A meeting of the Board of Environmental Management was held on January 29, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Present were Mrs. Dana Duxbury, Mrs. Sarah Bell and Dr. Norton Nickerson. Also present were Commissioner Richard E. Kendall, and Megan Jones, Acting Deputy Commissioner.

The minutes of the meetings of November 11 and December 4, 1980 were approved with the following correction.

December 4, page 2, second paragraph, line 6

After the word "repair" insert the following words "caused by a flood that occurred..."

Bennet Petry, Deputy Commissioner, reviewed the Department's fiscal year 1982 budget and capital outlay budget. He gave the Board members a copy of the expansion budget summary.

Mr. Petry stated that the Governor is recommending a 2 percent reduction in all personnel accounts. This applies to all agencies as well as DEM, he said. Also, the Department's #1 priority (up-grading forest and park supervisors) was given no consideration. He reported that the Secretary had recommended $1.2 million in the 2140-0100 account (Bureau of Solid Waste) and the Governor's recommendation is $1.19 million, leaving a shortage of about $22,000. The Governor's recommendations for DEM's budget are not too impressive, he said, nor is the capital outlay budget. In almost every instance, all projects requested in the capital outlay considered by DEM to be urgent were transferred to either the essential or long range categories.

Commissioner Kendall gave the Board members a copy of a report outlining DEM's achievements for 1980 prepared, he said, in conjunction with CZM's "Year of the Coast" program. He said that the report is one in which the Department can be proud. Directors Bliss and Yaro then expanded on several of the on-going programs included in the report.

Commissioner Kendall briefed the Board on a conference being sponsored by HCRS and DEM for city and town officials to discuss ways to deal with the effects of Proposition 2½ on parks and recreation. The conference will be held on February 24. He informed the Board that the Department has accepted an invitation to host a satellite remote sensing conference with NASA and NOAA. The Commonwealth was selected as the site for the conference, he said, because of the interest the Northeast has shown toward remote sensing technologies. The conference will be in March. Also, he said, the Department has been selected by the Office of Personnel Administration as one of two state agencies to participate in a pilot program in processing certain personnel transactions on its own judgment without having to go through many of the present bureaucratic steps before final approval. The proposal emanated from the recent classification study and its purpose is an attempt to streamline the state personnel system.

Mr. John Shortsleeve then briefed the Board on resource recovery projects and in so doing, pointed out the essential steps that must be followed before reaching the ground breaking stage for construction.

1. Scope of project
2. Issue RFP
3. Communities select vendor
4. Service contract negotiated
5. Power contract negotiated and signed
6. Secure landfill
7. Secure site
8. Sufficient communities contract to allow financing
9. Vendor secure financing
10. Ground breaking

Mr. Shortsleeve reported that the NESWC contract between NEPCO and UOP is scheduled to be signed in the Governor's office on Friday, February 2nd. The Worcester project, he said, remains in a critical state due to the 11th hour

reversed decision by the City Council. He stated that the alternatives were not feasible, also, there was no additional money for further study at this time. He reported that the Springfield project was also in a critical state. At this point, he said, there can be a go or no go decision.

Mr. Norman Beecher showed the Board a draft copy of the hazardous waste handbook. He said that it is being sent out for public review and comments and that the final version will be ready in April.

There being no further business to come before the Board, the meeting adjourned at 11:45 a.m.

The date for the next Board meeting was scheduled for Thursday, March 5, 1981 in the office of the Commissioner.

Sarah H. Bell
Secretary

A meeting of the Board of Environmental Management was held Thursday, April 2, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Present were the Board members - Mrs. Dana Duxbury, Mrs. Sarah H. Bell and Dr. Norton Nickerson. Also present was Commissioner William F. M. Hicks.

Commissioner Hicks opened the meeting with his introduction to the Board members.

Commissioner Hicks first presented to the Board a request for approval to officially designate Money and Hopper Brooks as the Commonwealth's first natural streams. He noted that the brooks were located entirely within state-owned land in the Mt. Greylock State Reservation.

Upon motion of Mrs. Bell, seconded by Dr. Nickerson, it was -

VOTED - to adopt the order as presented under Massachusetts General Laws Chapter 21, Section 17b (Scenic and Recreational Rivers Act) establishing Money and Hopper Brooks in the Mt. Greylock State Reservation as natural streams.

Commissioner Hicks and the Board members affixed their signatures to the order.

Ms. Preston and Director Yaro reviewed the Scenic Rivers program for the Board. They reported that management plans were being developed for the Parker and Millers Rivers in preparation for scenic rivers designation, and that the Mashpee River has been placed under restriction. Ms. Preston stated that the Pamet River designation has been withdrawn due to a lack of local support.

Commissioner Hicks then brought before the Board the proposed adoption of an order under General Laws Chapter 130, Section 105, regulating and restricting coastal wetlands in the Town of Ipswich. Director Shapiro explained that the original restriction order for Ipswich was approved under date of March 2, 1968 and that the order before the Board today is to impose restrictions on an additional 1,000 acres under ownership of the Trustees of Reservations.

Following a brief discussion, upon motion of Dr. Nickerson, seconded by Ms. Bell, it was -

VOTED - to adopt the order as presented under General Laws Chapter 130, Section 105 regulating and restricting coastal wetlands in the Town of Ipswich, County of Essex, and to file the order with the Essex County Registry of Deeds.

The Commissioner and the Board members affixed their signatures to the order of restriction.

New business

The Board requested a review of solid waste/hazardous waste programs be placed on the agenda for the next Board meeting.

