

CONFIDENTIAL



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FAX TRANSMISSION COVER SHEET

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**Date:** Susan Arnold, Office of the Governor  
**To:** October 15, 1998  
**Fax:** 271-6998  
**Re:** NCES, Bethlehem, NH  
**Sender:** Philip J. O'Brien, Ph.D., Director, NHDES-WMD

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YOU SHOULD RECEIVE 3 PAGE(S), INCLUDING THIS COVER SHEET. IF  
YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (603) 271-2905.

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Bob/Oana:

I've discussed this with Susan this morning.

Phil  
1045

cc: Dick Reed  
Chuck Knox

## Comments on North Country Environmental Services (NCES) Landfill in Bethlehem

### 1. Current Issue:

Construction underway on an incremental stage to be utilized somewhere around the first of the year when existing capacity will be filled.

Town has opposed new construction claiming lack of local approval and voted to go to court at its last Selectmens meeting on October 12, 1998.

As we understand it, NCES has filed [before the community did so] for a declaratory judgement affirming their right to construct based in part on recently discovered information relating to local approval which was uncovered in the Grafton County Registry of Deeds.

### 2. Background [greatly simplified]

Matter goes back to 1976 when landfill was first permitted by Town.

There have been four owners of the facility over time, the latest before NCES being Consumat Sanco.

Town voted (1992) that: *Further, no solid waste disposal facility, site, or expansion of any existing landfills shall be located in any district except a facility operated by the Town. This prohibition shall include, but not be limited to, any private solid waste disposal facility or site, sanitary landfill or incinerator.*

30 communities + the spot market use the NCES landfill and would be affected by a closure.\*

### 3. Reference in newspapers to state change of rules [see attached memo from Maureen Smith, NHDOJ]

Important that people understand the nature of the state process: that is, in 1996 the state (DES) removed itself from the quasi-judicial role of deciding whether or not an applicant had in fact obtained local approval; and, at that time, made it the independent obligation of the applicant to do so. As a result, DES's decision to issue a construction approval does not affect any applicants [NCES in this case] obligation to obtain local approval.

### 4. Summary:

- a. Would like to see a negotiated settlement which is respectful of both community rights and those of the company.
- b. Hope that the well being of all of the communities involved will be considered by all parties to the dispute.
- c. DES' decision to issue the construction approval was based on NCES having met statutory and rule requirements but does not change their obligation to obtain local approval nor the local authorities ability to enforce local requirements.

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\* NCES has an application into DES for approval of a regional transfer station at the landfill location