

Before this project I had never attended an EFSB meeting for a gas powered power plant but I imagine they are all somewhat predictable. Regardless of the town that the project is proposed for I suspect there are always a few things that are constant. For example, regardless of the location you should expect to see a crowd from the Union fighting for jobs. I can't imagine a scenario where the Union would not fight for new work.

Regardless of the location you should expect to see many of the residence express their concern over the negative impact the power plant will have on their life. After all, everyone knows that a power plant will negatively impact those who live in the immediate area due to noise pollution, air pollution, etc.

Regardless of the location you can expect that the energy company will state that their power plant will be the cleanest and most energy efficient. While this may be true when comparing against older power plants there is no such thing as a clean gas power plant. You can tell this from the list of special permits required to complete such a project.

The issue here is that all of these things are known before the meetings even start. I found myself spending time researching to understand what is unique about the project. What are the key elements that the board needs to find to allow them the ability to make an educated assessment of the project request before them? Here are a few items that I found that make this project unique from any other.

- **The use of MTBE contaminated wells** – The project design is looking to bring the contaminated wells back online for cooling purposes. The proposal explains that a carbon filtration system will be put in place to filter the MTBE levels before use. The use of MTBE contaminated water for this type of project is unique by itself, however after reading the court order placed on these wells it seems that these wells cannot simply be brought back online.

An excerpt from the court order dated January 28, 2002 states:

*Wells No. 3 and 3A shall continue to cease operation and may forthwith only be used for remediation of contamination as directed by the Director of Health, the Dept of Environmental Management, Water resources or other State Officials but in no event shall the wells be used for water supply.*

Make no mistake about it – Invenergy is not coming to Burrillville to remediate our water. They need our water as a water supply for their power plant.

After the wells were brought offline, June Swallow, DOH stated in an article by ecori that she would never approved for these wells to be brought back online as the risk of further contamination from this site was too great. This seems to make a lot of sense. After researching successful MTBE clean-up efforts such as Santa Monica, CA it seems that you must spend a great amount of effort cleaning the actual source location not simply filtering the water.



- #2. **There are no alternative locations listed in the filing** – According to the rules of practice and produce for the EFSB Section 1.6 Item 16 states that the application must contain:

A study of the alternatives to the proposed facility, including alternatives as to energy sources, methods of energy production and transmission and sites for the facility, together with the reasons for the applicant's rejection of such alternatives. The study shall include estimates of facility costs and unit energy costs of alternatives considered

Section 1.7 c of the same procedure explains – An application that does not meet the requirements of the Act and these Rules of Practice and Procedure shall not be docketed and shall be returned to the Applicant together with a concise and explicit written statement of the application's deficiencies. Such statement shall be forwarded to the Board.

Based on this explanation of the rules and procedures of the board it seems that this application should have been rejected.

- #3. **The proposed site is not appropriate and this is why: –**
- George Washington State Park is less than 1 miles away
  - Polaski Park is less than 1 mile away
  - Buck Hill Management is less than 1 mile away
  - The Feinstei youth camp is less than 1 mile away
  - The Boy Scout camp is less than 1 mile away
  - Zamborano hospital is less than 2 miles away
  - The environmental impact assessment from Ocean State Power already concluded this location was not suitable for this type of facility
  - Land purchased by DEM in ~~2006~~<sup>2012</sup> (because it is one of the most critical areas of the state to protect) is 1-2 miles away
  - The RI Use Plan 2025 promotes the build out of open space systems and corridors. Specifically it identifies our western borderlands and recognizes the significance of this system within the Northeast Corridor.

- #4. **We put the operations of Zamborano hospital at risk**

Here is an excerpt from the **RI Statewide Supplemental Water Supply Feasibility Assessment – Eleanor Slater Hospital/Zambarano Unit ESH/ZU relies on Wallum Lake and the Wallum Lake WTP for all of their water supply water. Therefore, Wallum Lake is ESH/ZU's most critical water source. ESH/ZU currently does not own or operate any groundwater supply wells. A loss of either Wallum Lake or the water treatment facility would result in a total loss of supply for the system. The lake is currently used for recreational use and there is no industry in the area surrounding the lake. A catastrophic failure to the water treatment plant would result in a loss of service for approximately one to two years. Supplemental water needs for 2005, 2025, and at build-out will be 0.10 MGD for each. A list of potential alternative water supply sources was developed as a first step in identifying possible alternative water supply**



sources and is shown in Table 16. The remote geographic location of the hospital's campus prevents them from establishing any emergency interconnections with other water suppliers.

