

## RE: April 19, 2024 email

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From: Wimsatt, Mike (michael.j.wimsatt@des.nh.gov)  
To: saveforestlake@yahoo.com  
Date: Wednesday, May 22, 2024 at 05:00 PM EDT

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Dear Mr. Swan,

Thank you for sharing your opinions and observations. Regarding the questions in your emails:

Inquiries about assignment of responsibility for, and potential sharing of, liability are legal issues upon which NHDES cannot comment.

The financial assurance documentation for this facility is available through file review requests with [NHDES' Public Records Center](#).

NHDES continues to evaluate compliance of the solid waste facility's operations with applicable rules and statutes and follow up on compliance issues in accordance with our Compliance Assurance Response Policy. Our evaluation of groundwater monitoring results submitted under the combined Groundwater Management and Groundwater Release Detection Permit for this facility do not indicate an ongoing discharge or release from the current operations or the landfill liner system.

The active phase of corrective action is complete for the historical leachate management releases that caused the PFAS detections that we are currently seeing in groundwater monitoring wells at this site. Several occurrences of PFAS have been attributed to instances where corrective actions were completed prior to sampling and detection of PFAS. Detections of PFAS at monitoring locations MW-701 and B-918 are attributed to incidents summarized in the [February 19, 2010 Corrective Action Plan](#) [CAP]). In an [October 21, 2019](#) letter, NHDES required Assessment Monitoring (accelerated monitoring with an expanded list of landfill leachate indicator analytical parameters) at monitoring locations MW-701 and B-918 following detections of PFAS (and low level 1,4-dioxane). Data from the continued Assessment Monitoring has supported the premise that the occurrences at MW-701 and B-918 are attributed to the previous leachate management issues at the facility. As a result, a new CAP has not been required at this time to correct previously corrected issues; however, Assessment Monitoring remains in place to confirm low-level trends.

Other occurrences of PFAS, in the northeastern portion of the site, have not been attributed to an active release from the lined landfill or leachate management system, and contaminant concentrations and trends are inconsistent with an ongoing release. However, a Supplemental Site Investigation into historical contaminant sources in the northeast portion of the site has been required by NHDES ([November 7, 2023](#)) and is proceeding (NHDES authorization [April 18, 2024](#)). As a reminder this area is subject to ongoing requirements for both Env-Or 600 and Env-Or 700 under a combined Groundwater Management and Release Detection Permit Number GWP-198704033-B-008.

Sincerely yours,  
Mike Wimsatt

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**From:** Save Forest Lake <saveforestlake@yahoo.com>  
**Sent:** Friday, April 19, 2024 10:31 AM  
**To:** Wimsatt, Mike <michael.wimsatt@des.nh.gov>  
**Cc:** Scott, Robert <robert.r.scott@des.nh.gov>; Colby, Jaime <jaime.m.colby@des.nh.gov>; Michael Regan <regan.michael@epa.gov>; Tim Fleury <admin@bethlehemnh.org>; Mary Moritz <selectman1@bethlehemnh.org>; Bruce Caplan <selectman2@bethlehemnh.org>; Gabe Boisseau <selectman3@bethlehemnh.org>; Linda Moore <selectman4@bethlehemnh.org>; Chris Jensen <selectman5@bethlehemnh.org>; Julie Libby <jlibby@graftoncountynh.gov>; wpiper@graftoncountynh.gov; mmcled@graftoncountynh.gov; Omer C. Ahern Jr <omer.ahern.jr@gmail.com>; ~House Environment and Agriculture Committee <houseenvironmentandagriculturecommittee@leg.state.nh.us>; ~Senate Energy and Natural Resources Committee <senateenergyandnaturalresources@leg.state.nh.us>; Governor Sununu <governorsununu@nh.gov>; Warmington, Cinde <cinde.warmington@nh.gov>; Kenney, Joseph <joseph.d.kenney@nh.gov>; Chuck Henderson <chuck\_henderson@shaheen.senate.gov>; Ben Belanger <ben\_belanger@hassan.senate.gov>; Stephanie Weiner <stephanie.weiner@mail.house.gov>; Becky Whitley <becky.whitley@leg.state.nh.us>; Jared Sullivan <jared.sullivan@leg.state.nh.us>  
**Subject:** Re: Emails dated Feb. 20, 26, 28, March 11, and April 10, 2024

