for air and solid waste compliance more frequently given the newness of its process

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Mr. Meeker I believe that was already addressed, we're going to have additional stack tests off the bat with the DEC because it is a new process. Just so you understand the stack test, the stack test is a pre detailed test. We've got to put in a lot of gas testing equipment it's a pretty expensive thing but we are all for it as well just because we want to make sure that we're within compliance and we want to know exactly what's coming out of the process because it's a chance to adjust it as well.

Chairperson Arnold I would think that BioChar is probably going to want to be monitoring all of this anyways because I'm assuming this is not a one-off facility. So, it seems being the first ones that you guys are going to be watching this stuff really closely for future projects.

Mr. Meeker Like Hawks, we want to know everything there is to know about this facility as it moves forward.

Mr. Apy That is 100% correct.

Chairperson Arnold So following that up our process as a Town is also going to be watched or reviewed by other towns that are being proposed as sites or whatever, which is why we are trying to get this the first time. I think it's fair that we try to do this right so it can be used as an example which will help BioChar and DEC along with future towns.

Chairperson Arnold Any other questions from the panel?

Mr. Bouchard Not from me John I'm good thanks.

Mr. Bergman All set John, I missed this in the regular meeting, I was absent in a couple meeting when these guys were presenting so I'm just kind of taking it in here with my notes.

Chairperson Arnold I think it was a good group of questions I think we've gathered some information here that can be useful. At this time Jim I would say that the meeting is complete unless BioChar or any of the other members have anything further to add or discuss.

Mr. Martin Yeah, the primary mission was to hear from the planning board members and provide further information to their questions and concerns and I hope we've fulfilled that mission.

Chairperson Arnold I think it was a nice comprehensive group of information that was collected myself. So, anybody from BioChar or DEC have any other comments.

Mr. Meeker Just the next step, maybe it's helpful to summarize the next steps forward.

Mr. Martin Well when we left this we had the public hearing opened and closed, and we did do a preliminary assessment using the form and I believe there were 6 to 7 items that came up in the medium to large potential impact so now it's at a point where we've got to take up part 3 and come to a declaration. What I might suggest to the applicant is to provide a summary document

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based on the information today and any further clarification you want to provide. Get that in by our deadline for submission in February and we get this back on the February meeting and pick up where we left off which is going through our part 2 making sure everybody is comfortable with those responses that they came to in light of the new information and then going to part 3. Any further clarifications the applicant would like to submit based on today, that would be helpful. I'm looking at the other board members to chime in but that would be my assessment from my position.

Chairperson Arnold Jim Is Saratoga BioChar on our agenda for the January Planning Board Meeting.

Mr. Martin No they re not because we were I a position coming out of our last meeting if you all recall, we were thinking we were going to have to get input from a third-party consultant to review the responses given. Then the suggestion was made to maybe consider the DEC taking over lead agency status, that's when Beth preferred to have this meeting as a means to provide the information and see if we could move forward as we are.

Chairperson Arnold So Jim what else were we waiting for?

Mr. Martin If you are comfortable putting this on the agenda for January then I will do that.

Chairperson Arnold That's what I was asking, if the purpose of the special meeting was to collect the information and be able to continue forward. I was going to ask the board if they want to put forward a motion, if not that's okay I understand if everybody needs more time to review and all I get that as well. So at this point I guess that I would do that, I would ask the members of the board that are here in this meeting with the quorum, if anybody would like to make a motion to accept this information that we collected today and consider it within the window as far as us being able to have time to review It and all the submission dates and move ahead with putting BioChar on the meeting of the 24<sup>th</sup>?

Mr. Martin 24<sup>th</sup> Yep.

Chairperson Arnold If not the other thing is we've sent out a notice a meeting that I consider to be okay to do one meeting of but if we add BioChar we may change our mind and in that case we might add a meeting to like the 31<sup>st</sup> of January. If we did that, this information and any response that they have is well within that two-week limit. So, I will leave that to the board if somebody would like to make a motion.

Mr. Bouchard Well, before a motion is made, can I ask a question Jim, did you receive any feedback from your email requesting board input whether it was one or two meetings this month.

Mr. Martin The only person I heard from was from John indicating he was comfortable, but that's at 5 items that were listed, this would be a 6<sup>th</sup> item. Initially in that point we are in a case where

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we have 3 and 3 or 4 and 2 on the meeting. We usually going into a second meeting at that point.

Mr. Bouchard Okay, with the purpose of Saratoga BioChar and John I'll ask you what you're thinking, is the purpose hypothetically we add them to the agenda for this month, is it just to complete the EAF? At that point would we move on to another applicant and keep this process going for BioChar or are we doing something more? What's your thought?

Chairperson Arnold Oh Gosh, that would be up to the board. We do have members of the board that are not here today, but we have enough to make a meeting.

Mr. Martin We have 6 members on right now as a matter of fact Adam Seybolt after I did my introductory remarks, so we have six.