The date for the next Board meeting was scheduled for Thursday, May 14, 1981 at 10 a.m. in the office of the Commissioner.

There being no further business to come before the Board, the meeting adjourned at 11:30 a.m.

Sarah H. Bree
Secretary

A meeting of the Board of Environmental Management was held May 14, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Present were the Board members - Mrs. Dana Duxbury, Mrs. Sarah Bell, Dr. Norton Nickerson and John Loupos. Also present was Commissioner William F. M. Hicks.

The minutes of the April 2, 1981 meeting were approved as submitted.

Director Yaro first brought before the Board the proposal to adopt a permanent "logo" for future use by DEM. The Graphic Designers displayed several "logo" variations for the Board's consideration.

Ms. Debbie Sanderson then updated the Board on the Hazardous Waste program. She informed the Board that the proposed regulations have been publicly distributed and that public meetings have been scheduled throughout Massachusetts. Meetings have been held in two communities, to date - Boston and Springfield. We hope to postpone promulgation of the regulations until the fall to allow more time for review, she said. She also informed the Board that a Notice of Intent was expected to be filed on May 21st.

Considerable discussion ensued on the proposed regulations. Mrs. Duxbury stated that she was concerned with public reaction to the regulations. She said that criticism is being addressed toward DEM seeking more authority than is recommended in the legislation. And, she added, the Department is being portrayed as a facility builder rather than the protector of the citizen. Also, the regulations do not clearly define the role and responsibilities of the Department and the Siting Council. These matters need to be put in place, she said.

Dr. Nickerson expressed his dismay as well. He reiterated Mrs. Duxbury's concerns as well as several of his own. It should be noted, he said, that 21D clearly states that the Siting Council is the authority and trustee and that DEM's role is to advise the Council. There is a strong lack of coordination and communication between the two. Also, the Council was not consulted regarding the $500,000 contract for the public information program. Most disturbing,

he said, The Council is without an executive secretary. He then outlined the sequence of events that lead up to the employment of and subsequent resignation of the executive secretary. He said, the resignation was the result of the inability to pay the salary originally agreed to. And, there has been a delay in transferring budget funds to the Siting Council. The Council is without funding to meet the procedural requirements under the law, especially so with regard to the impending NOI soon to be filed. These ambiguities need to be resolved immediately. He further added that in light of the many perplexities, he was proposing that the Board of Environmental Management prepare a policy statement to be submitted to the Commissioner which would articulate a relationship between DEM and the Siting Council. He then introduced a suggested statement for the Board's consideration. (See attached.)

The statement was discussed at great length and it was concluded that action be deferred until such time as the Board had more time to study the issues, and to call a special meeting at a later date for voting action. It was also determined that the policy statement be reviewed by DEM's counsel to ascertain its legality before its adoption by the Board of Environmental Management. The Board adopted the following resolution -

RESOLVE - It is the sense of the Board of Environmental Management that it must establish a firm policy with regard to all actions taken by the Department of Environmental Management under Chapter 21D, and that it direct the Commissioner to embody the policies as they have been expressed at this meeting and as they are outlined in the tentative policy statement (as attached) discussed at the meeting, and bring it before the Board of Environmental Management for action as quickly as possible.

In reporting on the FY '82 budget, Commissioner Hicks reported that he had been directed by Secretary Bewick to reduce the number of full time employees by three percent below the current staffing. There are approximately 618 permanent employees, he said, which means a reduction of 18 positions. And, after considering several options it was determined that the least

devastating would be to suspend operation of 6 skating rinks reducing the number from 18 to 12 (Greenfield, North Adams, Springfield, Worcester, Haverhill and Taunton). These areas were chosen because they have the least number of attendance. This will be the Department's recommendation to Secretary Bewick; however, he added, political criticism is expected. The Board supported the Commissioner's recommendation.

The date for the next Board meeting was shceduled for June 5, 1981. A field trip is being considered.

There being no further business to come before the Board, the meeting adjourned at 12:40 p.m.

Sarah H. Bree
Secretary

BOARD OF ENVIRINMENTAL MANAGEMENT

Policy for the Department of Environmental Management.# 1 : Hazardous Waste

(Facility siting, public education, expenditures in communities, other items pertaining to execution of MGL Chapter 21 D)

A. DEM will regard the Hazardous Waste Facility Site Safety Council as the policy-setting body for the Commonwealth's hazardous waste facility siting efforts.

B. DEM will not make any future policy decisions without the express written approval of the said Council on items including but not limited to:
   1. Any public education program or facet thereof, regardless of how funded;
   2. Any budget issues regarding developer's fees and any form of technical assistance to any person as the term person is defined by statute;
   3. Any major expenditure in which there may be community involvement;
   4. Any decisions on grandfathering existing sites or on exempting small facilities from the so-called 21 D process.

C. Regulations issued by the Department of Environmental Management, governing any aspects of hazardous waste siting procedures, and which may be, at the said Council's discretion, identical with those the said Council may issue, shall clearly identify exclusive DEM functions and scrupulously avoid creating any illusion of authority for DEM beyond that specifically granted to it by the said Chapter 21 D.

Policy Statement adopted this 14th day of May, 1981, and communicated for implementation this day to the Commissioner of Environmental Management, William F.M. Hicks.

