

## Re: Meeting with NHDES

---

From: Save Forest Lake (saveforestlake@yahoo.com)

To: john.j.duclos@des.nh.gov

Cc: wetlandsapplicationpubliccomments@des.nh.gov; david.a.price@des.nh.gov; stefanie.m.giallongo@des.nh.gov;  
robert.scott@des.nh.gov

Bcc:

Date: Monday, November 29, 2021, 01:38 PM EST

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Good Afternoon John:

Welcome back and Happy Monday, I hope you had an enjoyable Thanksgiving.

I am reaching out because I have discovered some troubling/disturbing documents while reading thru the 4000+ pages of public record pdfs uploaded to the NHDES Wetlands Public Comments

GovQA public records platform:

[https://nhdes.govqa.us/WEBAPP/\\_rs/\(S\(xgyylb2dntuvj1htmret1yqo\)\)/RequestArchiveDetails.aspx?rid=1202](https://nhdes.govqa.us/WEBAPP/_rs/(S(xgyylb2dntuvj1htmret1yqo))/RequestArchiveDetails.aspx?rid=1202)

I have attached the documents in question, and I'd like to note that first, that **you never responded to this email** I sent to you on June 16, 2021, requesting a meeting with NHDES and others, to discuss the permits, etc. relative to the landfill project. I guess I know why, now. In fact, you can imagine my surprise when I ran across the attached June 30th email from Philip Trowbridge to Casella's Joe John Gay and Sam Nicolai, with only "See attached" typed in, and Phil's forwarding of 3 letters, from BCM Environmental Land & Law, also requesting a meeting, as well as a request for a postponement of the public hearing, and two other letters, with similar requests, from the Conservation Law Foundation and the Town of Sugar Hill Selectmen. Such an informal forwarding of oppositional documents, from a NHDES official to two representatives of the developer, only serves to underscore concerns of collusion between the permitting agency and the developer. I can tell you this, I most certainly have not received an "FYI" email and the forwarding of Casella communications from anyone at NHDES during the 2.5+ years I've been involved in this environmental battle.

But wait, it gets even better! Note the second attachment to this email is another document I uncovered in the NHDES public-record data dump, a letter, also dated June 30, and just less than five hours after Phil's heads-up to Casella. As you can read, that letter contained legal warnings from Casella's attorney, Bryan Gould of the law firm Cleveland, Waters, and Bass. It's so richly ironic to note that Attorney Gould cites statute and rule, relative to applicant entitlement to a decision on its application within a prescribed period of time and in accordance with the law, arguing that NHDES failure to satisfy these requirements would be a clear violation of the law, when THAT is exactly what NHDES DID in failing to render a decision on the wetlands permit application, by instead, seeking an "amended" permit application. See **RSA 482 -A:3 XIV(a)(5)**, which **requires an approval or denial** of the wetlands permit application, **within 45 days** following the closing of the record, which WAS scheduled for September 13, 2021. But of course, I am in receipt of NH Attorney General John Formella's dismissive email of September 3, telling me there's nothing to see here. Something sure stinks here, John.

I also ran across the attached email from Sam Nicolai of Casella to Phil Trowbridge of NHDES, dated July 12, 2021, in which Mr. Nicolai admits to a "discussion" with Mr. Trowbridge that seemingly occurred "last week". That would mean that either a meeting or phone call took place between NHDES and Casella during the week of July 5-9, 2021, but there does not appear to be any documentation relative to that within the public record. Thus, it would give the appearance that the relationship between the permitting agency and the permittee is pretty chummy. On the other hand, concerned citizens and property owners in New Hampshire are given the brush off when we request the opportunity to meet with NHDES and other State of New Hampshire department personnel. The optics during this permitting process, to date, have just been terrible relative to openness and access, as if we are just an annoyance, not stakeholders. We feel greatly marginalized, despite the fact that WE have property rights, as well as the right to the enjoyment of our property free from nuisance, and we have valid concerns and input that NHDES and other governmental agencies and officials in New Hampshire seemingly disregard, and instead, give great deference to the applicant in this process, which happens to be an out-of-state corporation. We LIVE here.

