



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

LIZABETH M. MACDONALD
JOHN J. RATTIGAN
DENISE A. POULOS
ROBERT M. DEROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
CHRISTOPHER D. HAWKINS
ELAINA L. HOEPPNER
WILLIAM K. WARREN
BRIANA L. MATUSZKO

RETIRED
MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. ARSCHLIMAN

Please respond to our Meredith Office

October 13, 2023

VIA EMAIL TO Andrew.T.Koff@des.nh.gov
AND REGULAR MAIL
Andrew Koff, P.G.
Drinking Water and Groundwater Bureau
New Hampshire Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Re: Koss Construction LLC (“**the Developer**”) (Tax Map Lots 140-16 & 170-12) Bean Road (“**the Project**”)
CWS Moultonborough: Harbor Landing: PWS ID: New System
Proposed BRW1 and BRW2; NHEDS#DR006013

Good Afternoon Mr. Koff:

On behalf of the Center Harbor Board of Selectmen (“**the Selectmen**”), I am sending this letter to you in follow up to Attorney Brown’s materials submitted on or about September 27, 2023. First, I would not that Attorney Brown has not appealed your August 21, 2023 determination within the requisite 30 days. Accordingly, I urge that any such appeal is now barred.

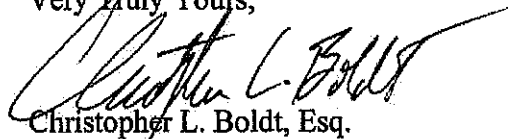
Furthermore, I am tendering the attached Supplemental Letter Report from Richard S. Vandenberg and Peter Thompson of Credere Associates, LLC dated October 12, 2023 (“**the Credere Supplemental Report**”) listing their professional opinions concerning Attorney Brown’s materials of the 27th. As the Credere Report indicates, these materials do not respond to or refute the opinions in the Credere Report of August 11, 2023 and do not support any modification of your August 21st determination. As the Credere Report clearly stated, the Developer’s proposed wells have a “high probability of capture and eventual transport” of known contaminants in the immediate area, including but not limited to PFAS. The Credere Report also states that the Developer’s requested waivers “are inappropriate under these circumstances”.

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

On behalf of the Selectmen, we respectfully request that the Developer's request for waivers and for approval of the proposed wells for this Project be denied outright.

If you have any questions, please do not hesitate to call or email me.

Very Truly Yours,



Christopher L. Boldt, Esq.

cboldt@dtelawyer.com

cc: Center Harbor Board of Selectmen (via email to selectmen@centerharbornh.org)
Jarred Swinotek, P.G., DES Hazardous Waste Remediation Bureau (via email to jarred.swinotek@des.nh.gov)
David Hisz (via email to david.b.hisz@des.nh.gov)
Thomas Willis (via email to thomas.h.willis@des.nh.gov)
Kelsey Vaughn (via email to kelsey.vaughn@des.nh.gov)
Stephen Roy (via email to stephen.roy@des.nh.gov)
Rene Pelletier (via email to Rene.pelletier@des.nh.gov)
Jeff Marts (via email to jeffrey.m.marts@des.nh.gov)
Robert R. Scott, Commissioner (via email to robert.scott@des.nh.gov)
Peter Thompson et al., Credere Associates, LLC (via email pthompson@crederelle.com
and ricky@crederelle.com)
Mark C. Rouvalis, Esq. (via email MARK.ROUVALIS@MCLANE.COM)
Alexandra Cote, Esq. (via email Alexandra.Cote@MCLANE.COM)
Marcia Brown, Esq. (via email mab@nhbrownlaw.com)
Matt Serge, Esq. (via email MSerge@dwmlaw.com)
Jim Cowles, Esq. (via email jim@walkervarney.com)
Jason Reimers, Esq. (via email reimers@nhlandlaw.com)
Michael Harris, Esq. (via email harris@nhlandlaw.com)
Ethan Wood, Esq. (via email ewood@nco-law.com)



CREDERE ASSOCIATES, LLC

770 Main Street
Westbrook, Maine 04092
Phone: 207 828-1272
Fax: 207 887-1051

October 12, 2023

Christopher L. Boldt, Esq.
Donahue, Tucker & Ciandella, PLLC
164 NH Route 25
The Towle House, Unit 2
Meredith, New Hampshire 03253

