

Good morning Gentlemen,

In a document titled "**Response to Public Comment**" August 15, 2014 regarding the Stage V Permit", the New Hampshire Department of Environmental Services (NHDES) assured residents and neighbors of Bethlehem objecting to seemingly endless expansion of NCES' s 51 acre commercial landfill that, "***The expansion referred to as Stage V***", wrote DES, "***has a total design capacity of 1,903,000 cubic yards, overlies existing landfill areas referred to as Stages I,II,III,IV, and has a projected life expectancy of at least 5.3 years.***

However on April 28, 2016, less than two years later, Littleton based radio station WLTN reported that landfill manager, Kevin Roy, admitted that Stage V of the landfill will be at capacity in less than 5 years. The following is a transcript of the April 28, WLTN broadcast:

"Controversy continues in Bethlehem between the owners of the hated Casella landfill and the town. Now it's an issue over placement of the monitoring wells and gas probes potentially outside the designated landfill district. A town official says that does not violate the 2011 Settlement Agreement between the company and the town but one resident feels that the North Country Environmental Services, Inc the Bethlehem subsidiary of Casella Waste Systems, is laying the ground work for another expansion of it's landfill along Trudeau Rd.

On April 6, North Country Environmental Services notified New Hampshire Department Of Environmental Services of its' Work Plan to replace 5 monitoring wells and 5 soil gas probes and put them about 250 feet upgrade from where they are now on adjacent property that the company purchased last year for 2.5 million dollars from the Dan Tucker family.

*The plan would require a modification to NCES 's Groundwater Management and Site Detection Permit and the Solid Waste Permit. The original settlement agreement states that NCES shall not expand the landfill outside the 61 acre District V and will confine all future activities to within the district including infrastructure. **Last week(end)NCES Landfill***

manager, Kevin Roy said with the current capacity and rate of fill the landfill has less than 5 years before it reaches maximum capacity."

This admission is of concern because also in the Response to Public Comment NHDES referred to the NH law governing solid waste disposal, **NH RSA 149-M: 11**, (Public Benefit Requirements. DES assured that:

" In New Hampshire, landfill permits specify a volume, referred to as "air space" that the facility is allowed to fill with waste. Thus the lifespan of a landfill depends on the rate at which the facility accepts waste for disposal in permitted airspace and the density of the waste following its placement and compaction in the permitted airspace. Landfill permits also specify a minimum operating life to ensure that there is adequate disposal capacity pursuant to RSA 149-M:11 for waste generated in New Hampshire".

During the Stage V permitting process DES stated that Stage IV would reach capacity in 2016 and because 156 New Hampshire towns and scores of non-New Hampshire clients ship their waste to NCES (North Country Environmental Services Inc) in Bethlehem, DES approved NCES' s request for a Stage V permit to extend the life of the landfill by at least 5.3 years to the year 2021. That would allow New Hampshire towns and out-of-state clients enough time to arrange for their waste disposal elsewhere.

But based on Mr. Roy's admission, NCES could potentially be in violation of its Stage V state permit by failing to provide the capacity promised and also failing to provide for an orderly transition when NCES finally closes in 2021. NCES is owned by Casella Waste Systems Inc of Rutland, Vermont.

More proof that NCES has moved into Stage V and thus violated the Stage IV permit by filling before the NHDES permitted time frame is in the 2011 Settlement Agreement. *" During the Post-Settlement Life of the Facility, CES will pay the /town a host community payment at the rate of \$0.25 (twenty-five cents)for each ton of waste NCES accepts for disposal in the Landfill through December 31,2017,and at the rate of \$0.75 (seventy-five cents) for each ton of waste NCES accepts for disposal in the landfill commencing on January 1, 2018."* In actuality, since Stage V opened

prematurely, NCES began paying the higher rate at the end of 2015.

In addition to a potential violation of its state permit for failing to provide the promised capacity until at least 2021, NCES CEO John Casella appears to be in further violation of a 2011 Settlement Agreement that was written and agreed upon to end years of litigation with the Town of Bethlehem and to assure a permanent closure date by the year 2021. Mr. Casella also agreed to never buy new land in Bethlehem for landfilling, and the 61 acre landfill site would be permanently capped, closed and monitored for 30 years in accordance with rules of the federal Environmental Protection Agency.

Some important background is that this 61 acre, 1483 foot high landfill, in operation since 1987, has been a source of ongoing controversy because of continuous lawsuits over zoning laws, the illegal burial of asbestos, possible contamination of the groundwater and the stratified drift aquifer beneath it, and the generation of toxic odors, noise and airborne particulate matter that it produces.

In seeming derogation of the 2011 Settlement Agreement signed by the Board of Selectmen and under the jurisdiction of a Superior Court judge, it was recently announced that NCES president and CEO, John Casella, did in fact buy more land in Bethlehem. According to a recent search of the Grafton County Register of Deeds office, in December 2015, Casella paid \$2.5 million to the Daniel Tucker family for the adjacent 123 acre property which borders the Ammonoosuc River directly. That is the site of a contaminated oily orange seep that flows directly into the Ammonoosuc.

NCES has now applied to NH DES for approval to begin placing infrastructure outside of the commercial waste Bethlehem Zoning District V to the newly purchased Tucker property. Infrastructure would include relocating 5 gas wells and 5 soil probes. This replacement would not only lose valuable data but also be 250 feet further away from the landfill which undermines the purpose of that particular infrastructure which is to monitor the water quality and detect migration of toxic and explosive methane gas beyond District V.