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Board of Environmental Management
Commonwealth of Massachusetts

Board of Environmental Management

Policy for the Department of Environmental Management

Hazardous Waste

(Facility siting, public education, expenditures in communities, other items pertaining to execution of G.L. Chapter 21D)

A. The Department of Environmental Management will regard the Hazardous Waste Facility Site Safety Council as the policy setting body for the Commonwealth's hazardous waste facility siting efforts.

B. The Department of Environmental Management will not make any future policy decisions without the express written approval of the said Council on items including but not limited to:

1. Any public education program or facet thereof, regardless of how funded;

2. Any budget issues regarding developer's fees and any form of technical assistance to any person as the term person is defined by statute;

3. Any major expenditure in which there may be community involvement;

4. Any decisions on grandfathering existing sites or on exempting small facilities from the so-called 21D process.

C. Regulations issued by the Department of Environmental Management, governing any aspects of hazardous waste siting procedures, and which may be, at the said Council's discretion, identical with those the said Council may issue, shall clearly identify exclusive DEM functions and scrupulously avoid creating any illusion of authority for DEM beyond that specifically granted to it by the said Chapter 21D.

Policy Statement adopted this _____ day of _____ and communicated for implementation this day to the Commissioner of Environmental Management, William F. M. Hicks.

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Board of Environmental Management
Commonwealth of Massachusetts

A meeting of the Board of Environmental Management was held June 29, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston, Ma. Present were the Board members - Mrs. Dana Duxbury, Mrs. Sarah H. Bell, Dr. Norton Nickerson, John Loupos and Commissioner William F. M. Hicks.

The minutes of the May 14, 1981 meeting were approved as submitted.

For the Board's consideration, Director Bliss presented several land acquisition proposals exercising the power of eminent domain. He first proposed the acquisition of 270 acres of land and an adjacent 4 acre parcel in the Town of Middlefield. These contiguous parcels, he said, will round out DEM's holdings within the West Branch of the Westfield River (old P.L. 566 project). He noted on a map the areas under consideration. He further stated that they will be friendly takings with agreed to amounts.

In discussing the Certificate of Vote prepared for the Board's signature, Dr. Nickerson suggested that the words "not to exceed" be inserted before the pro tanto award figure in all of the proposals being voted on, to which the other Board members agreed.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management and a pro tanto award, not to exceed $98,000, for the below described premises:

> The land in Middlefield, Hampshire County described as Unit 6 as shown on a plan entitled "Plan of Lots in Unit 3, 4 and 6 of Berkshire Mountain Lakes Development in the Town of Middlefield, owned by Virginia Lake Shores, Inc. drawn by Edmund D. Somes 1958" containing 270 acres ±. For further reference see Book 1611, Page 682, Hampshire County Registry of Deeds.

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management, and a pro tanto award, not to exceed $11,500, for the below described premises:

The land in Middlefield, Hampshire County described in an instrument recorded at Hampshire County Registry of Deeds, Book 927, Page 96 located off West Hill Road, containing 4 acres, more or less.

Director Bliss then presented the proposal to acquire 1.02 acres of land in the City of Fall River. He noted on a map the area under discussion and stated that the parcel is essential to complete the necessary acreage for the Fall River Urban Heritage Park. Of major value, he said, are 2 huge tanks located on the property containing sulfuric acid. They will be drained, the contents neutralized, and the tanks sold as scrap. Action to acquire the land for the designated purpose has been endorsed by city officials.

Mrs. Duxbury asked whether an environmental impact report has been considered due to the nature of the tanks content. If not, she said, I would suggest that it be done so as to avoid another Webb Park situation. Commissioner Hicks replied that it was almost certain to have been examined, but he would ascertain the matter.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management and a pro tanto award, not to exceed $200,000, for the below described premises:

The land in Fall River, Bristol County, Massachusetts, described in a deed of conveyance from Massachusetts Construction Co., Inc. to Essex Chemical Corporation recorded at Book 1156, Page 346, Bristol County Registry of Deeds and shown on a plan recorded at Plan Book 64, Page 18 and containing 1.02 acres.

In presenting the Greene property acquisition in Hawley, Director Bliss stated the 32 acre parcel is surrounded on three sides by the Hawley State Forest and that it would round out DEM holdings. He further stated that the owners are willing sellers and the Town has requested that DEM consider the acquisition to assist them with a road problem.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management and a pro tanto award, not to exceed $11,300 for the below described premises:

The land in Hawley, Franklin County, Mass. shown on a plan recorded with Franklin County Registry of Deeds, Record Book 1224, Page 376, containing 32 acres, owners - Gerald S. Greene and Elizabeth S. Greene.

In discussing the eminent domain taking of the Warwick property in Rowley, Director Bliss pointed out on a map the 5 acre parcel under discussion and stated that the area was almost entirely surrounded by the Rowley State Forest, and that due to numerous title defects which cannot be resolved the administratrix of the Estate of Samuel C. Warwick has requested eminent domain taking.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management and a pro tanto award, not to exceed $1,500, for the following described premises:

The land in Rowley, Essex County, Mass. described at Book 3825, Page 320, Essex County Registry of Deeds containing 5± acres, Thelma W. Kaknes, administratrix of the Estate of Samuel C. Warwick.

