

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1429

BILL TITLE: relative to private landfills.

DATE: 1/10/08

LOB ROOM: 303

Time Public Hearing Called to Order: 11:00

Time Adjourned:

(please circle if present)

Committee Members: Reps. Phinizy, Essex, Owen, P. Allen, Beaulieu, Powers, Heard, McCarthy, Sad, Snow, Webb, Wheeler, O'Connell, Messier, B. Williams, Knox, Tobin, Dingman and Haefner.

Bill Sponsors: Rep. McLeod, Graf 2; Rep. Tupper, Merr 6

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

We will continue public hearings on or after Jan 30<sup>th</sup>



1/10/08 11:00

HB 1429

\* Rep Martha MacLeod

This is a problem for Bethlehem.

Balance of power  
20 years of struggling with DES  
to regulate

\$220,000 cost to Bethlehem residents  
to pay for litigation to fight  
the landfill owners  
Failure of public policy to  
protect residents

Letters were entered into the file (not present)  
from Dan Karff, Chair of Conservation  
Commission  
Leslie Dwyer, resident  
Bethlehem

\* Select person for ~~Weston~~ Jeanne Robillard

The landfill has impacted the  
tourism industry which impacts  
Many small businesses. (supports)

Out of State waste  
Current Capacity is not an issue

The town wants closure of  
this facility.

Selectman Hon Weston

Cost from 1 (supports)  
\$1 million, 50,000  
million in lost tax revenue  
over 1 million abatement

Bethlehem does not receive a tipping fee

(original) Private landfill was 4 acres to accept waste from abutting communities  
21 acres today, capacity will be mapped by 2010  
They have (the company who operates "Casella") is now wanting a permit to fill upward creating an eyesore

\* Mike Wunioath DES  
State Reclamation

Height Permitting Authority for capacity, Permit Modification for new phases  
Anticipate final capacity

\* Cheryl Jensen Bethlehem Conservation Commission

VOC's have been found in additional the landfill / data quality says this facility sits on an aquifer  
\* today DES prohibits siting a solid waste facility

Asbestos in landfill was dumped illegally



\* Richard Polonsky supports Innovation Works

NH imports ~~27~~ 30% of the waste from out of state - Real problem  
Nationwide average is 32%  
18-20% percent rate in NH

NH produces 70% more solid waste than any other state in the US

We should visit 149: M

Mr. Farrell - hospitality business supports Bethlehem is undersize

Seth Goldstein - resident of Bethlehem  
616-1600

( )

( )

( )





**CHAPTER 149-M  
SOLID WASTE MANAGEMENT**

....

**149-M:9 Permit Required. –**

I. No person shall construct, operate, or initiate closure of a public or private facility without first obtaining a permit from the department. However, no permit shall be required for hauling or storing manure, if used as fertilizer.

II. It shall be unlawful to transport solid waste to, or to dispose of solid waste at, any facility other than an approved facility.

III. Applications for permits shall be upon such forms and shall include such information as the department requires by rules adopted under RSA 149-M:7. The application information shall include, but not be limited to, a performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the applicant. Whenever requested by the department, the attorney general shall conduct a background investigation of the performance history and criminal record of the applicant and of its officers and directors, if any, and make a report to the department. The cost of any investigation under this paragraph shall be borne by the applicant. The applicant shall also demonstrate that the proposed facility provides a substantial public benefit pursuant to RSA 149-M:11.

IV. Each facility seeking a permit shall submit evidence that the facility includes separate provisions for the collection, reclamation, and disposal of motor vehicle waste.

V. As a condition for any permit, the department may require payment of a reasonable fee, set by rules adopted under RSA 149-M:7. Such funds shall be used by the department for the purposes of this chapter.

VI. No person shall operate a public or private facility who is not certified by the department.

VII. The issuance of a facility permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter. Local land use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be conclusive.

VIII. The department shall act upon each permit application within a reasonable period of time. Prior to such action, the department shall provide notice of the application by publication in at least one newspaper of general circulation in the community and an opportunity for hearing to interested persons. The applicant shall notify abutters of the public hearing in writing by certified mail, return receipt requested. The requirement of public notice and hearing shall apply at the discretion of the department to facilities or activities that will have an insignificant effect on environmental quality as defined by rule under RSA 149-M:7.

IX. The department may deny a permit application under this section to a person if any of the following applies:

- (a) The person fails to demonstrate sufficient reliability, expertise, integrity, and competence to operate a solid waste facility.
- (b) The person has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the permit application.
- (c) In the case of a corporation or business entity, if any of its officers, directors, partners, key employees or persons or business entities holding 10 percent or more of its equity or debt liability has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the permit application.

X. The department shall not issue a permit for a solid waste facility unless the facility meets the terms and conditions required in rules adopted by the commissioner. These terms and conditions include, but are not limited to, monitoring, contingency plans, closure, and evidence of financial responsibility in the amount set by the department after consultation with the commissioner of insurance. This amount shall be whatever is necessary to:

- (a) Protect the public health and welfare and the environment; and
- (b) Insure that appropriate measures will be taken to prevent present and future damage to the public health and safety or to the environment, in the event that the operations at the facility are abandoned, interrupted, or stopped.

XI. All permits shall be continuous in duration, but may be suspended or revoked for cause as provided in this chapter.

XII. No permit issued by the department under this section shall be transferred by the permittee to any other person without the prior written approval of the department. The following shall apply:

- (a) Applications for the transfer of permits shall be filed by the person to whom such permit is to be transferred

## Statutes For Use With HB 1429

upon such forms and shall include such information as the department requires by rules adopted under RSA 149-M:7. The application information shall include, but not be limited to, a performance history of the applicant and of its officers and directors relative to the operation, financial security, and ownership of all facilities owned or operated by the applicant. Whenever requested by the department, the attorney general shall conduct a background investigation of the performance history and criminal record of the applicant and of its officers and directors, if any, and make a report to the department. The applicant shall also submit a statement that the proposed facility is consistent with the provisions of a district plan. The cost of any investigation under this paragraph shall be borne by the applicant.

(b) The applicant shall notify abutters of any application to transfer a permit under this section. The department shall receive written comments from abutters on such application for the period of 30 days following notification of the filing of the application. The department, at the discretion of the commissioner, shall hold a public hearing no later than 30 days prior to making any final decision on an application to transfer a permit under this section. Notice of such public hearing shall be published in a newspaper of local circulation within the region of the public or private solid waste facility at least 2 weeks prior to such public hearing.

XIII. (a) No permit issued by the department to a town with a population of 5,000 persons or fewer shall require the town to clean up an inactive, municipally-owned, unlined landfill (inactive facility) if the town:

(1) Monitors the inactive facility in accordance with requirements established in RSA 485-C and RSA 149-M and rules adopted by the department.

(2) Continues to show, through monitoring devices, that the inactive facility is having no adverse impact, as defined in rules adopted by the department, on the environment.

(3) Has obtained approval of a closure plan from the department by January 30 of the calendar year in which the facility is scheduled to close by the department.

(b) A town which complies with the requirements of subparagraph (a) shall not lose grant funding for which the town is eligible under this chapter.

(c) This paragraph shall not apply to those facilities governed under the terms of 40 C.F.R. part 258.

XIV. Notwithstanding any provision of law or rule to the contrary, the department shall not certify as a waste-derived product the wood component of construction and demolition debris, or any mixture of or derivation therefrom, to be combusted in any manner, except that methane gas collected from the decomposition of waste at a facility authorized pursuant to this chapter as a landfill for the disposal of solid waste may be certified as a waste-derived product for distribution and use as a fuel, provided that it meets market fuel standards.

Source. 1996, 251:2; 251:28; 261:10. 2003, 108:1, eff. Aug. 5, 2003. 2007, 127:4, eff. June 12, 2007.

.... (RSA 149-M:10 omitted)

### **149-M:11 Public Benefit Requirement. –**

I. The general court finds and declares as follows:

(a) It is responsible to provide for the solid waste management need of the state and its citizens.

(b) In order to provide for these needs, it must ensure that adequate capacity exists within the state to accommodate the solid waste generated within the borders of the state.

(c) Facilities necessary to meet state solid waste capacity needs must be designed and operated in a manner which will protect the public health and the state's natural environment.

(d) An integrated system of solid waste management requires a variety of types of facilities designed to accommodate the entire solid waste stream, including materials which can be recycled, recovered or reused, materials which can be composted, and residual materials which must be disposed of permanently.

(e) The enactment of statutes to address the needs identified in this section is an exercise of the police power granted to the general court under part II, article 5 of the New Hampshire Constitution.

II. The general court declares that it is the purpose of this chapter to ensure benefit to the citizens of New Hampshire by providing for solid waste management options which will meet the capacity needs of the state while minimizing adverse environmental, public health and long-term economic impacts.

III. The department shall determine whether a proposed solid waste facility provides a substantial public 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, which capacity need shall be identified as provided in paragraph V.

(b) The ability of the proposed facility to assist the state in achieving the implementation of the hierarchy and goals under RSA 149-M:2 and RSA 149-M:3.

## Statutes For Use With HB 1429

(c) The ability of the proposed facility to assist in achieving the goals of the state solid waste management plan, and one or more solid waste management plans submitted to and approved by the department under RSA 149-M:24 and RSA 149-M:25.

IV. The department shall also consider as part of its public benefit determination:

(a) The concerns of the citizens and governing bodies of the host municipality, county, and district and other affected persons. For any proposed solid waste facility, including transfer stations, designed to accommodate in excess of 30 tons of solid waste per day, the department shall hold at least one public hearing in the host municipality, or in the case of an unincorporated town or unorganized place in the host county, in order to take testimony to identify those concerns.

(b) The economic viability of the proposed facility, including but not limited to, its ability to secure financing.

V. In order to determine the state's solid waste capacity need, the department shall:

(a) Project, as necessary, the amount of solid waste which will be generated within the borders of New Hampshire for a 20-year planning period. In making these projections the department shall assume that all unlined landfill capacity within the state is no longer available to receive solid waste.

(b) Identify the types of solid waste which can be managed according to each of the methods listed under RSA 149-M:3 and determine which such types will be received by the proposed facility.

(c) Identify, according to type of solid waste received, all permitted facilities operating in the state on the date a determination is made under this section.

(d) Identify any shortfall in the capacity of existing facilities to accommodate the type of solid waste to be received at the proposed facility for 20 years from the date a determination is made under this section. If such a shortfall is identified, a capacity need for the proposed type of facility shall be deemed to exist to the extent that the proposed facility satisfies that need.

VI. All applicants under this chapter shall provide any information requested by the department. If an applicant declares that any information requested under this section should be considered exempt under RSA 91-A:5, IV, the attorney general shall determine the reasonableness of such declaration and, if the attorney general agrees, shall direct the department to treat it as confidential information which shall be considered exempt under RSA 91-A:5, IV.

VII. Any proposed solid waste facility to be owned and controlled by a solid waste district, or a member municipality on behalf of its solid waste district, shall be deemed to fulfill the requirements of subparagraph III(a), provided that it is built within the district and shall serve only the capacity needs of that district. Any permit issued for a facility which fulfills the public benefit requirement by relying on this paragraph shall state that the facility is limited to receiving solid waste generated within that district.

VIII. Each applicant for a solid waste permit under this chapter shall have the burden of demonstrating that a proposed solid waste facility provides a public benefit by showing how the proposed facility satisfies the criteria listed under paragraph III. Such demonstration shall be included as part of each application for a solid waste permit.

IX. If the department determines that an applicant has failed to demonstrate that it satisfies the criteria listed under paragraph III, it shall notify the applicant in writing that its application has been denied, and provide a written explanation of the reasons for that determination.

X. If the department determines that an applicant has demonstrated that it satisfies the criteria listed under paragraph III, it shall state that determination in any permit issued.

XI. Facilities permitted under this chapter shall be operated so as to provide a substantial public benefit consistent with the information submitted as part of the application concerning how the facility accommodates New Hampshire capacity needs. If a permittee cannot demonstrate consistency with information submitted in its permit application, and where it no longer meets needs identified in the state solid waste management plan and one or more solid waste management plans submitted to and approved by the department under RSA 149-M:25 due to circumstances beyond its control, as determined by the commissioner and the attorney general, the department shall not enforce this paragraph based solely upon such inconsistency.

Source. 1996, 251:2, eff. Aug. 9, 1996; 251:28, eff. Aug. 9, 1996 at 12:01 a.m.





# Town of Bethlehem

COPY

2155 MAIN STREET • POST OFFICE BOX 189 • BETHLEHEM, NEW HAMPSHIRE 03574  
603-869-3351/ 869-2042 fax 603/869-2280 email tobeth@adelphia.net

Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 N. State Street  
Concord, NH 03301

January 4, 2008

Dear Chairman Phinizy,

The Bethlehem Board of Selectmen writes to express the Town's support of HB 1429, sponsored by Representatives Martha McLeod of Grafton County and Frank Tupper of Merrimack County. We believe this bill is in the best interest of our Town and of the State as a whole, and we urge your Committee to act favorably on it.

Bethlehem is host to the North Country Environmental Service landfill (NCES), which is owned and operated by Casella Waste Systems, Inc., a Delaware-based private solid waste disposal corporation. The NCES landfill is of great concern to the citizens of Bethlehem for a number of reasons:

- It is within three miles of the village district where the elementary school and the majority of businesses and residences are located and is less than a quarter of a mile from other homes.
- What began as a four acre, locally-owned solid waste facility has grown, unchecked, into the third largest landfill in the state.
- The site is now a visible mountain of waste sitting at the edge of the White Mountain National Forest where it can be viewed alongside the Presidential Mountain range—the very heart of our area's many tourist and recreational attractions.
- The landfill is also visible from Presidential Trail National Scenic By-way Route on 302 which runs right through Bethlehem.
- Most of the waste that comprises the 2.7 million ton landfill is from out-of-state.

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~~We support HB 1429 because it recognizes the burden small towns must bear when they are forced to host facilities such as the NCES landfill. Bethlehem is a small community of approximately 2,500 people, while NCES is an out-of-state, multi-million dollar corporation. Since 2000, we have been burdened with bills exceeding \$1.1M to defend our zoning ordinances and tax rates, while NCES has received an 85% tax exemption from the State and has paid the equivalent of only \$6,700 per year in taxes over the last ten years. This tax exemption has prevented us from making necessary capital improvements, including repairs to our roads, fire station, swimming pool and other recreational facilities.~~

HB 1429 also offers valuable protections for the natural resources which our Town and our region depend on to attract tourists. Tourism is a critical factor in the economic stability of North Country businesses, which includes large facilities such as the Mt. Washington Hotel, The Mountain View Grand Hotel, Bretton Woods Ski Resort, Loon Mountain Ski Resort and the Cannon Mountain Ski area, as well as hundreds of small local inns, motels, outdoor sports facilities and restaurants. The moratorium on new permits as proposed by HB 1429 would not adversely affect the State's current capacity needs; rather, it would give the State time to improve its ability to properly manage our solid waste disposal needs-- without sacrificing the health and beauty of our natural resources and the livelihood of North Country residents.





We also support HB 1429 because it requires large-scale expansion projects to be treated as new facilities. This means an in-depth analysis of the State's current capacity needs and the public benefit. For far too long, permits for the modification and expansion of existing facilities, such as the NCES landfill in Bethlehem, have been granted without proper examination of the need.

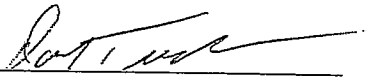
The Division of Waste Management's 2006 Report to the Legislature showed that thirty percent of the waste currently landfilled in New Hampshire is from out-of-state. Much of this out-of-state waste ends up in Bethlehem. Despite a mandate for a 40% state recycling rate by the year 2000, New Hampshire's current rate is only about 18%. A moratorium on all permits, as proposed in HB 1429, would give the State the opportunity to thoughtfully examine how our current landfilling practices contribute to our poor recycling rate. This would not only benefit the citizens of Bethlehem and the North Country region as a whole, but the entire state. Additionally, a moratorium would allow the State to develop sensible solutions for our solid waste disposal needs that will protect our valuable natural resources, the well-being of our economy, and the citizens that depend on both for their health and livelihood.

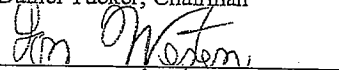
Thank you for your consideration.

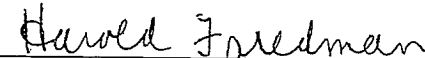
On behalf of the voters of Bethlehem,

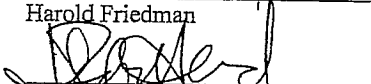
Very truly yours,

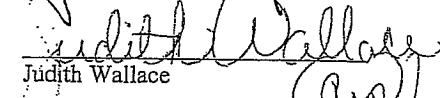
The Bethlehem Board of Selectmen

  
\_\_\_\_\_  
Daniel Tucker, Chairman

  
\_\_\_\_\_  
Lon Weston, Vice Chairman

  
\_\_\_\_\_  
Harold Friedman

  
\_\_\_\_\_  
Jeanne Robillard

  
\_\_\_\_\_  
Judith Wallace  
(CS)



**Chairman Jay Phinizy**  
**House Environment and Agriculture Committee**  
**January 6, 2008**

For the record, my name is Martha McLeod. I represent Grafton District 2, the Towns of Bethlehem and Franconia. I am here today to introduce House Bill 1429-relative to private landfills. This bill has been introduced on behalf of the citizens of Bethlehem.

**What we would like to accomplish with this legislation**

To be clear, the Town of Bethlehem is asking that the legislature enact a moratorium on landfill permitting until recommendations and clear direction can be given to the Department of Environmental Services (DES) about the permitting process. We are asking that this moratorium be enacted as soon as possible to ensure that more harm is not done to this community by a current modification application that was submitted to DES in December, after this legislation was filed. We do not want another small community to endure what the people of Bethlehem have endured over the last 20 years.

**As introduced, HB1429 would**

- *Allow municipalities to regulate the height of private landfills through local ordinances.* Some communities in non-mountainous regions of our state may appreciate or welcome the placement of hills on their horizon but Bethlehem lies in the heart of the White Mountains and relies on this for their tourist economy. The landfill can be seen from Mt Washington, Cannon Mt Tramway and the surrounding hills. It sits down in a valley and people look out their windows and have to look past this site to the White Mountains beyond. Bethlehem's economy is pretty much about tourism and a bigger mountain of trash is not conducive to their livelihood and puts it at risk. We believe communities should have some input into this aspect of permitting.
- *Require landfills making material, or significant modifications to existing landfills to apply for a new permit, which would require a more thorough evaluation of a proposed project.* An example of why this is important is Casella Waste Systems attempt to modify their permit to accept more waste. Rather than build the landfill out-which the courts have said they cannot do-the operators want to build the landfill up. Their plans call for building berms around the perimeter of the landfill so that trash can be piled even higher in a much larger area of the landfill. The Town has serious concerns about the stability of the berms, the catastrophic affect on the community should they fail and feel that this redesign of the landfill should go through a new permitting process to ensure their concerns are properly reviewed.
- *Require the Department of Environmental Services to consider the ability of a host municipality to manage the risks associated with a proposed landfill during the permitting process.* The idea is to prevent a small town from being overwhelmed by circumstances imposed on it such as has happened in Bethlehem. This really goes to the heart of the Department's mission to sustain a high quality of life for all citizens by protecting and restoring the environment and public health in New Hampshire. It

is clear to me that 149-M does not ensure this equal protection for all communities in our state. A high-risk business like the private, for-profit landfill in Bethlehem should never have been sited in a poor rural community that lacks the resources or capacity to monitor and provide oversight to ensure the protection of the health of their citizens and to preserve the natural environment. A community that has no town manager or administrator should never be considered for a facility or Corporation that requires constant monitoring; the legal costs alone required by a community to keep a for-profit company like this in line is a huge burden to a small rural community and tips the balance in favor of the high-risk profit making corporation. The purpose of this language is to ensure another small poor town is not put in the same position as Bethlehem and that DES is true to its mission to ensure the health of its citizens.

- *Establish a moratorium on the permitting of landfills until the Statutory Committee to Study Requirements for Safe and Secure Landfills files its interim report and while the issues of the permitting process; safety; the current recycling rate in the state; the process for siting landfills; and the amount of out-of-state garbage brought into the state can be examined.*

### **The History**

I will provide the committee a letter the Select Board of Bethlehem sent me that describes their position on the private landfill in their community. They talk about the nearly 20 years of struggle to work with state decision makers regarding the landfill and the lack of support, regard and response from the Department of Environmental Services.

Bethlehem is a small town of less than 2,500 people. This small town in the poorest region of our state has had to bear the burden of taking in 140,000 tons of trash annually, much of this imported from outside the region and outside our state; bear the burden of enforcing local land use regulations and bear the burden of the almost constant litigation costs from the operator (Casella, aka North Country Environmental Services or NCES) of this private landfill as they have tried to force their ways on this little town. All of this without any significant compensation from the private operator who successfully requested and received an exemption from DES of 85% of their property taxes. In fact, Casella paid a mere \$67,000 in taxes over a 10 year period from 1998-2007 while the burden to the taxpayers in Bethlehem last year alone was \$220,000 for litigation costs.

Bethlehem voters have been to the polls eighteen times regarding expansion of and/or settlement costs with Casella/NCES. Expansion of the landfill has been defeated at every vote. The people have spoken and clearly they do not want an expansion of the landfill. Yet, the operator continues to have their way with the town. The people of Bethlehem have done their fair share of supporting the state's need for a place to put their solid waste.

### **The Interests**

In preparation for this hearing I have spoken to and communicated with many different interests. Today you will hear directly from a representative of the Bethlehem Select Board supporting this bill and about their concerns with the current situation; from the town lobbyist about the failure of public policy; from local businesses that are concerned

about the effect of a landfill expansion on tourism and recreation; from the conservation commission with concerns about the environment and safety issues at the landfill including past hazards buried at the dump, concerns about the aquifer and volatile organic compounds; and you will hear about the state's failure to implement a sustainable recycling program and the amount of solid waste that is brought into the state and the impact on the need for more capacity which drives the need to expand landfills.

I don't believe you will hear any opposition from Waste Management, the operator of the private landfill in Rochester NH, to a yearlong moratorium. There are representatives of some municipal or regional landfills here today and they would like to see clarification of the language so that it not include municipal or regional landfills. I have not talked to Casella so I don't know what their position is on this bill but I suspect they would not support it. The Department of Environmental Services will tell you that they are comfortable with the current policy and regulations on landfills and do not feel the changes suggested here are necessary. Frankly, our policies have put DES in the position where they are both charged with developing capacity for solid waste in the state and permitting and regulating landfills-I believe these two duties create a conflict for the agency.

#### **In Summary**

I encourage the committee to consider amending the language to make the moratorium section the primary purpose of the bill and include the other sections addressed in the bill (local input to height, permitting process and rules, and capacity of host community) as the charge to the statutory committee on landfills.

I also ask the committee to amend the effective date of the bill to take effect upon passage because in the case of Bethlehem the need for action is imminent. As mentioned, the operator of the Bethlehem landfill submitted an application to DES for a permit modification in December to expand the facility. A one-year moratorium would allow a more careful examination of this proposal and ensure that the policies protect all of our communities equally.

House Bill 1429 is an important step towards improving the way in which New Hampshire handles its solid waste by ensuring we take the year to review the issues mentioned above.

We can't legislate good neighbors or good corporations but we can make sure that our policies protect the people of our state.

Thank you for time and interest today. I would be interested in being notified about any subcommittee or work sessions on this bill.

Martha McLeod  
Grafton District 2





# Town of Bethlehem

2155 MAIN STREET • POST OFFICE BOX 189 • BETHLEHEM, NEW HAMPSHIRE 03574  
603-869-3351/ 869-2042 fax 603/869-2280 email tobeth@adelphia.net

November 29, 2007

Representative Martha McLeod  
Franconia, NH 03580

Dear Representative McLeod:

The North Country Environmental Service landfill (NCES), owned and operated by Casella Waste Systems, Inc., is of great concern to the citizens of Bethlehem. The landfill is within three miles of the village district where the elementary school and the majority of businesses and residences are located. It is less than a quarter of a mile from other homes. The Bethlehem Board of Selectmen writes to clarify for you the town's official position relative to issues regarding the landfill.

The Town of Bethlehem has suffered for nearly 20 years from a lack of meaningful access to state decision makers regarding the landfill. This includes the permitting process as well as the resolution of past operational violations. These issues have been handled by state agencies with little regard for the detrimental consequences NCES' actions and operation have on the town and our tourist based economy. We are a small community of approximately 2,500 people. The lack of access to state decision makers has forced the town to bear not only the burden of 140,000 tons of waste annually, much of it imported from outside our region and some from outside our state, but also a staggering amount of legal expenses. Last year, taxpayers in Bethlehem shouldered the burden of \$220,000 dollars budgeted for litigation costs. This is litigation that has been instigated by Casella Waste Systems in order to sidestep the town's land use boards. NCES has received up to an 85% state determined exemption on its tax bill, allowing Casella Waste Systems to contribute very little to the town in terms of taxes. To be exact, NCES has only paid \$67,500 in taxes over a ten year period from 1998- 2007. In turn, The Town has been forced to shoulder more than its fair share of the burden of an inherently undesirable land use. What began as a 14 -acre, locally owned, regionally based solid waste facility has grown unchecked into the second or third largest landfill in the state. Without local approval, the facility has grown into a 51-acre site. It is the Town's position, through its zoning ordinance, that the 51-acre site should not expand any further.

By the very nature of our office as elected officials, the Bethlehem Board of Selectmen are charged with carrying out the wishes of the residents of Bethlehem, as expressed through their vote. Bethlehem voters have been to the polls on eighteen separate occasions regarding expansion of and/or settlement with the NCES landfill. Expansion of the landfill has been defeated at every vote. The most recent vote, concerning four petitioned warrant articles that would allow the landfill to expand beyond the Court upheld 51 acre limit, was in June of 2006. The warrant articles themselves were crafted by Casella Waste System's attorney, Bryan Gould, and presented to the town by a small contingent of citizens under the name of The Legal Voters of Bethlehem. The articles were defeated by a supermajority of Bethlehem voters.



Clearly, the people of Bethlehem do not want an expansion of the landfill—at any price or under any circumstances. The NCES landfill is scheduled to close once they have filled their permitted 51 acres. This is what the people of Bethlehem want: closure. We have done our fair share of providing for the state's waste. There are other more suitable locations and options available to the state to meet its statutory obligation for capacity needs. The municipally owned and operated Androscoggin Valley Regional Refuse Disposal District is one such option. They have expressed the ability and willingness to dispose of the waste from Bethlehem and all the towns that comprise the Pemi-Baker Solid Waste District at the Mt. Carberry landfill in Success Township—a community without residential neighborhoods, and one that does not abut the White Mountain National Forest.

The most pressing issue currently facing the town is that Casella Waste Systems is attempting to modify a 2003 DES granted standard permit for a section of the landfill called "Stage IV." The majority of Stage IV lies outside the 51 acre limit. In March, Casella submitted a design to DES that extended beyond the 51-acre limit. DES requested that Casella provide proof that it is legally entitled to use the area beyond the 51 acres. They did not provide that proof; instead, they have withdrawn that design. Casella now plans on submitting a design within the 51 acres that would allow them to utilize the capacity granted to them by DES within the standard permit of 2003. The new design includes plans to build berms in excess of 35-40 feet high. These berms would allow Casella to pile more waste on top of previously capped cells. The landfill is already visible over the treetops from the national scenic byway of Route 302 which runs right through Bethlehem.

Furthermore, after a technical review by the town's engineer, Mr. Thomas Roy, we have serious concerns regarding the stability of such berms. Should this landfill fail, the consequences would be devastating to the town. This design has also been submitted to DES as a Type 1B modification and Type II modification to the original Standard Permit #03002 of 2003. It is the town's contention that this is not a permit modification: this is an entirely new design, in a new location. As such, it should be evaluated as a new facility under a new Standard Solid Waste Facility Permit, which includes a review of the public benefit and current state capacity needs. Both the public benefit and the state capacity needs, as reviewed in the 2003 permit, are no longer germane to the NCES landfill.

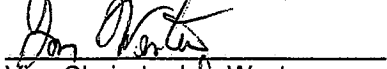
The Bethlehem Board of Selectmen hopes this clarifies for you the town's official position regarding the NCES landfill. Please feel free to contact us if you have any further questions.

On behalf of the voters of Bethlehem, thank you for your time and interest concerning this issue.

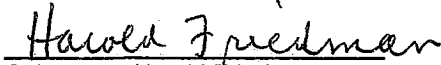
Sincerely yours,

The Bethlehem Board of Selectmen

  
Chairman Daniel Tucker

  
Vice Chairman Lon Weston

  
Selectman Jeanne Robillard

  
Selectman Harold Friedman



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

January 10, 2008

Representative James Phinizy, Chairman  
Environment and Agriculture Committee  
Legislative Office Building, Room 303  
Concord, NH 03301

**SUBJECT: HB 1429 - Relative to private landfills**

Dear Chairman Phinizy and Members of the Committee:

Thank you for the opportunity to provide testimony about House Bill 1429. This legislation allows municipalities to regulate the height of landfills; requires existing landfills to meet the requirement for obtaining a new facility permit when proposing material modifications; requires the Department of Environmental Services (Department) to consider the ability of host municipalities to manage the risks associated with a proposed landfill; and establishes a moratorium on the permitting of landfills. The Department has significant concerns with the provisions of this bill as currently drafted.