#5 • **This project goes against the RI Use Plan 2025 –**

The findings of the RI Use Plan 2025 explain that forests play a significant role in reducing greenhouse gases and carbon emissions. You can't simply look at what would potentially be added to the air, you need to also consider how much cleaning power you would potentially remove. Here is a brief excerpt from the RI Use Plan 2025:

*Rhode Island sustains a wide range of plant and animal life for its small size. As urbanization continues, the State's ecosystems will see a decline in the spatial extent and connectivity of natural habitat. Moreover, as cleared areas, roads, buildings, and other humanmade environments surround forest patches, they will become more isolated and fragmented. This hurts not only plants and animals, but people as well. Forests are believed to have a significant role in reducing greenhouse gases and enhancing air quality. In the forest, carbon is stored as biomass in vegetation. One potential mechanism to offset carbon emissions is by increasing carbon sequestration in forests. State Guide Plan Element 156, Urban and Community Forest Plan, has policies to stabilize overall forest cover at or near the present level, and gradually repair the forest canopies of urbanized areas to the level recommended for proper ecological functioning.*

These are just a few items that make this proposal unique from any other power plant proposal. There are many other concerns to this proposal such as how this will impact the RI EC4 board's ability to ensure we achieve the RI Resilient Act. The list is much longer than I could possibly get through in 5 minutes however it is clear that this proposal is flawed. Based on the research that I have been able to complete over the past several months it seems that the guidelines of the local (Towns Compressive Plan), the state ( RI Use Plan 2025), and the federal (Environmental Impact Assessment) all agree that this project is not appropriate.



STATE OF RHODE ISLAND  
AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH  
OFFICE OF DRINKING WATER QUALITY

vs.

A.H. FILE NO. (DWQ) 2001-45

PASCOAG UTILITY DISTRICT

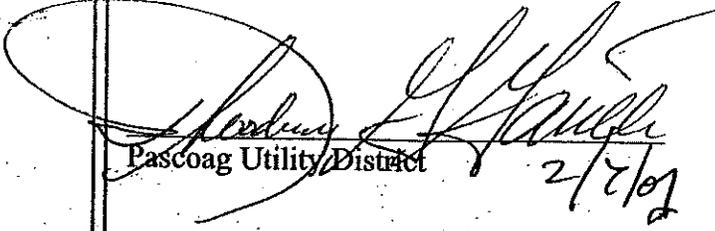
**CONSENT ORDER**

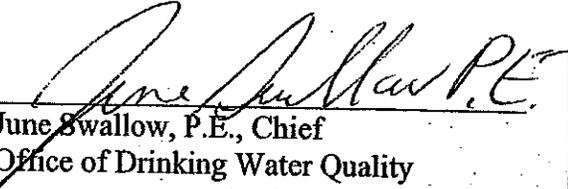
This matter is before the Department of Health, Office of Drinking Water Quality (hereinafter "Department") upon matters contained in an Administrative Hearing Notice, dated 28 December 2001, issued to Pascoag Utility District (hereinafter "Respondent"). The Notice informed "Respondent" that the "Department" proposed to revoke approval for well No. 3 and well No. 3A to be sources of public drinking water in that said sources are not safe and potable as required by R.I.G.L. (1996 Reenactment) Section 46-13-9 and Section 2.2 of the "Rules and Regulations Pertaining to Public Drinking Water."

