

**Town of Dalton, NH
Board of Selectmen
756 Dalton Road
Dalton, NH 03598
selectmen@townofdalton.com**

August 12, 2021

Ms. Jaime Colby, P.E.
Solid Waste Management Bureau
New Hampshire Department of Environmental Services
29 Hazen Drive, PO Box 95
jaime.m.colby@des.nh.gov
SolidWasteInfo@des.nh.gov
(sent only via email)

Re: Standard Permit Application; Application No. 2021-52265
Proposed Granite State Landfill, 172 Douglas Drive, Dalton, NH
Town of Dalton Response to GSL letter to DES dated 07/21/2021

Dear Ms. Colby

As the duly elected Selectboard for the Town of Dalton, New Hampshire, we write in response to the Granite State Landfill, LLC letter dated July 21, 2021, which your office received regarding its application for a landfill in Dalton

Specifically, we respond and object to the portion of that letter (item number 2) regarding missing local permits, on page three.

First, the town disagrees with the representation by GSL that the town's land use regulation of GSL's proposal is pre-empted by State regulation. As support for our position, please refer to the New Hampshire Supreme Court's 2004 decision in *North Country Environmental Services v. Town of Bethlehem*, 146 N.H. 348.

Second, presently the local zoning regulation in effect in Dalton arises from the town's adoption of the State's Emergency Temporary Zoning Ordinance, as contained in RSA 674:24-30. Under these statutory provisions, only residential and agricultural uses are permitted. Business, commercial, and industrial uses are prohibited unless the property owner first applies for and obtains a special exception.

GSL has not applied for or obtained a special exception, and apparently takes the position that it refuses to do so unless it first pre-negotiates the outcome of what should be a quasi-judicial proceeding. That perspective of "due process" is both startling and revealing.

As the duly elected Select Board, we do not have authority to pre-negotiate limits to the town's regulatory authority under the ETZ (RSA 674:224-30), or to pre-negotiate the decision to be rendered by the quasi-judicial Zoning Board of Adjustment.

We hope this letter clarifies the local permit status. No local (e.g. zoning, planning) approvals have been obtained. To date, no application for local zoning approval has been submitted by GSL.

Respectfully,

***Town of Dalton
Select Board***

*Jo Beth Dudley, Chair
Carol Sheltry
Tamela Swan*