

STEPHEN GRISWOLD

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

and

POLAND SPRING BOTTLING COMPANY

Argued April 8, 2008

Decided May 6, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER,  
MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Stephen Griswold appeals from the judgment of the Superior Court (Kennebec County, *Studstrup, J.*) affirming the decision of the Commissioner of the Department of Health and Human Services (DHHS) that authorizes Poland Spring Bottling Company to engage in bulk water transport from Denmark, Maine to bottling plants in other parts of the State. Our review of the record indicates that, contrary to Griswold's contentions, (1) DHHS sufficiently consulted with the Department of Environmental Protection, pursuant to 22 M.R.S. § 2660-A(3) (2007);<sup>1</sup> (2) the Commissioner's finding that the proposed water withdrawal will not adversely affect existing uses of groundwater or surface water, pursuant to

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<sup>1</sup> The Legislature has amended the subsections in 22 M.R.S. § 2660-A(3) since Poland Spring submitted its application with DHHS, but the introductory language, which requires DHHS to consult with various agencies, has not changed. See P.L. 2005, ch. 452, § A-2 (effective Sept. 17, 2005) (codified at 22 M.R.S. § 2660-A(3)(D) (2007)); P.L. 2007, ch. 399, §§ 5-7 (effective Sept. 20, 2007).

22 M.R.S. § 2660-A(3) (2005),<sup>2</sup> is supported by substantial evidence, *see Hannum v. Bd. of Env'tl. Prot.*, 2006 ME 51, ¶ 9, 898 A.2d 392, 396; and (3) Griswold has not demonstrated that the conditions imposed by DHHS will fail to achieve the objectives of the statute, *see Zegel v. Bd of Soc. Worker Licensure*, 2004 ME 31, ¶ 14, 843 A.2d 18, 22 (stating that a party seeking to vacate an agency decision bears the burden of persuasion on appeal).

The entry is:

Judgment affirmed.

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**Attorneys for Stephen Griswold:**

Scott D. Anderson, Esq. (orally)  
Juliet T. Browne, Esq.  
Verrill Dana LLP  
One Portland Square  
PO Box 586  
Portland, Maine 04112-0586

**Attorneys for the Maine Department  
of Health and Human Services:**

G. Steven Rowe, Attorney General  
N. Paul Gauvreau, Asst. Atty. Gen. (orally)  
Office of Attorney General  
6 State House Station  
Augusta, Maine 04333-0006

**Attorneys for Poland Spring Bottling Company:**

Catherine R. Connors, Esq. (orally)  
Brian M. Rayback, Esq.  
Pierce Atwood LLP  
One Monument Square  
Portland, Maine 04101

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<sup>2</sup> Title 22 M.R.S. § 2660-A(3)(D) has since been amended. P.L. 2005, ch. 452, § A-2 (effective Sept. 17, 2005) (codified at 22 M.R.S. § 2660-A(3)(D) (2007)).