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Bethlehem landfill expansion can proceed, NH Supreme Court rules

By Paul Feely Union Leader Staff
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The North Country Environmental Services landfill in Bethlehem, which Casella Waste Management says is running out of capacity.

John Koziol/Union Leader Correspondent

The New Hampshire Supreme Court has upheld Casella Waste Systems' permit to expand a Bethlehem landfill, allowing the project to proceed.

The justices reversed a previous ruling by the New Hampshire Waste Management Council, made in response to an appeal by the Conservation Law Foundation (CLF), which argued that the expansion shouldn't be approved if the added capacity is not needed.

The Supreme Court ruled the council erred in its interpretation of New Hampshire's public benefit statute, determining that the Stage VI expansion satisfied a capacity.

Casella Waste Systems, based in Rutland, Vermont, operates the Bethlehem landfill under the name North Country Environmental Services (NCES).

NCES provides disposal capacity for more than 60,000 businesses and residents in almost 200 New Hampshire towns.

"We are pleased that the decision of the court removes the uncertainty for our New Hampshire customers caused by the Council's decision," said John W. Casella, the company's chairman and chief executive officer. "Ensuring that we will be able to provide the continuity of service on which our customers rely has been our focus throughout this process.

"This decision recognizes the ongoing need for disposal capacity in the state, even as anti-landfill activists such as CLF continue to make baseless claims that take time and resources away from moving New Hampshire closer to the goals outlined in its most recent Solid Waste Management Plan."

"We're disappointed with this decision which will allow this polluting landfill to expand," CLF said in a statement. "CLF will continue our efforts to reduce waste and stop unnecessary landfill expansions throughout New England."

In its ruling, the Supreme Court ruled that state law gives state environmental officials "flexibility and discretion to determine the existence of a capacity need and, therefore, how to address a projected shortfall."

"Accordingly, we conclude that DES acted lawfully in issuing the permit and reverse," the ruling said.

In October, Senior Assistant Attorney General K. Allen Brooks argued the state hearing officer who originally made the recommendations imposed an overly stringent set of regulations on the DES.

"The hearing officer set up a regime where, both in time and amount, it was strictly limited," Brooks told three justices who heard oral arguments in the matter.

Chief Justice Gordon MacDonald disqualified himself from ruling on the case. He was attorney general at the time that DES initially approved a landfill expansion permit in 2020.

Brooks said the decision took a static view of landfill capacity and didn't recognize that it's a moving target.

"The regime does not account for the fact there will be fluctuations and there will be significant ones," Brooks said.

The Conservation Law Foundation (CLF), which intervened in this suit, had helped convince the hearing officer and council to deny the permit.


Heidi Trimarco, staff attorney with CLF, argued the state law on solid waste management is clear that a landfill expansion should not be approved unless the additional capacity is needed.

In September 2022, DES published an updated Solid Waste Management Plan, outlining eight specific goals for improving solid waste management in the state over the next decade.

According to Casella, continued availability of disposal capacity at NCES and the proposed Granite State Landfill in Dalton – targeted to come online near the time when NCES closes – is vital to helping the state achieve its goals of reducing the disposal of municipal solid waste and construction and demolition debris by 25% by 2030, and by 45% by 2050.

"The future of solid waste management is to view it as an integrated set of solutions and critical infrastructure designed to keep people and their natural environment safe," Casella said.

"This approach considers the overall benefits of the entirety of our resource management efforts, and not simply those of a single facility. Disposal capacity is the foundation that allows for the continuation of ongoing materials management efforts."



Casella Waste Systems ruling
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