Director Bliss then discussed with the Board the eminent domain taking of 7.97 acres of land, plus 324,864 square feet of flats (old Hingham shipyard) in Hingham. He indicated on a map the area under consideration and said that DEM and the Office of Transportation have been negotiating a mutual two-fold utilization agreement. The Office of Transportation is looking at the area as a boat access for commutable purposes and their role will be to improve the pier and maintain the parking lot. DEM's role for the most part will be primarily the acquisition of the property, and will utilize the area as the headquarters for the Boston Harbor Islands State Park. He added that the Town of Hingham is unanimously in favor of the action.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to Chapter 79 of the General Laws, approves the exercise of the power of eminent domain by the Department of Environmental Management and a pro tanto award, not to exceed $579,000, for the below described premises:

> All of that property shown on a plan entitled "Division of L. C. Plan #14401G for the Commonwealth of Massachusetts in Hingham, Ma., Scale 1"=100', May 30, 1979, Cattley & Gilmore Engineering" including a right of way from Lincoln Street to the premises, containing 7.97 acres ± of uplands and 324,864 square feet ± of flats and a 300 foot pier.

Director Bliss, in reporting on the eminent domain taking in Northbridge/Uxbridge (961 acres) stated that the area is essential in order to establish the Blackstone River State Park which was legislatively approved and funded in 1978. He added that the taking as well as the park concept meets with the approval of the local officials of both communities.

The Board questioned its authority to approve land acquisitions without knowledge of the dollar value. Director Bliss stated that because of the 45 various ownerships involved it would not be possible to determine the dollar; however, $1 million was appropriated in 1978 to establish the state park and the Department is obligated to keep within that figure unless additional funds are requested and approved. The Board agreed to approve the taking but requested that the Vote of the Board reflect the $1 million appropriation.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management to acquire land in Northbridge/Uxbridge, Worcester County, for an amount not to exceed $1 million as appropriated, for the establishment of the Blackstone River State Park as shown on a plan prepared for the Department of Environmental Management by Almer Huntly, Surveyor, dated February 25, 1981 on file with said Department.

The Board requested that the Commissioner obtain a legal opinion as to the Board's authority to approve land acquisitions without a dollar figure reflected

in the vote of approval.

Director Bliss then showed on a map the Department's plan of expansion of the Lowell Heritage State Park and its proposal to acquire 23.58 acres of land bordering the canal system. He said that the area is essential to implement the boating program which is the backbone of the whole concept of the park and the mandate of DEM in its original proposal to establish the Lowell Heritage State Park. Eminent domain is being sought because negotiations with Proprietors of the Locks and Canals have been unsuccessful. He added that the Mayor and City Council have endorsed the taking. The Board again questioned the absence of the dollar figure. Director Bliss remarked that the taking is almost certain to go to the courts and the dollar value will be determined at that time. Dr. Nickerson further requested that the word "purportedly" be inserted in the Vote of the Board before the word owned on line 11. They also requested that any dollar figure arrived at at a later date be submitted to the Board for final concurrence.

Upon motion of Dr. Nickerson, seconded by Ms. Sarah Bell, it was -

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws approves the exercise of the power of eminent domain by the Department of Environmental Management to acquire all that land in Lowell shown in red on a plan entitled "Canal System and portion of Merrimack and Concord Rivers, Lowell, Mass. update July 1957, Exhibit II," together with the rights to maintain a minimum water level during certain hours and months, purportedly owned by the Proprietors of Locks and Canals of the Merrimack River.

The Board requested that they be periodically brought up to date on the Lowell taking.

Mrs. Duxbury again reiterated her dissatisfaction with explanations coming out of the Bureau of Solid Waste regarding the expenditure of bond issue funds for advertising and public education on the siting of hazardous waste facilities. She stated that it is still unclear to her as to how this service is to be paid.

The date for the next Board meeting was set for Monday, July 27, 1981 at 10 a.m. in the office of the Commissioner.

There being no further business to come before the Board, the meeting adjourned at 12 noon.

Sarah H. Bree

Secretary

WILLIAM F. M. HICKS
COMMISSIONER

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Management
Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston 02202

M E M O R A N D U M

TO: William F. M. Hicks, Commissioner

FROM: Sheila C. Radar, Division Counsel

DATE: July 1, 1981

RE: Board approval of eminent domain takings

Chapter 132A ss 3A of the General Laws which contains the statutory authority of the Department of Environmental Management to take by eminent domain states simply that "The exercise of the power of eminent domain.....shall be subject to the approval of the board of environmental management...." . There is no requirement in the statute that a dollar value be attached, or be a condition of the approval.

In accordance with the standard procedure of the Land Acquisition office, background material provided to the Board contains dollar amounts when ascertainable, but the vote does not. In the past five years, the power of eminent domain has been exercised twenty times and only three votes contained dollar amounts of their face.

If you have further questions, do not hesitate to contact me.

A meeting of the Board of Environmental Management was held July 17, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Members present - Dana Duxbury, Sarah Bell and John Loupos. Also present was Commissioner William F. M. Hicks.

Action on the minutes of the June 29, 1981 meeting was deferred until the August meeting.

In reporting on the FY '82 budget, Commissioner Hicks stated that by comparison DEM did less poorly than other agencies, and as it stands now there will be less than 12 layoffs throughout the Department. He noted that the House and Senate versions were quite similar. Understandably, he said, there will be less money with which to operate next year, just how much less will require a closer analysis. It will also depend on the extent of collective bargaining costs. He informed the Board that there has been no action as yet on the capital outlay budget.

In further budget discussion, Mrs. Bell inquired as to the status of the $85,000 budget item for the purchase of new furniture for South Mtn., and Mr. Loupos inquired as to the salary increase for Director Bliss. Commissioner Hicks will report back to the Board on both inquiries.