**SUBJECT: Review of Respondent Documents and Opinion
Bean Road Development Site Review
Center Harbor, New Hampshire**

Dear Mr. Boldt:

At your request, we have reviewed the materials submitted to Mr. Koff from Ms. Marcia Brown, Esq. of NH Brown Law dated September 27, 2023, regarding the second information submittal for Harbor Landing in Moultonborough on behalf Koss Construction. The package sent by Attorney Brown included the following attachments:

- Cover Letter and Second Supplemental Information Submittal
- Small Community Preliminary Well Siting Application Form, Supplemental Information Submittal by Edgewater Strategies dated September 27, 2023
- Response to Abutter Comments
- Attachment A Koss Site Plan 21 Units, and
- Attachment B Well Completion Reports

These responses and attachments do not directly respond to or refute the opinions in our letter dated August 11, 2023, which stated *"that pumping the proposed bedrock wells [at the currently proposed pumping rate of 25,200 gallons per day] poses an unreasonable risk of impacting the current distribution of PFAS and causing eventual migration of PFAS impacted groundwater toward the proposed wells BR1 and BR2, and the surrounding residential wells."*

The applicant contends that the natural direction of groundwater flow will inevitably result in per-and polyfluoroalkyl substances (PFAS) impacts to groundwater in the vicinity of the proposed pumping wells BRW1/BRW2. Based on the groundwater contour map presented as Figure 5 in the supplemental information submittal provided by Edgewater Strategies it is unclear whether groundwater in vicinity of the proposed well locations would eventually be impacted absent groundwater pumping from the proposed wells. Groundwater flow paths under natural gradients from house #35 would likely turn southeast toward the lake prior to reaching the vicinity of BRW1/BRW2.

The applicant only proposes treating PFAS impacts to the proposed wells as the sole means of a Contamination Control Program. Pumping of the proposed wells will likely exacerbate contamination in intervening wells. The applicant thus also proposes to put other wells between its wells and the contaminant source on proposed community water system, but it is unclear who will be responsible for water use fees at those residences, as such the measure only takes partial responsibility for its potential impacts.

Mr. Christopher L. Bolt, Esq.
October 12, 2023
Page 2 of 2


Under Env-Dw 305.23(b), any Contamination Control Program shall establish requirements, including a schedule, for monitoring **and any necessary remediation of residual contamination sources** [emphasis added] in the wellhead protection area. Under the current proposal no effort is proposed to conduct remediation of the residual source(s) of contamination and concludes that prior desktop studies were not able to establish the source. In the absence of pumping, these wells might not, or will likely not become contaminated and it is the act of pumping that increases the risk of contamination at the wells from known contamination sources. This is counter to the objectives of Env-Dw 305.23 (a) which states the opposite - the applicant shall establish a program that minimizes the risk of contamination at the well from known contamination sources.

Per Env-Dw 305.29(d)(1) *Criteria for Approval of New Small Production Wells*, the department cannot approve a well if “*One or more contamination source(s) is present in the wellhead protection area and the contamination control program prepared in accordance with Env-Dw 305.23 does not ensure that contamination will not degrade water quality at the well*”. We believe the department would be in violation of this rule if it approved these wells because data presented by the applicant indicates that the wells will become contaminated with PFAS and the Contamination Control Plan does not ensure that that water quality will not become degraded. Under Env-Dw 305.16(c) *Criteria and Procedures for Approval of the Preliminary Report*, “*the department shall advise the applicant not to proceed further in the well siting process if information concerning known contamination sources evaluated in accordance with Env-Dw 305.13 indicates that an adequate contamination control program cannot be implemented to prevent degradation of water quality at the proposed well*”. Therefore, the applicant’s proposed contamination control program is inadequate because it will not prevent degradation of water quality at the proposed wells. The applicant only proposes treating the water after it eventually becomes impacted which is not suitable for contaminants where the source has not been adequately defined. Therefore, we believe the department should reject the recent submittal from the applicant.

Thank you for requesting our thoughts in this matter. Please let us know if you have any questions.

Sincerely,
Crederre Associates, LLC




Richard S. Vandenberg, LG, PG
Senior Hydrogeologist/VP of Operations



Peter Thompson
Senior Project Manager, Senior Hydrogeologist