The purpose of the New Hampshire Solid Waste Management Act, RSA 149-M, is "... to protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste." It grants to the Department the responsibility and authority for administration and enforcement of the law, regulation of solid waste facilities through a permit system, and statewide solid waste planning. A review of the legislative and legal history of RSA 149-M reveals that it provides for broad state law preemption of local authority in the majority of matters pertaining to regulation of solid waste facilities. The Department believes that the legislature has correctly constructed this regulatory framework to ensure that the citizens of New Hampshire are provided with a safe and effective solid waste management program. The Department does not believe that any changes to this regulatory framework are necessary or warranted at this time.

The Department does recognize that hosting a commercial solid waste facility can pose potential burdens on the host community, particularly if that community is a small town. In some cases, commercial facilities enter into agreements with host communities to provide assistance, both financial and otherwise, to ease those potential burdens. In other cases, such mutual agreements cannot be reached between the facility owner and the host community. We would encourage the legislature to explore ways in which those potential burdens could be addressed with respect to communities that have not entered

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-2908 • Fax: (603) 271-2181 • TDD Access: Relay NH 1-800-735-2964



HB 1429  
January 10, 2008  
Page 2

into a host agreement. The Department believes that this issue warrants further study. We would be pleased to participate in the discussion, and to provide any assistance that we can toward addressing this important matter.

In summary, the Department has significant concerns about HB 1429 as currently drafted, and, as outlined above, would be pleased to participate in further study. If you have any questions regarding this letter of testimony, please do not hesitate to call me or Mike Wimsatt, Waste Management Division Director, at 271-2905.

Sincerely,



Thomas Burack  
Commissioner

cc: Bill Sponsors  
Michael Wimsatt, P.G., Director, Waste Management Division  
Michael Guilfooy, P.E., Waste Management Division



January 4, 2008

Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 N. State Street  
Concord, NH 03301

Dear Rep. James Phinizy,

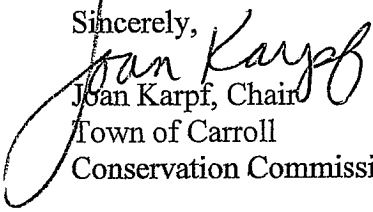
The Town of Carroll Conservation Commission is writing in support of House Bill 1429.

As a tourist town abutting a town with a growing landfill, we have concerns about the negative impact landfills will have on our environment and economy. The population of NH continues to grow as does the related problem of handling solid waste disposal. A state wide plan should be developed to increase recycling, reduce or eliminate the acceptance of out of state garbage, reevaluate the growth of old landfills and their negative environmental impacts, protect our aquifers, better locate new landfills and/or establish better methods of eliminating solid waste.

House Bill 1429 will give the State the legal steps and time it needs to better evaluate its solid waste removal program. The North Country relies heavily on the natural beauty of the area for its tourist economy. Poorly located, planned and designed solid waste landfills can have a devastating effect for years to come. We believe House Bill 1429 will help prevent that from happening and encourage its support.

Please feel free to share this correspondence with other members of the committee.

Sincerely,

  
Joan Karpf, Chair  
Town of Carroll  
Conservation Commission





Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 State St.  
Concord, NH 03301

Dear Representative Phinizy,

I would like to express my strong support for House Bill 1429. It is high time that our state agencies serve the interests of the ordinary men and women in our state, especially when we so desperately need a voice in the face of powerful corporate opposition. The people of Bethlehem have had their will consistently undermined by the state for a number of years, and now it's time for the trend to stop.

Bethlehem's main asset consists of the beauty, the air and the water, of our surroundings. You must see to it that these are preserved, literally at all costs. Without them, we have nothing.

I would appreciate it if you would share my letter with members of your committee.

Respectfully yours,



Leslie Dreier  
1688 Cherry Valley Rd.  
Bethlehem, NH 03574



Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 State St.  
Concord, NH 03301

*Received  
1/22/08*

January 14, 2008

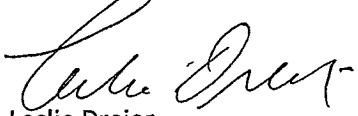
Dear Representative Phinizy,

RE:House Bill 1429

I would like to speak as a shareholder of Casella to offer unequivocal support for 1429. This may sound contradictory from one who stands to benefit from potential company profits, but I don't think that Casella's practices are always in the best interests of its shareholders, let alone the people of New Hampshire. The company's arrogant, antagonistic stance against host towns is a very poor business practice. What I would like to see is a return on my investment instead of the current dead-end policy that alienates those who should be the company's partners, and recklessly exposes large amounts of corporate funds to legal fees and fines. (It's a miracle, from what I can tell, that Casella has never been irredeemably crippled by fines.)

The state does no one any favors by looking the other way as companies like this work against both public interest and their own. Nor can the state pretend that an intentional blind eye is somehow keeping government out of private enterprise. That is utter hypocrisy.

Respectfully yours,

  
Leslie Dreier  
1688 Cherry Valley Rd.  
Bethlehem, NH 03574



# Town of Bethlehem

2155 MAIN STREET • POST OFFICE BOX 189 • BETHLEHEM, NEW HAMPSHIRE 03574  
603-869-3351/ 869-2042 fax 603/869-2280 email tobeth@adelphia.net

January 11, 2007

Mr. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Legislative Office building, Room 303  
22 North State Street  
Concord, NH 03301

Dear Chairman Phinizy,

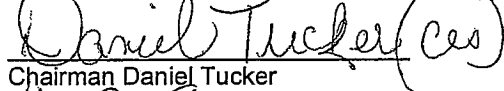
On behalf of the citizens of Bethlehem, thank you so much for the opportunity to present testimony before the Agriculture and Environmental Committee in favor of HB1429. The Select Board is very pleased that the committee wishes to tour Bethlehem and we look forward to hosting your visit and organizing the day to best meet the committee's needs and goals.

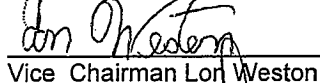
The Selectmen would like to provide lunch arrangements for you at a local restaurant as well as give committee members time to walk through our downtown business district and tour some of the town's municipal facilities. It is also our understanding that the committee would like to tour the landfill itself and the views from surrounding properties. Please advise us if the committee would like the opportunity to speak with members of the community and property owners.

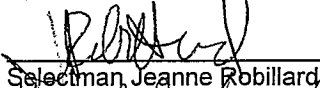
Please let us know possible dates for your visit so that we may begin making arrangements as soon as possible. Again, we are very excited that the committee wishes to come to Bethlehem and we look forward to your visit.

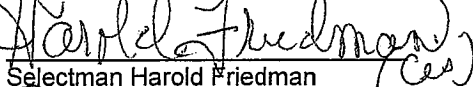
Very truly yours,

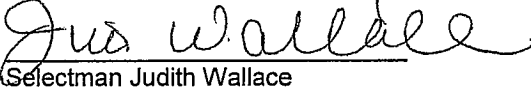
The Bethlehem Board of Selectmen:

  
Chairman Daniel Tucker

  
Vice Chairman Lor Weston

  
Selectman Jeanne Robillard

  
Selectman Harold Friedman

  
Selectman Judith Wallace





**Main Identity**

---

**From:** "Lon" <shermaninn@yahoo.com>  
**To:** "Cheryl" <tobeth@adelphia.net>  
**Cc:** "Jeanne R." <hoopla624@yahoo.com>  
**Sent:** Tuesday, January 15, 2008 9:57 AM  
**Subject:** ENVIRONMENT AND AGRICULTURE

Here is a committee contact list Jeanne asked me to send to you, thanks.

New Hampshire House of Representatives

**ENVIRONMENT AND AGRICULTURE Committee Mailing List**

*cc/ to following:*

James G. Phinzy  
PO Box 175  
Acworth, NH 03601-0175  
Phone: N/A  
email: N/A

David E. Essex  
12 N Main Street  
Antrim, NH 03440-3504  
Phone: (603)588-3038  
email: david.essex@leg.state.nh.us

Derek Owen  
580 Brockway Road  
Hopkinton, NH 03229-2012  
Phone: (603)-2252252  
email: owen31@juno.com

Peter H. Allen  
25 Seaver Road  
Harrisville, NH 03450-5538  
Phone: (603)827-5530  
email: N/A

Jane E. Beaulieu  
609 South Main St  
Manchester, NH 03102-5134  
Phone: (603)626-1260  
email: jane.beaulieu@leg.state.nh.us

James F. Powers  
3 Curriers Cove  
Portsmouth, NH 03801-5565  
Phone: (603)436-7896





email: jimandeva@comcast.net

Virginia L. Heard  
PO Box 151  
Center Sandwich, NH 03227-0151  
Phone: (603)284-6223  
email: vlheard@worldpath.net

Linda J. McCarthy  
25 Damren Road  
Derry, NH 03038-5609  
Phone: (603)216-5727  
email: linda.mccarthy@leg.state.nh.us

Tara A. Sad  
PO Box 909  
Walpole, NH 03608-0909  
Phone: (603)756-4861  
email: plginc@verizon.net

Richard H. Snow  
PO Box 37  
East Candia, NH 03040-0037  
Phone: (603)483-2722  
email: richard.snow@leg.state.nh.us

Leigh A. Webb  
PO Box 154  
Franklin, NH 03235-0154  
Phone: (603)934-8222  
email: leigh.webb@leg.state.nh.us

Deborah H. Wheeler  
38 Bay Street  
Northfield, NH 03276-1603  
Phone: (603)286-8212  
email: deborah.wheeler@leg.state.nh.us

Timothy D. O'Connell  
483 Federal Hill Rd  
Milford, NH 03055-3603  
Phone: (603)673-2963  
email: tocnoc@comcast.net

Irene M. Messier  
40 New Gate Circle  
Manchester, NH 03102-5147  
Phone: (603)622-9146  
email: N/A



Burton W. Williams  
222 Cardigan Mtn Rd  
Bristol, NH 03222-4701  
Phone: (603)744-8797  
email: N/A

J. David Knox  
PO Box 102  
Wolfeboro, NH 03894-0102  
Phone: (603)569-2530  
email: jdknox@worldpath.net

William B. Tobin  
457 Knox Mt Rd  
Sanbornton, NH 03269-2105  
Phone: (603)934-5946  
email: waterlm@together.net

Vernon W. Dingman III.  
440 Dartmouth College Hwy  
Haverhill, NH 03765-5108  
Phone: (603)989-5930  
email: v.dingman@worldnet.att.net

Robert H. Haefner  
1 St. John Street  
Hudson, NH 03051-3733  
Phone: (603)889-1553  
email: bobhaefnerjp@comcast.net

---

No virus found in this incoming message.

Checked by AVG Free Edition.

Version: 7.5.516 / Virus Database: 269.19.2/1224 - Release Date: 1/14/2008 5:39 PM



January 8  
2008

Please Put  
in file

Dear Mr Phinizy,

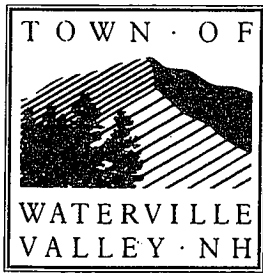
As a long time member of  
the Jefferson Conservation Commission,  
I am joining with the Bethlehem C.C.  
to support House Bill 1429 -

Such a bill being passed  
would encourage long term planning  
for our solid waste disposal  
rather than handling each  
situation as it comes along. The  
proposed Casella Waste Systems  
plan for expansion illustrates a  
disregard for the short and long  
term implications -

I hope very much you and  
your colleagues will support this  
bill - It certainly is a step in  
the right direction -

Sincerely, Wmfred S. Wain





January 18, 2008

*put in file  
1/24*

Committee on the Environment and Agriculture  
c/o Rep. James Phinizy, Chair  
Room 303  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

RE: Opposition to H.B. 1429

Dear Rep. Phinizy:

My name is Timothy Kingston and I am a 25+ year member of the Pemi-Baker Solid Waste District, representing the Town of Waterville Valley, NH. I am also the Municipal Services Director for Waterville Valley where one of my responsibilities is the collection and disposal of the town's solid waste.

The town and district have been using North Country Environmental Services, Bethlehem Landfill, for many, many years for disposing of garbage and construction debris. It has been beneficial for Waterville Valley and all of the Pemi-Baker Solid Waste District members. The contracts we have negotiated over a 20+ year period have been very fair and competitive; their hauling service for C&D has always been fast and professional. North Country Environmental Services has made my job easier for planning and day to day operations and I would hate to see them shut down prematurely. They have even provided an emergency trash pickup service for us when our own trash truck was out of service.

House Bill 1429 is a bad bill that has an appearance to be targeted to the landfill in Bethlehem. If this landfill closed before its designed capacity was reached it would be a disservice to all those that use it and are benefited by it. Most everyone's trash hauling budgets would go up substantially, causing a financial burden on its citizens. Also the state has limited permitted disposal sites as it is and finding alternative disposal sites may prove difficult.

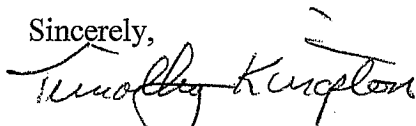
Post Office Box 500  
Waterville Valley  
New Hampshire 03215  
(603) 236-4730





Please vote no and kill this bill and continue to let NH DES regulate and monitor landfills.

Sincerely,

A handwritten signature in cursive script that reads "Timothy Kingston". The signature is written in black ink and is positioned above the printed name.

Timothy Kingston  
Director of Municipal Services  
Town of Waterville Valley, NH



HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HB 1429

BILL TITLE: relative to private landfills.

DATE: January 29, 2008

LOB ROOM: 307

Time Public Hearing Called to Order: 1:00 p.m.

Time Adjourned:

(please circle if present)

Committee Members: Reps. Phinizy, Essex, Owen, P. Allen, Beaulieu, Powers, Heard, McCarthy, Sad, Snow, Webb, Wheeler, O'Connell, Messier, B. Williams, Knox, Tebim, Dingman, and Haefner.

Bill Sponsors: Rep. McLeod, Graf 2; Rep. Tupper, Merr 6

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.



①

HB 1429

2/29/08

1:00

Rep Beverly Zoderchin  
Read Letter from

opposes the bill

Letters submitted from  
opposes Town of Carroll Board of Selectmen  
supports Environmental Action of Northern NH

\* Robert Olson opposes  
from North Country Environmental Services, Inc  
Reviewed recycling efforts  
and history of the Casella Co.  
Program to Reduce Emissions  
Casella created a program to  
cap the Colebrook landfill  
Addresses solid waste issues  
Talk about fact sheets  
Submitted Supporting documents  
for fact sheets & 2 large  
volumes

Town rejected a contract proposed  
to cap, etc. in the future

Talk about the town vs. Casella  
in Supreme Court, Casella  
won the ability to landfill in  
their 51 acre



2

Revaluation gave a 47% increase in property taxes  
Town's appraiser was not an approved appraiser

There is a ~~to~~ ~~by~~ housing boom today in Bethlehem

Distributed chart on VOC's in the Seep

Flaming of Metham is a positive according to Casella representative

Jean Robillard Selectmen Bethlehem  
Brendy Keith General Council for Town of Bethlehem

Ron Weston Selectman from Bethlehem  
support the bill + presented together

23 condition hand-outs

Spoke on financial burden, legal fees etc.

2011 is the date when this facility will reach capacity

Robert Berti / Rummey - Solid Waste Distributor  
Perrin / Baker District largest in the state





③

This is a legal matter w/ Casella & Bethlehem

DES regulates well

Town of Littleton Solid Waste Manager Anthony Lacqua from

town of Littleton opposes the bill

They use pay by bag  
They recycle electronics

This bill will financially impact by \$15,000. - This year and more in years to come.

\* Stan Harrison supports MIT graduate landfill liner life 25 years according to USEPA

Talked about unstable ground  
Farmers of Towns/Towns have no leverage  
lets eliminate out of state trash.

Disaster remediation  
Big corporations vs towns  
unfair match

Marc Morgan City of Lebanon <sup>landfill recycling</sup>  
opposition

This bill affects all state landfills & their disposal needs.



(4) \* James Presha opposes  
Concord Co-op  
Moratorium will affect towns that  
participate in the Concord Co-op.

\* Christopher Jensen supports  
Supports the moratorium

\* Lawrence M. Rappaport supports  
Colebrook NH  
Concerned w/ their landfill  
read his submitted testimony

Craig Musselman opposes  
Represents City of Nashua, Lebanon.  
Members of the Concord Solid Waste Cooper-  
ative - Their landfills need to  
expand and serve a critical need

*opposed* \* Rose Israel, Joan Lund, Flor Houghton  
Housing calls are booming  
Revenues have increased 0.5 million  
dollars -  
No decline in property values

Mr. Manicelli  
\* Richard Polonsky supports  
Inappropriate ~~sight~~ site

Richard Polonsky - ~~reading~~ <sup>gave</sup> testimony  
supports bill



(5)

Edward Dypont, representing Town of Bethlehem supports bill. Unfair tax income shortfall. Needs moratorium. Wants to bring amendments in to protect municipal landfills.

Messrs Wimsatt and Mr. Golfail of OES appeared to answer questions. Why is OES concerned about height? They are concerned about pre-empting state's authority and law. 149M gives them the authority. Height is not addressed in rules. Site specific engineering standards are taken into consideration. Corporate responsibility was discussed. The effect of the moratorium was discussed. No new landfills are being worked on. What is term for initial permit? "Standard permit" Footprint limits on initial permit might help, but it could cause problems. Aquifer siting of landfills was discussed. In opposition to the moratorium

Questions by Rep Essex, Webb, Powers, Dingman, Ch Pringle, Heard, Williams and Walker

Seth Goldstein, Bethlehem resident discussed permits + review. Said OES has no expertise to review, rely on engineers

Hearing closed at 3:50 pm  
Referred to Environment Policy Subcommittee









# PEMI-BAKER SOLID WASTE DISTRICT

Robert Berti, Chairman  
Joan Marshall, Vice-Chairman  
Tim Kingston, Treasurer

PO Box 500  
Waterville Valley, NH 03215

January 22, 2008

Committee on the Environment and Agriculture  
c/o Rep. James Phinizy, Chair  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

*Received  
& put in file  
1/29/08  
AP*

Dear Chairman Phinizy:

The Pemi-Baker Solid Waste District would like to state its opposition to HB 1429. If enacted the District feels HB 1429 would have significant negative impacts to District members and many other New Hampshire communities.


One provision of HB 1429 would allow municipalities to regulate the height of private landfills through local ordinances. The District disagrees with this provision as it feels the power to regulate landfill height should continue to reside with the New Hampshire Department of Environmental Services (NHDES). We feel NHDES, not individual towns, should have the responsibility and authority to enforce the laws and regulations in regards to solid waste disposal operations in NH. A second provision of HB 1429 would place a moratorium on the issuing of any new landfill permits until November 1<sup>st</sup> of 2009.

Both of these provisions have the potential to impose negative economic impacts on our members, and other NH communities, as it would undoubtedly decrease the available disposal capacity in the State of NH. The reduction in disposal capacity would lead to higher disposal costs, as competition would be minimized as existing landfills were forced to close. The search for alternative disposal options would likely mean higher transportation costs, as they would be apt to be located at much further distances than the facilities currently being utilized. Higher disposal and transportation costs would come at a time when many municipal budgets are already stretched, exacerbating the budgetary concerns facing many NH communities today.

The District has also invested significant time and money in securing a long-term disposal agreement with our current contractor, North Country Environmental Services. This proposal has the potential to relegate all of that effort worthless and would create lots of uncertainty with future contracts. With the uncertainty of the availability of landfill capacity that this proposal would generate, contract terms with disposal companies would very likely be shorter. As would be expected, short-term contacts would be more expensive. This would also force municipalities and districts to revisit the process more frequently wasting valuable time and money.

In closing the District would like to reiterate its opposition to HB 1429 and urge you to strongly oppose it. Let NHDES continue to be the entity to regulate landfills in NH, as it is the most qualified to do so.

Sincerely,



Robert Berti, Chairman  
Pemi-Baker Solid Waste District

---

Ashland - Campton - Danbury - Dorchester - Easton - Ellsworth - Franconia - Groton - Landaff - Lisbon - Littleton - Lyman -  
Plymouth - Plymouth State University - Rumney - Sugar Hill - Thornton - Warren - Waterville Valley - Wentworth



## State Plans for High-Tech Driver's Licenses

Although some states say the federal REAL ID Act, passed in 2005, would be too costly to implement and may raise privacy issues, Arizona could start issuing new driver's licenses with radio-frequency identification chips this year. The new licenses would be used in lieu of a passport at the U.S.-Mexico border and would meet requirements under the act.

*State News* reported in October 2007 that six states had rejected participation in REAL ID and at least 11 other states had taken some action against it.

Gov. Janet Napolitano and Secretary of Homeland Security Michael Chertoff signed an agreement in early December 2007 that made Arizona the third state—and the first on the Southwest border—eligible to produce enhanced licenses that meet the new federal identification requirements. Washington and Vermont were the first two.

Washington announced in spring 2007 a pilot project to in-

troduce a driver's license enhanced with the radio frequency identification chips.

The new licenses in Arizona will be secure enough to serve as proof of work eligibility under the state's new employer-sanctions law, which went into effect Jan. 1. The licenses, however, will be voluntary.

The new licenses with the radio-chip technology will cost about \$20 or \$25 more than current ones, which range from \$10 to \$25 depending on the person's age, according to the Arizona Governor's Office.

The licenses' radio chips will allow U.S. Customs and Border Protection officers to read the cards at a distance, tapping into federal databases to bring up a citizen's photo, name and date of birth, with a goal of speeding up border traffic. The radio chips themselves won't contain any personal data, according to *The Arizona Republic*.

## State Budgets Hurt by Health Care, Housing Crisis



Tighter fiscal conditions are expected for state budgets in 2008, according to the National Governors Association and the National Association of State Budget Officers. Although states enjoyed stable finances in 2007, overall revenue has slowed, according to an NGA and NASBO report released Dec. 5.

While most states experienced healthy revenue growth during the 2007 fiscal year, states expect continued pressures on their funds from a variety of sources, according to the report, *The Fiscal Survey of States*. Those potential financial strains include increased funding demands related to health care

and Medicaid and long-term challenges such as demographic shifts, employee pensions and infrastructure.

Adding to the mix is the pinch of the nation's weakening housing market, both directly from lower sales tax revenues and indirectly as local governments struggle with declining property values and decreasing property tax revenues, according to the report.

Health care topped the list of the states' single largest expense for the 2007 fiscal year. Health care accounts make for nearly one-third of total state spending, while Medicaid alone makes up nearly 22 percent of total state spending. The report said that with a projected spending growth rate of 8 percent a year for the next decade, Medicaid will continue to strain state budgets.

Meanwhile, states face challenges in funding and providing health care in 2008, including the impact of the aging population on long-term care and expanding the State Children's Health Insurance Program aimed at reducing the number of uninsured children in the states.

The survey of states' financial condition in the 2007 fiscal year found:

- Wisconsin was the only state forced to make a midyear budget cut in the fiscal year that ended (in all but four states) in June.
- In the 2007 fiscal year, state general fund spending grew by 9.3 percent—nearly three percentage points above the 30-year historical state spending average of 6.4 percent.
- States budgeted more modest revenue growth for fiscal year 2008, with seven states enacting negative growth budgets.

Visit <http://www.nga.org/Files/pdf/FSS0712.PDF> to view the entire report.



C M WHITCHER RUBBISH REMOVAL  
58 WHITCHER HILL RD  
WARREN NH 03279  
603\*764\*9300

*received  
1/29/08  
AW*

Dear Chairman Phinizy,

As the owner of C.M. Whitcher Rubbish Removal and C.M. Whitcher Transfer Facility, located in Warren, NH I am writing to oppose house bill 1429. Not only does my company service dozens of communities for solid waste collection, we also accept waste from many other waste collection companies. Waste processed through our facility is generated from the following communities: Franconia, Laconia, Meredith, Gilford, New Hampton, Asland, Plymouth, Bristol, Bridgewater, Hebron, Groton, Dorchester, Caanan, Wentworth, Rumney, Warren, Orford, Lyme, Hanover, Piermont, Haverhill, Woodsville, Benton, Glenclyff, Bath, Swiftwater, Landaff, Lisbon, Littleton, Sugar Hill, Lyman, Bethlehem, Lincoln, Woodstock, Campton, Thorton, and Waterville Valley

If bill 1429 were to pass, the town of Bethlehem may restrict North Country Environmental Services from operating due to height restriction. Therefor causing an increase in my cost of operations. Which I would be passing that increase onto my customers.

Chris Whitcher



C M Whitcher Rubbish Removal  
C M Whitcher Transfer Facility





TOWN OF NEWPORT, N.H.

January 23, 2008

Daniel P. O'Neill  
Town Manager

Committee on the Environment and Agriculture  
c/o Rep. James Phinizy, Chair  
Room 303  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

*received &  
part of file  
1/29/08  
AD*

**Re: Opposition to House Bill 1429**

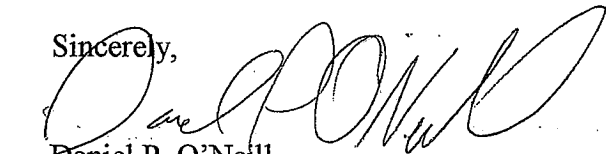
Dear Chairman Phinizy:

Gobin Disposal Systems (GDS), a Casella subsidiary, has for many years, operated a waste collection facility and a transfer station at their site, located in Newport, NH. This facility also offers curbside recyclables collection services and a recyclables drop-off area for Newport and other area towns' residents and businesses. In all the years that Casella has operated this facility in our Town, there have been no problems. On the contrary, Casella has been a good corporate neighbor, often making charitable contributions and performing various services at a discount, to help those in need in our community. Most recently, as an example of Casella's desire to help our community recycle, Casella will be performing a pilot curbside recyclables collection program in Newport, to obtain data that can be used to design future recyclables collection programs in Newport.

In addition to Newport, many towns in this area dispose of their waste at the NCES Landfill. House Bill 1429 is the attempt by one town to gain control of a private landfill, much to the detriment of all other towns in New Hampshire. This bill will have the detrimental effect of reducing disposal capacity in our State, thereby reducing competition, and causing disposal prices to increase. In addition, towns in NH may have to travel longer distances to dispose of their trash, again, resulting in higher costs to communities, when municipal budgets are already strained.

We urge you to strongly oppose HB1429, let NH DES properly regulate landfills, as it is most qualified to do, and protect our valuable disposal capacity located within the State of New Hampshire.

Sincerely,



Daniel P. O'Neill  
Town Manager

cc: Board of Selectman





House Committee Hearing  
HB 1429 RE: Landfills

*please  
put in  
1429.*



Mr. Chair Phinizy and Committee Members,

My name is Cassandra Laleme and I have lived in Bethlehem for half a century. I was raised here, raised my children here, and my grandsons now are growing up here. I have a life time invested in the health, safety, and environment of Bethlehem.

As I am sure you are aware there is a controversy in our Town over the Casella NCES privately owned landfill. What you might not realize is that no one that I am aware of wants any expansion of this landfill. Differences arise when solutions are discussed. The official stance of the Town is no expansion and our Town officials have carried that over to mean only litigation is an acceptable mechanism for solving all issues regarding the landfill.

Unless expansion occurs, which it will not, then the landfill has a limited life span. Many people in Bethlehem feel that some issues can be addressed to the benefit of all involved, at least to some degree, without expansion being on the table.

First, because man is a reasoned being we should be able to have a business discussion on the present disposal fees and lack of a host community agreement. It would likely need DES or some other agency or mechanism to mediate the process. If both sides can back away from the rigid commitment to litigation these two issues might reach some resolution. The landfill needs to concede some points and, yes, money to the Town regardless of their opinion about past behaviors or suits. And the Town needs to be willing to accept a change in how we determine some of these agreements. Much of the problem now is the refusal to deal without a courtroom between the Town and landfill. Seems to me no one but the lawyers are gaining from this situation.

Second, Bethlehem recycles only 24.31%. Franconia to the south does 42.96% and Carroll to the east does 40.68%. Whitefield to the north is slightly behind us at 20.50%. Littleton which has twice our population does an amazing 70.15%. Of the 18 other NH towns with similar populations over 50% recycle more than Bethlehem. ([www.des.nh.gov/SWTAS/pdf/rec\\_mun.pdf](http://www.des.nh.gov/SWTAS/pdf/rec_mun.pdf)) What we should be looking at is a collaborative program to encompass the schools, community, landfill, and DES as the head of the spear to direct how best to go about increasing the percentage of recycling. According to the DES section of Solid Waste Technical Assistance there are five reasons to recycle—**Saves Natural Resources, Saves Energy, Saves Clean Air and Water, Saves Landfill Space, Saves Money and Creates Jobs.** (For example recycling one ton of paper saves 7000 gals of water). There are model communities such as Littleton to look to for advice. This would decrease the amount of trash being disposed of which in turn would decrease the cost of disposal fees. The landfill also has an obligation to promote recycling as part of public information and reduction practices. Teaching recycling at an early age becomes a choice that is carried over into adulthood.



Thirdly, there is a scientifically sound process for converting methane gas from trash to energy. The Turnkey Landfill in Rochester and the University of NH are a prime example of what can be accomplished. UNH will be the first university in the US to use landfill gas as its primary energy source ([www.sustainableunh.unh.edu/climate](http://www.sustainableunh.unh.edu/climate)). The US EPA has recognized the value of this process and from material I have read has \$53 million dollars committed to a project called "Methane to Markets Partnerships". Methane is 20 times more effective than CO2 in trapping heat and can stay in the atmosphere for 9-15 years. ([www.epa.gov/methane to markets](http://www.epa.gov/methane-to-markets)). Methane can continue to be produced for many years even after a landfill closes and it just seems to me that the use of this byproduct would benefit everyone. We also happen to have a power plant approximately five miles from the landfill as the crow flies. Maybe some effort and resources should be spent on this type of study rather than which court we will be attending.