Mr. Bouchard If I understand it and recall correctly, the comment was made and I think it was Beth saying that DEC's position was that the traffic and noise impacts were more of a local level, those were the things that we were better suited to review. Everything I got out of it leads me to believe that any air impacts are basically we're just going to acknowledge that there are impacts and the permitting process is going to be the vehicle that determines whether or not those are in excess of a permit. There's not really much for us as a board to do other than acknowledge that the applicant has informed us of what they're intended outputs or estimated outputs are. That's what I'm getting out of this so if that's the case, our duty this month is to complete the EAF and focus on traffic and noise and the type of impacts that we normally deal with. I personally would be comfortable with being able to achieve that, but I don't want to start getting into more of a review beyond that this month. I think if we're going to do that we're going to need a second meeting.

Ms. Purdue Understanding from what I heard that the DEC permitting process does not address the SEQR thresholds, that is a community issue. I think we ought to consider again whether this is a project that warrants an EIS and if it's not an EIS that we proceed with that proposal we considered a couple weeks ago that there would be a consultant that advises on the overall impact of this project. I am curious as to whether the New Jersey facility used an EIS process to guide it. An EIS is not the end of the world, sometimes you need to do one, I don't know if this is the case, but I think it's a question.

Chairperson Arnold That's specifically for what we discussed today, the air inputs.

Ms. Purdue What is the two-week window that you're concerned about John?

Chairperson Arnold Well, so normally we don't have special meetings like we're doing right now. To collect information, we have information sent to us, and there's a window, two-weeks I believe that the information has to be into the building department before the next meeting. That gives them time to print up materials and get it sent out to all of us, so we have time to review it. So that's why we have the two-week threshold, we stick pretty tight to that, so in that case if we

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were to stick tight to that they're not going to get that two weeks before the next meeting for the information new collected today, that brings it into the February meeting in order to have that collected by then. The other thing is if we did schedule them and decided a needed a second meeting that would put us into the 31<sup>st</sup> which resets that two-week window.

Ms. Purdue Okay so it's not a requirement that we act within a specific period of time.

Chairperson Arnold No. I'd also like to point out that we've already done a special meeting this month for BioChar and that's this one here, it's not their fault it was our request with DEC but we've already done one this month so I don't think we would be remiss in saying that if we waiting until February we haven't already gone out of our way to do something for BioChar especially beyond the regular meeting. I'm trying to leave it up to the board to decide, if they want to go ahead with this on the 24<sup>th</sup> or if they want to schedule a second meeting for the 31 and spread stuff out or what you want to do. Jim is it okay if we don't make that decision right now, nobody wants to put this into a motion. Can we make that decision via email, everybody gets a chance to think about it and then chime in on what they want to do?

Mr. Martin Yeah like you suggest the two-week time and I think that's a pretty good guide would be next Wednesday. So, it's up to the board.

Chairperson Arnold Well to split the agenda just to be clear on that, we have to decide pretty quick to be fair to the other applicants.

Mr. Martin Or we could do 5 and 1, we would do BioChar just on the 31<sup>st</sup>.

Chairperson Arnold To be honest with you I'm okay with doing it in February.

Chairperson Arnold So I don't hear a motion from the board to split the meeting, and I don't hear a motion from the floor to accept it as within the two-week window. So as far as I can see we are looking at February.

Mr. Martin Right, and again I just think it would be helpful if the applicant could pull together, a summary document that clarifies a lot of the points made today and submit it. I think that would be helpful to the review process.

Mr. Apy Jim yes this is Ray with BioChar, I hadn't had a chance to respond but we will do that, and we will do it quickly.

Mr. Martin Okay, Great.

Chairperson Arnold Well hearing nothing else I would say that our special meeting on January 12<sup>th</sup>, for DEC and BioChar has exhausted its agenda. If I could get a motion from somebody to end our meeting I'd appreciate it.

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Ms. Purdue I make a motion to adjourn.

**A motion was made by Ms. Purdue to adjourn the special meeting scheduled on January 12<sup>th</sup>, 2022 between the Planning Board, DEC and BioChar. This motion was seconded by Mr. Bouchard.**

Chairperson Arnold Is there any further discussion?

Mr. Martin I just wanted to extend a heartfelt to DEC and their staff for agreeing to do this. It was very helpful, very informative and its very much appreciated.

Mr. Bouchard Agreed.

Mr. Bergman Yeah, Thank you very much guys.

Mrs. McGee Your very welcome and if anything, else comes up as you work through the process ad you want to reach out to me on that, feel free to do so.

Mr. Martin Thank you again, you've been wonderful to work with and very responsive its much appreciated.

Chairperson Arnold Hearing no further discussion, all in favor of closing the meeting say Aye.

<b>John Arnold</b>	<b>Aye</b>
<b>Gerald Bouchard</b>	<b>Aye</b>
<b>Ann Purdue</b>	<b>Aye</b>
<b>Erik Bergman</b>	<b>Aye</b>
<b>Adam Seybolt</b>	<b>Aye</b>

Chairperson Arnold All those opposed?

**All in Favor. Motion Carries**

Chairperson Arnold We are all set, Thank you Jim.

Mr. Martin Thank you everybody.

Meeting was adjourned at 10:26 am.

Respectfully submitted

*Katrina Flexon*