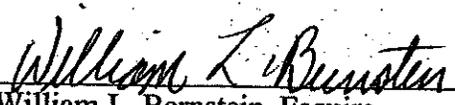
Prior to the date set for hearing, it was agreed by and between the parties as follows:

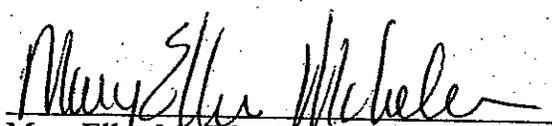
1. That "Respondent" agrees to the revocation of the approval issued to the "Respondent" by the "Department" for well No. 3 and well No. 3A to be sources of public drinking water.
2. That well No. 3 and well No. 3A shall not be used as sources of public drinking water; provided, however, "Respondent" may, at a future date, apply to the "Department" for approval of the aforementioned wells as new sources of public drinking water.
3. That nothing herein shall prohibit "Respondent" from utilizing well No. 3 and well No. 3A for remediation of contamination provided said wells are not in any way connected to the public drinking water system.

4. That this Consent Order shall constitute a final disposition of the matters forming the basis thereof and obviate the necessity for a hearing on the matters contained in the Administrative Hearing Notice dated 28 December 2001.

  
Pascoag Utility District

  
June Swallow, P.E., Chief  
Office of Drinking Water Quality

  
William L. Bernstein, Esquire  
Attorney for Pascoag Utility District

  
Mary Ellen McCabe, Esquire  
Assistant Director of Health  
(Legal Services)  
R.I. Department of Health  
Cannon Building, Room 404  
Three Capitol Hill  
Providence, RI 02908-5097  
Tel. (401) 222-2137  
Fax (401) 222-1250

Dated: 2/7/02

FORMAL

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

RUSSELL JETTE, CYNTHIA JETTE, RUSSELL ST. OURS,  
JANICE KAPLAN-ST. OURS, RICHARD SCHULTE,  
GENENNE SCHULTE, THOMAS J. SYLVESTER, JULIE E.  
GRIFFIN, BUTCHERBLOCK MEATS LTD. a subsidiary of  
TOTRAMA SUPERMARKETS INC. dba BRIGIDO'S  
MARKETPLACE, and MARY RYAN dba BEN'S BAKERY

vs.

C.A. No. 01-5972

PASCOAG UTILITY DISTRICT by and through its board  
members ALBERT PALMISCIANO, ANN POLACEK,  
WILLIAM MAGEAU, SCOTT RABIDEAU, BRIAN  
CHOINIÈRE, WALTER CHOINIÈRE and STEVE CARTER

vs.

THE RHODE ISLAND STATE WATER RESOURCES BOARD,  
by and through its board members, DANIEL VARIN,  
Chairman, MAURICE TRUDEAU, Vice Chairman, WILLIAM  
PENN, RICHARD ROFANOVIC, REP. WILLIAM MURPHY,  
Esquire, REP. STEPHEN ANDERSON, JAN REITSMA,  
THOMAS SCHUMPERT, STEPHEN DONAHUE, SEN. LEON  
RAPTAKIS, ROBERT GRIFFITH, JUNE SWALLOW and THE  
HARRISVILLE FIRE DISTRICT, by and through its board  
members, RICHARD GINGELL, SCOTT GEORGE, DONALD  
MEHRTENS, JOHN POLACEK, JAY HOULE and RONALD  
SLOCUM

ORDER

The matter came before the Court on the 22<sup>nd</sup> day of January, 2002 Mr. Justice Fortunato  
presiding, for a compliance review of a prior Order of this Court entered on January 15, 2002 and  
upon Third-Party Defendant The Harrisville Fire District's Objection and Petition for  
Clarification and Instructions.

After hearing thereof and consideration of the arguments of counsel representing all

SUPERIOR COURT  
FILED  
HENRY S. KING

02 JAN 28 PM 3:37

Copy Accepted  
Office of Clerk of Superior Court  
Providence & Bristol  
Rhode Island

parties to the litigation and the Department of Health, and having previously found 1) that the Plaintiffs and Defendant/Third Party Plaintiff have demonstrated irreparable harm, 2) that the water supply from wells number 3 and 3A of the Pascoag Utility is not safe for drinking or other household purposes, 3) Plaintiffs and Defendant/Third Party Plaintiff have demonstrated a likelihood of success on the merits, 4) that the equities were balanced in favor of Plaintiffs and Defendant/Third Party Plaintiff, and 5) that the granting of relief would not be adverse to the public health or safety, and having now determined 1) that Defendant/Third Party Plaintiff Pascoag Utility District has shut down wells No. 3 and 3A, 2) that Third Party Defendant Harrisville Fire District has been supplying water to the Defendant/Third Party Plaintiff Pascoag Utility District and 3) that the residents and consumers of Defendant/Third Party Plaintiff Pascoag Utility District are now receiving clean, potable water that is safe for drinking and other household purposes, it is hereby:

**ORDERED, ADJUDGED AND DECREED**

1. The temporary restraining order previously granted is converted into a preliminary injunction as follows:
  - a. Third Party Defendant Harrisville Fire District is restrained and preliminarily enjoined from withholding a supply of water adequate to meet Defendant/Third Party Plaintiff Pascoag Utility District's needs.
  - b. Third Party Defendant Harrisville Fire District is mandated and directed to continue all necessary and proper functions and maintain the current status quo to deliver water to Defendant/Third Party Plaintiff Pascoag Utility District.

True Copy Attest

2

*H. S. Smith, Jr.*  
Office of Clerk of Superior Court  
Counties of Providence & Bristol  
Providence, Rhode Island.

- c. Just compensation for all water delivered to Defendant/Third Party Plaintiff Pascoag Utility District shall be paid by Defendant/Third Party Plaintiff Pascoag Utility District to Third Party Defendant Harrisville Fire District.
- d. Wells No. 3 and 3A shall continue to cease operation and may forthwith only be used for remediation of contamination as directed by the Director of Health, the Dept. of Environmental Management, Water Resources or other appropriate State Official(s) but in no event shall the wells be used for water supply.
- e. Defendant/Third Party Defendant Pascoag Utility District and Third Party Defendant Harrisville Fire District shall comply with all applicable rules and regulations regarding the safety of drinking water and shall protect Third Party Defendant Harrisville Fire District from being tainted by Defendant/Third Party Plaintiff's Pascoag Utility District's contaminated water supply.
- f. Plaintiffs and Defendant/Third Party Plaintiff Pascoag Utility District may, at their own expense, and upon notice to Third Party Defendant Harrisville Fire District, retain engineers or other consultants to monitor the progress of matters ordered by the Court.

2. Third Party Defendant Harrisville Fire District's Objection and Petition for Clarification and Instructions is denied without prejudice.

3. The Court shall retain jurisdiction of this matter; amendment(s) to this order may be sought as may be required by future developments.

True Copy Attest

*H. S. Birch, Jr.*

Office of Clerk of Superior Court  
Counties of Providence & Bristol  
Providence, Rhode Island

U-5972

4. This order shall remain in effect until further order of the Court.

ENTER:

ORDER:

*J. Fortunato*

Fortunato, J.

Dated:

*(Clerk) [Signature]*

Clerk

Presented by:

Plaintiff's

By their Attorneys:

*[Signature]*

*[Signature]*

J. WILLIAM W. HARSCH, ESQ. #3688

CAROLYN A. MANNIS, ESQ. #4275

170 Westminster St., Suite 800

Providence, RI 02903

401-454-4466 (Tel.)

401-351-3914 (Fax)

Defendant/Third Party Plaintiff

By its Attorney

*William L. Bernstein (con)*

WILLIAM L. BERNSTEIN, ESQ. #2185

627 Putnam Pike

Greenville, RI 02828

401-949-2228 (Tel.)

401-949-1680 (Fax)

True Copy Attest

*[Signature]*

Office of Clerk of Superior Court  
Counties of Providence & Bristol  
Providence, Rhode Island

CERTIFICATION

I hereby certify that I mailed a true copy of the within to William L. Bernstein, Esq., 627 Putnam Pike, Greenville, RI 02828, Michael Rubin, Environmental Advocate, Attorney General's Office, 150 South Main St., Providence, RI 02903, Mary Ellen McCabe, Esq., Cannon Bldg., Three Capitol Hill, Rm. 404, Providence, RI 02908-5034, Brian A. Wagner, Dept. of Environmental Management, 235 Promenade St., Providence, RI 02893-5734, and Michael D. Coleman, Esq., Sinapi, Formisano & Coleman, 100 Midway Place, Cranston, RI 02920 on the 23<sup>rd</sup> day of January, 2002.