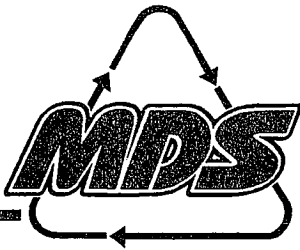
Commissioner Burack did come to Bethlehem and talked with the Select Board and residents of the Town. He left me with a sense that he is a knowledgeable and fair man that will do his job in a professional and lawful way. I would hope that if you pass HB 1429 it will not be a micro management tool that minimizes the ability of the DES to follow its mandate. I still have hope that Commissioner Burack will allay some of the mistrust our Town officials have of DES.

In closing I would ask that this committee, rather than creating more regulatory laws, look toward new and creative solutions to an old problem. With some willingness on all sides to look at the things that can be looked at maybe the Town can benefit from an undesired and as yet unresolved situation. I am sure many other points will continue on in court.

I ask that the State put its efforts in a feasibility study on methane to energy in the North Country, ask DES to intensely promote recycling and assist the community in the transition in the next few years to our own transfer station and closure of the landfill.

Thank you for your time and attention.





**MONADNOCK DISPOSAL  
SERVICE INC.**

101 OLD SHARON RD.  
JAFFREY, N.H. 03452  
1-800-382-0204  
(603) 532-8088  
(603) 532-7985

January 28, 2008

Committee on the Environment and Agriculture  
c/o Rep. James Phinizy, Chair  
Room 303  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

1429  
received  
1/29/08  
AP

**Re: Opposition to House Bill 1429**

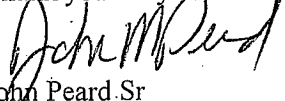
Dear Chairman Phinizy:

I am the owner of Monadnock Disposal Service in Jaffrey, NH and I am writing to express my opposition to House Bill 1429. My company provides solid waste collection and disposal services for 4500 residential and commercial customers located throughout the following communities: Walpole, Westmoreland, Chesterfield, West Chesterfield, Winchester, Hinsdale, Richmond, Swanzey, Keene, Surry, Gilsum, Alstead, Marlow, Acworth, Stoddard, Sullivan, Roxbury, Marlborough, Troy, Fitzwilliam, Rindge, Jaffrey, Dublin, Harrisville, Nelson, Bradford, Washington, Hillsborough, Windsor, Antrim, Hancock, Peterborough, Sharon, New Ipswich, Greenville, Mason, Wilton, Temple, Lyndeborough, Greenfield, Frankestown, Bennington, Dęering, Henniker, New Boston, Mont Vernon, Wilton, Brookline, Milford, Amherst, Bedford, Hollis, and Nashua I also provide transportation and disposal services for following 9 town run Transfer stations: Gilsum, Greenfield, Hancock, Harrisville, Jaffrey, Peterborough, Marlborough, Troy, and Winchester. For many years, I have been able to rely on the NCES Landfill for disposal of trash from these towns and businesses.

HB1429 will empower any one town to decide the disposal capacity for the entire state; a function, which is currently provided, and appropriately so, by the New Hampshire Department of Environmental Services. The bill would even prohibit DES from issuing any landfill permits until after November 1, 2009, thereby impeding the development of new disposal capacity. This bill will drive up costs by creating uncertainty, producing scarcity, reducing competition, and requiring transportation over greater distances. HB1429 will not only drastically impact my business, but will substantially increase costs for all of the residents and businesses that I service in the state.

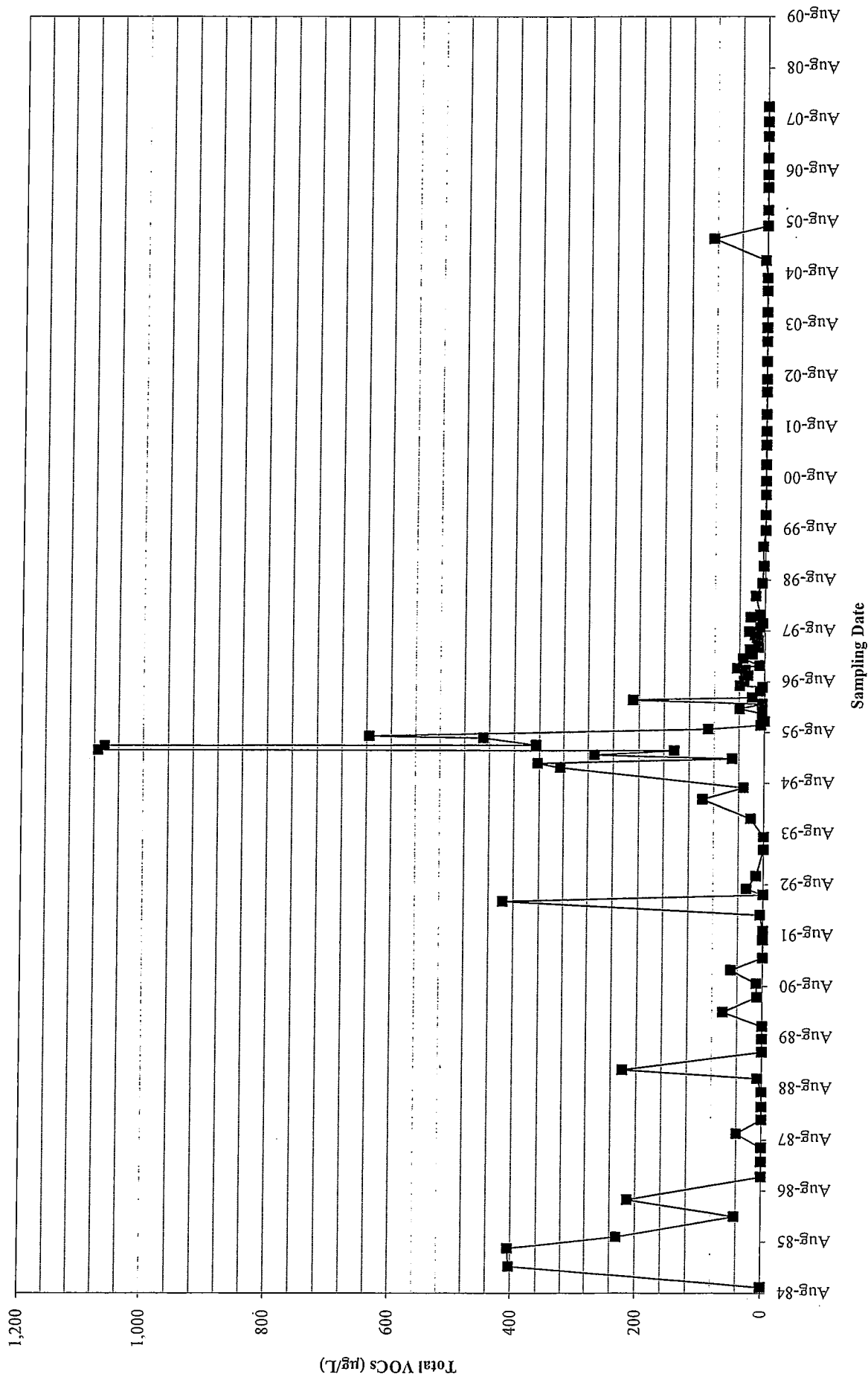
I strongly urge you and the Committee to protect all of the disposal assets currently available within the State of New Hampshire, and strongly urge you not to approve HB1429.

Thank you for your consideration.

  
John Peard Sr.  
President  
Monadnock Disposal Service



**Total VOCs in Main Seep (S-1)  
NCES Landfill  
Bethlehem, New Hampshire**







**Testimony before the House Agriculture and Environment Committee  
On behalf of HB 1429 by Richard Polonsky**

Chairman Phinizy and members of the House Agriculture and Environmental Committee:

I would like to thank Representative McLeod for introducing this legislation and the committee for allowing me to speak in favor of HB 1429. My name is Richard Polonsky.

I have lived in Bethlehem for 34 years. *For 23 of these years, the community's civic agenda has been roiled by the never-ending expansions of a privately owned landfill.* Bethlehem has voted on 18 different occasions to oppose expansions of the landfill. DES has approved every permit for expansion, modification, and tax abatement that has come before it. While this legislation is being initiated on Bethlehem's behalf, it has much broader implications for the state's overall solid waste policies and practices.

The national average for waste per capita is 4.4 pounds per day or 1600 pounds per year. New Hampshire's rate is 7.4 pounds per day or 2800 pounds per year. This is 70% higher than the national norm.

**New Hampshire is one of the highest importers of trash per capita in the country and has one of the lowest recycling rates in the nation.**

According to the Division of Solid Waste's 2006 Report to the Legislature, *thirty percent of our waste stream is coming from other states.* There is no way to distinguish between what is in state vs. out of state waste beyond what operators of the state's solid waste facilities and their haulers report. It is widely known that some operators send NH licensed trucks to pick up out of state waste and report it as in-state waste. It also known that some out of state haulers drop their loads at transfer yards in NH, which are then picked up by trucks with state plates and reported as originating from in state.

The national average for *recycling* is 32%, NH recycles only 18 to 20% of its solid waste. This is in spite of a statewide goal of 40% set by the legislature in 2000.



I took the liberty of looking up the recycling rates for the communities that the members of this committee come from – which I am providing as an addendum to my testimony. Of the 16 communities for which there were recycling rates, only 6 were at or higher than the national average of 32%.

**So why is New Hampshire so much more wasteful than the rest of the country?** The Department of Environmental Services (DES) believes it is because NH is growing so much faster than other states in the Northeast. This could be a valid point but I am not aware that the Division of Solid Waste has any way to track this statistically. The Division also maintains that the state needs additional capacity for the millions of tourists who visit NH each year. But 50 million visitor days would only translate into 139,000 year round residents (50 million divided by 365 days). Could a 10% increase in population account for why NH exceeds the national average by 70%? Or does DES think that people visiting from other states or countries bring their trash to NH to dispose of?

**So what is really going on here?** As you know, interstate commerce laws prevent states from excluding solid waste from other states. Most other states control the amount of imported wastes that private operators bring in by limiting the amount of capacity they permit to what they need. The Division of Solid Waste states in its 2006 Report to the Legislature that “imports are and will continue to be an important factor in projecting solid waste disposal capacity”.

This state does not actively promote reduction, reuse, or recycling. The net result is that **NH has at least 40% more capacity than it would need if it was meeting its recycling goal and not importing as much waste from other states.** But this still does not account for why NH's waste per capita is 70% higher than the national standard.

I urge the committee to establish a one year moratorium on the issuance new permits for privately owned landfills to give the legislature time to review the state's solid waste policies and practices. This would include but not be limited to siting, permitting, waste reduction, and compliance that provides for independent verification of reporting requirements.

Review

Once again thank you for this opportunity to address the comm + I will be glad to help you as you go thru your deliberations + offer my assistance as the comm goes thru its deliberations



### 2006 Recycling Rates by Community

Communities	Recycling rates
Acworth NH	28%
Antrim NH	14%
Bristol	8%
Candia NH	32%
Derry NH	36%
Franklin	5%
Harrisville NH	29%
Haverhill	NA
Hopkinton	21%
Hudson	11%
Manchester	19%
Milford	19%
Northfield	7%
Portsmouth	NA
Sandwich	38%
Sanbornton	34%
Walpole NH	50%
Wolfeboro	43%



336 Loon Pond Road  
Gilmanton, NH 03237  
January 29, 2008

Mr. James Phinizy, Chairman  
Environment and Agriculture Committee  
Legislative Office Building  
Concord, New Hampshire 03301

Re: HB 1429

Dear Chairman Phinizy and Members of the Committee,

Thank you for the opportunity to submit comments on the bill before the committee, HB 1429. I had the opportunity to attend the first hearing in this proposed legislation, and heard testimony from the Bethlehem selectmen as well as Director Wimsatt of the Waste Management Division.

Several themes resulted from this testimony; the overwhelming financial burden that Bethlehem has shouldered from litigation, engineering costs and mediation costs; the state's assertion of its authority to regulate the solid waste facility operated by Casella; and the complete lack of balance between landfill capacity and the purposes that the legislature mandated in RSA 149-M.

To frame these comments, I direct the committee to the first two provisions of the law: the declared Purposes and the second section on the Waste Reduction Goal.

**149-M:1 Statement of Purpose.** – It is the declared purpose of the general court to protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste.

**Source.** 1996, 251:2, eff. Aug. 9, 1996.

**149-M:2 Waste Reduction Goal.** –

I. The general court declares its concern that there are environmental and economic issues pertaining to the disposal of solid waste in landfills and incinerators. It is important to reserve landfill and incinerator capacity for solid wastes which cannot be reduced, reused, recycled or composted. The general court declares that the goal of the state, by the year 2000, is to achieve a 40 percent minimum weight diversion of solid waste landfilled or incinerated on a per capita basis. Diversion shall be measured with respect to changes in waste generated and subsequently landfilled or incinerated in New Hampshire. The goal of weight diversion may be achieved through source reduction, recycling, reuse, and composting, or any combination of such methods. The general court discourages the disposal of recyclable materials in landfills or processing of recyclable materials in incinerators.

II. In exercising any and all powers conferred upon the department under this chapter, the department shall use and consider criteria relevant to the waste





reduction goal and disposal hierarchy established in RSA 149-M:2 and 149-M:3. The department shall not take any action relative to the 40 percent weight reduction goal which causes the municipalities organized under RSA 53-A and 1986, 139 or RSA 53-B to violate or incur penalties under legal obligations existing on June 26, 1990.

**Source.** 1996, 251:2. 251:27; 261:2. 1999, 43:1, eff. July 20, 1999.

DES spoke of the need for capacity and the difficulty in siting solid waste landfills in its testimony opposing HB 1429. Nowhere in Director's Wimsatt's comments was any acknowledgement of the required balance between capacity and storage as opposed to source reduction, recycling, reuse or composting. There has been no "integrated management" as the law requires. In fact, New Hampshire has not met the 40% waste reduction goal set by this legislature in 1999. Now, 8 years later, legislation has been introduced to force the issue of meeting the goal of 40% reduction. What has DES done in the interim to carry out the Legislature's directive?

In essence, the State of New Hampshire has institutionalized the business of permitting solid waste facilities, providing an ongoing business enterprise that favors a small group of operators and provides a significant economic gain to these operators to continue their practices. New Hampshire and these operators, in this case, Casella, have a relationship in the permitting process that has few costs to the state and enormous financial benefit to the operator. The regulatory process has failed the town of Bethlehem, a host community that has incurred overwhelming costs for a small rural town, as it has struggled to have a voice in the permitting process, have its town ordinance respected and raise concerns about the environmental and health impacts of the solid waste landfill.

Frankly, there is no incentive for the state or the operator to change the current solid waste program. It is comfortable for the state to administer the permitting process within its rules, and the operator who in all probability was a stakeholder in the rulemaking process, has knowledge of the process, capacity to offer and money to make. Since New Hampshire is a net importer of waste, it is clear the program is operating very well for Casella.

Yet where does that leave the state, its citizens and our environment? Certainly not in balance with the current law when the Waste Management Division's solid waste program is weighted towards providing adequate capacity rather than achieving state-wide reduction levels.

HB 1429 is a vehicle that the legislature can use to address the inequities in the program, the injustice to the host community of Bethlehem, and re-balance the state's priorities in dealing with solid waste. I support the provisions of HB 1429 as it relates to private landfills and the permitting process. However, I urge the Environment and Agriculture Committee to truly study the issue and give host communities relief through a moratorium, rebalance municipal authority to enforce town ordinances in the solid waste area as opposed to how the state is currently operating, and finally, make New Hampshire a known leader in handling our solid



waste program and enforcing reduction goals rather than its current reputation as a provider of capacity and the dumping grounds for other Northeast States.

Sincerely,

Nancy L. Girard, Esq.

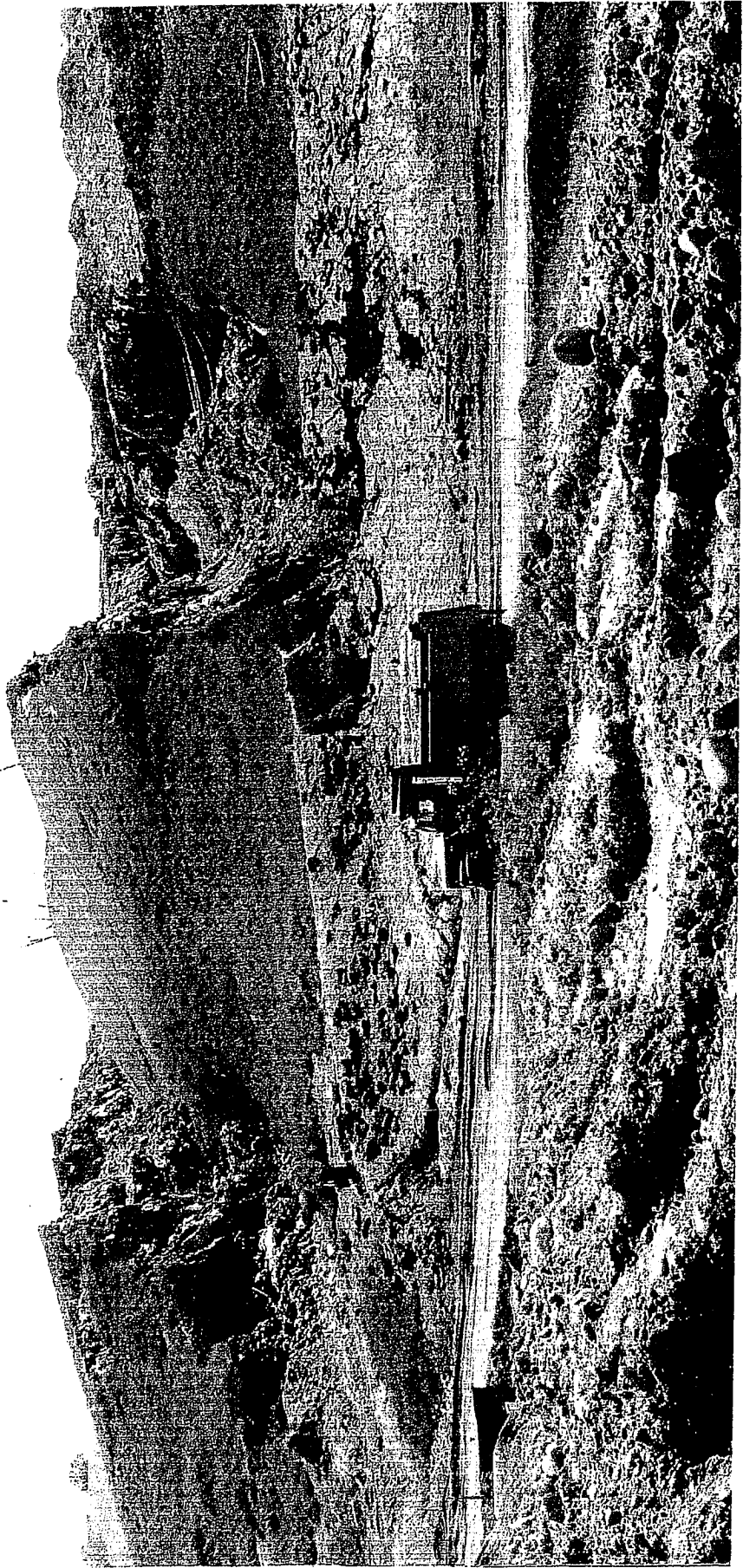




Future  
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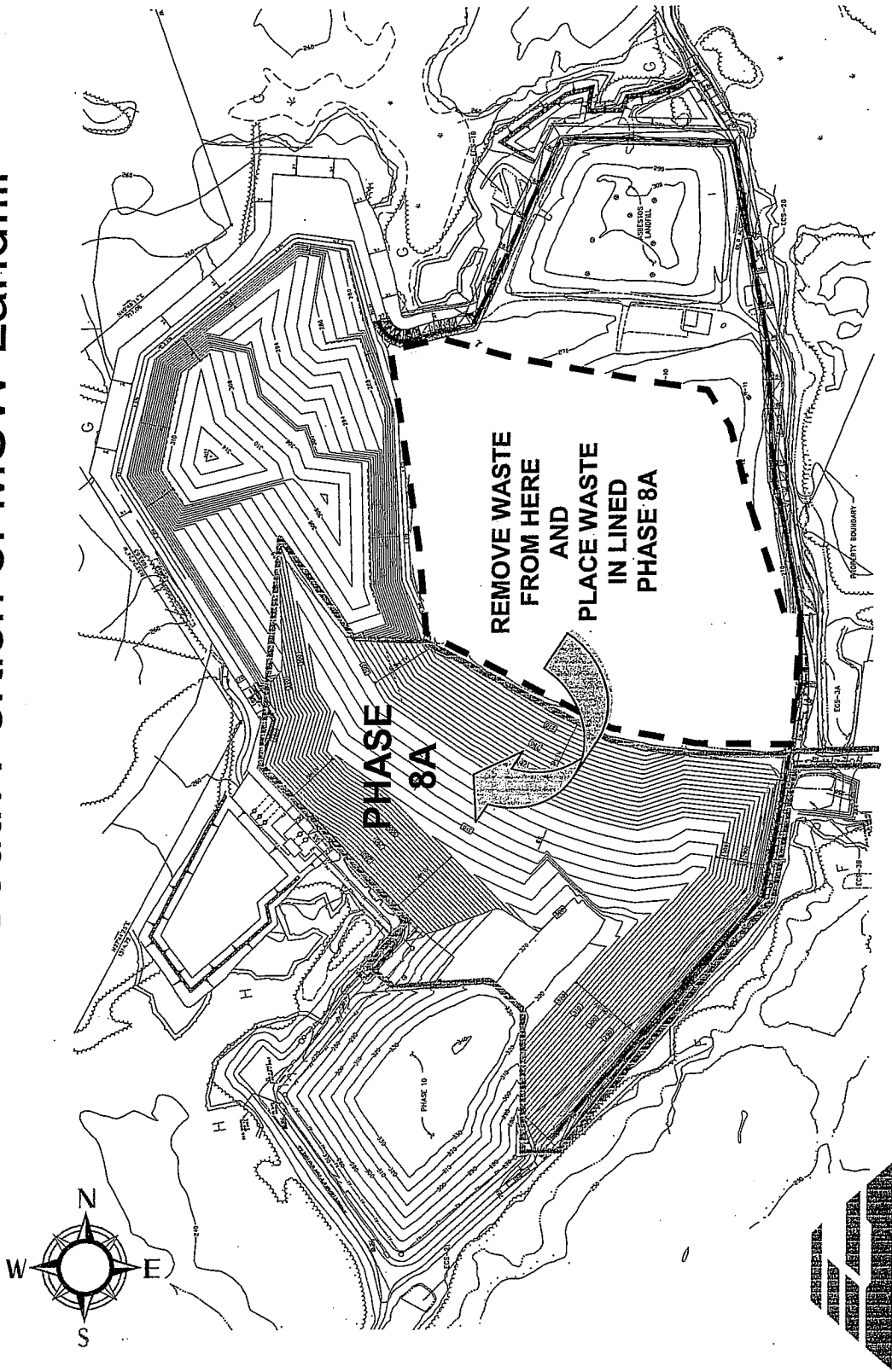




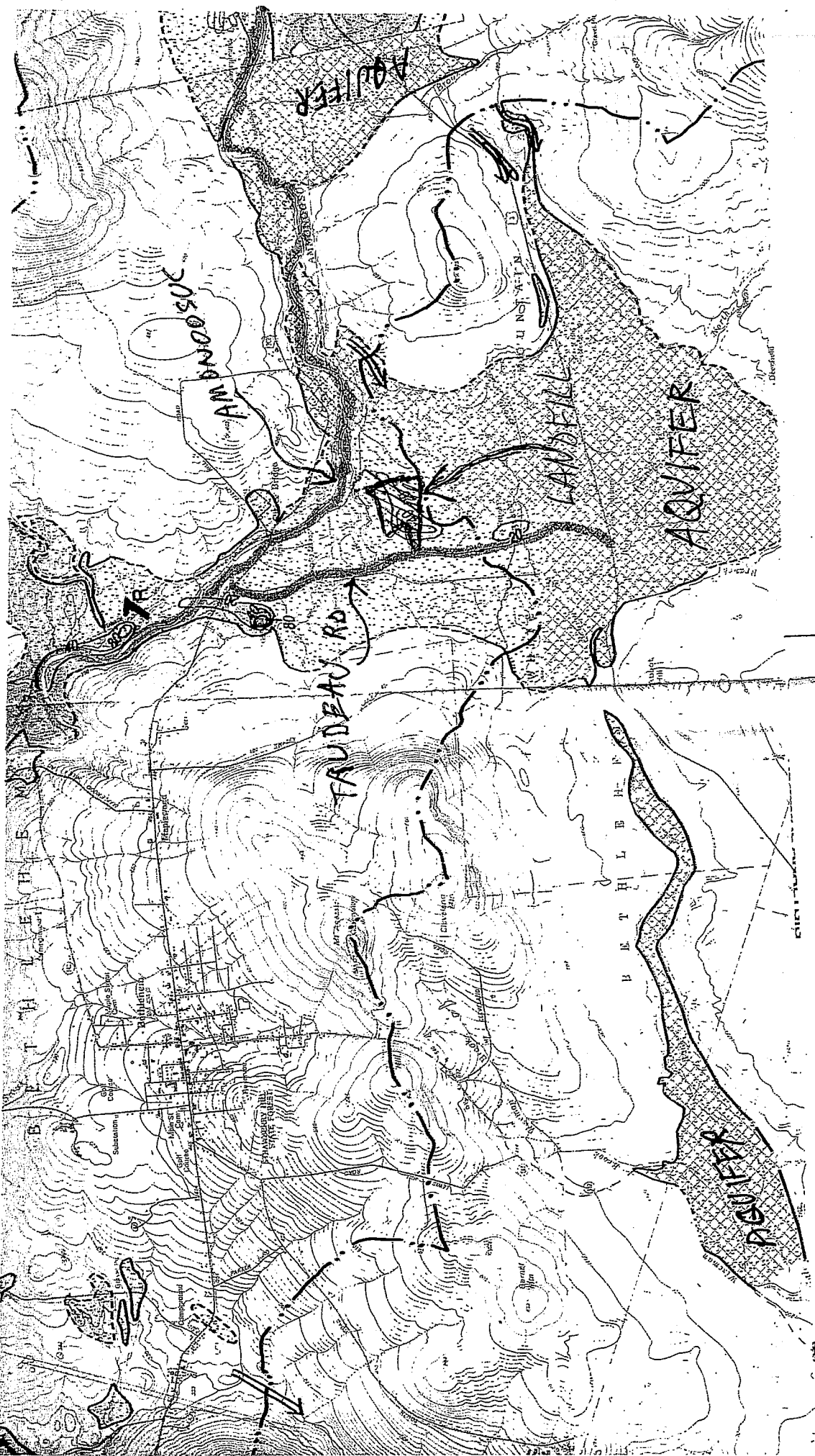




Development Stage 2  
Remove South Portion of MSW Landfill







W12



January 23, 2008

Committee on the Environment and Agriculture  
c/o Rep. James Phinizy, Chair  
Room 303  
Legislative Office Building  
33 North State Street  
Concord, NH 03301

**Re: Opposition to House Bill 1429**

Dear Chairman Phinizy:

Gobin Disposal Systems (GDS), a Casella subsidiary, has for many years, operated a waste collection facility and a transfer station at their site, located in Newport, NH. This facility also offers curbside recyclables collection services and a recyclables drop-off area for Newport and other area towns' residents and businesses. In all the years that Casella has operated this facility in our Town, there have been no problems. On the contrary, Casella has been a good corporate neighbor, often making charitable contributions and performing various services at a discount, to help those in need in our community. Most recently, as an example of Casella's desire to help our community recycle, Casella will be performing a pilot curbside recyclables collection program in Newport, to obtain data that can be used to design future recyclables collection programs in Newport.

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We urge you to strongly oppose HB1429, let NH DES properly regulate landfills, as it is most qualified to do, and protect our valuable disposal capacity located within the State of New Hampshire.

Sincerely,

Daniel P. O'Neill  
Town Manager

cc: Board of Selectmen



Testimony before the Legislature concerning HB 1429.

Chairman Phinizy and members of the House Agriculture and Environmental Committee:

Bethlehem is not the only town having difficulty with Casella Waste Management. Thank you for allowing me to testify. I am the Chairman of the Board of Selectmen in Colebrook, New Hampshire and have been a Selectman through the entire six year period when we, under supervision of the New Hampshire Department of Environmental Services (DES) reopened our municipal landfill to allow further municipal solid waste and capping. That included the selection of an engineer for design and supervision and the hiring of a company to bring in and manage waste. The engineer we selected is Rick Barthelmes of Lynnfield Engineering in Massachusetts; the company is Casella Waste Management in Vermont. The initial problem that we faced was that a plume of pollutants was migrating off our property onto property owned by private landowners and toward a pristine pond. The project has largely been a success. We have eliminated the plume and generated revenue for the Town. Without a re-opening the project was estimated by the State to cost the town \$3,000,000. With re-opening, the Town will realize some net revenue.

Our experiences with Casella have varied considerably. Colebrook worked with Casella to lower their costs. We wanted the project to be successful for both parties. Their representative at the time was Mr. Mark Popham who assured us that the savings which accrued from our efforts would be passed along to the town. By both our and their calculations, we saved Casella over \$700,000 both by finding a considerably cheaper source for berm material and negotiating with DES based on the success of Lynnfield's design. Their reaction was to terminate Mr. Popham and claim that since we had nothing in writing, their payment based on alleged savings was to be greatly reduced.