Another disturbing document I uncovered is dated July 13, 2021, from Casella attorney Cooley Arroyo, also of Cleveland, Waters, and Bass, to Pamela Monroe, NHDES Legal Unit Administrator, consenting to what would appear to be a NHDES-requested 30 day extension of

the public comment period. With the public hearing held on the next day, July 14, 2021, it would appear that this was a pre-arranged, public comment extension requested by NHDES, but for what reason? We all left that public hearing wondering how, where, and why this extension of the public comment period was agreed to, for another month, to September 13, 2021, and how it even came about. I guess we should know now, based on the voluminous amount of comment letters you received, with the above-linked public comment record database for the wetlands permit application reflecting approximately 600-800 letters of opposition (I'm still working my way thru each pdf), with the overwhelming majority urging denial of the permit, with just 9 letters in support of the permitting of the project, equating to at least 98% of correspondents urging denial of the permit application. This also makes me wonder if NHDES expected that the speakers at the 5-hour long public hearing would also follow suit, urging denial? Of course, NHDES deciding to violate RSA 482-A:3 XIV(a)(5) only served to increase public suspicion and doubt towards NHDES and the integrity of the entire permitting process. The optics of all of this have just been so bad, leaving many feeling that the fix is in and NHDES, along with other high-ranking officials within NH state government, are in the bag for the applicant and this unwanted, unneeded, highly-impactful, and very controversial landfill development.

On a final note, I cannot help but comment on the fact that the timing of the "extension deadline" for the wetlands permit "amendment" will ultimately prohibit the Dalton Conservation Commission from doing its due diligence in conducting a proper evaluation of the wetlands and the proposed impacts at the development site since 80 days on the calendar lands around mid-March, 2022. As expressed by Dalton Conservation Commission Chair Nancy Comeau, in her June 4, 2021 letter to NHDES Wetlands Bureau, the growing season commences in May and that is the logical time to conduct field studies in coordination with their hired wetlands scientist. The artificial NHDES deadline therefore prohibits a true and proper evaluation of the wetlands since the ground will most probably still be snow-covered and frozen. Thus, I can only hope that NHDES will adhere to its own timelines this go round, and ignore the threat of legal action posed by Casella's Joe John Gay in his November 1, 2021 response to Jaime Colby of NHDES Solid Waste Management Bureau, attached. Who's in charge, here, the applicant or the state permitting agency? Or, are you coordinating behind closed doors, as the optics indicate, despite Director Wimsatt's assertions that "nothing nefarious" is going on with Casella? I hope my spidey senses are wrong.

Very Disappointed In NHDES,

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078  
Founder, [Save Forest Lake](#)

*"Unless someone like you cares a whole awful lot, nothing is going to get better. It's not."  
-The Lorax*

*Do not allow this proposed development to scar the beautiful landscape of the North Country for generations to come*

On Wednesday, June 16, 2021, 06:51:21 AM EDT, Save Forest Lake <saveforestlake@yahoo.com> wrote:









Good Morning John:

Now that we are seeing a return to normal, post-Covid, I'd like to request a meeting with NHDES representatives to discuss the status of the permits for the proposed Granite State Landfill in Dalton, NH. I'd like that meeting to include NH Parks, NHDOT, etc. so as to be inclusive and for a better overall evaluation of the project. Stakeholders and elected representatives from the North Country will attend. I would like to think the Governor's office would send a representative as well.

Thank You!

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078  
Founder, [Save Forest Lake](#)

*Do not allow this proposed development to scar the beautiful landscape of the North Country for generations to come*

-  Trowbridge To Gay See Attached Email June 30 2021 RE Meetings Postpone Hearing.pdf  
1.1MB
-  Gould Letter To NHDES i.e. Meeting Warning.pdf  
972kB
-  July 12 2021 Casella letter to Trowbridge DES USACOE contact dates.pdf  
920.7kB
-  July 13 2021 Cooley Arroyo to NHDES Agree 30 Day Extension Public Comment.pdf  
656.2kB
-  NH AG Formella Email Regarding Amended Wetlands Permit Ap and Swan Response w RSAs 9 4 21.pdf  
225kB
-  2021-10-26\_extension\_agreement\_final\_signed Casella Dec 15 2021 NLT.pdf  
70kB
-  Oct 29 Casella Response to NHDES Oct 14 2021 Colby Letter Warning Of Unreasonable Delay By Joe Gay.pdf  
47.9kB
-  DES\_ Nothing Nefarious Going On With Casella, Info Session Wednesday - 9 29 21.pdf  
297kB



