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## Fwd: Validity of NYS DEC Permit Jurisdiction for Cell Tower?

11 messages

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**Mindy Jesek** <villageclerk@nelsonvilleny.gov>

Tue, Jan 21, 2020 at 2:09 PM

Reply-To: villageclerk@nelsonvilleny.gov

To: Michael Bowman <mayor@nelsonvilleny.gov>, Adam Rodriguez <ARodriguez@bpslaw.com>

Cc: Dove Pedlosky <trusteedpedlosky@nelsonvilleny.gov>, Chris Winward <trusteewinward@nelsonvilleny.gov>, Lisa Mechaley <trusteemechaley@nelsonvilleny.gov>

----- Forwarded message -----

From: **David C. Eisenbach**

Date: Tue, Jan 21, 2020 at 2:01 PM

Subject: Validity of NYS DEC Permit Jurisdiction for Cell Tower?

To: <villageclerk@nelsonvilleny.gov>

To Nelsonville Town Board,

I am writing this letter regarding the Nelsonville Telecommunications Facility Permit Jurisdiction Determination CH# 7237 (See attached). I want to alert the board that the Department of New York State Department of Environmental Conservation issued a permit determination dated Sept 9 2017. According to the letter this determination covers 1 year. Before the Board accepts the settlement proposed by SMSA Limited Partnership and Homeland Towers, you must determine if the New York State DEC must issue a new determination and whether any permits issued in response to the 2017 determination are still valid.

In the attached letter dated Sept 19, 2017 you will see that the DEC provided the project with the permit determination pursuant to an application for such a determination that was filed with their office in August of 2017.

In the last full paragraph on page 3 of the determination letter, there is a sentence that states: "This determination regarding the need for permits will remain effective for a maximum of one year unless you are otherwise notified."

Since construction of the project has not yet begun, I and other members of the community have some questions regarding the permit determination made by the DEC on September 19, 2017 and the permits themselves that may have been issued based on that determination letter.

Those questions are as follows:

1) Since we are 2 years and 4 months removed from 9/19/2017, is the 9/19/2017 permit determination made by the DEC still valid for any purpose or is another Permit Jurisdiction Determination required before the project can move forward? Members of the community are concerned that circumstances on or near the site have changed since the 2017 determination and require an up to date assessment. For example, the area implicates habitat for the bald eagle and other endangered bird and other species. It is a dynamic and changing environment and the community is concerned that there may be nest sightings or other changes near the project site involving the endangered species or other factors.

2) Given the passage of time, is the project required to get a current determination from the DEC?

3) Are the permits that were issued as required by the 2017 determination from DEC still valid if the determination from that time is no longer in effect?

4) Independent of the status of the determination made by your office, do you know if the permits themselves have to be updated or new permits issued given the passage of time? In other words, are the permits themselves subject to a time limitation in the same way that the permit determination made by DEC is?

5) Finally can the board legally agree to a settlement that is compliant to a 2017 Permit Jurisdiction Determination that is no longer valid?

Only the DEC can answer the above questions. It is the town board's legal responsibility to get those answers to make sure the settlement is in compliance with the regulations. A delay of the vote is necessary to give the DEC time respond.

David Eisenbach

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Mindy Jesek  
Village Clerk / Treasurer



**CH# 7237 PJ - NELSONVILLE TELECOMMUNICATIONS FACILITY - NELSONVILLE - PUTNAM COUNTY.pdf**  
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