We believe that the role of the Department of Environmental Services should be as it was with us: to assist the town and to help it comply with State and Federal environmental laws, rather than solely regulation. The Senior Engineer assigned to us by DES, Mr. Michael Sills has proven invaluable – he has helped us at every turn while assuring our compliance.

We feel quite strongly that municipalities must be given the opportunity to own their own landfills. Regardless of legislation, people will continue to produce solid waste. If municipalities are prohibited from owning and operating landfills, then only private contractors will do so, I believe, much to the detriment of our citizens. With trucking costs increasing and land becoming more scarce, there is little incentive for any other outcome. The only way that a town can control a landfill is for them to own it and have their control established in any contract that they sign. Otherwise, a situation is created similar to the one which now exists in Bethlehem.





I would be pleased to answer any questions from the Committee.

Laurence M. Rappaport  
Chairman, Board of Selectmen  
Colebrook, New Hampshire



Presented at extended hearing on HB1429, Jan 29, 1908

Mr. Chairman, Members, I want to thank you for the careful hearing you are giving this bill, and are giving to the unfairness which it hopes to redress.

My Name is Stanley Harrison. I'm an MIT graduate in Aeronautics and Astronautics. One of my classmates walked on the moon!

But I'm not here to talk "rocket science", only *common sense*.

I apologize for discussing the Bethlehem Landfill again. But it is a good example of the systemic injustice we are begging you, hopefully with the help of citizens and towns, to fix.

Actually the word landfill sticks in my throat when describing something that is twice the height of the trees! Please accept my apology if I occasionally use the word DUMP.

**DES is poised to grant NCES a precipitous permit involving nearly vertical "Berms". The State is poised to lend Casella \$20 million to do this and other things, in Bethlehem!**

### **All risk of future disaster is borne by the town, not Casella**

As is common in the industry, NCES is a wholly owned subsidiary of Casella Corp. NCESs only asset is the NCES landfill. Today that is a large asset. When closed, it is only a liability. Its' sole purpose is to be bankruptable, isolating Casella from liability when the landfill fails.

### **Liner Life**

Landfill liners fail in little ways every day. That is why there is leachate percolating through the primary NCES liner into the secondary liner. If nothing else, lightning blows holes through the liners. The US Environmental Protection Agency predicts landfill liner life as 25 years.



## Landslides

With the standard three-to-one side slope, or “angle of repose”, an undisturbed landfill can expect to remain landslide free. But when disturbed by an earthquake, or undermined by flowing water, it can fail.

However if steep sided “Berms” are allowed, common sense tells you that they are much more susceptible to the disturbances of the lateral and vertical shaking of an earthquake. If a 3 to 1 slope *is unlikely* to fail soon, a nearly vertical “berm” *is likely* to fail soon.

### The Norridgewock Landfill Failure

In 1989 a landfill in Norridgewock Maine collapsed.

Please look at these pictures of the Norridgewock landslides.

It wasn't just a slump on one side, the whole thing fell down and broke apart.

Yes Norridgewock was an “unlined” landfill. But nobody can claim a one millimeter thick plastic “baggie” can stop a 100' high landslide. If the density of the landfill is the same as water, there is 7,200 pounds on every square foot of liner even before the event. I doubt that the collapse would look any different if it had been lined!

*After the fact* it was claimed to have been sited on unstable ground.

### Unstable Ground

A dump being on an aquifer, with water moving below it, is another potential cause of failure.

When DES first *permitted* the Bethlehem landfill they claimed the ground under it *was not an aquifer*, although citizens had told them that it was! Now Federal studies of NH aquifers show us that the NCES landfill **is** on an aquifer. Only 15% of New Hampshire has aquifers under it.

You can see on the Federal Geodetic Aquifer map that NCSE is in the middle of one.

When DES found this out did they close the landfill? **NO!**

Now, many years later, have they made being on an aquifer a bar to landfilling? **Not yet!**



## **Cost of a Landfill Failure**

The cost of remediating a failed landfill like Norridgewock is gigantic. Much more than the cost of building it.

An example of the scale of the cost was that they had to install 150,000 drains just to "stabilize" the underlying wet soil.

Norridgewock was faced with a disaster whose cost would have been prohibitive for the town. But they were presented with a "creative" solution. I don't know the details, but the cost of remediation of the collapse seems to be being borne by allowing Waste Management Corp to buy and expand the dump, and do the work in anticipation of future profits. In the deal, they were allowed to double the dump area, and much more than double the capacity, and to add an asbestos dump, all on the same "unstable" ground.

### **It Was A Cruel Trick**

So a failed landfill in Norridgewock, rather than being closed and remediated, became a megga-dump.

### **Is this in store for Bethlehem?**

### **What if this Bill Passes?**

My hope is that all of RSA149M will be revisited, with a eye to fairness to the recipient towns and their citizens. Eliminating liability of these towns for landfill remediation, and totally preventing out of state trash being landfilled in New Hampshire ever again.

This can be accomplished by Closing private landfills as their permitted life ends, and by siting only new multi town municipally owned and controlled landfills. Rather than mandating DES to "*supply capacity*" (for out of state trash) at all cost, their new mandate should be: **finding the best sites** for new landfills, (not the cheapest, used up, standing water, gravel pits on aquifers, of the past), and facilitating major recycling reform!





**I urge you to revise RSA149M so that:**

- DES must give higher priority to fairness to towns.
- DES will facilitate multi-town municipal landfills to eliminate out of state trash.
- DES will facilitate major recycling reform
- DES will close private landfills asap
- DES must once again see proof of town permits, prior to issuing a landfill related permit. (see 1996 revision of 149M)
- Landfill closure and maintance funds must include insurance, indemnifying towns against disaster remediation.

**Thank you again,  
Stanley Harrison**



January 29, 2008

Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 N. State Street  
Concord, NH 03301

Dear Chairman Phinizy and Committee members: Thank you very much for taking time to hear our concerns. You cannot imagine how happy this makes those of us who live in Bethlehem.

You've gotten a little, no-doubt sour taste of the terrible problems an ineffective state agency and a take-no-prisoners, profit-driven Vermont corporation have caused a tiny town in the White Mountains.

There are many other examples that I think you would find even more appalling and depressing. They make a clear and indisputable argument for an investigation into the DES's solid-waste division.

But I think the important thing to remember is that this is not all about Bethlehem. Passing this moratorium will not close the dump in Bethlehem, although that should happen.

Enacting a moratorium will benefit the entire state. A moratorium would give us all a chance to work together and figure out how we can do a better job with our solid-waste problem, including recycling, and putting an end to accepting garbage from adjacent states.

We need to remain the Granite State and not become known to our neighbors as The Garbage State.

This moratorium would also allow time for an in-depth look at how the solid-waste division can be operated so it actually protects New Hampshire citizens and the environment so that the terrible things that happened to Bethlehem can't happen to any of your towns or cities.

In short this moratorium would be a wonderful thing for the citizens of New Hampshire. Nobody would lose by a time-out to figure out how we can do things more effectively and fairly. Please don't allow any special interest groups or corporations to persuade you otherwise. Thank you again for your time and interest.

Sincerely,



Christopher Jensen, 448 Lewis Hill Road, Bethlehem, NH 03574



# CRSW/RRC

*"The Cooperative"*

Concord Regional Solid Waste /Resource Recovery Cooperative 347-B Village St., Penacook, NH 03303

Phone: 603/753-9265 Fax: 603/753-8534 email: crswrrc@aol.com

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## Concord Regional Solid Waste/Resource Recovery Cooperative

### Additional Cost for Delay of Phase V - Franklin Ash Landfill

January 29, 2008 - HB 1429

Town / City	Cost for Delay Each year
Allenstown	\$100,000
Andover	\$50,000
Belmont	\$250,000
Boscawen	\$100,000
Bow	\$200,000
Bradford	\$50,000
Bristol	\$100,000
Canterbury	\$25,000
Concord	\$1,660,000
Deering	\$15,000
Dunbarton	\$35,000
Franklin	\$230,000
Gilford	\$255,000
Gilmanton	\$50,000
Henniker	\$115,000
Hill	\$15,000
Hillsborough	\$130,000
Hopkinton	\$125,000
Laconia	\$595,000
Loudon	\$135,000
Northfield	\$115,000
Pembroke	\$180,000
Salisbury	\$20,000
Tilton	\$210,000
Warner	\$75,000
Weare	\$110,000
Webster	\$30,000
<b>Total</b>	<b>\$4,975,000</b>

Notes: Tipping fee would increase from \$42.55/ton to \$80.00/ton.

2008 Budget has been through public hearing process and been approved.

Additional cost determined using 2007 delivery for each community.



# Town of Bethlehem

2155 MAIN STREET • POST OFFICE BOX 189 • BETHLEHEM, NEW HAMPSHIRE 03574  
603-869-3351/ 869-2042 fax 603/869-2280 email tobeth@adelphia.net

Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 N. State Street  
Concord, NH 03301

January 29, 2008

Dear Chairman Phinizy,

Attached please find a printout showing funds expended to Aries Engineering for the engineering services of Tom Roy provided to the Town of Bethlehem. Aries Engineering provides review of all NCES permitting as well as review of leachate and monitoring reports.

This is an expense incurred by the Town in addition to legal expenses related to the ongoing litigation with NCES.

Thank you for your consideration. If you require further information please do not hesitate to contact this office.

Sincerely,



Cheryl Sargent  
Administrative Assistant







VENDOR HISTORY - DOCUMENTS DETAILED

Sequenced By Vendor Number

Vendor Range = ARIES to ARIES

Documents Included = All Documents

Starting Period: January 2005

Ending Period: December 2007

Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
ARIES	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024087	20554	000704-000001			02/14/05	564.40	02/14/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			002922-000001	02/14/05		564.40	VO Opened		
			002925-000001	02/14/05	Chk 048337-001	-564.40	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024518	20747	000715-000035			04/18/05	2,345.00	04/18/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			002984-000043	04/18/05		2,345.00	VO Opened		
			002985-000001	04/18/05	Chk 048628-001	-2,345.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024658	20812	000720-000011			05/17/05	420.00	05/18/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003005-000014	05/17/05		420.00	VO Opened		
			003008-000004	05/18/05	Chk 048745-001	-420.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024838	20885	000723-000002			06/06/05	280.00	06/06/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003021-000002	06/06/05		280.00	VO Opened		
			003022-000005	06/06/05	Chk 048883-001	-280.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024975	20949	000725-000105			06/20/05	140.00	06/20/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003027-000133	06/20/05		140.00	VO Opened		
			003030-000003	06/20/05	Chk 048906-001	-140.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025423	21189	000734-000056			08/18/05	245.00	08/22/05	0.00	Closed



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025423	21189	000734-000056			08/18/05	245.00	08/22/05	0.00	Opened
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003077-000057	08/18/05		245.00	VO Opened			
		003079-000007	08/22/05	Chk 049248-001	-245.00	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025691	21250	000742-000033			09/29/05	2,386.60	10/03/05	0.00	Closed
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003118-000037	09/29/05		2,386.60	VO Opened			
		003123-000002	10/03/05	Chk 049455-001	-2,386.60	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025863	21379	000746-000002			11/10/05	487.50	11/14/05	0.00	Closed
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003145-000002	11/10/05		487.50	VO Opened			
		003147-000003	11/14/05	Chk 049587-001	-487.50	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026108	21420	000751-000003			12/28/05	1,170.00	12/28/05	0.00	Closed
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003164-000003	12/28/05		1,170.00	VO Opened			
		003165-000004	12/28/05	Chk 049748-001	-1,170.00	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026320	21549	000756-000003			01/24/06	665.00	01/24/06	0.00	Closed
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003190-000003	01/24/06		665.00	VO Opened			
		003191-000003	01/23/06	Chk 049910-001	-665.00	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026855	21873	000773-000002			04/27/06	1,706.25	05/01/06	0.00	Closed



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont) ARIES	ENGINEERING INC	CONCORD				0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026855	21873	000773-000002			04/27/06	1,706.25	05/01/06	0.00	Opened
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003253-000002	04/27/06		180.00	VO Opened		
			003256-000003	05/01/06	Chk 050335-001	-180.00	VD Payment		
002	NCES 2/2/06 72:12-a Applicatn		003253-000003	04/27/06		1,526.25	VO Opened		
	NCES 2/2/06 72:12-a Applicatn		003256-000004	05/01/06	Chk 050335-002	-1,526.25	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
027394	22062	000786-000007			06/27/06	1,762.50	06/27/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003288-000008	06/27/06		1,762.50	VO Opened		
			003290-000001	06/26/06	Chk 050770-001	-1,762.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
027560	22137	000792-000044			07/25/06	6,800.00	07/25/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003305-000053	07/25/06		6,800.00	VO Opened		
			003306-000001	07/25/06	Chk 050854-001	-6,800.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
027846	22179	000797-000058	PROFESSIONAL SERVICES FOR 7/7		08/22/06	960.00	08/22/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001	PROFESSIONAL SERVICES FOR 7/7		003316-000064	08/22/06		960.00	VO Opened		
	PROFESSIONAL SERVICES FOR 7/7		003319-000006	08/22/06	Chk 050987-001	-960.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028417	22417	000814-000005			11/14/06	165.00	11/15/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003449-000005	11/14/06		165.00	VO Opened		
			003450-000005	11/15/06	Chk 051347-001	-165.00	VD Payment		



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont) ARIES ENGINEERING INC		CONCORD				0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028418	22367	000814-000006			11/14/06	990.00	11/15/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003449-000006	11/14/06		990.00	VO Opened		
			003450-000006	11/15/06	chk 051347-002	-990.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028419	22331	000814-000007			11/14/06	1,402.50	11/15/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003449-000007	11/14/06		1,402.50	VO Opened		
			003450-000007	11/15/06	chk 051347-003	-1,402.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028568	22493	000818-000003			12/08/06	907.50	12/12/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003509-000004	12/08/06		907.50	VO Opened		
			003514-000003	12/12/06	chk 051449-001	-907.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028638	22536	000821-000008			12/27/06	247.50	12/27/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003526-000017	12/27/06		247.50	VO Opened		
			003527-000002	12/27/06	chk 051502-001	-247.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028818	22731	000831-000002			02/06/07	165.00	02/06/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003584-000002	02/06/07		165.00	VO Opened		
			003585-000003	02/06/07	chk 051652-001	-165.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028952	22770	000833-000069			02/22/07	660.00	02/22/07	0.00	Closed





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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont) ARIES	ENGINEERING INC	CONCORD		NH		0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028952	22770	000833-000069			02/22/07	660.00	02/22/07	0.00	Opened
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003601-000134	02/22/07		660.00	VO Opened		
			003602-000002	02/22/07	chk 051703-001	-660.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029101	22870	000838-000038			03/20/07	3,842.00	03/20/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003617-000050	03/20/07		3,842.00	VO Opened		
			003618-000002	03/20/07	chk 051872-001	-3,842.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029186	22938	000841-000001			04/17/07	5,625.00	04/18/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003631-000001	04/17/07		5,625.00	VO Opened		
			003634-000002	04/18/07	chk 051972-001	-5,625.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029317	22991	000847-000003			05/14/07	669.50	05/17/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003663-000004	05/14/07		669.50	VO Opened		
			003664-000007	05/17/07	chk 052079-001	-669.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029423	23061	000850-000004			05/29/07	2,618.87	05/30/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003679-000004	05/29/07		2,618.87	VO Opened		
			003680-000003	05/30/07	chk 052155-001	-2,618.87	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029659	23138	000855-000025			06/26/07	1,290.75	06/28/07	0.00	Closed



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments	
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61	
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)	
029659	23138	000855-000025			06/26/07	1,290.75	06/28/07	0.00	Opened	
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001			003712-000025	06/26/07		1,290.75	VO Opened			
			003713-000003	06/28/07	chk 052319-001	-1,290.75	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)	
030153	23290	000878-000002			09/18/07	19,713.24	09/18/07	0.00	Closed	
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001			003795-000002	09/18/07		19,713.24	VO Opened			
			003798-000002	09/18/07	chk 052753-001	-19,713.24	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)	
030573	23474	000898-000001			12/04/07	977.50	12/04/07	0.00	Closed	
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001			003872-000001	12/04/07		977.50	VO Opened			
			003877-000002	12/04/07	chk 053075-001	-977.50	VD Payment			
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)	
030721	23403	000908-000023			01/02/08	13,477.01	01/02/08	0.00	Closed	
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001			003937-000048	01/02/08		13,477.01	VO Opened			
			003938-000002	01/02/08	chk 053181-001	-13,477.01	VD Payment			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status
048337	BANK1	Reg	000728-000697			02/14/05	564.40	02/14/05	564.40	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001			002925-000001	02/14/05	Vcr 024087-001	564.40	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status
048628	BANK1	Reg	000741-000697			04/18/05	2,345.00	04/18/05	2,345.00	Not Reconciled



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(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
048628	BANK1	Reg	000741-000697	Vcr 024518-001 04/18/05	2,345.00	04/18/05	2,345.00	Opened	
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			002985-000001	04/18/05	Vcr 024518-001	2,345.00	CF	Opened	
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
048745	BANK1	Reg	000746-000700		05/18/05	420.00	05/18/05	420.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003008-000004	05/18/05	Vcr 024658-001	420.00	CF	Opened	
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
048883	BANK1	Reg	000749-000700		06/06/05	280.00	06/06/05	280.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003022-000005	06/06/05	Vcr 024838-001	280.00	CF	Opened	
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
048906	BANK1	Reg	000751-000699		06/20/05	140.00	06/20/05	140.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003030-000003	06/20/05	Vcr 024975-001	140.00	CF	Opened	
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
049248	BANK1	Reg	000760-000703		08/22/05	245.00	08/22/05	245.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003079-000007	08/22/05	Vcr 025423-001	245.00	CF	Opened	
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
049455	BANK1	Reg	000769-000698		10/03/05	2,386.60	10/03/05	2,386.60	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003123-000002	10/03/05	Vcr 025691-001	2,386.60	CF	Opened	



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont) ARIES ENGINEERING INC	CONCORD		NH			0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
049587	BANK1	Reg	000772-000699		11/14/05	487.50	11/14/05	487.50	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003147-000003	11/14/05	Vcr 025863-001	487.50	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
049748	BANK1	Reg	000777-000700		12/28/05	1,170.00	12/28/05	1,170.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003165-000004	12/28/05	Vcr 026108-001	1,170.00	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
049910	BANK1	Reg	000782-000698		01/23/06	665.00	01/23/06	665.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003191-000003	01/23/06	Vcr 026320-001	665.00	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
050335	BANK1	Reg	000800-000698		05/01/06	1,706.25	05/01/06	1,706.25	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003256-000003	05/01/06	Vcr 026855-001	180.00	CF Opened		
002	NCES 2/2/06 72:12-a Applicatn		003256-000004	05/01/06	Vcr 026855-002	1,526.25	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
050770	BANK1	Reg	000819-000697		06/26/06	1,762.50	06/26/06	1,762.50	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003290-000001	06/26/06	Vcr 027394-001	1,762.50	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
050854	BANK1	Reg	000827-000697		07/25/06	6,800.00	07/25/06	6,800.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003306-000001	07/25/06	Vcr 027560-001	6,800.00	CF Opened		





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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
050987	BANK1	Reg	000832-000701		08/22/06	960.00	08/22/06	960.00	Not Reconciled
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001	PROFESSIONAL SERVICES FOR 7/7	003319-000006	08/22/06	Vcr 027846-001	960.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051347	BANK1	Reg	000849-000701		11/15/06	2,557.50	11/15/06	2,557.50	Not Reconciled
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003450-000005	11/15/06	Vcr 028417-001	165.00	CF Opened			
002		003450-000006	11/15/06	Vcr 028418-001	990.00	CF Opened			
003		003450-000007	11/15/06	Vcr 028419-001	1,402.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051449	BANK1	Reg	000853-000699		12/12/06	907.50	12/12/06	907.50	Not Reconciled
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003514-000003	12/12/06	Vcr 028568-001	907.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051502	BANK1	Reg	000856-000698		12/27/06	247.50	12/27/06	247.50	Not Reconciled
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003527-000002	12/27/06	Vcr 028638-001	247.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051652	BANK1	Reg	000868-000699		02/06/07	165.00	02/06/07	165.00	Not Reconciled
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003585-000003	02/06/07	Vcr 028818-001	165.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051703	BANK1	Reg	000870-000698		02/22/07	660.00	02/22/07	660.00	Not Reconciled
Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001		003602-000002	02/22/07	Vcr 028952-001	660.00	CF Opened			



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD				0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051872	BANK1	Reg	000875-000698		03/20/07	3,842.00	03/20/07	3,842.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003618-000002	03/20/07	Vcr 029101-001	3,842.00	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
051972	BANK1	Reg	000880-000698		04/18/07	5,625.00	04/18/07	5,625.00	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003634-000002	04/18/07	Vcr 029186-001	5,625.00	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
052079	BANK1	Reg	000886-000701		05/17/07	669.50	05/17/07	669.50	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003664-000007	05/17/07	Vcr 029317-001	669.50	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
052155	BANK1	Reg	000889-000699		05/30/07	2,618.87	05/30/07	2,618.87	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003680-000003	05/30/07	Vcr 029423-001	2,618.87	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
052319	BANK1	Reg	000895-000699		06/28/07	1,290.75	06/28/07	1,290.75	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003713-000003	06/28/07	Vcr 029659-001	1,290.75	CF Opened		
Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
052753	BANK1	Reg	000928-000698		09/18/07	19,713.24	09/18/07	19,713.24	Not Reconciled
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003798-000002	09/18/07	Vcr 030153-001	19,713.24	CF Opened		



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont) ARIES	ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61

Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
053075	BANK1	Reg	000951-000016		12/04/07	977.50	12/04/07	977.50	Not Reconciled

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003877-000002	12/04/07	Vcr 030573-001	977.50	CF Opened



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Report Totals	Number	Original Amt	Lst Date	Current Bal
Voucher Report Totals:	29	72,683.62	01/02/08	0.00
Check Report Totals:	26	59,206.61	12/04/07	59,206.61

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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
ARIES	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024087	20554	000704-000001			02/14/05	564.40	02/14/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			002922-000001	02/14/05		564.40	VO Opened		
			002925-000001	02/14/05	Chk 048337-001	-564.40	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024518	20747	000715-000035			04/18/05	2,345.00	04/18/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			002984-000043	04/18/05		2,345.00	VO Opened		
			002985-000001	04/18/05	Chk 048628-001	-2,345.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024658	20812	000720-000011			05/17/05	420.00	05/18/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003005-000014	05/17/05		420.00	VO Opened		
			003008-000004	05/18/05	Chk 048745-001	-420.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024838	20885	000723-000002			06/06/05	280.00	06/06/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003021-000002	06/06/05		280.00	VO Opened		
			003022-000005	06/06/05	Chk 048883-001	-280.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
024975	20949	000725-000105			06/20/05	140.00	06/20/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003027-000133	06/20/05		140.00	VO Opened		
			003030-000003	06/20/05	Chk 048906-001	-140.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025423	21189	000734-000056			08/18/05	245.00	08/22/05	0.00	Closed



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025423	21189	000734-000056			08/18/05	245.00	08/22/05	0.00	Opened
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003077-000057	08/18/05		245.00	VO Opened		
			003079-000007	08/22/05	Chk 049248-001	-245.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025691	21250	000742-000033			09/29/05	2,386.60	10/03/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003118-000037	09/29/05		2,386.60	VO Opened		
			003123-000002	10/03/05	Chk 049455-001	-2,386.60	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
025863	21379	000746-000002			11/10/05	487.50	11/14/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003145-000002	11/10/05		487.50	VO Opened		
			003147-000003	11/14/05	Chk 049587-001	-487.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026108	21420	000751-000003			12/28/05	1,170.00	12/28/05	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003164-000003	12/28/05		1,170.00	VO Opened		
			003165-000004	12/28/05	Chk 049748-001	-1,170.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026320	21549	000756-000003			01/24/06	665.00	01/24/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003190-000003	01/24/06		665.00	VO Opened		
			003191-000003	01/23/06	Chk 049910-001	-665.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026855	21873	000773-000002			04/27/06	1,706.25	05/01/06	0.00	Closed



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
026855	21873	000773-000002		04/27/06	1,706.25	05/01/06	0.00	opened

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003253-000002	04/27/06		180.00	VO Opened
		003256-000003	05/01/06	Chk 050335-001	-180.00	VD Payment
002	NCES 2/2/06 72:12-a Applicatn	003253-000003	04/27/06		1,526.25	VO Opened
	NCES 2/2/06 72:12-a Applicatn	003256-000004	05/01/06	Chk 050335-002	-1,526.25	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
027394	22062	000786-000007		06/27/06	1,762.50	06/27/06	0.00	closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003288-000008	06/27/06		1,762.50	VO Opened
		003290-000001	06/26/06	Chk 050770-001	-1,762.50	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
027560	22137	000792-000044		07/25/06	6,800.00	07/25/06	0.00	closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003305-000053	07/25/06		6,800.00	VO Opened
		003306-000001	07/25/06	Chk 050854-001	-6,800.00	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
027846	22179	000797-000058	PROFESSIONAL SERVICES FOR 7/7	08/22/06	960.00	08/22/06	0.00	closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001	PROFESSIONAL SERVICES FOR 7/7	003316-000064	08/22/06		960.00	VO Opened
	PROFESSIONAL SERVICES FOR 7/7	003319-000006	08/22/06	Chk 050987-001	-960.00	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028417	22417	000814-000005		11/14/06	165.00	11/15/06	0.00	closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003449-000005	11/14/06		165.00	VO Opened
		003450-000005	11/15/06	Chk 051347-001	-165.00	VD Payment



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont) ARIES ENGINEERING INC		CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028418	22367	000814-000006			11/14/06	990.00	11/15/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003449-000006	11/14/06		990.00	VO Opened		
			003450-000006	11/15/06	Chk 051347-002	-990.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028419	22331	000814-000007			11/14/06	1,402.50	11/15/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003449-000007	11/14/06		1,402.50	VO Opened		
			003450-000007	11/15/06	Chk 051347-003	-1,402.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028568	22493	000818-000003			12/08/06	907.50	12/12/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003509-000004	12/08/06		907.50	VO Opened		
			003514-000003	12/12/06	Chk 051449-001	-907.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028638	22536	000821-000008			12/27/06	247.50	12/27/06	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003526-000017	12/27/06		247.50	VO Opened		
			003527-000002	12/27/06	Chk 051502-001	-247.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028818	22731	000831-000002			02/06/07	165.00	02/06/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003584-000002	02/06/07		165.00	VO Opened		
			003585-000003	02/06/07	Chk 051652-001	-165.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028952	22770	000833-000069			02/22/07	660.00	02/22/07	0.00	Closed





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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
028952	22770	000833-000069			02/22/07	660.00	02/22/07	0.00	Opened
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003601-000134	02/22/07		660.00	VO Opened		
			003602-000002	02/22/07	Chk 051703-001	-660.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029101	22870	000838-000038			03/20/07	3,842.00	03/20/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003617-000050	03/20/07		3,842.00	VO Opened		
			003618-000002	03/20/07	Chk 051872-001	-3,842.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029186	22938	000841-000001			04/17/07	5,625.00	04/18/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003631-000001	04/17/07		5,625.00	VO Opened		
			003634-000002	04/18/07	Chk 051972-001	-5,625.00	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029317	22991	000847-000003			05/14/07	669.50	05/17/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003663-000004	05/14/07		669.50	VO Opened		
			003664-000007	05/17/07	Chk 052079-001	-669.50	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029423	23061	000850-000004			05/29/07	2,618.87	05/30/07	0.00	Closed
Lin	Line Item Description		GL Register	Date	Document Ref	Trn Amount	Transaction Typ		
001			003679-000004	05/29/07		2,618.87	VO Opened		
			003680-000003	05/30/07	Chk 052155-001	-2,618.87	VD Payment		
Vcr#	Invoice#	Vcr Register	Voucher Description		Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029659	23138	000855-000025			06/26/07	1,290.75	06/28/07	0.00	Closed



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Vnd#	Vendor Name	City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
029659	23138	000855-000025		06/26/07	1,290.75	06/28/07	0.00	Opened

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003712-000025	06/26/07		1,290.75	VO Opened
		003713-000003	06/28/07	Chk 052319-001	-1,290.75	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
030153	23290	000878-000002		09/18/07	19,713.24	09/18/07	0.00	Closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003795-000002	09/18/07		19,713.24	VO Opened
		003798-000002	09/18/07	Chk 052753-001	-19,713.24	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
030573	23474	000898-000001		12/04/07	977.50	12/04/07	0.00	Closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003872-000001	12/04/07		977.50	VO Opened
		003877-000002	12/04/07	Chk 053075-001	-977.50	VD Payment

Vcr#	Invoice#	Vcr Register	Voucher Description	Org Date	Original Amt	Lst Date	Current Bal	Status (1099)
030721	23403	000908-000023		01/02/08	13,477.01	01/02/08	0.00	Closed

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003937-000048	01/02/08		13,477.01	VO Opened
		003938-000002	01/02/08	Chk 053181-001	-13,477.01	VD Payment

Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
048337	BANK1	Reg	000728-000697		02/14/05	564.40	02/14/05	564.40	Not Reconciled

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		002925-000001	02/14/05	Vcr 024087-001	564.40	CF Opened

Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
048628	BANK1	Reg	000741-000697		04/18/05	2,345.00	04/18/05	2,345.00	Not Reconciled