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Very Disappointed In NHDES,

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078  
Founder, [Save Forest Lake](http://SaveForestLake.com)

## Giallongo, Stefanie

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**From:** Trowbridge, Philip  
**Sent:** Wednesday, June 30, 2021 12:01 PM  
**To:** john.gay@casella.com; Samuel Nicolai  
**Cc:** Tilton, Mary Ann; Pelletier, Rene; Giallongo, Stefanie; Price, David  
**Subject:** Public comments regarding Dalton Conservation Commission site access  
**Attachments:** 2021-06-28 Manzelli Letter to DES.pdf; FW\_ NH DES File # 2020-02239 Wetlands Permit Standard Application.pdf; 06.28.2020 - CLF Letter to NHDES - Requesting Postponment of Public Hearing for Granite State Landfill.pdf

See attached.

---

Philip Trowbridge, P.E., Manager  
Land Resources Management Program  
Water Division, NH Department of Environmental Services  
P.O. Box 95  
Concord, NH 03302-0095  
phone (603) 271-4898  
email: [Philip.R.Trowbridge@des.nh.gov](mailto:Philip.R.Trowbridge@des.nh.gov)

June 28, 2021

Via Email Only

N.H. Department of Environmental Services, Wetlands Bureau

Attn: Commissioner Robert Scott

[robert.scott@des.nh.gov](mailto:robert.scott@des.nh.gov)

Re: NHDES File Number: 2020-02239 Wetlands Standard Permit Application;  
Subject Property: Douglas Dr., Dalton, Tax Map #M405/406, Lot #33/ 1, 2.1, 2.3,  
2.4, 2.5, 3 and Bethlehem Tax Map #406, Lot #1, 2 (“Application”)  
Requests for DCC Site Visit, Meeting with NCABC, Postponed Public Hearing

Dear Commissioner Scott,

I write in continued representation of the North Country Alliance for Balanced Change. Please make this letter a part of your record in this Application. This letter makes three procedural requests associated with the above-referenced application, all to the end of making sure that the review process avoids creating any constitutional due process or other issues that may affect the validity of the Department’s decision.

First, on behalf of my client, I respectfully request that the Department insist that the applicant must either facilitate the Dalton Conservation Commission’s meaningful completion of its site investigation pursuant to RSA 482-A:11, III, or forfeit its application. That statute, plus constitutional due process, requires that the Dalton Conservation Commission be permitted to undertake an investigation that is meaningful.

Scientifically, their investigation has not yet been meaningful because they have not been allowed to visit the site during the growing season. Site visits during the growing season are crucial for seeing and identifying the hydrogeological interface of groundwater and wetlands. During the Water Council hearings regarding the proposed Dalton Dragstrip, at the same property, Muriel Robinette explained to the Council critical test pit information identifying seasonal high-water tables in areas the then-applicant had slated for detention ponds, which would have failed due to lack of capacity.

If the Dalton Conservation Commission is deprived of its legal rights to investigate to obtain such information, not only could the application process suffer from poor design and poor environmental stewardship, but also, legally, the process would be subject to invalidation upon appeal. With all of that in mind, we urge the Department to insist that the applicant facilitate access to the Dalton Conservation Commission and its agents.

Second, I request a meeting of the key Department personnel reviewing the application so that my clients and I can discuss concerns and questions, which have gone unanswered for the most part. I understand Mr. Jon Swan has also recently requested a meeting. While this firm does not represent Mr. Swan in any capacity, and Mr. Swan is separate and distinct from the North

Country Alliance for Balanced Change, we would be open to consideration of a joint meeting for efficiency purposes.

Third, I respectfully request that the Department postpone the public hearing recently scheduled for July 14, 2021. It is too premature for the public hearing to be held, for a number of reasons. Namely, one of the key issues we wish to discuss at a meeting is the lack of baseline data. Moreover, as noted, the Dalton Conservation Commission has been prevented from completing its investigation. Indeed, forcing a public hearing to go forward in the face of such missing information would be a deprivation of due process, the cornerstone of which is a meaningful opportunity to be heard. With so much missing information, the opportunity to be heard would lack meaning. Simply postponing the public hearing should avoid this problem.

Thank you for your attention to these three reasonable requests.