Discussion ensued once again on the issue involving the expenditure of bond issue funds for public advertising and educational program on the siting of hazardous waste facilities. It was agreed that a thorough discussion regarding the extent of uses of bond issue funds and the mechanism employed to replace these funds be placed on the agenda for the next Board meeting.

Commissioner Hicks, in briefing the Board on the hazardous waste siting facility projects, reported that three NOI's have been received - SRS, Inc. ($5M - Haverhill site), IT Corp. ($100M - non-specific siting) and Liqwacon ($3M non-specific siting). He also briefed the Board on resource recovery projects -

NESWC - project halfway near completion; some contracts signed; site acquired - could be in operation within 3 years if sufficient contracts are signed by December.

128W - moving reasonably well; site acquired in Plainville

Worcester - City Council unwilling to back proposed site

Springfield - moving slowly

None of the projects, he said, are near ground-breaking, NESWC is about 3 years away, all other projects at least 1 year behind NESWC.

In reporting on the status of South Cape Beach, Commissioner Hicks stated that at the moment acquisition remains status quo. The question is money, do we have enough, is new legislation required for additional funds, what effect will Chapter 579 have on the final decision. Also, federal funds will be needed and at this point in time, federal funds are dubious. He added that new appraisals have been received and are being evaluated. The Board requested that they be kept apprised of further developments.

The date for the next Board meeting was scheduled for Monday, August 17, 1981 in the Boston office.

There being no further business, the meeting was adjourned at 11:45 a.m.

Sarah H. Pierce
Secretary

A meeting of the Board of Environmental Management was held August 17, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Board members present were Dana Duxbury, Sarah Bell, John Loupos and Dr. Norton Nickerson. Also present were Commissioner William F. M. Hicks, Secretary John A. Bewick and Director John Shortsleeve.

The minutes of the June 29 and July 17, 1981 meetings were approved as submitted.

Secretary Bewick and Director Shortsleeve attended the meeting to discuss with the Board the expenditure of bond issue funds for public educational programs for hazardous waste treatment facilities.

Mrs. Duxbury first stated to Secretary Bewick that her basic concern is the spending of public funds (bond issue) to promote private developers for their hazardous waste proposals. She said that the level of information and promotional material that will come forth from such a program will be directly from the developer. How is one to assess or analyze what the developers are saying, she said. She suggested that some type of a review committee be established with certain criteria to follow in the reviewing process.

Secretary Bewick stated that a new concept needs to be created and that public advertising and education is necessary to accomplish the task. He said that we need to build a coalition around the state to develop the broadest concensus that these facilities are essential. We can delay no longer, he added.

Mrs. Duxbury asked Secretary Bewick what the coalition would accomplish and how. Secretary Bewick replied that it would present a widespread opinion that safe technology exists; it would educate the legislators, public officials as well as the general public. This would be accomplished by means of brochures, television, news media, lobbying, etc. We would arrange tours for the legislators and public officials to visit the developers' facilities such as Liqwacon in Pennsylvania. We must have legislative support as well as public concensus, he said. We need to get the message across that these facilities are safe; we need to address the

ignorance that's out there, and, hopefully, this will all lead to a growing constituency that eventually will accept a facility. As you know, he continued, this will require a great deal of effort on the part of many and we need the Board's involvement as well as its support. The question of legality is now in the courts and we hope it will be ruled in our favor. However, with or without this approval these facilities need to be built.

Dr. Nickerson stated that he was very much impressed with the two proposals that were presented to the Siting Council - IT Corp. and Liqwacon Corp. They have clearly addressed all the requirements and have met all the standards. However, he said, my reservations still remain regarding SRS's proposal on the Merrimac River in Haverhill. It is an environmental risk. Nonetheless, we have two good proposals in hand without having a site and now might be the time to promote the educational process which, hopefully, will convince the public and legislators as well, that it is in their best interest to at least consider these projects on the basis of project specific, not site specific. Mrs. Duxbury remarked that the facility might be accepted conceptually by them, but will they accept a facility in their community.

Secretary Bewick stated that more than one-half of the general public is unaware that there is hazardous waste technology, they are totally uninformed and we hope this educational process will enlighten them.

Mrs. Duxbury continued to express her concern over what she considers the expenditure of public funds to promote private firms. She stated that if the Court should rule in favor, she felt that the Bureau of Solid Waste Disposal should not have carte blanche in the spending of these funds. There should be some type of agreement in place on the types of allowable expenditures. Extreme caution should be exercised here, she said.

Commissioner Hicks remarked that too much time has been wasted and that the Department must get over the "buts" and begin to put something in place. He reminded Mrs. Duxbury that there is a legislative process that must be followed when spending bond issue funds.

Mrs. Duxbury also expressed her concern over Director Shortsleeve's public statement ("a community can't say no"). She suggested that he rephrase the statement. Director Shortsleeve stated that he has begun to do just that by saying there is an opportunity to say "no" if there is a valid reason.

Director Shortsleeve reported that in presenting the IT Corp. proposal in Springfield, Holyoke and surrounding communities the response was one of caution at first but toward the end of the presentation the reaction turned positive. It was encouraging, he said.

The Board expressed its appreciation to Secretary Bewick for his time and informative presentation.

With reference to the prepared policy statement submitted by Dr. Nickerson for the Board of Environmental Management and the Department regarding hazardous waste procedures, Dr. Nickerson said that he was withdrawing his request for the adoption of the policy for the present. He said that Commissioner Hicks has shown his good faith and has kept the Board informed on all hazardous waste developments. The Board expressed its appreciation to Commissioner Hicks for his cooperation in this regard.