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Vnd#	Vendor Name			City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC			CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
048628	BANK1	Reg	000741-000697	Vcr	024518-001	04/18/05	2,345.00	04/18/05	2,345.00	Opened	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				002985-000001	04/18/05	Vcr 024518-001	2,345.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
048745	BANK1	Reg	000746-000700			05/18/05	420.00	05/18/05	420.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003008-000004	05/18/05	Vcr 024658-001	420.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
048883	BANK1	Reg	000749-000700			06/06/05	280.00	06/06/05	280.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003022-000005	06/06/05	Vcr 024838-001	280.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
048906	BANK1	Reg	000751-000699			06/20/05	140.00	06/20/05	140.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003030-000003	06/20/05	Vcr 024975-001	140.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
049248	BANK1	Reg	000760-000703			08/22/05	245.00	08/22/05	245.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003079-000007	08/22/05	Vcr 025423-001	245.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
049455	BANK1	Reg	000769-000698			10/03/05	2,386.60	10/03/05	2,386.60	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003123-000002	10/03/05	Vcr 025691-001	2,386.60	CF Opened			



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Vnd#	Vendor Name			City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC			CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
049587	BANK1	Reg	000772-000699			11/14/05	487.50	11/14/05	487.50	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003147-000003	11/14/05	Vcr 025863-001	487.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
049748	BANK1	Reg	000777-000700			12/28/05	1,170.00	12/28/05	1,170.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003165-000004	12/28/05	Vcr 026108-001	1,170.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
049910	BANK1	Reg	000782-000698			01/23/06	665.00	01/23/06	665.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003191-000003	01/23/06	Vcr 026320-001	665.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
050335	BANK1	Reg	000800-000698			05/01/06	1,706.25	05/01/06	1,706.25	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003256-000003	05/01/06	Vcr 026855-001	180.00	CF Opened			
002	NCES 2/2/06 72:12-a Applicatn			003256-000004	05/01/06	Vcr 026855-002	1,526.25	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
050770	BANK1	Reg	000819-000697			06/26/06	1,762.50	06/26/06	1,762.50	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003290-000001	06/26/06	Vcr 027394-001	1,762.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description		Org Date	Original Amt	Lst Date	Current Bal	Status	
050854	BANK1	Reg	000827-000697			07/25/06	6,800.00	07/25/06	6,800.00	Not Reconciled	
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003306-000001	07/25/06	Vcr 027560-001	6,800.00	CF Opened			





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Vnd#	Vendor Name			City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC			CONCORD		NH		0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
050987	BANK1	Reg	000832-000701				08/22/06	960.00	08/22/06	960.00	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001	PROFESSIONAL SERVICES FOR 7/7			003319-000006	08/22/06	Vcr 027846-001	960.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051347	BANK1	Reg	000849-000701				11/15/06	2,557.50	11/15/06	2,557.50	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003450-000005	11/15/06	Vcr 028417-001	165.00	CF Opened			
002				003450-000006	11/15/06	Vcr 028418-001	990.00	CF Opened			
003				003450-000007	11/15/06	Vcr 028419-001	1,402.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051449	BANK1	Reg	000853-000699				12/12/06	907.50	12/12/06	907.50	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003514-000003	12/12/06	Vcr 028568-001	907.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051502	BANK1	Reg	000856-000698				12/27/06	247.50	12/27/06	247.50	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003527-000002	12/27/06	Vcr 028638-001	247.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051652	BANK1	Reg	000868-000699				02/06/07	165.00	02/06/07	165.00	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003585-000003	02/06/07	Vcr 028818-001	165.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051703	BANK1	Reg	000870-000698				02/22/07	660.00	02/22/07	660.00	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003602-000002	02/22/07	Vcr 028952-001	660.00	CF Opened			



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Vnd#	Vendor Name			City/Town	St	Class	Type	Purchases	Invoiced	Discounted	Payments
(Cont)	ARIES ENGINEERING INC			CONCORD	NH			0.00	72,683.62	0.00	59,206.61
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051872	BANK1	Reg	000875-000698				03/20/07	3,842.00	03/20/07	3,842.00	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003618-000002	03/20/07	Vcr 029101-001	3,842.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
051972	BANK1	Reg	000880-000698				04/18/07	5,625.00	04/18/07	5,625.00	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003634-000002	04/18/07	Vcr 029186-001	5,625.00	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
052079	BANK1	Reg	000886-000701				05/17/07	669.50	05/17/07	669.50	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003664-000007	05/17/07	Vcr 029317-001	669.50	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
052155	BANK1	Reg	000889-000699				05/30/07	2,618.87	05/30/07	2,618.87	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003680-000003	05/30/07	Vcr 029423-001	2,618.87	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
052319	BANK1	Reg	000895-000699				06/28/07	1,290.75	06/28/07	1,290.75	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003713-000003	06/28/07	Vcr 029659-001	1,290.75	CF Opened			
Chk#	Bank	Typ	Chk Register	Check Description			Org Date	Original Amt	Lst Date	Current Bal	Status
052753	BANK1	Reg	000928-000698				09/18/07	19,713.24	09/18/07	19,713.24	Not Reconciled
Lin	Line Item Description			GL Register	Date	Document Ref	Trn Amount	Transaction Typ			
001				003798-000002	09/18/07	Vcr 030153-001	19,713.24	CF Opened			



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(Cont)	ARIES ENGINEERING INC	CONCORD	NH			0.00	72,683.62	0.00	59,206.61

Chk#	Bank	Typ	Chk Register	Check Description	Org Date	Original Amt	Lst Date	Current Bal	Status
053075	BANK1	Reg	000951-000016		12/04/07	977.50	12/04/07	977.50	Not Reconciled

Lin	Line Item Description	GL Register	Date	Document Ref	Trn Amount	Transaction Typ
001		003877-000002	12/04/07	Vcr 030573-001	977.50	CF opened



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Report Totals	Number	Original Amt	Lst Date	Current Bal
Voucher Report Totals:	29	72,683.62	01/02/08	0.00
Check Report Totals:	26	59,206.61	12/04/07	59,206.61





BOUTIN ALTIERI\*, P.L.L.C.  
Attorneys At Law

Brenda E. Keith

\*Admitted only in CT, DC and NY

January 29, 2008

Honorable James Phinizy, Chair  
Environment and Agriculture Committee  
New Hampshire House of Representatives  
Concord, NH

**RE: HB 1429**

Dear Chairman Phinizy and Committee Members:

My law firm serves as general counsel to the Town of Bethlehem. The Board of Selectmen has asked us to provide some information about the Town's experience with host community agreements.

The Town of Bethlehem officials took note that at the last hearing DES officials seemed to advocate that host community agreements might be the solution to the problem of a municipality being forced to host a landfill. Bethlehem wears the battle scars from trying to enforce such an agreement in the past. Bethlehem had a form of host community agreement tied to a special exception granted to NCES' predecessor back in 1986. However, when the Town balked at granting NCES local approval for further expansion in the late 1990s, NCES sued the Town in order to win that expansion. At the same time, NCES succeeded in convincing the Court to throw out certain terms of the host agreement, including provisions that required NCES to give the Town a tipping fee discount on the Town's own solid waste, and also required Sanco to pay the Town a surcharge for all waste brought to the landfill from outside the Town. These are typical host community agreement provisions. Today Bethlehem pays the highest (gate rate) of any municipality and perhaps any single customer of NCES. That is what a host agreement netted Bethlehem in the past. (Attached please find the host agreement and a copy of the Court's opinion.)

In late 2005, during mediation in conjunction with ongoing litigation in Grafton County Superior Court, the parties attempted to work out another host agreement in an attempt to end the litigation. Fears of what had happened to the earlier agreement certainly prayed on the minds of Town officials during that mediation. The mediation concluded in December of 2005 without any agreement. Essentially, enforceability or lack thereof is the real problem with host community agreements for the Town of Bethlehem.

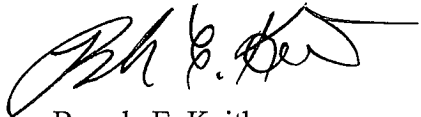


BOUTIN  ALTERI, P.L.L.C.

Honorable James Phinizy, Chair  
January 29, 2008  
Page 2

The Town, through experience, cannot support the premise that a host community agreement provision in the statute is the solution for communities who are forced to host landfills.

Sincerely,



Brenda E. Keith



NOTICE OF DECISION

Bethlehem, New Hampshire  
Zoning Board of Adjustment

FINALIZED

RE: Application by Sanco, Inc.  
For Special Exception

By Notice of Decision dated November 7, 1985 this Board voted to grant a special exception to Sanco, Inc. to expand its existing sanitary landfill off Trudeau Road in strict accordance with the limiting terms and safeguards set forth in an agreement to be negotiated between Sanco, Inc. and the Board of Selectmen, which agreement was to be reviewed and accepted by this Board as a condition of such special exception. Another public hearing was held on January 15, 1986 to review the agreement negotiated between Sanco, Inc. and the Board of Selectmen and to finally impose the conditions of said special exception.

By letter dated November 20, 1985, Laurence F. Gardner, Esquire, on behalf of the abutters, George Tucker and Daniel Tucker, requested a rehearing on the basis that this Board's decision of November 7, 1985 was final. It was made clear to Attorney Gardner that no final decision had been made as of that date. In Attorney Gardner's letter of November 20, 1985 he alleged that Acting Chairman, Gerald Davidson, should be disqualified by reason of prejudgment and/or bias. By letter dated November 26, 1985 this Board advised Attorney Gardner to provide it with evidence to prove any alleged bias and/or prejudgment by December 16, 1985. By letter dated December 9, 1985 Attorney Gardner acknowledged that no final decision had been made and that he would renew the motion for rehearing when the Board's decision is final. He produced no evidence to prove the alleged bias and/or prejudgment, but simply stated that "...according to information furnished to me, Gerald Davidson is disqualified because of his contacts with Roy Sanborn one of the owners of the Sanco corporation, and also because of statements made at public meetings indicating that he prejudged the application and was in favor of the application."

Having considered all evidence submitted concerning any alleged bias and/or prejudgment this Board, has presently constituted, feels that it has acted and will continue fairly and impartially in accordance with the standards set forth in Winslow v. Town of Holderness Planning Board, 125 NH 262 (1984).

After having reviewed the proposed agreement between Sanco, Inc. and the Board of Selectmen, and after having considered all public input regarding the limiting terms and safeguards and other conditions to be imposed on the special exception granted to Sanco, Inc. to expand its existing sanitary landfill off Trudeau Road this Board hereby imposes the following terms and conditions to said special exception, which must be complied with before the expansion area can be operated as a sanitary landfill:



1. The Bureau of Solid Wastes Management of the State of New Hampshire must issue all plan approvals, licenses or permits required under applicable state law, before operations commence.

2. Any other local, state, or federal permits, licenses or approvals necessary to have the construction and operation of a sanitary landfill in the expansion area must be issued, before operations commence.

3. All appeal periods from local, state and federal actions relating to this special exception and/or the matters set forth in paragraphs 1 and 2 above must have expired, or, in the event of an appeal from one or more of said actions, a decision by the highest Court of competent jurisdiction upholding said action(s), before operations commence.

4. In order to guarantee operation and closure of the expansion area in accordance with applicable law, all permits and licenses and in an environmentally sound manner, Sanco shall post financial security with the Town in an amount appropriate to cover all reasonable and necessary operation and closure costs as agreed upon by Sanco and the Town. The financial security per acre shall be determined by a formula using the total closure costs of the expansion area divided by the total number of acres proposed in the expansion area as approved by the New Hampshire Bureau of Solid Waste Management. The financial security shall be posted in phases according to the portion of the expansion area to be subject to active landfilling. The said financial security shall be posted with the Town not later than 90 days prior to the commencement of landfilling on the segment of the expansion area which is subject to the posting of security and shall be in a form of a surety bond, letter of credit, trust fund or other financial security device acceptable to the Town. The terms of the financial security shall insure that the expansion area shall be operated and closed in full accordance with this special exception, applicable state laws and operating plans and specifications approved by the Bureau of Solid Waste Management of the State of New Hampshire.

5. In order to insure that operation of the expansion area does not result in an adverse effect on public health and safety or upon the environment, Sanco shall conduct testing of the groundwater at least four times annually, each such test to be conducted on a quarterly basis. The tests shall be conducted by an independent groundwater consulting firm selected by Sanco licensed by or acceptable to the State of New Hampshire. Sanco shall give the Town advance notice of the testing and make available to the Selectperson, split samples of any quarterly tests.

6. The location of all monitoring wells shall be subject to the approval of the Bureau of Solid Waste Management of the State of New Hampshire and the Selectmen.





7. In order to insure that the above-mentioned expansion area is operated in accordance with strict environmental safeguards, the design and construction of the expansion area shall be carried out pursuant to engineering plans and specifications prepared by an experienced and qualified independent consulting engineer. Plans and specifications shall be approved by the Bureau of Solid Waste Management of the State of New Hampshire and Selectmen and shall, include, without limitation, provisions for the installation of a leachate liner and a leachate collection system. ✓

8. Sanco shall provide to the Selectmen within seven days of its receipt, copies of all state inspection reports, notices of violation or the like, for the expansion area. All such inspection reports shall be maintained by the Town at the Town Hall for review by any interested member of the public during normal business hours. ✓

9. Sanco shall provide disposal space for all residential solid waste generated by the inhabitants of the Town of Bethlehem for a minimum of fifteen years commencing on the effective date of this special exception and Sanco shall limit the tonnage of material deposited in the landfill so as to meet this requirement. Sanco shall provide reports to the Selectmen as to the total tonnage of material deposited each year.

10. Sanco shall charge the Town for disposal in the expansion area in accordance with the existing billing procedure between the parties by providing the Town a five percent reduction on the computation of tonnage actually disposed of at the landfill.

11. Sanco shall provide disposal capacity to the Town at a tipping fee of \$20.00 per ton (which is the rate of charge to the Town in effect on November, 1985) for the entire active life of the expansion area; provided, however, that the tipping fee shall be increased or decreased by Sanco once each year following the effective date hereof by the percentage increase or decrease in the Consumer Price Index, all Urban Consumers, All Items less Shelter, published by the United States Department of Labor, Bureau of Labor Statistics for the City of Manchester for the year 1986. Notwithstanding the foregoing, the tipping fee charged to the Town by Sanco shall be not less than \$20.00 per ton.

12. In reliance on the credibility, experience and integrity of the ownership of Sanco and because the credibility, experience and integrity of the landfill operator is important in insuring its proper operation, the principals of Sanco shall not sell, transfer or assign their ownership interest in the landfill except to an individual, corporation or entity of good moral character, is a reputable operator, experienced in the disposal of solid wastes and has a net worth of more than \$1,000,000.



13. Sanco shall, prior to commencement of any operation in the expansion area, install and maintain at the landfill at no charge to the Town, a refuse transfer station for use by individual, non-commercial residents of the Town with appropriate permit issued by the Selectmen. Provided, however, such businesses or commercial establishments within the Town as may be approved by Sanco and the Town Board of Health may also use said refuse transfer station. This provision shall not apply to commercial haulers. Sanco shall not accept hazardous waste or demolition debris at the transfer station. Any recycling operations at the transfer station shall be the sole responsibility of the Town and shall be conducted at its expense. Sanco and the Town shall agree upon the hours of operation of the transfer station. In the event the sanitary landfill area ceases to operate for any reason hereunder, the transfer station may continue to be operated subject to the approval by the Town.

14. In order that the majority of the vehicular traffic using the expansion area may enter and exit using Trudeau Road and United States Route 3, Sanco will share equally with the Town the costs of rebuilding the posted bridge on Trudeau Road.

15. Sanco shall reimburse the Town for its share of the costs of repair as provided herein by crediting said amounts against the tipping fees due and payable to it by the Town.

16. All truck traffic using the expansion area, except that servicing the local area, shall enter and exit the expansion area from Route 3 by means of Trudeau Road after the bridge has been repaired.

17. In order to insure that materials deposited at the landfill are acceptable, and do not present a threat to the public health and safety or to the environment, Sanco shall provide to the Town a list of all municipalities and other sources of refuse to be deposited at the facility. The list shall include the names of all businesses within any municipality using the landfill and the constituents of any solid waste other than residential refuse.

18. Absolutely no hazardous wastes of any kind as defined by applicable state or federal law shall be deposited at the landfill.

19. For all solid waste disposed of in the expansion area which originates from outside the Town of Bethlehem, Sanco shall pay to the Town a fee of \$.50 per ton of said refuse. The fee shall be paid quarterly, in arrears, not later than the tenth business day following the close of the quarter. If incineration or resource recovery is incorporated in landfill operations at the expansion area, Sanco shall also pay the host community fee of \$.50 per ton of said refuse before said refuse is incinerated or otherwise disposed of. For any other incinerated material which originates from outside the Town of Bethlehem, Sanco shall pay the Town a fee to be negotiated between Sanco and the Board



of Selectmen at that time.

20. In addition to any other penalty provided by law, if Sanco violates any term of this special exception or of any applicable law relating to solid waste disposal, this special exception shall immediately terminate and the landfill shall be closed. Provided, however, prior to instituting any legal proceedings to enforce this provision, the Town shall provide Sanco with seven days advance written notice of said violation and permit Sanco five business days in which to cure the violation. However, this provision relative to advance written notice and opportunity to cure by Sanco shall not apply if the alleged violation will cause immediate or irreparable harm to the Town or its residents, and the Town, in its sole discretion, may proceed immediately with appropriate legal action.

21. The Town may have a representative present during site preparation for the expansion area in order to insure that the base preparation is completed in accordance with the plans and specifications approved by the Bureau of Solid Waste Management.

22. In accepting the terms of this special exception, Sanco shall allow a representative of the Town to enter upon the landfill at any time during business hours or at any other time provided that an authorized representative of Sanco accompanies the representative of the Town, which authorized representative shall be made available upon two hours advance notice. The Town may conduct inspections for the purpose of monitoring operations in the expansion area or the construction of the expansion area.

23. In order to guarantee the shielding of adjacent residences from view of disposal operations in the expansion area, Sanco shall maintain a buffer zone of not less than fifty feet of existing natural vegetation between any area of active solid waste landfilling and the property boundaries of the expansion area.

THE TOWN OF BETHLEHEM

By: Michael F. Danaher

Clarence B. Thompson 1/23/86

Donna Kenyon 1/24/86



**H**

Supreme Court of New Hampshire.  
 NORTH COUNTRY ENVIRONMENTAL  
 SERVICES, INC.

v.

TOWN OF BETHLEHEM.  
 Town of Bethlehem

v.

North Country Environmental Services, Inc.  
 Nos. 99-234, 99-595.

May 1, 2001.


Town petitioned to enjoin expansion of landfill operation. Landfill operator petitioned for declarations concerning the legality of various zoning ordinances, the scope of a variance granted its predecessor in interest, the permitted size of the landfill, and the legality of certain conditions imposed on a special exception. The Superior Court, Grafton County, Fitzgerald, J., ruled in favor of operator on all issues except its challenge of the zoning ordinances. Both parties appealed. The Supreme Court, Duggan, J., held that: (1) letter from zoning board of adjustment to landfill operator's predecessor in interest, approving predecessor's request for a variance, contained no limitation, express or implied, on the area the landfill operations could occupy; (2) predecessor impliedly waived operator's right to rely on variance as permitting use of entire 87-acre tract as a landfill; (3) stipulation settling a prior lawsuit between town and operator estopped town from enjoining operator's current operations; and (4) fact that predecessor did not appeal conditions on the special exception when they were first imposed did not bar current operator from subsequently litigating their lawfulness.

Affirmed.

West Headnotes

**[1] Zoning and Planning 414  743**

414 Zoning and Planning  
414X Judicial Review or Relief  
414X(E) Further Review  
414k743 k. Presentation and Reservation  
 Below of Grounds of Review. Most Cited Cases

**Zoning and Planning 414  744**


414 Zoning and Planning  
414X Judicial Review or Relief  
414X(E) Further Review  
414k744 k. Record, Assignment of Errors,  
 and Briefs. Most Cited Cases  
 By failing to include in its notice of appeal the issue of whether landfill operator's construction activities constituted an impermissible expansion of a non-conforming use or to raise it before the trial court, town did not preserve issue for appellate review.

**[2] Zoning and Planning 414  747**

414 Zoning and Planning  
414X Judicial Review or Relief  
414X(E) Further Review  
414k745 Scope and Extent of Review  
414k747 k. Questions of Fact; Findings.


Most Cited Cases

Issue of whether landfill operator's construction activities constituted an impermissible expansion of a non-conforming use raised issues of fact that were not decided by the trial court, precluding Supreme Court from addressing the argument, even assuming it were preserved for review.

**[3] Zoning and Planning 414  542.1**

414 Zoning and Planning  
414IX Variances or Exceptions  
414IX(B) Proceedings and Determination  
414k542 Determination  
414k542.1 k. In General. Most Cited Cases

Letter from zoning board of adjustment to landfill operator's predecessor in interest, approving predecessor's request for a variance, contained no limitation, express or implied, on the area the landfill operations could occupy, where it simply stated that the request was "granted and approved, subject to complete state approval and subsequent supervision," and predecessor's request for a variance contained no statement regarding the proposed landfill's expected dimensions.

**[4] Zoning and Planning 414  542.1**

414 Zoning and Planning  
414IX Variances or Exceptions





414IX(B) Proceedings and Determination  
414k542 Determination  
414k542.1 k. In General. Most Cited

Cases

The scope of a variance is dependent upon the representations of the applicant and the intent of the language in the variance at the time it is issued.

[5] Zoning and Planning 414 ↪ 546

414 Zoning and Planning  
414IX Variances or Exceptions  
414IX(B) Proceedings and Determination  
414k546 k. Effect of Determination. Most Cited Cases

Request by landfill operator's predecessor in interest that the zoning board of adjustment allow a proposed expansion of the existing operation to a 41-acre parcel of its 87-acre tract as a "special exception" was incompatible with operator's assertion that original variance permitted predecessor to expand landfill onto the entire 87-acre tract, and thus, predecessor impliedly waived operator's right to rely upon the variance as permitting use of entire 87-acre tract as a landfill.

[6] Estoppel 156 ↪ 52.10(2)

156 Estoppel  
156III Equitable Estoppel  
156III(A) Nature and Essentials in General  
156k52.10 Waiver Distinguished  
156k52.10(2) k. Nature and Elements of Waiver. Most Cited Cases

Estoppel 156 ↪ 52.10(3)

156 Estoppel  
156III Equitable Estoppel  
156III(A) Nature and Essentials in General  
156k52.10 Waiver Distinguished  
156k52.10(3) k. Implied Waiver and Conduct Constituting Waiver. Most Cited Cases  
A finding of waiver must be based upon an intention expressed in explicit language to forego a right, or upon conduct under the circumstances justifying an inference of a relinquishment of it.

[7] Appeal and Error 30 ↪ 1008.1(8.1)

30 Appeal and Error  
30XVI Review  
30XVI(I) Questions of Fact, Verdicts, and Findings

30XVI(D) Findings of Court  
30k1008 Conclusiveness in General  
30k1008.1 In General  
30k1008.1(8) Particular Cases and

Questions

30k1008.1(8.1) k. In General.

Most Cited Cases

Estoppel 156 ↪ 119

156 Estoppel  
156III Equitable Estoppel  
156III(G) Trial  
156k119 k. Questions for Jury. Most Cited Cases

Whether an implied waiver occurred is a question of fact, and the Supreme Court will not overturn the trial judge's determination that waiver occurred, unless such a finding is clearly erroneous.

[8] Zoning and Planning 414 ↪ 542.1

414 Zoning and Planning  
414IX Variances or Exceptions  
414IX(B) Proceedings and Determination  
414k542 Determination  
414k542.1 k. In General. Most Cited Cases

That special exception, permitting landfill operator to expand existing landfill onto a 41-acre parcel of its property, used the term "expansion area" in several of the conditions did not impliedly limit the size of the landfill to anything less than the entire 41 acres.

[9] Zoning and Planning 414 ↪ 625

414 Zoning and Planning  
414X Judicial Review or Relief  
414X(C) Scope of Review  
414X(C)1 In General  
414k625 k. Harmless Error. Most Cited Cases

Cases

Any error in excluding document, purporting to show that town and landfill operator's predecessor in interest understood that special exception limited expansion of landfill to 14 acres, did not prejudice town's case in zoning dispute with current operator, where there was no evidence linking document to the special exception.

[10] Appeal and Error 30 ↪ 970(2)

30 Appeal and Error  
30XVI Review



30XVI(H) Discretion of Lower Court

30k970 Reception of Evidence

30k970(2) k. Rulings on Admissibility of Evidence in General. Most Cited Cases  
The Supreme Court will not overturn a trial judge's authentication ruling absent a clear abuse of discretion. Rules of Evid., Rule 901.

[11] Appeal and Error 30 946

30 Appeal and Error

30XVI Review

30XVI(H) Discretion of Lower Court

30k944 Power to Review

30k946 k. Abuse of Discretion. Most Cited Cases

To show an abuse of discretion, the appellant must demonstrate that the court's evidentiary ruling was clearly untenable or unreasonable to the prejudice of its case.

[12] Zoning and Planning 414 779.1

414 Zoning and Planning

414XI Enforcement of Regulations

414XI(B) Injunction Against Violation

414k779 Defenses

414k779.1 k. In General. Most Cited

Cases

Stipulation settling a prior lawsuit between town and landfill operator, stating that issue regarding legality of an expansion of the landfill by operator's predecessor in interest was "resolved" estopped town from enjoining operator's current operations on ground that predecessor's expansion of the landfill was unlawful.

[13] Estoppel 156 52(5)

156 Estoppel

156III Equitable Estoppel

156III(A) Nature and Essentials in General

156k52 Nature and Application of Estoppel in Pais

156k52(5) k. Application in General.

Most Cited Cases

The application of estoppel rests largely on the facts and circumstances of the particular case.

[14] Estoppel 156 116

156 Estoppel

156III Equitable Estoppel

156III(F) Evidence

156k116 k. Presumptions and Burden of Proof. Most Cited Cases

The party invoking estoppel has the burden of proving that its application is warranted, and its existence is a question of fact to be resolved by the trier of fact.

[15] Estoppel 156 62.4

156 Estoppel

156III Equitable Estoppel

156III(A) Nature and Essentials in General

156k62 Estoppel Against Public, Government, or Public Officers

156k62.4 k. Municipal Corporations in General. Most Cited Cases

Although estoppel may be invoked against a town, it must be applied with caution and only in exceptional cases under circumstances clearly demanding its application to prevent manifest injustice.

[16] Appeal and Error 30 934(1)

30 Appeal and Error

30XVI Review

30XVI(G) Presumptions

30k934 Judgment

30k934(1) k. In General. Most Cited Cases

In reviewing the trial court's grant of summary judgment, the Supreme Court considers the affidavits and other evidence, and all inferences properly drawn from them, in the light most favorable to the non-moving party.

[17] Appeal and Error 30 863

30 Appeal and Error

30XVI Review

30XVI(A) Scope, Standards, and Extent, in General

30k862 Extent of Review Dependent on Nature of Decision Appealed from

30k863 k. In General. Most Cited Cases

If the review of summary judgment evidence discloses no genuine issue of material fact, and if the moving party is entitled to judgment as a matter of law, the Supreme Court will affirm a grant of summary judgment.

[18] Zoning and Planning 414 546

414 Zoning and Planning

414IX Variances or Exceptions



414IX(B) Proceedings and Determination

414k546 k. Effect of Determination. Most Cited Cases

Landfill operator's predecessor in interest was not "aggrieved" by conditions imposed by town's zoning board of adjustment on its special exception to expand the landfill, and thus, fact that predecessor did not appeal the conditions when they were first imposed did not bar current operator from subsequently litigating the lawfulness of these conditions, considering that it would have been illogical for predecessor to have agreed to the conditions and thereafter challenged them. RSA 677:4.

[19] Zoning and Planning 414 ↪ 744

414 Zoning and Planning

414X Judicial Review or Relief

414X(E) Further Review

414k744 k. Record, Assignment of Errors, and Briefs. Most Cited Cases

The Supreme Court would not consider town's argument that prior landfill operator, by entering into an agreement with town's selectmen, waived the right to dispute the legality of conditions imposed on a special exception to expand landfill, even though zoning board of adjustment granted special exception subject to the "limiting terms and safeguards set forth in an agreement to be negotiated" between predecessor and selectmen, where agreement was not part of the record on appeal.

[20] Zoning and Planning 414 ↪ 686

414 Zoning and Planning

414X Judicial Review or Relief

414X(C) Scope of Review

414X(C)3 Presumptions

414k680 Burden of Showing Grounds for Review

414k686 k. Variances or Exceptions.

Most Cited Cases

By basing its ruling, determining that there was no rational nexus between conditions imposed on special exception to expand a landfill and town's services and infrastructure, upon failure of town's zoning board of adjustment to include findings in its decision, the trial court did not impermissibly shift the burden of proof to the town to establish the rational nexus, where the only evidence regarding nexus was provided by landfill operator challenging lawfulness of the conditions, and town introduced no contrary evidence of its own.

[21] Zoning and Planning 414 ↪ 729

414 Zoning and Planning

414X Judicial Review or Relief

414X(D) Determination

414k729 k. Costs. Most Cited Cases

Application of town's zoning amendments to landfill operator and town's ability to zone generally as to landfill uses was a fair and reasonable ground for litigation, and thus, operator did not establish bad faith on part of town, so as to entitle operator to attorney fees as prevailing party.

[22] Costs 102 ↪ 194.44

102 Costs

102VIII Attorney Fees

102k194.44 k. Bad Faith or Meritless Litigation. Most Cited Cases

Where a party is forced to seek judicial assistance to secure a clearly defined right, a court may award attorney fees to the prevailing party if bad faith on the part of the losing party is established.