Very truly yours,



Amy Manzelli, Esq.  
*Licensed in New Hampshire & Maine*  
(603) 225-2585  
manzelli@nhlandlaw.com

Cc:  
Town of Bethlehem  
Town of Bethlehem Board of Selectmen  
Town of Bethlehem Town Clerk  
Town of Carroll  
Town of Dalton Conservation Commission  
Town of Dalton Zoning Board of Adjustment  
Town of Dalton Planning Board  
Town of Dalton Selectboard  
Town of Dalton Town Clerk  
Town of Littleton  
Town of Littleton Board of Selectmen  
Town of Littleton Town Clerk  
Town of Whitefield  
Town of Whitefield Board of Selectmen  
Town of Whitefield Town Clerk  
North Country Council





Richard Walling, Chair, Ammonoosuc River LAC  
Jaime Colby, NHDES Solid Waste Management Bureau  
Stephanie Giallongo, NHDES Wetlands Bureau  
Rene Pelletier, NHDES Wetlands Bureau  
Tracie Sales, Rivers Coordinator, NHDES  
Michael Wimsatt, NHDES, Solid Waste Management Bureau  
Michael Marchand, NH Fish & Game, Nongame & Endangered Species  
Sabrina Stanwood, NH Div. of Forests & Lands, Natural Heritage Bureau  
Amy Lamb, NH Div. of Forests & Lands, Natural Heritage Bureau  
U.S. Army Corps of Engineers, Lindsey Lefebvre  
Region 1 EPA, Deborah A. Szaro  
Client  
BCM Internal

June 29, 2021

*Via Electronic Mail*

Commissioner Robert Scott  
New Hampshire Department of Environmental Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

Craig Rennie  
Inland Wetlands Supervisor  
New Hampshire Department of Environmental Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

**RE: NHDES File Number: 2020-02239 Wetlands Standard Permit Application – Request to Postpone the July 14, 2021, Public Hearing.**

Dear Commissioner Scott and Mr. Rennie,

Conservation Law Foundation (“CLF”) writes to request that the New Hampshire Department of Environmental Services (“NHDES”) postpone the public hearing for the above referenced permit application until the Dalton Conservation Commission (“DCC” or “Commission”) has been given the opportunity to complete its site investigation pursuant to RSA 482-A:11, III. Until the Commission has been given access to the site during the growing season, moving forward with the public hearing and application review process would result in the deprivation of due process.

To date, both the applicant and the landowner have denied the Commission meaningful access to the site during the growing season, a time when critical observations need to be made to properly assess the validity of the applicant’s permit application. Thus far, access to the site was only provided during the winter, when the ground and groundwater was frozen. These conditions significantly limited the ability to gather the data necessary to enable an objective and informed evaluation of the field conditions described in the application. The Commission, which plays an important role in the wetlands permitting process, has repeatedly requested access during the spring and summer months. However, the landowner and applicant have repeatedly denied these reasonable requests. The denial of access during this critical period hinders the ability of the Commission to carryout its statutory role of providing an independent assessment of the site, the application, and the project’s impacts.



Failure to allow the Commission to perform its legal investigatory powers to observe and gather information diminishes not only their review of the application, but the entire permitting process by closing off vital information needed to fully understand the scope and magnitude of the landfill proposed by Granite State Landfill.

CLF respectfully requests that NHDES require the applicant and the landowner to facilitate the Commission's access to the site as needed to complete their site investigation. Additionally, NHDES should postpone the scheduled public hearing on the application until the site investigation is completed and the Commission's findings are published. Failure to do so would significantly undermine the purpose of the public hearing, which is to allow members of the public the opportunity to be heard after being presented with all relevant information. Thank you for your time and consideration of this request.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Peter W. Blair Jr.'.

Peter Blair, Esq.  
Staff Attorney  
Conservation Law Foundation.

Cc:  
Jamie Colby, NHDES Solid Waste Management Bureau  
Stephanie Giallongo, NHDES Wetlands Bureau  
Rene Pelletier, NHDES Wetlands Bureau

**From:** [Scott, Robert](#)  
**To:** [Trowbridge, Philip](#); [Pelletier, Rene](#); [Monroe, Pamela](#); [Aslin, Christopher](#)  
**Subject:** FW: NH DES File # 2020-02239 Wetlands Permit Standard Application  
**Date:** Tuesday, June 29, 2021 3:25:33 PM

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*Robert R Scott*  
**Commissioner**  
**New Hampshire Department of Environmental Services**  
**29 Hazen Drive, PO Box 95**  
**Concord, NH 03302-0095**  
**W: 603.271.2958**  
**C: 603.892.1706**  
[robert.r.scott@des.nh.gov](mailto:robert.r.scott@des.nh.gov)