Commissioner Hicks, in answer to Mrs. Bell's and John Loupos' inquiries at the last meeting, reported that the $85,000 budget item for furniture at the South Mtn. Visitors Center is one of the Governor's budget recommendations; and the salary increase for Director Bliss is part of the management study and awaiting legislative action.

The date for the next Board meeting was scheduled for Thursday, September 17, 1981 at 10 a.m. in the office of the Commissioner.

There being no further business to come before the Board, the meeting was adjourned at 12 noon.

Sarah H. Bree
Secretary

A meeting of the Board of Environmental Management was held Thursday, October 1, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Present were the Board members - Mrs. Dana Duxbury, Mrs. Sarah Bell, Dr. Norton Nickerson and John Loupos. Also present was Commissioner William F. M. Hicks.

Dr. Nickerson submitted the following correction to be made in the August 17, 1981 minutes -

page 2, 2nd paragraph, line 9 - after the words ".... not site specific" insert the word "data."

The minutes of the meeting were approved with correction.

The Board then discussed at great length the proposed legislation which would allow DEM to give long term leases to those occupants of dwellings at Otis Reservoir (residential or commercial) that are partly or entirely on Department land. It was cited that legislation was necessary because the Department's authority to grant such leases is controlled by Article 97 of the Constitution.

Mrs. Bell reviewed the background of the acquisition. She said that DEM acquired Otis Reservoir, including its shoreline (perimeter strip), from the Farmington River Power Company in 1966 for water conservation purposes. She explained that many of the cottage owners, at the time, were unaware that they did not own the land on which their houses were built and in many cases were using the land as if it were their's with expansions, piers, docking facilities, etc. This prompted the Department to initiate special use permits which are now getting out of hand. Over-usage will affect the quality of water in time, she said. She stated that the proposed legislation will require a fee system, guided by rules and regulations similar to that which exists at the Myles Standish State Forest. She asked for the Board's advice as to policy and procedure which should be followed in this matter. Further action on the proposed legislation was deferred until the next Board meeting.

New business

Dr. Nickerson stated that he was in receipt of the State Auditor's report for the Division of Forests and Parks and would like to have it placed on the November agenda for discussion.

There being no further business to come before the Board, the meeting was adjourned at 12 noon.

The date for the next Board meeting was scheduled for Thursday, November 12, 1981 at 10 a.m. in the office of the Commissioner.

Sarah H. Bell
Secretary

A meeting of the Board of Environmental Management was held Thursday, November 12, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Board members present were Ms. Sarah Bell, Ms. Carol Lash (new member), Dr. Norton Nickerson and John Loupos. Also present were Commissioner William F. M. Hicks, Deputy Commissioner Bennet Petry, Director Gilbert Bliss.

In the absence of Ms. Dana Duxbury, Chairperson, Mr. John Loupos was elected Acting Chairman for the meeting.

The Board officially welcomed Ms. Carol Lash as a newly appointed member of the Board of Environmental Management.

The minutes of the October 1, 1981 meeting were approved without correction.

Commissioner Hicks asked Deputy Commissioner Bennet Petry to review the FY 1980 Auditor's Report for the Division of Forests and Parks. In so doing, Mr. Petry reported that 75% of the discrepancies cited in the report had been corrected as of this date. The major problem, he said, is one of reconciliation between the Division of Forests and Parks' accounts and the bookkeeping office. This problem exists due to several personnel changes in both divisions over the past few years. We lack in-house expertise in this area, but I have asked the Comptroller's office for assistance in instructing the bookkeepers. This should eliminate the problem, he added. The other issue, he said, is what is referred to in the report as purchase order splitting, which, basically, is a statewide issue. Small partial allotments restrict good purchasing practices but this is the route we are forced to follow. The purchasing system is so outdated, that in order to retain unallotted monies at the end of the fiscal year, this Department as in most other agencies, resort to last minute purchasing and in many cases the purchase exceeds the $500 purchase order limit. In order to eliminate the "red tape" involved in the bidding process, which is mandated if the order exceeds $500, purchase orders are split. I do not like to bear down too hard on the divisions with this practice, but I have advised them to limit this procedure in the future, he said.

Mr. Petry then gave the Board members a summary of the Department's FY '83 budget request. He said, we have been mandated to maintain FY '82 level funding, which the summary before you indicates, with the exception of a request for equipment replacement the Department feels is necessary in order to maintain high maintenance standards. Commissioner Hicks added that no lay-offs were anticipated, but there would be some reduction in seasonal hirings and existing vacancies will remain unfilled. Mr. Petry reported that the budget had been submitted to Secretary Bewick and public hearings have been held. The Board expressed an interest in being informed of any future public hearings held on the budget so that they might attend and lend their support.

Upon motion of Dr. Nickerson, seconded by Ms. Bell, it was

VOTED - To approve the Department of Environmental Management's Fiscal Year 1983 budget request as submitted to the Secretary of Environmental Affairs.

Commissioner Hicks then brought before the Board the proposed adoption of an order under General Laws Chapter 130, section 105 regulating and restricting coastal wetlands in the Town of Dennis. Being familiar with the proposed area of restriction, Dr. Nickerson noted on the map the area under discussion.

Following a brief discussion, upon motion of Dr. Nickerson, seconded by Ms. Bell, it was

VOTED - To adopt the order as presented under General Laws Chapter 130, Section 105 regulating and restricting coastal wetlands in the Town of Dennis, County of Barnstable, and to file the order with the Barnstable County Registry of Deeds.