*Brian A. Wagner*

True Copy Attest

*John S. Smith, Jr.*  
Office of Clerk of Superior Court  
Counties of Providence & Bristol  
Providence, Rhode Island

STATE OF RHODE ISLAND  
PROVIDENCE, SC.

SUPERIOR COURT

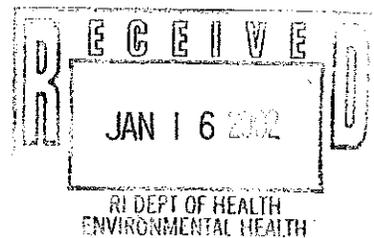
RUSSELL JETTE, CYNTHIA JETTE, RUSSELL ST. OURS,  
JANICE KAPLAN-ST. OURS, RICHARD SCHULTE,  
GENENNE SCHULTE, THOMAS J. SYLVESTER, JULIE E.  
GRIFFIN, BUTCHERBLOCK MEATS LTD. a subsidiary of  
TOTRAMA SUPERMARKETS INC. dba BRIGIDO'S  
MARKETPLACE, and MARY RYAN dba BEN'S BAKERY

vs.

PASCOAG UTILITY DISTRICT by and through its board  
members ALBERT PALMISCIANO, ANN POLACEK,  
WILLIAM MAGEAU, SCOTT RABIDEAU, BRIAN  
CHOINIÈRE, WALTER CHOINIÈRE and STEVE CARTER

vs.

THE RHODE ISLAND STATE WATER RESOURCES BOARD,  
by and through its board members, DANIEL VARIN,  
Chairman, MAURICE TRUDEAU, Vice Chairman, WILLIAM  
PENN, RICHARD ROFANOVIC, REP. WILLIAM MURPHY,  
Esquire, REP. STEPHEN ANDERSON, JAN REITSMA,  
THOMAS SCHUMPERT, STEPHEN DONAHUE, SEN. LEON  
RAPTAKIS, ROBERT GRIFFITH, JUNE SWALLOW and THE  
HARRISVILLE FIRE DISTRICT, by and through its board  
members, RICHARD GINGELL, SCOTT GEORGE, DONALD  
MEHRTENS, JOHN POLACEK, JAY HOULE and RONALD  
SLOCUM



C.A. No. 01-5972

**ORDER**

On Wednesday, January 9, 2002 and Thursday, January 10, 2002 the matter came before  
Mr. Justice Fortunato on Plaintiffs' Russell and Cynthia Jette, Russell St. Ours and Janice Kaplan-  
St. Ours, Richard and Genenne Schulte, Thomas J. Sylvester, Julie E. Griffin, Butcherblock Meats  
Ltd. a subsidiary of Totrama Supermarkets Inc. dba Brigido's Marketplace and Mary Ryan dba  
Ben's Bakery (the "Plaintiffs") motion seeking a Temporary Restraining Order and on Third Party

Plaintiff the Defendant and Third Party Plaintiff Pascoag Utility District's by and through its board members Albert Palmisciano, Ann Polacek, William Mageau, Scott Rabideau, Brian Choiniere, Walter Choiniere and Steve Carter ("Pascoag Utility") motion for a Temporary Restraining Order against Third Party Defendants The Rhode Island State Water Resources Board, by and through its board members, Daniel Varin, Chairman, Maurice Trudeau, Vice Chairman, William Penn, Richard Rofanovic, Rep. William Murphy Rep., Stephen Anderson, Jan Reitsma, Thomas Schumpert, Stephen Donahue, Sen. Leon Raptakis, Robert Griffith, and June Swallow ("Water Resources") and The Harrisville Fire District, by and through its board members, Richard Gingell, Scott George, Donald Mehrtens, John Polacek, Jay Houle and Ronald Slocum ("Harrisville Fire").