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**From:** Sugar Hill Selectmen <selectmen@sugarhillnh.org>  
**Sent:** Tuesday, June 29, 2021 3:13 PM  
**To:** Scott, Robert <Robert.R.Scott@des.nh.gov>; Giallongo, Stefanie <Stefanie.M.Giallongo@des.nh.gov>; Price, David <DAVID.A.PRICE@des.nh.gov>  
**Subject:** NH DES File # 2020-02239 Wetlands Permit Standard Application

**EXTERNAL:** Do not open attachments or click on links unless you recognize and trust the sender.

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Commissioner Robert Scott, NH DES Wetlands Bureau  
Stefanie M. Giallongo, Wetlands Specialist, NH DES  
David Price, Wetland Specialist, NH DES

RE: NH DES File # 2020-02239 Wetlands Permit Standard Application

Dear Commissioner Scott, Ms. Giallongo and Mr. Price,  
The Sugar Hill Select Board and the Sugar Hill Conservation Commission urge you to honor the request of the Dalton Conservation Commission to delay the wetlands permit public hearing on the above referenced application until after the spring of 2022.

Permits and approvals should not be rushed. The Dalton Conservation Commission has been prevented from completing its investigation into the wetlands and there is not sufficient baseline data to make any meaningful decisions.

This is a project that will impact a number of towns in the North Country. Please consider postponing the hearing.

Respectfully,

Richard Bielefield  
Select Board Chair

Christopher Ellms  
Sugar Hill Conservation Commission Chair

## Giallongo, Stefanie

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**From:** Brenda Barnard <barnardb@cwbp.com>  
**Sent:** Wednesday, June 30, 2021 4:45 PM  
**To:** Scott, Robert  
**Cc:** Giallongo, Stefanie; Pelletier, Rene; manzelli@nhlandlaw.com; Brooks, Kelvin; pblair@clf.org; Bryan Gould; Cooley Arroyo  
**Subject:** NH DES File #2020-02239 Wetlands Standard Permit Application  
**Attachments:** 2021-06-30 GSL Letter to Comm'r Scott.pdf

**EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.**

---

Good afternoon,

Attached please find a letter being sent on behalf of Granite State Landfill.

Thank you.

Brenda M. Barnard  
**CLEVELAND, WATERS AND BASS, P.A.**  
Two Capital Plaza, 5<sup>th</sup> Floor  
P.O. Box 1137  
Concord, NH 03302-1137  
Tel: (603) 224-7761 / (800) 370-7761, ext. 1027  
Fax: (603) 224-6457  
Email: [barnardb@cwbp.com](mailto:barnardb@cwbp.com)

With offices also in New London and Wolfeboro, New Hampshire, and Haverhill, Massachusetts.

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Visit the CWB web site at [www.cwbp.com](http://www.cwbp.com)



CLEVELAND, WATERS AND BASS, P.A.  
ATTORNEYS AT LAW

BRYAN K. GOULD, ESQUIRE  
(603) 224-7761 EXT. 1037  
(603) 224-6457 FACSIMILE  
GOULDB@CWBPA.COM

TWO CAPITAL PLAZA, P.O. BOX 1137  
CONCORD, NEW HAMPSHIRE 03302-1137

June 30, 2021

VIA E-MAIL TRANSMISSION

Robert R. Scott, Commissioner ([robert.r.scott@des.nh.gov](mailto:robert.r.scott@des.nh.gov))  
N.H. Department of Environmental Services  
29 Hazen Drive, P.O. Box 95  
Concord, NH 03302-0095

Dear Commissioner Scott:

We represent Granite State Landfill, LLC ("GSL"). I am writing to respond to the June 28, 2021, correspondence from counsel for the group calling itself "North Country Alliance for Balanced Change" ("NCABC") and the June 29, 2021, correspondence from the Conservation Law Foundation ("CLF") to you asking NHDES to deviate from its rules and defer the public hearing on GSL's pending wetlands application. Although the lawyers for NCABC and CLF did not extend me the professional courtesy of copying me on their letters despite knowing of my representation of GSL, I have copied them along with Allen Brooks at NHDOJ.