[23] Appeal and Error 30 ↪ 984(5)

30 Appeal and Error

30XVI Review

30XVI(H) Discretion of Lower Court

30k984 Costs and Allowances

30k984(5) k. Attorneys' Fees. Most Cited Cases

In reviewing a superior court award of attorney's fees, the Supreme Court applies an abuse of discretion standard, giving tremendous deference to the court's decision.

[24] Appeal and Error 30 ↪ 946

30 Appeal and Error

30XVI Review

30XVI(H) Discretion of Lower Court

30k944 Power to Review

30k946 k. Abuse of Discretion. Most Cited Cases

To constitute abuse, reversible on appeal, the trial court's discretion must have been exercised for reasons clearly untenable or to an extent clearly unreasonable to the prejudice of the objecting party.

**\*\*333 \*349** Brown, Olson & Wilson, P.C., Concord (Bryan K. Gould, on the brief, and Mr. Gould orally), for North Country Environmental Services, Inc.



Waystack & King, Colebrook (Philip R. Waystack, Jr. and Jonathan S. Frizzell, on the brief, and Mr. Waystack orally), for Town of Bethlehem.

Hughes, Smith & Yazinski, L.L.P., Claremont (John J. Yazinski, on the brief), for Aware, Inc., as amicus curiae.

\*350 Boutin & Associates, P.L.L.C., Londonderry (Edmund J. Boutin, on the brief), for Environmental Action of Northern New Hampshire, Inc., as amicus curiae.

DUGGAN, J.

This dispute arises out of the private landfill operations of North Country Environmental Services, Inc. (NCES) and its predecessors-in-interest. The parties both appeal rulings by the Superior Court (Fitzgerald, J.) upon NCES' petition for declaratory relief and the petition of the Town of Bethlehem (town) for injunctive relief. We affirm.

In 1976, Harold Brown, the original owner of an eighty-seven acre parcel located in Bethlehem, received a variance from the Town of Bethlehem Zoning Board of Adjustment (ZBA) to operate a landfill. Brown obtained State approval to operate the landfill within a nearly four acre footprint on his property. In 1977, Brown obtained State approval to expand the original footprint by approximately one acre; he did not seek town approval for this expansion.

In 1983, Brown obtained permission from the town planning board to create a ten acre subdivision on the property for landfill use, and then sold this lot to Sanco, Inc. (Sanco). In 1985, Brown obtained permission from the planning board to create a forty-one acre subdivision on the property for landfill use, and then conveyed this lot to Sanco as well.

Sanco applied for a special exception to expand the existing landfill onto the forty-one acre parcel and to construct a solid waste transfer station on another adjacent lot. After initially denying the special exception, the ZBA granted it in November 1985, subject to "limiting terms and safeguards set forth in an agreement to be negotiated between Sanco, Inc. and the Board of Selectmen." In January 1986, the ZBA imposed twenty-three conditions that had to be satisfied before Sanco could operate the expanded area as a landfill. One condition required Sanco to give the town a "tipping fee" discount on the town's own solid waste. Another required Sanco to pay the town a surcharge for all waste brought to the landfill from outside the town.

Over the years, the town, NCES, its predecessors-in-interest, abutters and public interest groups disputed the landfill's continued operation and expansion. In March 1987, at a town meeting, the town amended its zoning ordinance to prohibit the existence of any privately owned solid waste disposal facility in any town district. At a 1992 town meeting, the town again amended its zoning ordinance to prevent the location of any "solid waste disposal facility, site or expansion of any existing landfills ... in any district except a facility operated by the Town."

\*\*334 \*351 In March 1987, Sanco requested permission from the State to expand the landfill in four phases, a design requiring approximately eighteen acres (Stage I). The State approved Sanco's Stage I application in June 1987, and shortly thereafter, Sanco began Stage I operations.

In June 1988, Sanco requested permission from the State to expand the landfill in two phases comprising approximately seven acres (Stage II). The State granted the Stage II application in April 1989. Sanco thereafter conveyed the land to NCES. NCES began phase one of the Stage II expansion in 1996. NCES received State approval to begin phase two of the Stage II expansion in September 1998. The current dispute stems from NCES' proposed September 1998 expansion.

The town petitioned to enjoin the September 1998 expansion. NCES petitioned for declarations that: (1) the 1987 and 1992 zoning amendments are preempted by RSA chapter 149-M; (2) the 1987 and 1992 zoning amendments are arbitrary and discriminatory and thus void; (3) the 1987 and 1992 zoning amendments are unconstitutional; (4) there is no size limitation on the uses granted by the 1976 variance or the 1985 special exception, and thus NCES "has all local approvals necessary to conduct landfilling operations on the [entire] 87-Acre Parcel"; (5) the 1987 and 1992 zoning amendments do not apply to NCES because use of the ten acre and forty-one acre lots as landfill was permitted by the 1976 variance and 1985 special exception; and (6) the tipping fee discount and surcharge for out-of-town waste required by the 1986 conditions to the special exception are unlawful. The court bifurcated NCES' claim regarding the tipping fee discount and surcharge from the remainder of the parties' claims.

Following a hearing on the merits, the trial court found that neither the 1987 nor the 1992 zoning amendment conflicted with RSA chapter 149-M, and thus preemption did not apply. The court declined to





rule upon the validity of the amendments, however, because it concluded that they did not apply to NCES' operations and thus the controversy was not justiciable. The court ruled that, pursuant to the 1976 variance and the 1985 special exception, NCES could expand its landfill uses through the ten acre and forty-one acre parcels of the original eighty-seven acre tract. The court found that the 1986 special exception did not expressly limit the landfill to any area less than the full extent of the forty-one acre lot conveyed to Sanco in 1985. The court ruled, however, that NCES was estopped by Sanco's conduct from relying upon the 1976 variance to claim a right to develop the entire eighty-seven acre parcel. The court \*352 found that Sanco had waived any right to claim the 1976 variance granted landfill rights to the entire parcel and that NCES was bound by Sanco's conduct as its successor-in-interest. The town, the court ruled, was also estopped from claiming any right to enjoin NCES from operating the landfill on the ground that Brown's 1977 expansion of it was illegal. Finally, the court declined to award attorney's fees and costs to NCES because it found no evidence of bad faith.

In its motion for clarification/reconsideration, the town requested the court to confirm that the 1976 variance and the 1985 special exception "contain [areal] limits relative to the landfill operations of NCES." The court concluded that neither the 1976 variance nor the 1985 special exception "contain[ ] any express area limitation as to the permitted landfill uses on either the 10-acre or 41-acre lots." The court further clarified that the 1976 variance applied only to the ten acre lot and that NCES was precluded from claiming \*\*335 any present right under it to develop landfill uses throughout the entire eighty-seven acre tract.

The town also asked the court to reconsider its application of municipal estoppel. The court based its original municipal estoppel ruling upon the town's stipulated dismissal of a prior lawsuit. In response to the town's motion for reconsideration, the court confirmed that the town's stipulation and NCES' subsequent reliance upon it precluded the town from asserting any right to enjoin NCES' landfill operations based upon the 1977 expansion.

Thereafter, the town moved to dismiss NCES' claim regarding the tipping fee discount and surcharge on the ground that the court lacked subject matter jurisdiction, which the court denied. The court granted NCES' motion for partial summary judgment, however, finding that the tipping fee discount and

surcharge for out-of-town waste were unlawful because they bore no rational nexus to "actual impacts upon either Town services or infrastructure." The town's appeal and NCES' cross-appeal followed.

### *I. 1987 and 1992 Zoning Amendments*

NCES challenges the trial court's determination that RSA chapter 149-M does not preempt the 1987 and 1992 zoning amendments. NCES also asks this court to find the amendments invalid for a host of other reasons.

As a threshold matter, we note that the trial court found that the 1987 and 1992 zoning amendments did not apply to NCES' operations on the ten acre and forty-one acre lots because the uses \*353 established thereon were pre-existing and permitted at the time of the 1987 amendment. Neither party has appealed this ruling.

[1] [2] Although the town neither included this issue in its notice of appeal nor raised it before the trial court, it argues in its brief that NCES' construction activities violate the amendments and constitute an impermissible expansion of a non-conforming use. This argument has not been preserved for our review and we do not address it. *See Bursey v. Bursey*, 145 N.H. 283, ---, 761 A.2d 491, 494 (2000). Even if it had been preserved for our review, we could not address the argument because it raises issues of fact that were not decided below. *See Hurley v. Town of Hollis*, 143 N.H. 567, 572, 729 A.2d 998 (1999) (whether a proposed use would be a "substantial change in the nature or purpose of the pre-existing nonconforming use turns on the facts and circumstances of the particular case").

We therefore affirm the trial court's determination that neither the 1987 nor the 1992 amendments apply to NCES' operations on the ten acre and forty-one acre lots because they were pre-existing, permitted uses at the time of the 1987 amendment. *See RSA 674:19* (1996). Accordingly, we need not decide whether the amendments are preempted by RSA chapter 149 M or otherwise are invalid.

As a result of our ruling regarding the 1987 and 1992 amendments, NCES' argument concerning a "builder's remedy" lacks merit and warrants no further discussion. *See Vogel v. Vogel*, 137 N.H. 321, 322, 627 A.2d 595 (1993).



## II. 1976 Variance

### A. Limits on Size of Landfill

[3] The town argues that the trial court erroneously interpreted the 1976 variance to contain no limitation on the area NCES' land filling operations could occupy on the ten acre lot and requests that we remand for a determination as to the extent of the limitations. Because we find no error in the trial court's ruling on \*\*336 this issue, we conclude that a remand is unnecessary.

[4] "The scope of a variance is dependent upon the representations of the applicant and the intent of the language in the variance at the time it is issued." Dahar v. Department of Bldgs., 116 N.H. 122, 123, 352 A.2d 404 (1976). The language of the variance contains no express limitation on the area to be used for land filling. The letter from the ZBA to Brown, approving his request for a variance, simply states that the request is "granted and approved, subject to complete state \*354 approval and subsequent supervision." Although Brown's request for a variance contained a crude map showing the proposed landfill's approximate location, it contained no statement regarding the proposed landfill's expected dimensions.

The town urges us to find that a limit on the size of the landfill was "implied" by the use of the word "construct" and by the variance's reference to future State approval and supervision. NCES counters that only express conditions on land use are enforceable as a matter of law. Even if we assume, *arguendo*, that implied conditions are enforceable, we hold that the 1976 variance contained no "implied" limitation on the size of the landfill on the ten acre lot.

### B. Waiver of Right to Rely Upon 1976 Variance

[5] NCES argues that the trial court erroneously found that Sanco impliedly waived the right to rely upon the 1976 variance to use the entire eighty-seven acre parcel as a landfill and that NCES was bound by this waiver. It asserts that Sanco had no duty to assert this right and thus could not have validly waived it. It also argues that the trial court erroneously found that Sanco applied for a special exception, when in fact it applied for a building permit. We affirm the trial court's rulings on this issue.

[6] [7] "A finding of waiver must be based upon an intention expressed in explicit language to forego a right, or upon conduct under the circumstances justifying an inference of a relinquishment of it." Renovest Co. v. Hodges Development Corp., 135 N.H. 72, 79, 600 A.2d 448 (1991) (quotation omitted). "Whether an implied waiver occurred is a question of fact, and we will not overturn the trial judge's determination that ... waiver occurred, unless such a finding is clearly erroneous." *Id.*

The trial court's finding of waiver was based, in part, upon Sanco's failure to assert that it did not need a special exception because its activities were permitted by the 1976 variance. The court concluded that "on the evidence before it," Sanco apparently assumed that the 1976 variance did not apply to the entire eighty-seven acre tract or to the forty-one acre lot on which the proposed expansion was to be constructed. The court thus found that Sanco agreed that additional municipal approvals were necessary to expand its landfill operations beyond the ten acre parcel conveyed to it in 1983.

The trial court's findings are supported by the record. The ZBA's November 1985 decision granting the special exception explains that although Sanco initially applied to the town's board of selectmen for a permit to build a solid waste transfer station and expand an existing solid waste landfill, the selectmen referred the matter to \*355 the ZBA for review. The ZBA's November 1985 decision also notes that at an August 13, 1985 hearing, Sanco specifically requested that the ZBA allow the proposed use as a special exception. This request is incompatible with the assertion that the 1976 variance permitted Sanco to \*\*337 expand the landfill onto the entire eighty-seven acre tract.

## III. 1985 Special Exception

[8] The town argues that the trial court also erroneously interpreted the 1985 special exception to contain no limitation on the size of NCES' landfill on the forty-one acre lot. As with the 1976 variance, neither the 1985 special exception, nor the 1986 conditions attached thereto, contain any express limitation on the size of the landfill. The town argues that because fourteen of the conditions use the term "expansion area," we must find an implied limit on the size of the landfill. We decline to do so. The phrase "expansion area" does not impliedly limit the size of the landfill to anything less than the entire forty-one acres.



[9] Alternatively, the town asserts that the trial court erred by excluding a document from evidence that the town claims demonstrated that the parties understood that the 1985 special exception applied to a fourteen acre landfill. The document, titled "Bethlehem Zoning Board of Adjustment Hearing, August 13, 1985, Summary of Proposed Sanco Facility," states that the "[t]otal area of expansion is approximately 14 acres." Although it lists no author, at trial, the town contended that it was authored by Sanco. The court excluded the document on the ground that the town failed to authenticate it. See N.H. R. Ev. 901.

[10] [11] Rule 901(a) provides that "the requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." This court will not overturn a trial judge's authentication ruling absent a clear abuse of discretion. State v. Moscillo, 139 N.H. 79, 80, 649 A.2d 57 (1994). "To show an abuse of discretion, the [town] must demonstrate that the court's ruling was clearly untenable or unreasonable to the prejudice of [its] case." Powell v. Catholic Med. Center, 145 N.H. 7, ---, 749 A.2d 301, 307 (2000) (quotation omitted).

Assuming, *arguendo*, that the trial court's authentication ruling was erroneous, we hold that the error did not prejudice the town's case. There was no evidence that this document, prepared in August 1985, was considered by the ZBA when it granted the special exception in November 1985 or imposed conditions upon it in \*356 January 1986. The document was not referenced in any ZBA minutes or in any other document. There was simply no evidence before the court linking this document to the special exception eventually granted in November 1985.

#### IV. 1977 Expansion and Estoppel

[12] The town contests the trial court's determination that the town was estopped from enjoining NCES' operations on the ground that Brown's 1977 expansion of the landfill was unlawful. We affirm the trial court's ruling.

[13] [14] [15] "The application of estoppel rests largely on the facts and circumstances of the particular case." Great Lakes Aircraft Co. v. City of Claremont, 135 N.H. 270, 289, 608 A.2d 840 (1992)

(quotation and brackets omitted). "The party invoking estoppel has the burden of proving that its application is warranted, and its existence is a question of fact to be resolved by the trier of fact." *Id.* (quotation and ellipsis omitted). Although estoppel may be invoked against a town, it must be applied "with caution and only in exceptional cases under circumstances clearly demanding its application to prevent manifest injustice." \*\*338 Town of Seabrook v. Vachon Management, 144 N.H. 660, 666, 745 A.2d 1155 (2000) (quotation omitted).

The trial court based its municipal estoppel ruling upon the parties' stipulation settling a prior lawsuit. The prior lawsuit concerned a 1993 cease and desist order issued by the town's selectmen, in which the town challenged the scope of the 1976 variance. The cease and desist order was based upon the selectmen's determination that Brown's 1977 expansion of the landfill violated his 1976 variance. In the stipulation, the parties stated that "the issues raised in [that lawsuit] have been resolved and the Town's threatened enforcement action against the plaintiff arising out of the ... cease-and-desist order ... has become moot." In the stipulation, the parties also "acknowledge that they may, in the future, have further disputes over permitting of further areas of the landfill" and thus they "agree that this case may be dismissed without prejudice to their right, should a ripe dispute arise between them, to advance any cognizable theory of recovery or defense against the opposing party."

The town argues that the court erroneously interpreted the stipulation to have resolved any claims regarding the legality of Brown's 1977 landfill expansion. It asserts that the stipulation, in fact, preserved the parties' right to litigate this issue "in the event that NCES ... sought to expand [the landfill] into [another part of the ten acre parcel]."

\*357 We hold that the trial court's interpretation of the stipulation was not erroneous. The stipulation stated that the issue in that lawsuit, namely, the legality of Brown's 1977 expansion, was "resolved." The trial court correctly ruled that this statement precluded the town from relying upon the asserted illegality of the 1977 expansion to enjoin NCES' operations.

#### V. Tipping Fee Discount and Surcharge

[16] [17] The town disputes the trial court's grant of



partial summary judgment to NCES in which it ruled that the tipping fee discount and surcharge for out-of-town waste were unenforceable. "In reviewing the trial court's grant of summary judgment, we consider the affidavits and other evidence, and all inferences properly drawn from them, in the light most favorable to the non-moving party." Iannelli v. Burger King Corp., 145 N.H. 190, ---, 761 A.2d 417, 419-20 (2000). "If our review of that evidence discloses no genuine issue of material fact, and if the moving party is entitled to judgment as a matter of law, we will affirm the grant of summary judgment." Id. at ---, 761 A.2d at 420 (quotation omitted). "We review the trial court's application of the law to the facts de novo." Id. at ---, 761 A.2d at 420.

[18] The town first asserts that NCES was barred from litigating the lawfulness of these conditions to its 1985 special exception, because its predecessor, Sanco, did not appeal these conditions when they were first imposed. See RSA 677:4 (Supp.2000) (amended 2000). We disagree.

The town asserts that these conditions were imposed as part of a negotiated agreement between Sanco and the town's selectmen. Assuming, arguendo, that this is true, then Sanco "had no reason to challenge the zoning arrangement, which was mutually agreeable to both sides." City of Portsmouth v. Schlesinger, 140 N.H. 733, 735, 672 A.2d 712 (1996). It would have been illogical for Sanco to have agreed to the conditions and thereafter to file an appeal on the ground that they were illegal. See id. We find the town's efforts to distinguish Schlesinger unpersuasive. In Schlesinger, we ruled that developers, who agreed to pay the city council \$2.5 million in exchange for the city's \*\*339 creation of a special zoning district, could dispute the legality of these payments even though they had not appealed the payments when they first agreed to them. Id. We held that the developers were not aggrieved parties because they "had procured exactly what they sought—a special zoning overlay ordinance in exchange for the \$2,500,000 payment." Id. Because they were not aggrieved parties, they could raise the affirmative defense of illegality even though \*358 they had not timely appealed the city's action. Id. Similarly, NCES' predecessor, Sanco, procured exactly what it wanted—a special exception. Because it was not aggrieved by the ZBA's grant of a special exception, it had no duty to appeal it, and its failure to appeal does not bar its current challenge.

[19] The town next argues that Sanco waived the right to dispute the legality of the tipping fee discount

and surcharge when it entered into the alleged agreement with the town's selectmen. The town asserts that the alleged agreement was incorporated in the ZBA's decision imposing twenty-three conditions upon Sanco's special exception. Although the ZBA granted Sanco the special exception subject to the "limiting terms and safeguards set forth in an agreement to be negotiated between Sanco, Inc. and the Board of Selectmen," and the ZBA's decision imposing the conditions refers to this agreement, the agreement itself is not part of the record, and thus we are unable to review it to determine if it contains the waiver the town alleges.

[20] The town next contests the trial court's determination that there was no "rational nexus" between the tipping fee discount and surcharge and "actual impacts upon either Town services or infrastructure." The trial court based its ruling upon the ZBA's failure to include findings in its decision demonstrating that a rational nexus existed. On appeal, the town does not assert that, in fact, there was a rational nexus. Rather, its only argument is that, by basing its ruling upon the ZBA's failure to include findings in its decision, the court "impermissibly shifted the burden of proof" to the town to establish the rational nexus. We disagree.

Our review of the record shows that the only evidence regarding nexus was provided by NCES. The town introduced no contrary evidence of its own. In this context, particularly, regardless of which party had the burden of proof, the court was entitled to review the ZBA's decisions to determine whether a nexus existed. See Peabody v. Town of Windham, 142 N.H. 488, 492, 703 A.2d 886 (1997) (factual findings of zoning board are prima facie lawful and reasonable). We do not interpret the trial court's reliance upon the ZBA's failure to include such findings as a statement regarding burden of proof.

#### VI. Attorney's Fees

[21] NCES argues that the trial court erroneously failed to award it attorney's fees. It asserts that it is entitled to attorney's fees because the town acted in bad faith when it passed the 1987 and 1992 \*359 amendments to the zoning ordinance and attempted to enforce them against NCES. We disagree.

[22] [23] [24] "Where a party is forced to seek judicial assistance to secure a clearly defined right, a court may award attorney's fees to the prevailing party if bad faith on the part of the losing party is





established.” Taber v. Town of Westmoreland, 140 N.H. 613, 616, 670 A.2d 1034 (1996). “In reviewing a superior court award of attorney’s fees, we apply an abuse of discretion standard, giving tremendous deference to the court’s decision.”\*\*340 Glick v. Naess, 143 N.H. 172, 175, 722 A.2d 453 (1998) (quotation, citation and brackets omitted). “To constitute abuse, reversible on appeal, the discretion must have been exercised for reasons clearly untenable or to an extent clearly unreasonable to the prejudice of the objecting party.” *Id.* (quotation omitted). If there is some support in the record for the trial court’s determination, we will uphold it. *Id.*

We find no abuse of discretion in the trial court’s denial of attorney’s fees. The court could properly have determined that the application of the town’s zoning amendments to NCES, and the town’s ability to zone generally as to landfill uses, “was a fair and reasonable ground for litigation.” Casico v. City of Manchester, 142 N.H. 312, 318, 702 A.2d 302 (1997).

*Affirmed.*

BROCK, C.J., and BRODERICK, NADEAU and DALIANIS, JJ., concurred.  
N.H.,2001.  
North Country Environmental Services, Inc. v. Town of Bethlehem  
146 N.H. 348, 772 A.2d 330

END OF DOCUMENT



January 28, 2008

Rep. James Phinizy, Chairman

Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33N State Street  
Concord, NH 03301

Dear Representative Phinizy,

The Town of Carroll Board of Selectmen and I are writing in opposition to House Bill 1429.

Yes, Carroll is a tourist town with the Bethlehem landfill as our neighbor. This landfill is located on a rural road, which few tourists travel. If visiting our Twin Mountain area or traveling to our Bretton Woods resort, tourists do not come near to even seeing this landfill. Those who travel to visit the Town of Bethlehem usually come in from Bethlehem's exit 40 from Interstate 93 and also don't even see the landfill. These same tourists do, however, increase greatly, the amount of solid waste, which the Town of Carroll must deal with and manage. If by chance a tourist should take a drive up Trudeau Road, they will find, for the most part, lovely wooded areas, a few homes and the Cassella operated landfill, which is clean, and non-odiferous. Their office building, if one should enter beyond the gates, is very attractive with flowers and plantings. The Town of Bethlehem has not addressed the issue of solid waste removal for its residents, even though State Law requires that they do so. I've visited many so-called transfer stations during my research for building the Carroll Transfer and Recycling facility and have found that most municipally run facilities are truly dumps.

I do agree that a state wide plan should be developed to increase recycling, reduce or eliminate the acceptance of out of state solid waste, and re-evaluate the growth of those old landfills (dumps) run by municipalities. Education is the cornerstone of this emerging industry. Municipal facilities are far more a problem than the professionally run landfills.

As we enter the twenty-first century, we must re-define and educate the population regarding what a landfill really is. Most people have the "dump" picture firmly lodged in their brains as the picture of a landfill. Solid waste management requires professionals in engineering, chemistry and the environment to operate this new resource correctly. And make no mistake, professionally managed landfills are a resource.

If I may use our neighbor professional landfill as an example; first, this is a double lined landfill with the appropriate materials between as filters, which means, NO WATER POLLUTION. Second, the solid waste brought in during the day is buried that day so there is NO ODOR POLLUTION. When a cell is completed, pipes are sunk to let the



methane gases escape. These gases can be captured and either burned off without residue being let into the air or converted to electrical power, which means NO AIR POLLUTION and no increase on greenhouse gases. I cannot imagine a more GREEN operation. Many people object to what appears to be a growing mountain. In a region of all sizes and shapes of mountains, this mountain, upon completion will be green and can be used for a multitude of people and tourist friendly activities, such as; walking paths, golf courses, astronomy activities and parks.

Some people cite increase truck traffic as a negative impact of professionally run landfills. The truth is, every single thing that comes into the North Country, whether it be tourists, grapes or solid waste, comes in a vehicle and a lot of those vehicles are trucks. Truck traffic is part of life here. We have WalMarts and Shaw's markets, Home Depot and logging trucks as well as delivery of wood chips to electrical producing facilities. With out the trucks, we would be in a bad way.. up here.. Some would complain about campers and snowmobile trailers.

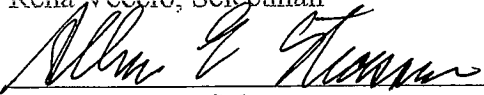
Professionally run landfills can add to the natural beauty and the enjoyment of the North Country. I would be opposed to giving municipalities the authority to regulate any area of professional landfills just by the example they have set running their own municipal "landfills". This example is truly dismal. I believe the state should be the regulating and permitting authority. I would be opposed to having the DES consider the ability of a host municipality to manage the risk associated with a proposed professional landfill simply because the majority of municipalities cannot seem to manage their own risks associated with their own municipal "landfills". And I am opposed to a moratorium of the permitting of landfills because, all that would accomplish is cause a huge backlog of solid waste, which would be a huge impact on land for storage, vermin and health concerns and in the end, solve nothing.

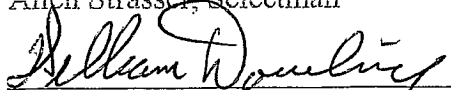
Please feel free to share this letter of opposition with the other committee members.

Sincerely,

  
Bonnie Morony Chairman Carroll Board of Selectmen

\_\_\_\_\_  
Rena Veccio, Selectman

  
Allen Strasser, Selectman

  
William Dowling Manager/Superintendent  
Carroll Transfer Station & Recycling Facility



Rep. James Phinizy, Chairman  
Committee on the Environment and Agriculture  
Room 303  
Legislative Office Building  
33 N. State Street  
Concord, NH 03301

January 4, 2008

Dear Chairman Phinizy and Committee Members:

Please support House Bill 1429 sponsored by Rep. Martha McLeod of Grafton County and Rep. Frank Tupper of Merrimack County. It will be discussed during a hearing at 11 a.m. January 10<sup>th</sup> before your Environment and Agriculture Committee.

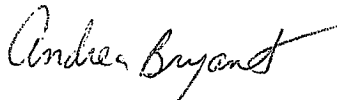
New Hampshire is one of the largest importers of solid waste and has one of the lowest recycling (18%) rates in the United States. The bill's one year moratorium on issuing permits to landfills will provide time for important analysis of NH's solid waste disposal practices and rules in order to develop viable solutions.

HB 1429 will require solid waste companies to apply for a new permit instead of simply getting a modification of existing permits. This would necessitate a more thorough evaluation of a landfill's expansion by DES because they will be required to look at the risks solid waste collection will have on the health of residents and hazards to the environment where the waste is deposited.

This bill can help protect any other New Hampshire town from the fate that the White Mountain community of Bethlehem has experienced. There is a 51 acre landfill that the residents have spent hundreds of thousands of dollars opposing for 20 years. However, the corporation (Casella Waste Systems) continues to transport and deposit millions of tons of trash. They are currently trying to get permit from DES to build a 40 foot earthen wall (berm) on top of the 2.7 tons of waste all ready there. What makes this especially dangerous, besides the fact the NCES landfill is on the edge of the Ammonoosuc River and on top of an aquifer, is that asbestos has been buried in Bethlehem. Senior Assistant Attorney General Maureen Smith states that from now on "the NCES landfill in Bethlehem has to be treated specially because of asbestos. This means when workers put in monitoring devices or dig test wells they will have to wear protective breathing apparatus." In the process of expansion, old waste will have to be dug up, thus disturbing the illegally buried asbestos exposing the residents, tourists, and environment to the airborne asbestos.

By supporting HB 1429 you will help insure that the people of New Hampshire can have their democratic right of protecting their health and environment from this type of contamination.

Thank you,



Andrea Bryant  
President  
EANNH

*Environmental Action of Northern NH is a non-profit and educational organization dedicated to promoting and protecting the environmental well-being of Bethlehem and the surrounding region.*





**FACTUAL ANSWERS TO**  
**FREQUENTLY ASKED QUESTIONS**  
**ABOUT**  
**NORTH COUNTRY ENVIRONMENTAL SERVICES, INC.**

Presented by  
North Country Environmental Services, Inc.  
581 Trudeau Road  
Bethlehem, New Hampshire 03574



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## 1. The facts about financial benefits to Bethlehem.

**Q1. *Is it true that the Town of Bethlehem receives no significant compensation from NCES?***

A. It is more accurate to say that the Town has refused to accept significant compensation from NCES.

- In 2006, NCES made an offer to settle pending litigation under which the Town would have received a host community fee valued at **\$10.3 million** over a ten-year period, (2) the lowest tipping fee rates it charges any other customer, and (3) a date certain by which waste disposal operations would cease. Supp. Docs. at 1. The offer was published in local newspapers but rejected by the Town at a special town meeting. *Id.* at 2-3. NCES had extended an even more generous offer during confidential mediation discussions with the board of selectmen but cannot disclose the terms because the selectmen will not waive confidentiality. *Id.* at 4 and 5-6.
- On more than one occasion, NCES's attempts to support local organizations and projects have been rejected by the selectmen. For example, NCES offered \$15,000 to pave the Town's little league parking lot but the offer was declined. Supp. Docs. at 7.
- NCES has made voluntary contributions totaling more than \$40,000 to community organizations in Bethlehem, including the Bethlehem Redevelopment Association (\$18,000), the police department (\$6,010), local schools (\$4,692), the library (\$4,500), the chamber of commerce (\$4,500), and the Town's fire and rescue service (\$1,800). Supp. Docs. at 8.