In further discussion, upon motion of Dr. Nickerson, seconded by Ms. Bell, it was

VOTED - To adopt the order as presented under General Laws Chapter 130, Section 105 regulating and restricting coastal wetlands in the Town of Provincetown, County of Barnstable, and to file the order with the Barnstable County Registry of Deeds.

VOTED - To adopt the order as presented under General Laws Chapter 130, Section 105 regulating and restricting coastal wetlands in the Town of Plymouth, County of Plymouth, and to file the order with the Plymouth Registry of Deeds.

Commissioner Hicks and the Board members affixed their signatures to the orders of restriction as presented.

In discussing the proposed Otis Reservoir leasing legislation, Ms. Bell suggested that a 25 year lease with a renewable option would be more realistic as opposed to a 10 year lease being proposed in the legislation. Director Bliss stated that he would prefer a 10 year lease, but would accept a 25 year proposal.

Upon motion of Dr. Nickerson, seconded by Ms. Bell, it was

VOTED - To accept the proposed Otis Reservoir legislation which will allow the Department of Environmental Management to issue leases for a 25 year period, with a renewable option, to occupants of dwellings built on the perimeter strip at Otis Reservoir and owned by the Department of Environmental Management. And to submit said legislation to the House and Senate for legislative action.

For the Board's consideration, Director Bliss presented a proposal to exercise the power of eminent domain in acquiring 70 acres of land known as South Beach, Edgartown. He noted that Chapter 798 of the Acts of 1979 appropriated $1 million for the acquisition. Due to poor title of the 14 owners involved, he said, eminent domain is necessary to ensure good title. He indicated on a map the areas involved in the taking. He stated that local approval is in process and that a land management agreement with the town has been signed.

Upon motion of Dr. Nickerson, seconded by Ms. Bell, it was

VOTED - That the Board of Environmental Management pursuant to the provisions of Chapter 132A, Section 3A of the General Laws, as amended, approves the exercise of the power of eminent domain by the Department of Environmental Management to acquire the property known as South Beach in Edgartown, Dukes County, Massachusetts, containing 70 acres more or less as shown on a "Plan of Land, South Beach, Edgartown, by Schofield Brothers, Inc., February 7, 1979" on file with the Department.

Dr. Nickerson stated that he wished to have it reaffirmed that the Department's gypsy moth policy recommendations (1980) were still in place in that the Department continues to support biological controls rather than chemical pesticides. Director Bliss, in replying, reaffirmed the Department's policy and, in fact, he said, the Department is taking a lead role this year because of the expected outbreak in '82. He reported that the Department is applying for federal funds to assist the cities and towns considering aerial spraying (federal funds can only be used for aerial spraying), as well as state funding in a supplemental budget request to assist those communities considering ground spraying. He said that the Department is conducting a community survey to determine their funding plan for a control program, if any, and when completed it will then determine the best route for the Department to follow. This survey should be completed by next week and a decision will be made at that time, he said.

The Board expressed an interest in the outcome of the survey and requested they be kept informed. Director Bliss stated that based on the survey, he expects to have a new policy in place for the Board's consideration at the December Board meeting.

The Board also expressed an interest in being updated on a monthly basis on solid waste and hazardous waste programs.

Dr. Nickerson asked the Board to consider adopting a policy which would exclude Chapter 131, Section 40A (inland) and Chapter 130, Section 105 (coastal) wetland areas for site consideration under Chapter 21D. The Board unanimously agreed, and upon motion of Dr. Nickerson, seconded by Ms. Bell, it was

VOTED - That all lands presently managed by the Department of Environmental Management, as well as those included under Chapter 131, Section 40A and Chapter 130, Section 105, be excluded for consideration as a site facility under Chapter 21D (Massachusetts Hazardous Waste Facility Siting Act).

The matter of appointing an acting commissioner was then discussed. Dr. Nickerson suggested that Commissioner Hicks submit a brief background on his proposed designee's qualifications for the Board's approval at the December Board meeting.

There being no further business to come before the Board, the meeting adjourned at 1:10 p.m.

The date for the next Board meeting was scheduled for December 17, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston.

Carol A. Lash
Secretary pro tem

A meeting of the Board of Environmental Management was held December 17, 1981 at 10 a.m. in the office of the Commissioner, 100 Cambridge Street, Boston. Present were the Board members - Ms. Dana Duxbury, Ms. Carol Lash, Mr. John Loupos and Dr. Norton Nickerson. Also present were Commissioner William F. M. Hicks and Director Gilbert Bliss.

In the absence of the Secretary, Ms. Sarah Bell, Ms. Carol Lash was elected Secretary pro tem for the meeting.

The minutes of the November 12, 1981 meeting were presented for approval and Dr. Nickerson presented the following corrections to be made.

> Page 2, delete the last sentence reading "In further discussion.... it was" and "VOTED - To adopt....Barnstable County Registry of Deeds."
>
> Page 3, top of the page delete "VOTED - To adopt....Plymouth Registry of Deeds." and the following sentence - "Commissioner Hicks.... restriction as presented."

The Orders of Restriction for the Towns of Plymouth and Provincetown were not signed by the Board members at the meeting held on November 12th.

The Board then ratified the action taken by the Board members on November 16, 1981 at which time the Orders of Restriction for the Towns of Provincetown and Plymouth were signed, respectively.

Following the corrections as presented, the Board approved the minutes of the November 12, 1981 meeting.