RSA 149-M:11 III. "The department shall determine whether a proposed solid waste facility provides substantial benefit based upon the following criteria: (a.)The short and long term need for a solid waste facility of the proposed type, size,and location to provide capacity to accommodate solid waste generated within the borders of New Hampshire." V.(a) Projection of solid waste for a 20 year planning period generated within it's borders....

According to the wording of NH RSA 149-M, and Mr. Roy's admission of reaching capacity before the anticipated DES projected timeline of at least 2021, and is barred from further expansion by a court-approved 2011 Settlement Agreement with the Town of Bethlehem, the landfill must be closed, capped and monitored for 30 years when Stage V capacity is reached, some time before 2021.

Furthermore, there is the misrepresentation in the Response to Public Comment document by DES. **" The DES Environmental Equity Policy directs the agency to recognize and consider the fact that areas predominantly occupied by minority and low income populations historically have faced an inequitable share of risk for environmental hazards. ...according to data, the median income and percentage of population living below the poverty line in Bethlehem does not differ significantly from other communities in New Hampshire....Therefore, a landfill located in Bethlehem does not place an inequitable risk on low income or minority populations."**

However, Bethlehem is a poor community with an extremely high tax rate as the following census figures clearly show.

**"Data from 2015 Median Income for NH"
New Hampshire median income : \$64,916.00
Highest income Bedford: \$122,515.00**

Poverty level in NH: \$40,000.00

Bethlehem's median income: \$44,821.00

- Out of 322 towns and cities, Bethlehem ranks #44 from the bottom
- 278 towns and cities have a higher median income than Bethlehem
- Bethlehem ranks at the bottom 13% with 87% of our towns and cities having higher incomes
- Bethlehem is among some of the poorest towns in New Hampshire

NH DEPARTMENT OF EDUCATION:

Out of 188 school districts Bethlehem ranks 41st from the bottom

- 147 school districts rank higher than Bethlehem.
- 77% school districts rank higher placing Bethlehem at 23% from the bottom
- Bethlehem is among one of the poorest school districts in the state

***41.79% of Bethlehem students are on free or reduced lunch programs.**

This does not include Kindergarten or pre-schoolers which is part of the Bethlehem Elementary School.

Bethlehem is an example, by any measure, of the EPA definition of economic injustice after 30 years of a commercial landfill that violates with impunity the federal Clean Air and Clean Water acts. The State of New Hampshire and specifically the Department of Environmental Services are charged by RSA 149-M and by a 2002 directive by former Governor Jeanne Shaheen to have a long range plan for the orderly disposal of waste generated within the borders of New Hampshire.

In 2012, Bethlehem voted for the zoning change to finally allow the ten acre expansion within District V because voters were promised relief from high taxes and costly lawsuits. Wealthier communities like Bedford, Amherst, Rye, and Hopkinton would have had the financial means to keep out a commercial landfill. Bethlehem's rural location is in one of the most beautiful and picturesque areas in our state and has attracted tourists,

visitors, second-home owners, and outdoor enthusiasts. However, now Bethlehem is “faced with an inequitable share of risk for environmental hazards.”

So now **DES** must begin to meet its statutory duty to protect our land, our environment and our people. DES, also, stated that the landfill does not place an inequitable risk on our town and that it's in "Bethlehem's best interest".

ENV-Sw 1005.01) requires solid waste facilities to "...be operated and maintained in a manner that controls to the greatest extent practicable...odor, noise and nuisances."

Hundreds of noise, odor and nuisance complaints have been filed with NH DES and the NCES landfill and as recently as last week June 4, 2016. Is the Odor Control Plan which was to be implemented as a **stipulation of the granting of the Stage V permit** finally been completed, submitted to DES and implemented at NCES because we haven't heard? The extreme odors, the unusually loud, grating and unpleasant noises and nuisances created by this landfill which has hours from 6 am - 6 pm, 7 days a week (and may also operate on holidays) continues to impact our quality of life in this residential area by interrupting our peace and quiet. The noise and odor and other nuisances also interfere with our enjoyment of our home and property. On many beautiful days we cannot even open our windows and sliders because of these nuisances.

In closing, it is past due time for the town of Bethlehem to be afforded the protection of state laws administered by both the Department of Environmental Services and the NH Attorney General's office. We are 90 miles distant from Concord but certainly not from the law that is administered by these two agencies.. Thank you for taking the time to read this important letter.

Also have the 5 regulatory deficiencies which were listed in the Letter of Deficiencies sent by NH DES to NCES in February, 2016 been corrected? And has the " late" Odor Control Plan finally been submitted, approved

and implemented by NCES especially, since it was a stipulation for being granted the Stage V permit?

If and when NCES' s request for yet another permit modification must be denied because it knowingly and willingly failed to comply with its agreement to provide landfill capacity to at least 2021. The NHDES has until that closing date to assist the affected towns and out-of-state clients in planning for the orderly disposal of their waste when NCES shuts down. And to allow NCES yet another permit modification ***would be contrary to the purpose of RSA 149-M*** which is: "**to protect human health, to preserve the natural environment and to conserve precious and dwindling natural resources through proper and integrated management of solid waste.**" Rewarding deliberate violation of a permit condition and a court-approved Settlement Agreement stands the law on its head.

Casella imports 37% of the trash that is buried in the landfill, not the 22.3 % NHDES incorrectly declares and more than 5 to 6 sludge trucks are believed to arrive daily at NCES.