**Q2. *Why doesn't NCES make payments to Bethlehem under a host community agreement?***

A.

- In 1986, the Town imposed a zoning condition requiring NCES to pay a host community fee. Supp. Docs. at 12. The Town also imposed a requirement that NCES accept waste from town residents at a reduced fee. *Id.* at 11. These types of conditions have repeatedly been held unconstitutional by the New Hampshire Supreme Court. *Id.* at 15, 406. However, NCES honored these conditions until the Town sued NCES in 1998 to prohibit any further expansion of the landfill.
- In 2006, NCES offered the Town a host community fee of \$6 per ton (resulting in over \$10 million in payments through 2016) as part of a proposed settlement package. Supp. Docs. at 1. The Town rejected this offer. Supp. Docs. at 2-3.



**2. The facts about whether the NCES landfill has reduced property values or harmed tourism in Bethlehem.**

**Q3. *Has the landfill lowered property values in Bethlehem?***

A. Although Selectman Lon Weston testified that the landfill lowers local property values, he produced no evidence to substantiate that claim. A recent newspaper article quotes Mr. Weston as agreeing that Bethlehem is actually enjoying a boom in the development of second homes. "Small Town: Big Growth, Major Housing Developments Planned in Bethlehem," *Littleton Courier* (12/26/07) (Supp. Docs. at 17-18). According to the article, there are numerous housing developments underway in Bethlehem, including a 100-unit development that is the largest residential project in town history. *Id.* These homes will be listed for sale in the \$300,000 to \$400,000 range. *Id.* at 18. According to DRA's annual equalization surveys, moreover, the total equalized value of all property in Bethlehem (excluding utilities) increased from \$140,675,970 in 2001 to \$268,664,057 in 2006. *Id.* at 19-20. That amounts to an increase of more than 90% in aggregate property value in only five years.

**Q4. *Has the NCES landfill reduced tourism in Bethlehem or slowed the local economy?***

A. No.

- Mr. Weston has testified under oath that he would not say that tourism has declined in Bethlehem:

Q: I'm going to ask you whether the town has done any economic studies or surveys . . . of any formal nature to determine that it's the landfill that has caused tourism in the town to decline, if in fact, it has?

A: Well, I never said anything, I never said that tourism has declined. Supp. Docs. at 22.

- Bethlehem Selectman Lon Weston recently told a reporter that Bethlehem is experiencing a "boom [in vacation home development] not seen for decades and it is on large part driven by the expansion of Bretton Woods." Supp. Docs. at 18. According to Weston, the bulk of the Bretton Woods ski area is located in Bethlehem, not Twin Mountain. *Id.* at 17.
- Bethlehem Planning Board Chair John Seely has stated publicly that the Bethlehem boom will continue despite a sluggish economy, and that "This is becoming a destination area." Supp. Docs. at 18.
- One of the major subdivisions in the "boom" is being constructed by Bethlehem resident Leslie Dreier (Supp. Docs. at 18), whose written testimony in opposition to the bill does





not disclose his own economic interests. If Mr. Dreier truly believed that the landfill were destroying Bethlehem's environment and tourist economy, he would not be investing so heavily in second home development.

### **3. The facts about NCES's property taxes.**

**Q5. *Is it true that NCES paid the Town of Bethlehem a total of only \$67,999 in taxes during its entire history?***

A. No. In fact, NCES paid more than \$66,000 in local property taxes in 2002 *alone*.

In that year, the Town singled out the landfill for reappraisal and increased the prior appraised value by 4,765% to \$11,280,000. Supp. Docs. at 31. After paying a tax bill of \$353,064 (*id.* at 39), NCES sought and obtained an abatement determination from the New Hampshire Board of Tax and Land Appeals. *Id.* at 84. The board determined that the Town's appraiser was not qualified to appraise a landfill (*id.* at 86) and that the landfill's true market value was only \$3,192,987. *Id.* at 83.

After applying the correct equalization ratio and the applicable tax rate, NCES's tax liability on the landfill for 2002 was \$66,261. *Id.* at 32.

**Q6. *Did the Town of Bethlehem lose \$1 million in tax revenue due to NCES's RSA 72:12-a tax exemption for pollution control devices?***

A. No. NCES did not apply for the exemption until 2002 after the Town announced that it would be increasing its appraisal of the landfill by approximately 5,000%. As a result, NCES did not receive the benefit of the exemption until tax year 2003. In 2006, the legislature amended the statute to render landfill owners ineligible for the exemption for pollution control devices. During the period from 2003 through 2006, if the exemption had not been applied, the Town would have received an aggregate total of only \$305,541 additional tax dollars spread over the four-year period (Supp. Docs. at 33), i.e., \$700,000 less than the \$1 million claimed in the testimony of Bethlehem's selectmen.

**Q7. *Is it true that NCES offered to give up its exemption if Bethlehem would properly value its property?***

A. Yes. During the hearings before the Board of Tax and Land Appeals, NCES twice offered to waive its tax exemption if the Town would simply use the proper method to value its property. The Town did not even respond to NCES's offer. In its final decision, the BTLA decided to use the valuation method NCES had proposed to the Town. Supp. Docs. at 57.



**Q8. Did the Town of Bethlehem “give” NCES a \$1 million tax abatement?**

A. No. Towns do not “give” abatements.

- The Town overtaxed NCES almost \$900,000 for tax years 2002 through 2006. NCES sought an abatement from the town based on an opinion from a nationally recognized expert in landfill valuation. The Town denied the abatement.
- On appeal, the Board of Tax and Land Appeals found that, among other things, the Town used grossly excessive valuations developed by an appraiser who was not qualified to appraise a landfill (Supp. Docs. at 86); applied the wrong equalization ratios (*id.* at 76-78); and taxed tax-exempt property. *Id.* at 79-83.
- The Town reimbursed NCES for tax years 2002 through 2004 only after the BTLA ordered it to do so (*id.* at 84). The Town then voluntarily refunded the amount it had overtaxed NCES for tax years 2005 and 2006.
- The total amount by which the Town overtaxed NCES, and therefore the total amount (excluding interest) that the Town was required to refund to NCES, was approximately \$898,000. *Id.* at 34.

**4. The facts about the amount and sources of waste disposed of at the NCES landfill.**

**Q9. Are 140,000 tons of waste deposited at the NCES landfill every year?**

A. On average, yes. Under NCES’s permit, that is the expected tonnage that the facility will receive on a yearly basis. Supp. Docs. at 97.

**Q10. How does that yearly tonnage compare to that of other New Hampshire landfills?**

A. Turnkey, the largest landfill in the state, receives an average of over 1,212,000 tons of waste per year; the Mt. Carberry landfill in Success receives almost 174,000 tons of waste per year; and the landfill in Lebanon receives about 50,500 tons per year. Supp. Docs. at 101-114.

**Q11. How many New Hampshire communities send waste to the NCES landfill?**

A. All told, residents and businesses from 195 New Hampshire communities send their waste to the NCES landfill. Supp. Docs. at 465.



**Q12. How much of NCES's waste comes from out-of-state?**

A. During the period 2002-07, roughly 15% of NCES's waste came from out-of-state. Supp. Docs. at 101-104, 107, 111.

**Q13. How does that compare to the amount of out-of-state waste accepted by other New Hampshire landfills?**

A. During the same period, Turnkey received almost half of its waste from out-of-state and Lebanon received over 32% of its waste from out-of-state. Supp. Docs. at 101-104, 107, 111.

**Q14. Does NCES document the origin of its waste?**

A. Yes. NCES reports all of its waste in accordance with DES rules. *See generally* Env-Sw 806.08; Env-Sw 1105.07; and Env-Sw 1105.13. Supp. Docs. at 133-139. All landfills in the state must follow these same procedures. Accordingly, in addition to other reporting requirements, all out-of-state waste received at the NCES facility is documented by state of origin. Env-Sw 1005.10. *Id.* at 140.

**Q15. What if the transporter/hauler fails to accurately report the origin of the waste brought into the landfill?**

A. There is no incentive for a transporter/hauler to misrepresent the origin of the waste; on the contrary, there is a very good reason not to misrepresent its origin. Under New Hampshire law, it is a criminal offense to make a false written statement, even if that statement is unsworn. RSA 641:3. Supp. Docs. at 141.

**Q16. It has been claimed that trucks with out-of-state license plates, such as Pennsylvania and New Jersey, bring waste to the landfill. Does NCES accept waste from these states?**

A. No, but it is understandable how persons unfamiliar with the trucking industry could make that mistake.

It is common practice among apportioned motor carriers to search for the cheapest, most convenient state in which to register their heavy trucks. Thus, a truck's license plate is in no way an indicator of where that truck is coming from or even where the business enterprise that employs the truck originates from. *See* Mark Ojah, *Jurisdiction Shopping Among Apportioned Motor Carriers: Examination of Cause and Potential Remedies*, 1864 Transportation Research Record, 54, 54-61 (2004) (Supp. Docs. at 143-144).



**Q17. *Where does the out-of-state waste that NCES accepts come from?***

- A. Primarily from Maine, Massachusetts, and Vermont. It does not receive any waste from either Pennsylvania or New Jersey. The state of origin for the out-of-state waste accepted at the facility is available in the annual reports NCES files with DES. Supp. Docs. at 117, 120, 123-124, 127-128, 131-132.

**5. The facts about water quality at the “seep” and in the Ammonoosuc River.**

**Q18. *What is the “seep”?***

- A. The seep is one of several natural breakouts of groundwater on the bank of the Ammonoosuc River. Supp. Docs. at 146.

**Q19. *The seep is rust colored in appearance; does that stem from the presence of volatile organic compounds (VOCs)?***

- A. No. The discoloration in the seep is the result of naturally occurring iron and manganese in the groundwater coming into contact with oxygen. Supp. Docs. at 169-170. These elements in groundwater are more soluble in their reduced (oxygen-deficient) form and become less soluble in their oxidized (oxygen present) form. *Id.* When the groundwater flows from underground at the seep and comes into contact with the air, the iron and manganese separate out of solution, resulting in the deposit of the rust-colored silt in that area over time. *Id.*

The levels of iron and manganese in the groundwater were increased by the leachate produced by the old, unlined landfill on the site. Supp. Docs. at 169. (This unlined landfill was developed with town and state approval by a town resident in 1976. *Id.* at 402.) Upon its acquisition of the site, NCES removed the waste from the former unlined landfill and placed this waste in a new, lined landfill cell. *Id.* As a result, iron and manganese concentrations in groundwater in the area between the former unlined landfill and the seep (and flowing from the seep itself) have generally decreased. *Id.*

No VOCs were detected in the seep or surface water samples collected during the 2007 reporting period under the NCES permit. Supp. Docs. at 149.

**Q20. *Did NCES agree to the aesthetic remediation of the seep in exchange for an expansion permit?***

- A. No. In accordance with a previous requirement from DES, NCES submitted a report in May of 2003 (Supp. Docs. at 165) that evaluated several alternatives to address the accumulation of the naturally occurring iron and manganese in the area of the seep and recommended physical removal of the material as the preferred alternative to address this





issue. In a letter dated August 3, 2006, DES agreed with the preferred alternative, but required confirmation of downward trends in the concentrations of iron and manganese in groundwater flowing from the seep before proceeding with the plan. *Id.* at 181. That letter indicated that based on the results of the ongoing monitoring at the site, the concentrations of iron and manganese have continued to decrease to the point that DES had concluded it was now appropriate to implement the proposed plan.

**Q21. *Can the seep become discolored again in the future?***

A. Because it is a natural phenomenon, it may. However, because the concentrations of iron and manganese have continued to decrease it is less likely that it will occur and if it does, it will do so at a much slower rate. Supp. Docs. at 181.

**Q22. *Does the seep pose a threat to the river or to drinking water wells downstream from the NCES facility?***

A. No. VOC concentrations in the groundwater emerging at the seep peaked in approximately mid-1995, as a consequence of the disturbance caused by the excavation and removal of the unlined landfill waste. Supp. Docs. at 200. Since then, VOCs have been essentially non-detectable in the seep samples but for two rounds in 2004 and 2005 (for these, the concentrations of the detected VOCs were all below DES's groundwater standards). During these two rounds, VOCs were not detected in a sample collected from the drainage channel downstream from the seep. VOCs have not been detected in samples collected from three locations in the Ammonoosuc River (above, below, and at the seep). *Id.* at 146, 149.

**Q23. *What does the presence of stoneflies and other aquatic insects indicate about the quality of water in the Ammonoosuc River in Bethlehem?***

A. For some twenty years, ecologists have evaluated stream water quality based on the absence or presence of pollution-intolerant aquatic insects. Supp. Docs. at 201. DES's Watershed Management Bureau, in particular, has implemented a biomonitoring program in New Hampshire streams since 1995. *Id.* at 204. While moving stream water can wash away or dilute pollution, aquatic insects remain sensitive to water quality over time. *Id.* at 201. They spend their entire lives in the water and have a limited ability to escape pollution. *Id.* at 206, 208. Accordingly, pollution-intolerant aquatic insects function like a canary in a coal mine for water quality. *Id.* at 201, 206. Among the most sensitive of these pollution-intolerant insects is the stonefly. *Id.* at 203, 206. Stoneflies are found in the Ammonoosuc River, including within the Town of Bethlehem. DES has conducted four biomonitoring surveys along the Ammonoosuc River – two in Carroll, one in Littleton, and one in Bethlehem. DES found more than 200 stoneflies (order *Plecoptera*) in its Bethlehem survey location. *Id.* Moreover, the survey took into account the presence or absence of a full range of aquatic insects and assigned an overall score on a



scale of 0 (bad) to 100 (good) based on the survey. *Id.* The survey conducted in Bethlehem resulted in the highest of the four scores – a score of 85.3 – and well above the benchmark (desirable) score of 65. *Id.* The Bethlehem survey was conducted downstream of the seep. *Id.* at 214-216.

***Q24. Does the landfill violate any surface water setback requirements?***

A. No. NCES is in full compliance with all surface water setback requirements. DES regulations require that the footprint of a landfill “not be located within 200 feet of any perennial surface water body, measured from the closest bank of a stream.” Supp. Docs. at 228. (A perennial water body contains water throughout the year under normal conditions.) The northernmost footprint of the landfill is located almost 1,000 feet from the Ammonoosuc River – five times the distance required by law. *Id.* at 229.

***Q25. Are VOC levels threatening the Ammonoosuc River or water quality generally?***

- A. No.
- NCES maintains 39 groundwater monitoring wells and also monitors five surface water locations on a slope above the Ammonoosuc, plus three surface water areas on the shoreline downslope from the “seep.” Supp. Docs. at 146.
  - There are no VOCs in the seep or any of the other surface water test areas, including shoreline test areas along the river. Supp. Docs. at 149.
  - Over the course of 2007, VOCs were detected in 12 of the 39 monitoring wells. However, with only one exception, the concentrations of any VOCs in the groundwater were within drinking water standards. Supp. Docs. at 149, 161.
  - The exception noted above occurred in November 2007. One of the test wells contained a VOC at a concentration of 40.1 ug/l, which is only slightly above the drinking water standard of 40 ug/l. Supp. Docs. at 162.

**6. The facts about whether asbestos from the Mountain View Grand Hotel renovation was disposed of in the NCES landfill.**

***Q26. Did the attorney general determine that asbestos was illegally dumped at the landfill?***

A. No. In a superior court petition, the attorney general’s office *alleged* “on information and belief” (which means based on secondhand information) that asbestos from the renovation of the Mountain View Grand Hotel in Whitefield was deposited at the landfill. Supp. Docs. at 254. Because the state settled the case (*id.* at 231-240), it was never made



to prove the allegation. The state did not request that NCES admit to any of the state's allegations in the settlement (*id.* at 232). The state's claim was not based on any evidence that asbestos had been delivered to the landfill but on the state's contention that NCES's procedures for inspection of incoming waste did not comply with its state-approved operating plan. *Id.* at 213-232, 258-260. In fact, the state alleged that the hotel owner had buried asbestos from the renovation on the hotel property.

**Q27. *How much waste was buried on the hotel grounds?***

- A. State investigators found a burial site at the hotel, roughly rectangular in shape, measuring some 62 by 67 feet. DES Activity Report at 042930 (Supp. Docs. at 271). They found numerous forms of ACM in the burial site on the hotel property. The investigators dug trenches and took samples of material found at depths ranging from five feet to eighteen feet, but they did not excavate the entire burial site. *Id.* at 264-270. Assuming an average depth of twelve feet, this corresponds to a volume of approximately 50,000 cubic feet. In contrast, a pre-renovation survey of the hotel identified approximately 2,000 linear feet of pipe insulation and 8,000 square feet of other potential asbestos-containing material ("ACM"). *Id.* at 276-281 (Table II). Even supposing that each unit of ACM corresponded to a full cubic foot – and in fact it would be far less – this would amount to only 10,000 cubic feet, i.e., one-fifth of the volume of the burial site.

**Q28. *Did the attorney general allege that 300 truckloads of asbestos went to the landfill?***

- A. No. The Mountain View Grand Hotel includes an enormous hotel structure within a complex of numerous ancillary buildings located on a 400-acre parcel of land overlooking the White Mountains. Supp. Docs. at 282. In 2001, its entire interior was demolished as part of an historic \$20 million restoration effort. *Id.* at 284-285. Despite the magnitude of the renovation project, the state's petition alleges that the landfill received only one or two truckloads per week of *demolition debris and other solid waste* – not asbestos – over a two-year period. *Id.* at 254, ¶20. The petition does not even allege that 300 truckloads of asbestos were delivered to the landfill.

**Q29. *Will NCES's next planned expansion require the excavation of areas where waste from the Mountain View Grand Hotel was buried?***

- A. No. The only area to be excavated as part of NCES's proposed Stage IV, Phase II expansion is Stage I. See Map (Supp. Docs. at 287). Stage I, however, was capped in 1998. Interior demolition of the hotel did not begin until February of 2001. *Id.* at 284-285. Consequently, none of the material from the Mountain View Grand renovation is in the part of the landfill that would be excavated in the construction of Stage IV, Phase II.



**7. The facts about the proposed permit amendment  
now under consideration by DES.**

***Q30. Does NCES's proposed permit modification comply with the Bethlehem zoning ordinance?***

A. Yes. As a matter of fact, NCES redesigned Stage IV in response to the Town's amendment of its zoning ordinance in 2005. The 2005 amendment made landfilling a permitted use as of right within NCES's 51-acre parcel. Supp. Docs. at 327. Because Stage IV as originally designed in 2003 extended outside the 51-acre parcel (*id.* at 311, 313), NCES has changed the design to comply with the ordinance. The Town is nevertheless attempting through HB 1429 to prevent NCES from engaging in a use that it expressly authorized at town meeting less than three years ago.

***Q31. Will the berms at the NCES landfill be in excess of 40 feet high?***

A. No. NCES proposes to extend the existing berms at the landfill as part of its pending permit modification. The berms will be up to 39 feet high in some places. Supp. Docs. at 315. This is below the Town of Bethlehem's 40-foot height limit for structures. *Id.* at 329.

***Q32. Will the berms at the NCES landfill be stable?***

A. Yes. The berms were designed separately from the overall design of Stage IV by Tensar MSE, a firm that specializes in berm design. Supp. Docs. at 333.

***Q33. Is the use of berms at landfills an established engineering technique***

A. Yes. There is a forty-foot berm in place at the Turnkey landfill in Rochester (Supp. Docs. at 466) and the Four Hills Landfill in Nashua has received approval for sixty-foot berms at its facility (*id.* at 467-468). NCES has also placed berms at its facility.

***Q34. Would NCES's proposed permit modification increase the height or capacity of the landfill?***

A. No.

- NCES's permit modification application dated November 29, 2007 seeks to move landfilling activities approved by DES in 2003 to within the 51-acre area designated by the Bethlehem zoning ordinance as the "landfill district." Supp. Docs. at 313.





- If the permit modification is granted, the capacity of Stage IV will be approximately 127,000 cubic yards less than that approved for Stage IV in 2003. *Id.*
- The height of Stage IV Phase II is set at the same elevation originally approved for Stage IV. Supp. Docs. at 314.

**Q35. *Is it true that communities have no input into DES's permitting decisions?***

- A. No. The opportunity for public input is guaranteed by law. The solid waste statute requires DES to hold a public hearing before issuing a permit. Supp. Docs. at 288). In addition, DES regulations require the department to notify communities of pending applications and provide opportunity for the public to submit written comments at several points in the review process. *Id.* at 293-294. Regulations further require DES to provide a written response to any comments received. *Id.* An example of such a response is attached. *Id.* at 295-308.

**Q36. *Does New Hampshire need the disposal capacity that Stage IV, Phase II would provide?***

- A. By statute, DES cannot approve a proposed landfill expansion unless the additional capacity is needed for disposal of waste originating in New Hampshire. Supp. Docs. at 289-291. DES has found that the Stage IV capacity is necessary to accommodate New Hampshire's waste. *Id.* at 98-99.

**Q37. *Why is it important that permitted landfill capacity like Stage IV actually be made available for waste disposal?***

- A. Because permitting of landfill capacity is limited by law. Under RSA 149-M:11, DES can issue a "standard permit" for a waste disposal facility only if there is a need for the facility's capacity over a twenty-year planning horizon. Supp. Docs. at 290-291. The statute also requires DES to assume that a permitted facility will be used exclusively for New Hampshire waste. *Id.* at 290.

This statutory scheme limits the number of permits DES may issue, but for this reason DES must be able to rely upon development of the capacity it permits. Otherwise DES's planning for adequate disposal capacity will be frustrated.

Because RSA 149-M requires DES to assume that no out-of-state waste is disposed of at New Hampshire's landfills and incinerators, DES's estimates of available capacity in the state significantly overstate actual available capacity. For the period 2002 through 2006, an average of 33% of the waste disposed of in-state was imported from outside the state. Over this five year period, the lowest import rate occurred in 2005 at 23%; the highest



occurred in 2003 at 41%. Total tonnage over this period was 3,323,770 tons of imports out of 9,998,886 tons of total waste. *Id.* at 101-104, 107-108, 111-112.

By preventing the development of capacity found necessary by DES, the state's waste management plan to provide adequate capacity is undermined.

**Q38. *Is the Mt. Carberry landfill a viable alternative to the NCES landfill?***

A. No. If it were cost-effective, towns that currently send waste to the NCES landfill would *already* send their waste to Mt. Carberry. In fact, *both Bethlehem and Franconia send their waste to the NCES landfill, not Mt. Carberry.* Supp. Docs. at 114.

- As recently as 2006, the Pemi-Baker Solid Waste District entered into a long-term contract to send waste to the NCES landfill. Supp. Docs. at 371. It did so only after considering and rejecting the bids of numerous competitors, including Mt. Carberry. *Id.* at 377-379.
- There are more than fifteen municipalities in the district. Supp. Docs. at 384. Although member communities are free to send their waste elsewhere (*id.* at 370), almost all of them have elected to send their waste to the NCES landfill. *Id.* at 372.
- The high cost to transport waste to Mt. Carberry has long been an obstacle for district member towns. Supp. Docs. at 369, 387-388. This is so even for those, like Littleton, that are relatively close to Mt. Carberry. *Id.* at 388. The transportation problem has only been exacerbated by rising fuel prices.
- If the NCES landfill were to close, the loss of competition would undoubtedly lead to an increase to Mt. Carberry's tipping fees. Supp. Docs. at 389-392.

**Q39. *Will a moratorium on landfill permits increase the recycling rate in New Hampshire?***

A. No. The two are unrelated.

- NCES's parent company, Casella Waste Systems, Inc., of Rutland, Vermont, is the largest recycling company east of the Mississippi. Casella is well-acquainted with the strategies that lead to increased recycling. Casella is particularly excited about the new RecycleBank system which incentivizes citizens to recycle. Supp. Docs. at 461-463.
- It is impossible to correlate the availability of landfill space to low recycling rates. The Town of Littleton has easy access to the NCES landfill, yet Littleton's recycling rate is 70.15%. Supp. Docs. at 506. Lisbon, Lincoln, and Franconia, all of which are in close proximity to the NCES landfill, all have recycling rates of 40%. *Id.* at 504-506.



- According to DES, educating citizens and instituting incentive programs such as pay-as-you-throw will increase recycling. Supp. Docs. at 483-484. Towns that have instituted pay-as-you-throw have seen remarkable increases in recycling and decreases in overall disposal costs. *Id.* at 484.
- A moratorium would not, as the proponents of HB 1429 maintain, make it possible for the state to undertake measures to increase recycling. Nothing prevents the state from adopting policies to promote recycling, whether or not DES grants further landfill permits.

### **8. The facts about the litigation between NCES and Bethlehem.**

#### ***Q40. What has caused the lawsuits between NCES and Bethlehem?***

- A. The courts and the state's administrative agencies have repeatedly held that the Town has acted unlawfully toward NCES. The Town's conduct has given NCES the choice of going out of business or litigating to protect its rights. Unfortunately, the Town has been unwilling to agree on some middle ground.

#### ***Q41. What led to the first lawsuit?***

- A.
- In 1976 and 1986 NCES's predecessors obtained approvals from town land use authorities to permit landfilling on the parcel that NCES now owns. *North Country Environmental Services, Inc. v. Town of Bethlehem* ("NCES II"), 150 N.H. 606, 607 (2004) (Supp. Docs. at 393).
  - In 1987, the Town began enacting ordinances to put the landfill out of business. The 1987 ordinance prohibited private landfills anywhere in town, and in 1992 the Town amended the ordinance to prohibit the expansion of existing private landfills. Supp. Docs. at 394. In 2000 it amended its ordinance to limit landfill height. *Id.* at 394.
  - After NCES acquired the landfill, the Town disputed the size of the area NCES was authorized to landfill under the approvals the Town had granted and threatened to issue a cease and desist order. This forced NCES to litigate to the supreme court ("NCES I") for a determination that it had all necessary Town approvals to landfill a 51-acre area of its property. *Id.* at 393-394; *see also North Country Environmental Services, Inc. v. Town of Bethlehem*, 146 N.H. 348 (2001) (*id.* at 402-407).

#### ***Q42. Did the supreme court's decision resolve the dispute?***

- A. No.



- Immediately after the supreme court issued its decision, Town officials stated publicly that the Town's fight with NCES was not over. The Town discharged its law firm and hired another firm that was willing to "do battle" with NCES. Supp. Docs. at 408, 409.
- Despite the supreme court's decision in *NCES I*, the Town asserted that NCES needed an additional local approval, forcing NCES to litigate again to the supreme court (*NCES II*) to affirm the earlier ruling that NCES had *all* necessary local approvals to landfill within the 51 acres. Supp. Docs. at 400-401.

***Q43. Did the Town take any other action against NCES after losing in the supreme court?***

A.

- After losing *NCES I*, the Town retaliated by singling out the landfill for reappraisal (there was no town-wide reappraisal under way) and increasing the assessed value for 2002 by 4,765% to \$11,280,000. Supp. Docs. at 31. This reappraisal, among other things, forced NCES to file tax abatement appeals with the New Hampshire Board of Tax and Land Appeals ("BTLA") for every tax year from 2002 through 2006. The BTLA ultimately determined that the Town's appraiser was not qualified to appraise a landfill and that the landfill's assessed value in 2002 was only \$2,116,950. *Id.* at 32. The Town's appeal of this decision was not accepted by the supreme court.
- In 2002, NCES filed with DES for a determination that some of the facilities installed at the landfill were tax exempt pollution control facilities under RSA 72:12-a. Although RSA 72:12-a was first enacted in 1971 (Supp. Docs. at 94), and the Mt. Carberry landfill in Success had previously obtained favorable exemption determinations when it was privately owned, NCES had never sought exemptions under RSA 72:12-a before 2002. It did so in that year as a defensive measure against the Town's retaliatory reappraisal.
- The Town challenged NCES's tax exemption determinations, again forcing NCES to litigate to the supreme court to defend its right to the exemption. Again, the supreme court ruled in NCES's favor. *Appeal of Town of Bethlehem*, 154 N.H. 314, 317 (2006) (Supp. Docs. at 411).

***Q44. Did the Town accept this third supreme court ruling against it?***

A. No.

- Having failed to defeat NCES's tax exemption in the courts, the Town lobbied for the 2006 amendment to RSA 72:12-a, under which all pollution control devices are tax exempt except those installed at a landfill. Supp. Docs. at 93-94. At the time the amendment was enacted, NCES was (and still is) the only private landfill with an RSA 72:12-a tax exemption. *Id.* at 419-420. This has forced NCES to litigate the





constitutionality of the amendment to the supreme court. This case is now pending. *North Country Environmental Services, Inc. v. State of New Hampshire*, Case No. 2007-0419. *Id.* at 423.

**Q45. Are those four cases the extent of the litigation between NCES and the Town?**

A. No.

- When NCES obtained a permit for its Stage IV expansion, the Town challenged DES's issuance of the permit, yet again forcing NCES to litigate to the supreme court to protect its right to the permit. Once again, the supreme court ruled against the Town. *Appeal of Town of Bethlehem*, Case No. 2003-0625 (Supp. Docs. at 424).
- NCES's Stage IV expansion was originally designed to extend beyond the 51 acres (Supp. Docs. at 313), requiring a court decision as to the validity of the 1992 zoning amendment that prohibited the expansion of privately-owned landfills. *Id.* at 394, 399. In *NCES II*, the supreme court remanded this question to the superior court for consideration and the superior court held that the 1992 ordinance was unlawful. *Id.* at 434-437.

