



CLEVELAND, WATERS AND BASS
ATTORNEYS AT LAW

COOLEY A. ARROYO, ESQUIRE

ARROYOC@CWBPA.COM

May 16, 2023

HAND-DELIVERED

Waste Management Council
c/o DES Legal Unit
Pamela G. Monroe, Legal Unit Administrator
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

**Re: Conservation Law Foundation, Inc. Appeal
Docket #23-05 WMC**

Dear Administrator Monroe:

Enclosed please find an objection to CLF's request for an expedited hearing. We are filing this as a precaution because CLF did not caption its request in its notice of appeal and it is unclear whether it is properly before the council. Also enclosed is a Notice of Appearance of Counsel pursuant to Env-WMC 204.07. We are enclosing an original and 20 copies of these materials. The interested parties will receive copies by U.S. Mail and courtesy copies via email.

Thank you for your assistance.

Sincerely,

Cooley A. Arroyo, Esq.

CAA/lmg
Enclosures

cc: Robert Scott, Commissioner, NHDES (via U.S. Mail and email)
Michael Wimsatt, Director, NHDES Waste Mgmt. Div. (via U.S. Mail and email)

Waste Management Council

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K. Allen Brooks, Esq., NH Department of Justice (via U.S Mail and email)

Joshua C. Harrison, Assistant Attorney General (via U.S Mail and email)

Thomas Irwin, Esq. & Heidi Trimarco, Esq., Conservation Law Foundation (via U.S Mail and email)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT COUNCIL

Docket No. 23-05

In re: Conservation Law Foundation, Inc. Appeal

OBJECTION TO REQUEST FOR EXPEDITED HEARING

Permittee, North Country Environmental Services, Inc. (“NCES”), objects to the request of Conservation Law Foundation (“CLF”) embedded in its May 11, 2023, notice of appeal (“NOA”) for an expedited hearing of its appeal. This objection rests on the following grounds.

In its notice of appeal, CLF included an uncaptioned one-paragraph request that the council take up this appeal on an expedited basis under Env-WMC 204.14. NOA at 5. A request for expedited appeal may only be granted under narrow circumstances:

(f) The presiding officer shall grant the request for an expedited review if the presiding officer determines that the expedited review will not unduly burden the opposing party and: (1) There is an imminent and substantial threat to public health or the environment that will remain unaddressed until the appeal is resolved; or (2) The party will suffer an economic hardship if the appeal is not promptly resolved.

Env-WMC 204.14(f). The sum total of the justification CLF offers for an expedited review is as follows:

Expedited review is necessary to prevent NCES’s expansion of Stage VI under an unlawful permit, prevent additional harm to CLF members as a result of an expanded landfill, and prevent additional harm to the environment. There is an imminent and substantial threat to public health and the environment that will remain unaddressed until this appeal is resolved. Env-WMC 203.14(f)(1). An expedited review will not unduly burden NCES or any party to this appeal.

NOA at 5. Entirely absent from the request is any evidentiary support. CLF alleges that the construction approval it has appealed somehow causes “additional harm to CLF members” and “the environment” but has not established that those members or the environment were harmed

in any way by the Stage VI approval, much less that the construction approval has caused additional harm. *Id.* CLF maintains that there is “an imminent and substantial threat to public health and the environment” that will go unaddressed while the appeal is pending but does not trouble itself to explain what the alleged threat is, how it is imminent and substantial, or how it affects both public health *and* the environment. *Id.*

It is CLF’s burden as the requesting party to establish the facts necessary to justify an expedited appeal. Instead, it has simply converted the language of Env-WMC 202.14(f) into conclusory allegations. Because CLF has failed to meet its burden of proving it is entitled to expedited consideration of its appeal, its request must be denied.

Respectfully submitted,

NORTH COUNTRY ENVIRONMENTAL
SERVICES, INC.,
By Its Attorneys,

By: 

Bryan K. Gould, Esq. (NH Bar No. 8165)
gouldb@cwbp.com

Cooley A. Arroyo, Esq. (NH Bar No. 265810)
arroyoc@cwbp.com

Morgan G. Tanafon, Esq. (NH Bar No. 273632)
tanafonm@cwbp.com

CLEVELAND, WATERS and BASS, P.A.
Two Capital Plaza, 5th Floor
P.O. Box 1137
Concord, NH 03302
Tel. (603) 224-7761
Fax (603) 224-6457

Date: May 16, 2023

CERTIFICATE OF SERVICE

I hereby certify that the within document was this day forwarded via U.S. Mail, postage prepaid, to:

Robert Scott, Commissioner, NHDES
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

Michael Wimsatt, Director, NHDES Waste Management Division
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

K. Allen Brooks, Esq.
NH Department of Justice
Office of the Attorney General
33 Capitol Street
Concord, NH 03301

Joshua C. Harrison, Esq.
Assistant Attorney General
Office of the Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, NH 03301

Thomas F. Irwin, Esq.
Heidi Trimarco, Esq.
Conservation Law Foundation
27 North Main Street
Concord, NH 03301

Date: May 16, 2023



Cooley A. Arroyo, Esq.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
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Conservation Law Foundation, Inc. Appeal

NOTICE OF APPEARANCE OF COUNSEL

North Country Environmental Services, Inc., the “permit holder” within the meaning of N.H. Code Admin. R. Env-WMC 204.06(c)(3) and therefore a party to this appeal filed by Conservation Law Foundation, Inc., on May 11, 2023, notifies the council pursuant to Env-WMC 204.07(b) that it will be represented by the undersigned counsel on this appeal.

Respectfully submitted,

NORTH COUNTRY ENVIRONMENTAL
SERVICES, INC.,
By Its Attorneys,



Date: May 16, 2023

Cooley A. Arroyo, Esq. (NH Bar #265810)
arroyoc@cwbp.com
Cleveland, Waters and Bass, P.A.
Two Capital Plaza, P.O. Box 1137
Concord, NH 03302-1137
Telephone: (603) 224-7761
Facsimile: (603) 224-6457