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NH SUPREME COURT

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

Town of Pembroke

COPY

v.

Town of Allenstown

Docket No. 2017-0066

APPELLEE'S MEMORANDUM OF LAW IN LIEU OF BRIEF

NOW COMES, the Appellee, Town of Allenstown Board of Selectmen (hereinafter, "Board of Selectmen"), by and through their attorneys, Donahue, Tucker and Ciandella, PLLC, and files this Memorandum pursuant to Supreme Court Rule 16 (4)(b) to indicate that they join in the arguments presented in Appellee's Brief, submitted by the Allenstown Sewer Commission, and asks that this Honorable Court affirm the trial court's rulings in their entirety. The Appellee, Board of Selectmen, waive oral argument.

In making this statement, the Appellee, Board of Selectmen incorporate by reference the arguments presented by Appellee, which in summary are as follows: 1) the standard of review for appeals of this nature gives deference to the manner in which the trial judge interprets the evidence and measures the credibility of witnesses; 2) the trial court did not err in interpreting relevant provisions of the IMA; 3) the trial court correctly found that Appellant failed to demonstrate that EPA regulations supported Appellant's position on the expenditure of excess HW revenue; 4) the trial court correctly found that RSA 149-I:8 and 10 governed the disposition of HW revenue; and 5) the trial court correctly found that the added capacity in the plant resulting from the BioMag process belonged to Allenstown.

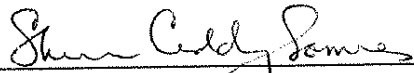
The Appellee, Board of Selectmen also incorporate by reference the conclusion presented by Appellee and requests that this Honorable Court affirm the trial court's rulings in their entirety.

Respectfully submitted,

Town of Allentown Board of Selectmen,
Respondent

By its attorneys,
DONAHUE, TUCKER & CIANDELLA, PLLC

Dated: October 20, 2017

By: 
Sharon Cuddy Somers, Esquire
NH Bar ID# 253
225 Water Street
Exeter, NH 03833
603-778-0686
ssomers@dtclawyers.com

CERTIFICATION

I hereby certify that on this 20th day of October, 2017, a copy of the foregoing was mailed and emailed the following counsel of record:

Mark H. Puffer, Esquire
PretiFlaherty
57 North Main Street, P.O. Box 1318
Concord, NH 03302-1318

William R. Drescher, Esquire
Drescher & Dokmo, P.A.
21 Emerson Road
PO Box 7483
Milford, NH 03055-7483

Dated: October 20, 2017

By: 
Sharon Cuddy Somers

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