After hearings thereon and consideration of the arguments and the presentation of evidence, having found 1) that the Plaintiffs demonstrated irreparable harm, 2) that the water supply from Pascoag Utility is not safe for drinking or other household purposes, 3) Plaintiffs and Pascoag Utility have demonstrated a likelihood of success on the merits, 4) that the equities were balanced in favor of Plaintiffs and Pascoag Utility, and 5) that the granting of relief would not be adverse to the public health or safety, it is hereby:

**ORDERED, ADJUDGED AND DECREED**

The motions for a temporary restraining order are granted as follows:

1. Harrisville Fire is restrained and enjoined from withholding a supply of water adequate to meet Pascoag Utility's needs.
2. Harrisville Fire is mandated and directed to immediately begin all necessary and proper functions to deliver water to Pascoag Utility.

3. Just compensation for all water delivered to Pascoag Utility shall be paid by Pascoag Utility to Harrisville Fire.
4. Pascoag Utility shall cease the operation of wells No. 3 and 3A immediately upon receipt of water from Harrisville Fire.
5. Wells No. 3 and 3A thereafter may only be used for remediation of contamination as directed by the Director of Health, the Dept. of Environmental Management, Water Resources or other appropriate State Official(s) but in no event shall the wells be used for water supply.
6. Pascoag Utility and Harrisville Fire shall comply with all applicable rules and regulations regarding the safety of drinking water and shall protect Harrisville Fire from being tainted by Pascoag Utility's contaminated water supply.
7. Plaintiffs and Pascoag Utility may, at their own expense, and upon notice to Harrisville Fire, retain engineers or other consultants to monitor the progress of matters ordered by the Court.
8. The Court shall retain jurisdiction of this matter; amendment(s) to this order may be sought as may be required by future developments.
9. The matter is set down for further review by this Court on January 22, 2002.
10. Harrisville Fire's request for a stay of this Order is denied.

ENTER:

ORDER:

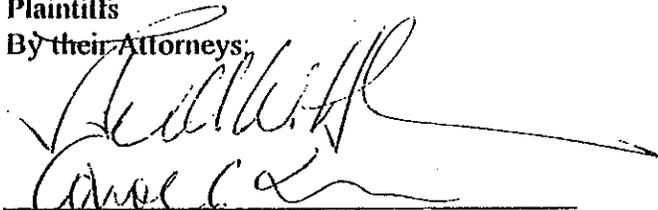
\_\_\_\_\_  
Fortunato, J.  
Dated:

\_\_\_\_\_  
Clerk

Presented by:

Plaintiffs

By their Attorneys:

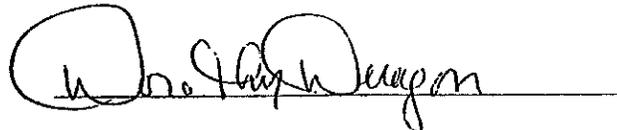
  
\_\_\_\_\_  
J. WILLIAM W. HARSCH, ESQ. #3688  
CAROLYN A. MANNIS, ESQ. #4275  
170 Westminster St., Suite 800  
Providence, RI 02903  
401.454.4466 (Tel.)  
401.351.3914 (Fax)

Defendant/Third Party Plaintiff  
By its Attorney:

  
\_\_\_\_\_  
WILLIAM L. BERNSTEIN, ESQ. #2185  
627 Putnam Pike  
Greenville, RI 02828  
401.949.2228 (Tel.)  
401.949.1680 (Fax)

CERTIFICATION

I hereby certify that I mailed a true copy of the within to William L. Bernstein, Esq., 627 Putnam Pike, Greenville, RI 02828, Michael Rubin, Environmental Advocate, Attorney General's Office, 150 South Main St., Providence, RI 02903, Mary Ellen McCabe, Esq., Cannon Bldg., Three Capitol Hill, Rm. 404, Providence, RI 02908-5034, Brian A. Wagner, Dept. of Environmental Management, 235 Promenade St., Providence, RI 02893-5734, and Michael D. Coleman, Esq., Sinapi, Formisano & Coleman, 100 Midway Place, Cranston, RI 02920 on the 15<sup>th</sup> day of January, 2002.

  
\_\_\_\_\_

