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After Four Years, Federal Clean Water Act Lawsuit Settled

Casella Agrees To Site Remediation, Paying \$50,000 To Nonprofit

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Several dozen area residents gathered on the Littleton footbridge Thursday, when the Conservation Law Foundation and Toxic Actions Center announced their intention to sue Casella Waste Systems for alleged discharge of pollutants into the Ammonoosuc River at the company's Bethlehem landfill. (Photo by Robert Blechl)

After being filed four years ago by two environmental groups, the federal water pollution lawsuit against Casella Waste Systems has been settled, with the stipulation that Casella completes remediation at its North Country Environmental Services landfill in Bethlehem and pay \$50,000 to a local nonprofit.

In May 2018, the lawsuit was brought against Casella by the Conservation Law Foundation and Community Action Works, two New England nonprofits that alleged violations of the Clean Water Act.

Casella, argued CLF and CAW, has been illegally discharging pollutants that include 1, 4 dioxane, a suspected carcinogen, and elevated levels of iron and manganese from what is called the main groundwater seep into the Ammonoosuc River along a 370-foot-long drainage channel without the required federal permit and in violation of the Clean Water Act.

The settlement agreement and order ending the litigation, filed Monday at the U.S. District Court for the District of New Hampshire and approved Tuesday by the judge, stems from a 2010 restoration project NCES undertook to satisfy a special condition of its state groundwater management and release detection permit.

That project involved removing and disposing of sediments from the main seep and drainage channel followed by site restoration upon completion of the work.

According to court documents, however, new rust-colored sediments began to soon appear after the 2010 remediation.

In August, as the parties presented differing interpretations of law under the Clean Water Act, Judge Paul Barbadoro issued an order stating that “the water feeding the channel is contaminated with these pollutants as a result of land-filling activities and it, therefore, meets the definition of landfill wastewater.”

Elevated levels of iron and manganese, both of which occur naturally and are also constituents of landfill-generated leachate, have been detected consistently in the main seep and drainage channel since groundwater monitoring began at the NCES landfill in 1995, wrote the judge.

Under Monday’s settlement terms, Casella, within the next two years, agrees to submit applications for all required permits and regulatory approvals to perform sediment removal and restoration work on the main seep and channel, with that work to be called the “second restoration project” and being substantially the same that the company performed in 2010

No later than one year after obtaining the permits and regulatory approvals, Casella agrees to begin the project and complete it within the same construction season.

Within 30 days of the date of the Jan. 10 agreement, Casella also agrees to pay \$50,000 to the Ammonoosuc Conservation Trust (ACT) for projects to promote restoration, preservation, protection, and improvement of water quality in the Ammonoosuc River watershed.

Under the terms of the settlement, Casella agrees that any public statement that it makes in regard to the payment to ACT include the language: "Payments to the Ammonoosuc Conservation Trust were made pursuant to the settlement of the Clean Water Act enforcement suit brought by Community Action Works and Conservation Law Foundation."

The provisions of the agreement are enforceable by the court upon a motion by any party in the case, including any third party to which Casella would transfer ownership or operation of the landfill in Bethlehem and any property between the landfill and the river.

While entering into the agreement, Casella has "denied the allegations and disputed the claims in the settlement."

On Sept. 23, the federal court suspended the procedural schedule in the Clean Water Act case to allow the parties to negotiate a settlement.

The agreement does not impact CLF's appeal of Casella's Stage VI permit for NCES landfill expansion, which is scheduled to go a hearing before the New Hampshire Waste Management Council in February.

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