**Q46. Has NCES tried to resolve its disputes with the Town?**

A. Repeatedly.

- In 2006, NCES offered to settle pending litigation under which the Town would have received (among other benefits) a host community fee valued at \$10.3 million over the life of the landfill, (2) the lowest tipping fee rates it charges any other customer, and (3) a date certain by which NCES would discontinue all waste disposal operations in the town. Supp. Docs. at 1. The offer was published in local newspapers but rejected by the Town at a special town meeting. *Id.* at 2-3. NCES had extended an even more generous offer during confidential mediation discussions with the board of selectmen but cannot disclose the terms because the selectmen will not waive the confidentiality requirement. *Id.* at 4, 5-6.

**Q47. Has NCES burdened the Town of Bethlehem with \$220,000 in litigation costs?**

A. No. To begin with, Bethlehem's total actual legal expense for 2007 was \$186,451. Supp. Docs. at 449. The \$220,000 figure Mr. Weston gave the committee was the total budgeted number. *Id.*

- The Town's litigation costs are a function of the Town's own decisions. As the preceding litigation history demonstrates, the Town has repeatedly taken legal and factual positions that have failed to stand up under scrutiny before the courts and New



Hampshire's administrative agencies. As a result, the Town has squandered its resources in pursuit of meritless positions. For example:

- The Town erroneously claimed NCES's local approvals did not apply to the 51 acres. Supp. Docs. at 394.
- The Town erroneously claimed authority to conduct site plan review within the 51 acres despite a prior decision that NCES had all necessary local approvals to landfill within that space. Supp. Docs. at 394.
- The Town erroneously claimed the authority to require NCES to obtain a building permit before constructing a DES-permitted landfill. Supp. Docs. at 400-401.
- The Town enacted two unlawful height ordinances. Supp. Docs. at 400-401.
- The Town erroneously claimed that NCES's Stage IV permit was improperly issued. Supp. Docs. at 424.
- The Town erroneously contested the validity of NCES's RSA 72:12-a tax exemption. Supp. Docs. at 411.
- The Town unlawfully over-assessed the landfill's taxable value in reliance upon an unqualified appraiser. Supp. Docs. at 86.

In addition, the Town turned down an offer to settle pending litigation under which the Town would have received (among other benefits) a host community fee valued at \$10.3 million over the life of the landfill, (2) the lowest tipping fee rates it charges any other customer, and (3) a date certain by which NCES would discontinue all waste disposal operations in the town. Supp. Docs. at 1-3. This offer would have eliminated the Town's litigation costs as well.

***Q48. Is the NCES landfill in an area zoned for landfilling?***

- A. Yes. In 2005, following litigation that clarified the Town's 1976 and 1986 zoning approvals, the Town enacted a new zoning ordinance that created a "landfill district" from the 51-acre parcel for which the Town had granted zoning approval. When the Town enacted its zoning ordinance in 2005 creating the landfill district, Town officials were aware that the Town could not determine the capacity or lifespan of the landfill NCES would develop within the 51 acres because that was a decision for DES to make. Supp. Docs. at 26-27.



## NCES NH Town Service Area-Facilities Combined

Acworth	Epsom	Marlborough	Seabrook
Alexandria	Exeter	Marlow	Sharon
Allenstown	Farmington	Mason	Shelburne
Alstead	Fitzwilliam	Melvin Village	Silver Lake
Alton	Francestown	Meredith	South Tamworth
Amherst	Franconia	Merrimack	Springfield
Andover	Franklin	Milford	Stewartstown
Antrim	Freedom	Milton	Stoddard
Atkinson	Fremont	Mirror Lake	Strafford
Auburn	Gilmanton	Monroe	Stratford
Barnstead	Gilsum	Mont Vernon	Stratham
Bartlett	Goffstown	Moultonborough	Sullivan
Bedford	Goshen	Nashua	Sunapee
Belmont	Grafton	Nelson	Surry
Bethlehem	Grantham	New Boston	Sutton
Boscawen	Greenfield	New Durham	Swanzey
Bow	Greenland	New Hampton	Tamworth
Bradford	Greenville	New Ipswich	Temple
Brentwood	Guild	New London	Thornton
Bristol	Hampstead	Newbury	Tilton
Brookfield	Hampton	Newfields	Troy
Brookline	Hampton Falls	Newmarket	Union
Canaan	Hancock	Newport	Unity
Candia	Hanover	Newton	Wakefield
Canterbury	Harrisville	North Hampton	Walpole
Carroll	Henniker	Northfield	Warner
Center Harbor	Hillsborough	Northumberland	Washington
Center Tuftonboro	Hinsdale	Northwood	Waterville Valley
Charlestown	Holderness	Nottingham	Weare
Chester	Hollis	Orford	Webster
Chesterfield	Hooksett	Ossipee	West Ossipee
Chichester	Hopkinton	Pelham	Westmoreland
Chocorua	Hudson	Peterborough	Wilmot
Claremont	Jackson	Piermont	Wilton
Colebrook	Jaffrey	Pittsfield	Winchester
Concord	Jefferson	Plainfield	Windham
Cornish	Kearsage	Plaistow	Windsor
Croyden	Keene	Plymouth	Wolfeboro
Dalton	Kingston	Portsmouth	Wonalancet
Danbury	Laconia	Randolph	
Danville	Langdon	Raymond	
Deerfield	Lebanon	Richmond	
Deering	Lee	Rindge	
Derry	Lempster	Rollinsford	
Dublin	Lincoln	Roxbury	
Dunbarton	Lisbon	Rumney	
East Kingston	Litchfield	Rye	
East Wakefield	Littleton	Salem	
Effingham	Londonderry	Salisbury	
Elkins	Loudon	Sanbornton	
Enfield	Lyndeborough	Sanbornville	
Epping	Manchester	Sandown	
			<i>Total 195</i>

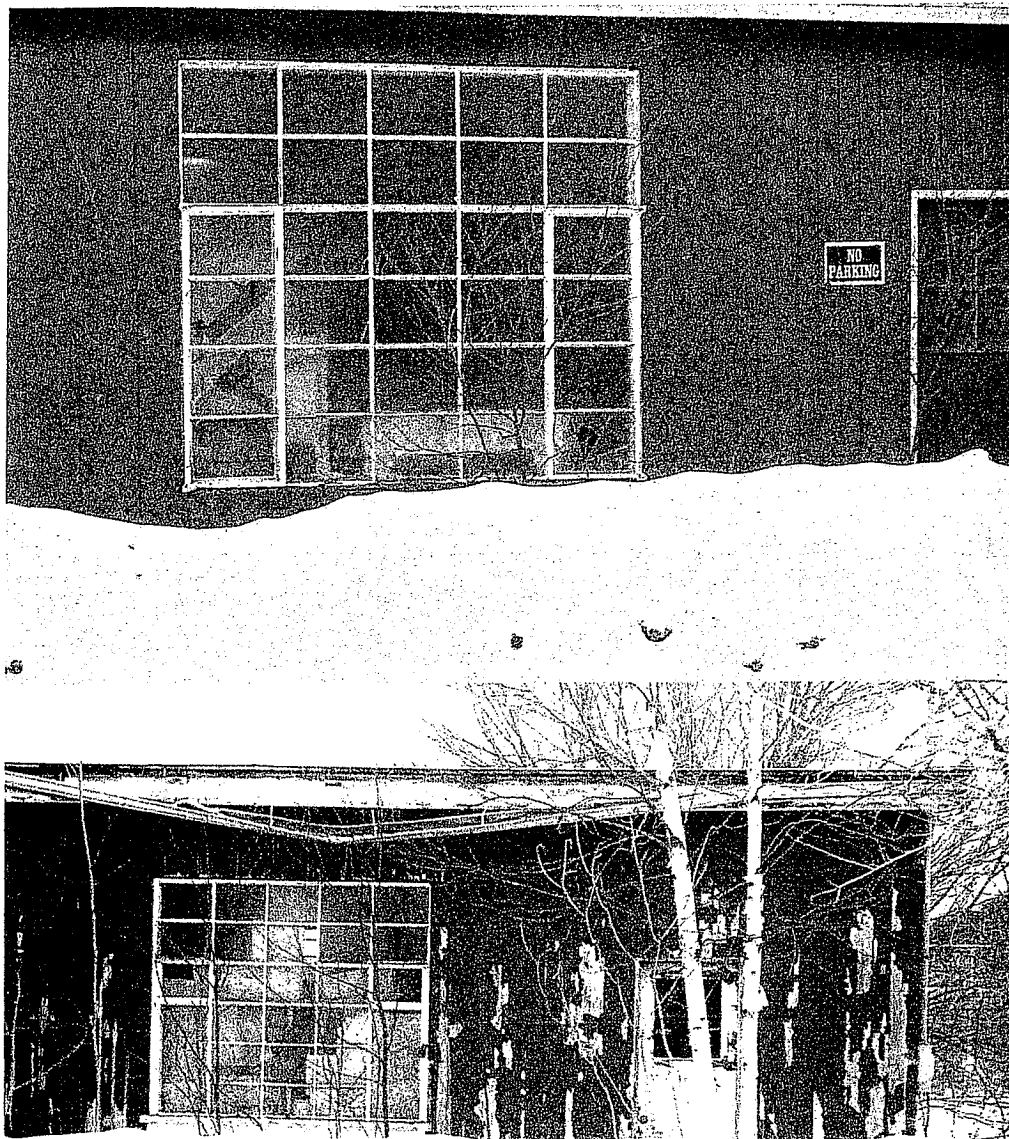


***TOWN OF BETHLEHEM  
AS SEEN BY TOURIST***





*.9 OF A MILE OFF OF RT 93 Heading toward  
Twin Mountain*





***1.0 MILES FROM RT 93***

***Now closed for 3 years just started to clean it up  
Would you want to stay here?***



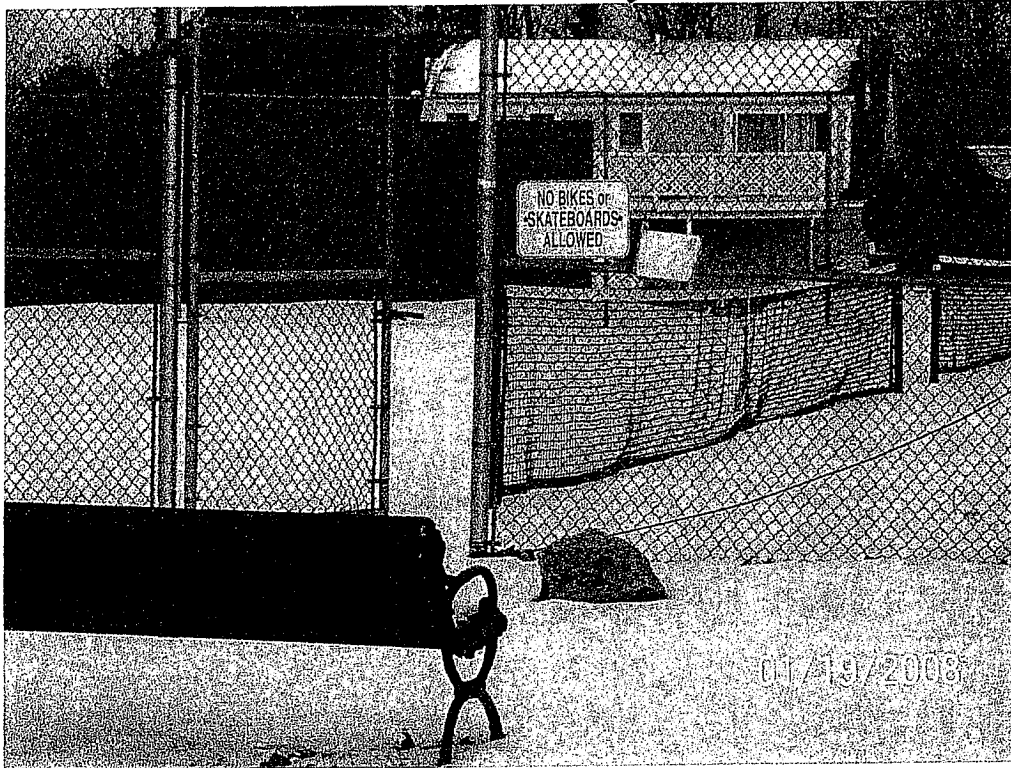


*2.6 Miles from RT 93  
Built for the Town by NCES  
Flea Market is held on Saturday  
Concerts on Sunday*





*2.7 miles from RT 93  
Tennis Court built by NCES*



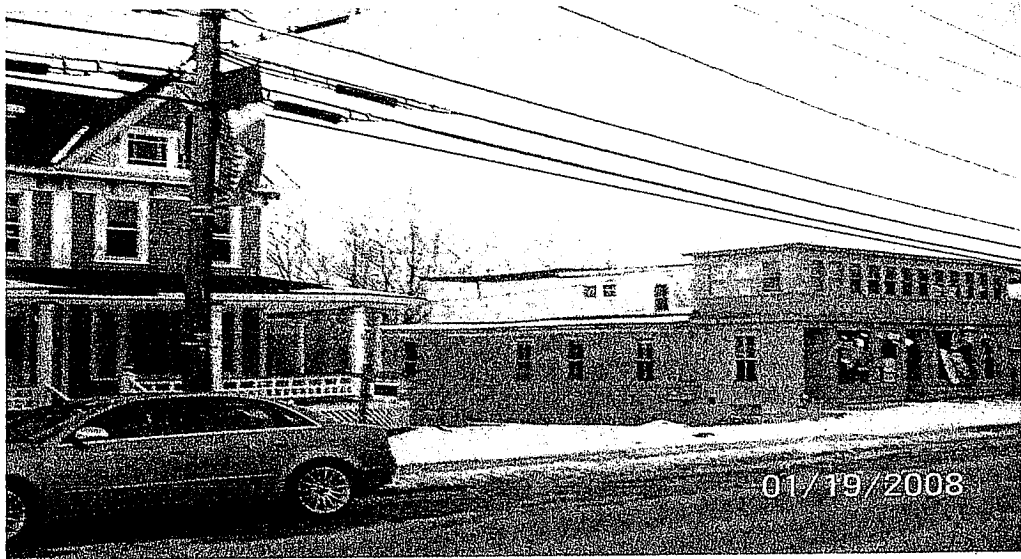




***CENTER OF OUR BUSINESS DISTRICT***  
***2.8 miles From RT 93 on RT 302***







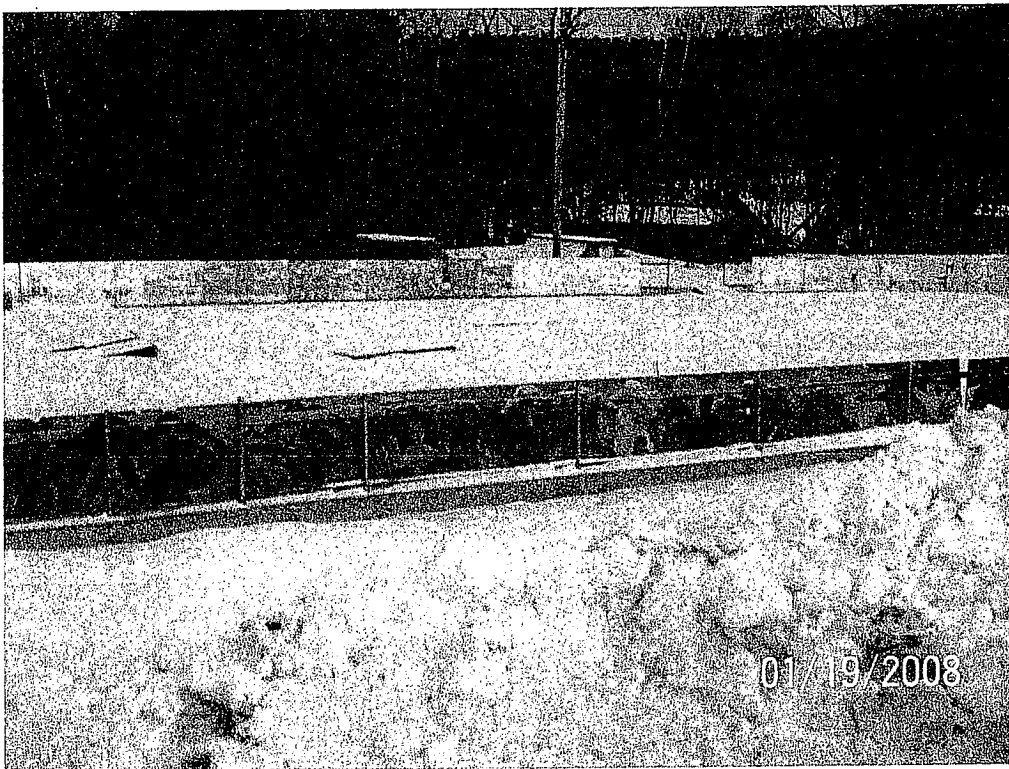
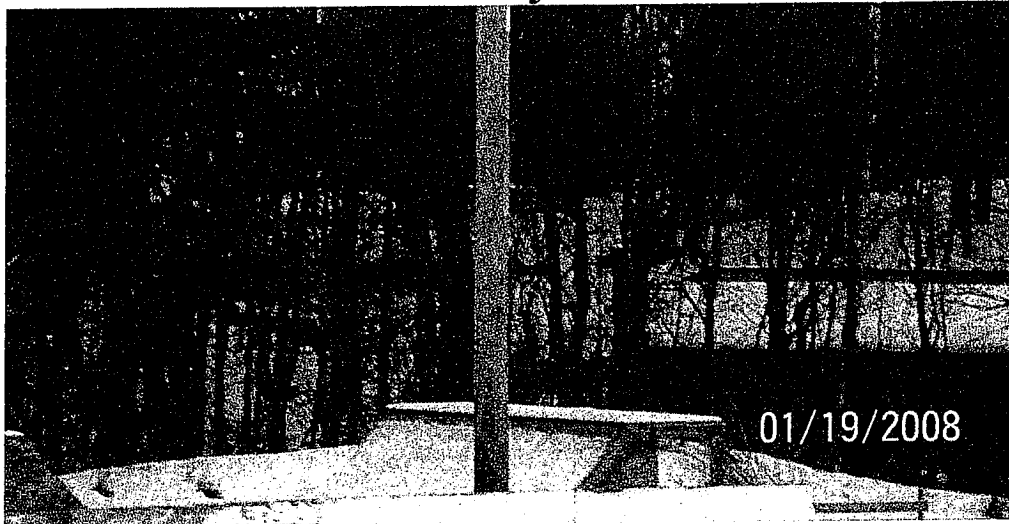


*2.9 Miles from RT 93  
Directly across from the Town Building*





***3.0 Miles from RT 93 on RT 302  
Opposite the Town Building  
Skate Park and Skate Board Park Neglected by the  
Town declared dangerous by our insurance company  
Donated by NCES***





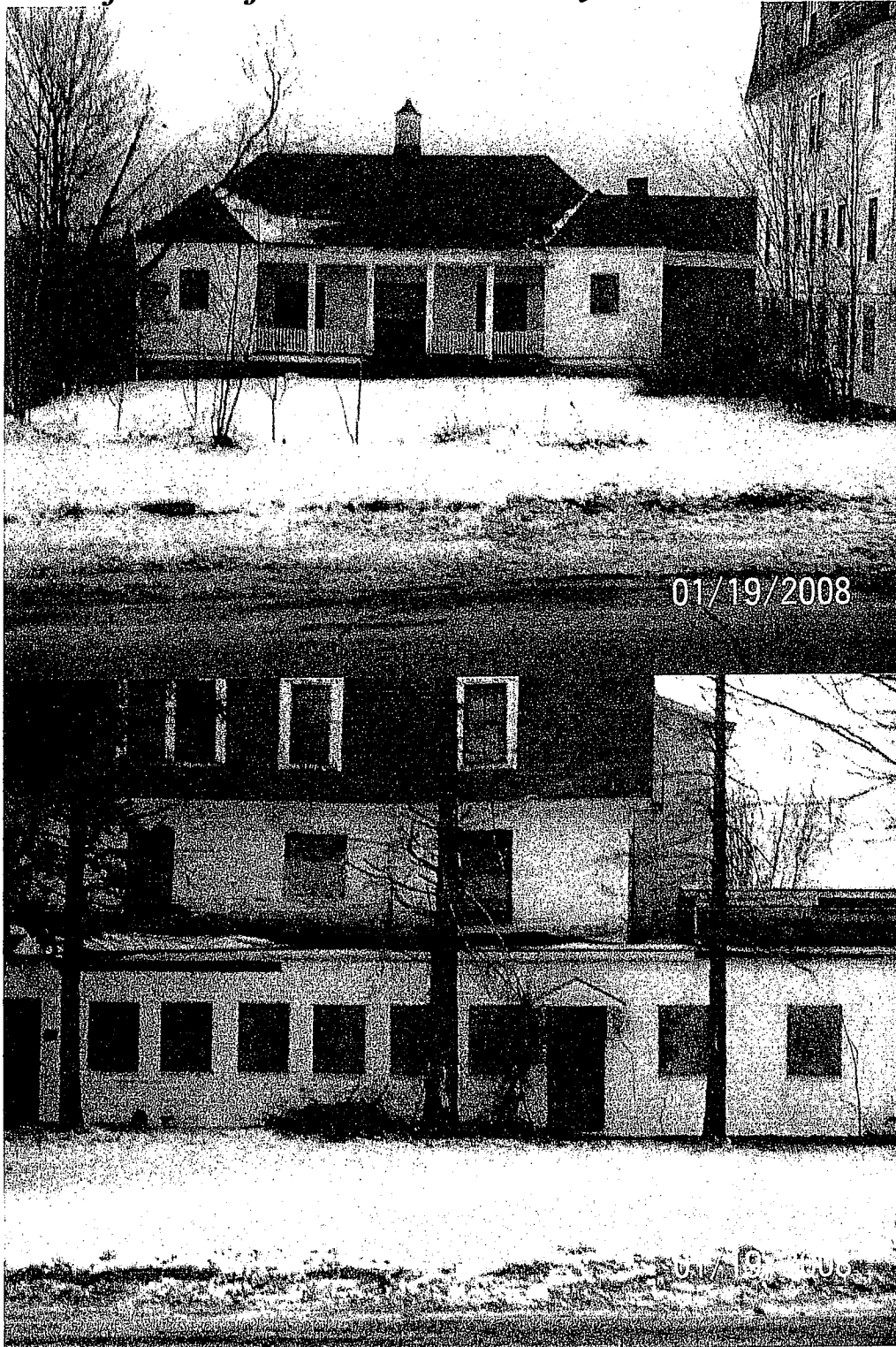


*Unusable Insurance Company said the playground  
and Pool do not meet code Pool has not been  
operational for about 3 years*





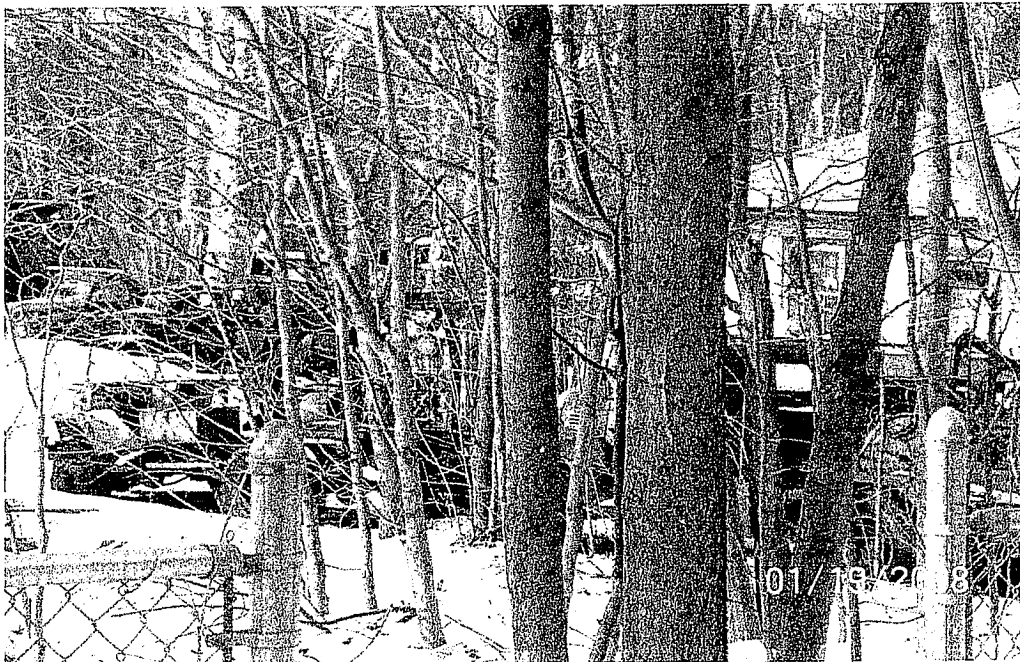
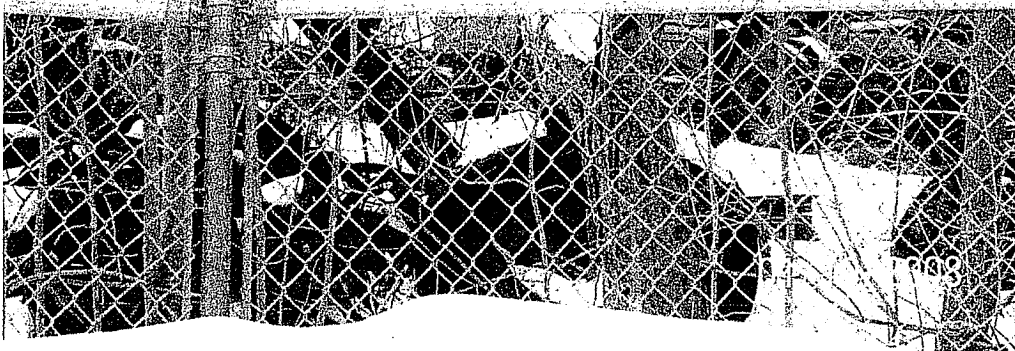
***3.2 Miles from RT 93  
Chase Building owned by the Town  
Where will the asbestos go from this building?  
1/2/10 of a mile from the elementary school.***



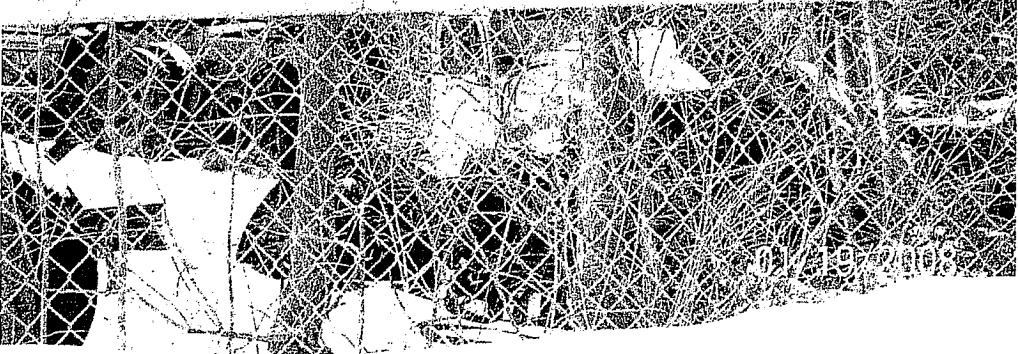


***3.3 Miles from RT93 on RT 302***

***Is now being cleaned up by the owners not because the Town or the Conservation Commission asked them to. Where has the Town and the Conservation commission been for the last 20 years to allow this dump. Who knows how contaminated the soil is. Property line borders on Elementary School Property***















*4.5 Miles from RT 93 on RT 302  
New Construction 120 condo's starting at  
\$300,000 If the landfill has had a negative impact on  
the town why build these condos*





***5.5 Miles from RT 93  
Dead of Winter view of the Landfill from RT 302 at  
Hancock Road***



***5.6 view of Landfill from RT302 at Johnson Lane***





*5.8 Miles from RT 93 on RT 302  
This is what they call freedom of speech  
Probably has more to do with the down turn of  
tourism than the landfill*







*All of this has nothing to do with the landfill. It has to do with a town being held hostage by a few unreasonable fanatical individual*

*If you were passing thru would you stop with your family????*



CRSW/RRC  
"The Cooperative"

Concord Regional Solid Waste /Resource Recovery Cooperative 347-B Village St., Penacook, NH 03303  
Phone: 603/753-9265 Fax: 603/753-8534 email: crswrrc@aol.com

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Concord Regional Solid Waste/Resource Recovery Cooperative  
Additional Cost for Delay of Phase V - Franklin Ash Landfill  
January 29, 2008 - HB 1429

Town / City	Cost for Delay Each year
Allenstown	\$100,000
Andover	\$50,000
Belmont	\$250,000
Boscawen	\$100,000
Bow	\$200,000
Bradford	\$50,000
Bristol	\$100,000
Canterbury	\$25,000
Concord	\$1,660,000
Deering	\$15,000
Dunbarton	\$35,000
Franklin	\$230,000
Gilford	\$255,000
Gilmanton	\$50,000
Henniker	\$115,000
Hill	\$15,000
Hillsborough	\$130,000
Hopkinton	\$125,000
Laconia	\$595,000
Loudon	\$135,000
Northfield	\$115,000
Pembroke	\$180,000
Salisbury	\$20,000
Tilton	\$210,000
Warner	\$75,000
Weare	\$110,000
Webster	\$30,000
Total	<u>\$4,975,000</u>

Notes: Tipping fee would increase from \$42.55/ton to \$80.00/ton.  
2008 Budget has been through public hearing process and been approved.  
Additional cost determined using 2007 delivery for each community.