Commissioner Hicks then recommended the designation of Deputy Commissioner Bennet Petry as acting commissioner. Upon motion of Dr. Nickerson, seconded by Mr. Loupos, it was -

> VOTED - To approve the designation of Bennet Petry as acting commissioner with the power to sign for the department in the event of any incapacity or absence of the commissioner from office, in compliance with Chapter 21, Section 3A.

In remarking on the Department's 1983 budget request, Commissioner Hicks stated that Secretary Bewick has submitted Environmental Affairs' budget recommendations to the Governor. One area of significance, he said, is that the Secretary is recommending no funding for the Wetlands Restriction program for 1982, and a 5 percent reduction in the administration personnel account. I have asked Secretary Bewick

to reconsider the Wetlands program decision, and he has indicated that he was considering submitting several changes in the budget submission sometime in January. The Board indicated that they would be willing to send a letter to Secretary Bewick in support of the restriction program if the Commissioner felt it appropriate. It was the Commissioner's suggestion that the Board wait until the Secretary has made a final decision on his proposed changes, if any.

The proposal to acquire 5.7 acres of land by eminent domain in the Town of Holyoke was presented to the Board for its consideration by Messrs. Freedman and Greene - planners for the Heritage Park program. Mr. Freedman began by explaining how the parcel fits into the overall picture of the Holyoke Heritage Park. He said that the owners, Con-Rail Corp. have agreed to the sale of the property with a proviso that they retain an easement to operate and maintain their tracks through the property. The rail is not heavily used and may, in time, cease altogether, he added.

Mr. Greene further explained that the first consideration was to have the City of Holyoke purchase the property with state assistance and in turn, transfer it back to the Commonwealth, but a question of clear title was raised by the heirs of the Newton family. He explained that back in the 1800's the Newton family owned a great deal of property in the City of Holyoke and sold a portion of it to the predecessor of Con-Rail Corp. which agreement stated at that time, supposedly, that the property would revert back to the Newton family if it were not to be used for railroad purposes. The Newton heirs now feel that 1/3 of the 5/07 acres belongs to them because of reversion rights they claim as part of the original sales agreement. The claim is now in the court, he said. He further stated that Con-Rail has agreed to a friendly taking in the amount of $330,000; 1/3 of that amount will be held in escrow until the claim is settled.

It was the Board's recommendation that the Vote of the Board reflect the statement of escrow; but following discussion, it was agreed that it would be sufficient to have the subject of escrow reflected in the minutes of the meeting.

Upon motion of Dr. Nickerson, seconded by Mr. Loupos, it was

VOTED - To authorize the Commissioner of the Department of Environmental Management pursuant to the provisions of Chapter 132A, Section 3 and 3A of the General Laws as amended, to exercise the power of eminent domain to acquire a 5.07 acre parcel of land owned by Consolidated Rail Corporation situated in the City of Holyoke for the Holyoke Heritage State Park.

The Board then discussed at great length the Department's proposed Gypsy Moth 1982 Policy which was presented by Director Bliss.

Ms. Duxbury asked how the '82 policy differed from that of '81. Director Bliss replied that the '82 policy is a reaffirmation of '81's in that the Department will continue to advise against broad scale use of chemical pesticides

In reviewing the policy, serious objections were raised by several of the Board members. Their objections were directed to the allowable use of Sevin in a state administered program. They felt that they could not, as members of the Board of Environmental Management, sanction any program that would allow the use of Sevin. In continued discussion, it was suggested that the policy should be that if a community applied for state aid for spraying, it should be advised that Sevin will not be allowed. It was also suggested that the community boards of selectmen and finance commissions be advised by letter that it will be the Department's policy to disallow the use of Sevin if the community chooses to take advantage of the state assistance program - the letter should also outline the reasons why Sevin should not be used.

Director Bliss reiterated that the Department was not an advocate of Sevin

but that it could not control what is used - its position is to advise a community what it considered the best approach to take. Sevin will be used, he said, mainly because it's cheaper, but hopefully, the proposed policy will allow us to have some control over what is used and how it is applied. The environmental payoff will be to our advantage, he added.

Since no decision could be reached, it was left that Director Bliss would return to the Board at the next meeting with more definitive details of the proposal.

Dr. Muriel More, the Department's Forest Resource Planner, explained the Forest Resource Planning project. She stated that the project was the first of its kind in Massachusetts, made available through the Federal Cooperative Assistance Forestry Act of 1978. She said that the goal of the program is to prepare and implement a comprehensive forest resource plan for the Commonwealth. During the first year, considerable advances have been made, most importantly was the establishment of a statewide Forest Resources Advisory Committee to help with the development and implementation of the plan. The Committee is comprised of 17 members representing 14 diverse interests in forest resources. Since its inception the issue identification phase of the planning process has been completed and many of the area issues have been established - one of which is how effectively our forest resources are planned for and managed on state, municipal and privately owned lands. Another, is policy consideration pertaining to wood energy and forest protection which addresses one of the major problems of today - gypsy moth. Our final assessment will help us to understand how all the issues defined are related to the major forest resource. She added that over 40 people have been involved in the process on a volunteer basis. Commissioner Hicks added that the plan would be a useful vehicle when we go before the Legislature for additional funding in the forestry account.

The Board expressed a great deal of interest in the program and thanked Dr. More for her very informative presentation. They stated that they would welcome her back with an update.

There being no further business to come before the Board, the meeting adjourned at 1 p.m.

The date for the next Board meeting was scheduled for January 14, 1982 in the office of the Commissioner.

Sarah H. Bree
Secretary