Both NCABC and CLF predicate their request for a postponement upon their understanding of the statutory authority of the Dalton Conservation Commission ("DCC") and of the status of the DCC's request for a third site visit. There are several errant assumptions in their letters.

First, neither of the lawyers purports to be representing the DCC but they both attempt to assert authority allegedly held by the DCC. Neither lawyer has standing to assert the rights of a municipal commission the lawyer does not represent.

Second, as your wetlands staff can confirm, the DCC conducted two site visits in the past year. In response to its request for a third visit GSL has asked the DCC to explain its purpose for the visit (which it did) and the source of its authority to conduct the kind of exploratory work it was proposing to do. The DCC has failed for nearly a month to acknowledge or respond to the latter request.

Third, although CLF and NCABC rely on RSA 482-A:11, III, as the basis for the DCC's authority to investigate, they ignore the deadline for DCC action in the very statute on which

Robert R Scott, Commissioner  
N.H. Department of Environmental Services  
June 30, 2021  
Page 2

they rely. The statute requires that the conservation commission notify NHDES within fourteen days of the applicant's filing of notice with the municipal clerk whether it intends to investigate. If it does provide that notice to NHDES, the commission has forty days within which to present any report of its investigation to NHDES. This forty-day deadline may be extended by another forty days by NHDES for good cause shown.

GSL filed its notice that it was seeking the wetlands permit with the Dalton town clerk in August of 2020. Even if the DCC had requested and obtained the full extension – which it did not – the statutory deadline for the report would have expired no later than mid-December 2020. That is why, when the DCC informed NHDES on May 17 that it wanted to conduct another site visit, Craig Rennie responded by email and told the DCC that the deadline for its report had passed.

In its last letter to the DCC in early June, GSL held open the possibility of another site visit if the DCC could satisfy GSL's request for the source of authority for the visit. Given the DCC's failure to respond, the new evidence that NCABC and CLF are orchestrating the DCC's request for a third visit, the litigation CLF and NCABC have brought already attempting to enjoin NHDES permitting, and the coordinated attempt by the DCC, NCABC, and CLF to delay NHDES's consideration of the wetlands application on any ground that occurs to them, GSL will not agree to another site investigation by the DCC unless NHDES can cite unambiguous authority requiring it.

NCABC's and CLF's suggestion that NHDES will intrude on due process rights if it does not delay the processing of GSL's application has it exactly backwards. NCABC and CLF have no investigative rights so their lawyers have no standing to challenge the sufficiency of the DCC's investigation. The DCC's authority is carefully spelled out in statute, and neither NCABC nor CLF has described any act or omission that would interfere with that authority. Both NCABC and CLF also question whether the DCC's previous site visits have been "meaningful," but that is not only a subjective judgment coming from organizations dedicated to stopping this project, it also has no basis in the statute. Nothing in the statute contemplates that there can be an interruption of permitting until there is "meaningful" investigation.

On the other hand, by statute and rule an applicant is entitled to a decision on its application within a prescribed period of time and in accordance with the law. NHDES's failure to satisfy these requirements would be a clear violation of the law. In the name of "due process" for an entity they do not represent, NCABC and CLF are asking NHDES to disregard the statutory rights of GSL. We respectfully request that NHDES reject their request.

Finally, we think it would taint NHDES's consideration of GSL's application if the agency were to meet with opponents of the project as NCABC has requested without GSL's



Robert R Scott, Commissioner  
N.H. Department of Environmental Services  
June 30, 2021  
Page 3

participation. If opponents submit written arguments and comments to NHDES we can obtain them through a request under RSA ch. 91-A. If there is a meeting from which GSL is excluded, however, it has no way of knowing the content and is prevented from responding to it. Accordingly, we ask that NHDES deny NCABC's (and Mr. Alvarez's) requests for a meeting, but if NHDES decides to go ahead with a meeting we ask to be provided with notice and an opportunity to attend.

Very truly yours,

 bmb

Bryan K. Gould, Esq.

BKG:bmb

cc: Stephanie Giallongo, NHDES Wetlands Bureau (via e-mail)  
Rene Pelletier, NHDES Wetlands Bureau (via e-mail)  
Amy Manzelli, Esq. (via e-mail)  
K. Allen Brooks (via e-mail)  
Peter W. Blair, Jr., Esq. (via e-mail)



**Formella, John** <john.m.formella@doj.nh.gov>

To: saveforestlake@yahoo.com



Fri, Sep 3 at 10:28 AM



Dear Mr. Swan,

Thank you for your inquiry on this matter. My office has reviewed this issue and has concluded that NHDES' actions on the referenced permit are lawful under both RSA 482-A:3 and RSA 541-A:29. As required by the Wetlands Act, the amended application will receive a full review by NHDES, including the opportunity for further public comment and another public hearing. Accordingly, the requested amendment will not limit the public's right to be heard.

If you have further questions on this matter, you may direct them to Chris Aslin in my office. He can be reached at [christopher.aslin@doj.nh.gov](mailto:christopher.aslin@doj.nh.gov) or 603-271-3679.

Thank you,

John

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(603) 271-1201

Good Morning Chris:

Please convey my appreciation to Attorney General Formella for his timely response to my inquiry relative to the August 26, 2021 letter from Rene Pelletier of NHDES to Casella Waste Systems. While I am not an attorney, I would like to once again, state my position relative to the law and the actions of NHDES personnel relative to their failure to deliver a decision, and instead, request an amendment to the wetlands permit application. AG Formella cites RSA 541, which I am gathering he is referring to section IV:

**RSA 541-A:29 Agency Action on Applications, Petitions and Requests. –**

**IV. An agency may extend the time periods for review provided for in this section or in any other provision of law upon written agreement of the applicant.**

However, while he also cites RSA 482-A:3, I would like to point out that under section XIV(a)(5), it states:

**RSA 482-A:3 XIV(a)(5) Where the department has held a public hearing on an application filed under this chapter, within 45 days following the closure of the hearing record, approve the application in whole or in part, and issue a permit or deny the application and issue written findings in support of the denial.**

Thus, my point is that while NHDES has the authority as per RSA 541-A:29, as cited by the Attorney General, to extend the period for review, RSA 482-A:3 XIV(a)(5) seemingly supports my position that **since a hearing was held on July 14, 2021**, by law, the department **must either approve or deny the permit application within 45 days**. The RSA does not allow for an "amendment" or extension of the review period. Thus, I feel the actions of Mr. Pelletier, following the holding of the public hearing on the permit application, are not legal as per the state RSA cited above and by the Attorney General. I believe that the department is required to issue either an approval, a partial approval, or denial, and within 45 days of the closing of the hearing record, which was stated to be September 13, 2021. Thus, a decision is due by or around October 28, 2021.

While I appreciate AG Formella's assurances that "As required by the Wetlands Act, the amended application will receive a full review by NHDES, including the opportunity for further public comment and another public hearing", the point of the matter is, we just did all of that, and apparently, for naught. What was the point of going thru that entire exercise, taking up so much time, effort, and cost, with so much public input, only to be begun anew, at the whim of the permitting agency, if the approval or denial is not to be issued, as apparently required by NH state law? **[RSA 482-A:3 XIV(a)(5)]**

Furthermore, just under the above cited **RSA 482-A:3 XIV(a)(5)**, you will find

**RSA 482-A:3 XIV(a)(5)(b)(1)** *The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. The time limits prescribed by this paragraph shall not apply to applications submitted by the department of transportation, for which time limits shall be set by a memorandum of agreement between the commissioner of the department of environmental services and the commissioner of the department of transportation. If the department fails to act within the applicable time frame established in subparagraphs (a)(3), (a)(4), and (a)(5), the applicant may ask the department to issue the permit by submitting a written request. If the applicant has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.*

Thank You!

Jon Swan

# **DES: Nothing Nefarious Going On With Casella, Info Session Wednesday**

By **THOMAS P. CALDWELL**, InDepthNH.org 13 hours ago



Residents worry that a proposed landfill in Dalton will be harmful to nearby Forest Lake State Park.  
(Thomas Caldwell Photo)

**By Thomas P. Caldwell, InDepthNH.org**

CONCORD — Two officials with the state Department of Environmental Services said the department's extended review of Granite State Landfill's applications for a solid waste landfill near Forest Lake State Park in Dalton demonstrates that they are being diligent in their work.

In a telephone interview ahead of Wednesday evening's scheduled public information session on the project, Mike Wimsatt, director of the Waste Management Division, and Phil Trowbridge, administrator of the Land Resources Management Bureau, said it was a lack of critical information that prompted the Wetlands Board to ask Granite State Landfill — a division of Casella Waste Systems — for an amended wetlands application.