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

Good Morning Director Wimsatt:

I appreciate your response to my numerous inquiries, etc. I must admit, your response does not appear to directly address my concerns about financial responsibility for the mitigation of the widespread PFAS contamination issue at the NCES Landfill, including surface water discharges of PFAS directly into the Ammonoosuc River. You cite rules, seemingly to placate. I'm also bothered by what I see is a lack of urgency in addressing and correcting this in order to stop the ongoing migration of PFAS contaminants from entering the Ammonoosuc watershed and river, and to achieve background, which the rules seem to require of the permittee/owner/operator. I strongly feel the department is abdicating its responsibilities under the rules you cite.

You responded:

- Regarding the questions about financial responsibility in your 2/20/2024 email:

In accordance with [40 CFR 258 Subpart G](#); [Env-Sw 1400, Financial Assurance](#); and [Env-Sw 800, Landfill Requirements](#), a landfill facility is required to maintain financial assurance for closure and post-closure inspection, maintenance, and monitoring. The permittee must provide continuous coverage for post-closure inspection, maintenance, and monitoring until released from financial assurance requirements by NHDES. Per Env-Sw 1403.03, an insurance policy is just one of the allowable mechanisms for financial assurance.

While you cite **40 CFR 258 Subpart G**, the issue/concern I have is that there is no current Corrective Action Plan, thus **40 CFR 258.73** seemingly would not apply at this time. This facility

is to close by the end of 2026, or thereabout, once permitted capacity is exhausted and no expansion approvals are obtained from the Town of Bethlehem.

### § 258.73 Financial assurance for corrective action.

An owner or operator of a MSWLF unit **required** to undertake a **corrective action program** under § 258.58 of this part **must have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action in accordance with the program required under § 258.58 of this part.** The **corrective action cost estimate must account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period.**

<https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-258/subpart-G>

- Regarding the question in your 2/20/2024 email about a corrective action plan:

A corrective action plan would be required to be submitted consistent with **Env-Or 703.19** if results of groundwater release detection and/or assessment monitoring indicate detections of analytes at a facility are determined to be the **result of a release from the landfill liner and/or leachate management systems.**

I would also add that it would seem the department is remiss in NOT having a CAP in place, since **Env-Or 703.20** seemingly requires one, in order to **achieve background levels**, to **eliminate future discharges of regulated contaminants** (PFAS), and to **protect human health and the environment.**

You cite **Env-703.19**, yet I do not see anything in Env-703.19 that includes "*result of a release from the landfill liner and/or leachate management practices*", which you seem to take liberties with including, as if some kind of disqualifier for requiring a CAP be in place. The department and the permittee both seem to be relying upon the old unlined landfill as the predominant source of the ongoing contamination. Stage II was built over the old unlined landfill, following waste excavation, and the permittee assumed all liability for the site upon purchase and permit modification in 1994, correct? Regardless of the actual source for the ongoing contamination, **background levels have not been achieved**, there is no CAP in place, and you do not directly address financial liability for PFAS mitigation. You do include leachate management systems, which I would believe includes leachate mishandling/spills, like the 154,000 gallon release of May 1-3, 2021, and numerous others of earlier years. I am not sure why a CAP is not required, since you include that as a requirement for a CAP. it would seem the department is not following the rules, as per Env-SW 703.19.

**Per Env-Or 703.19: Requirements for Corrective Action Plan.**

(a) The corrective action plan submitted by the permittee pursuant to Env-Or 703.18(f)(2) shall include the following:

- (1) Inspection and audit of activities and procedures at the facility to **determine possible sources of contamination**;
- (2) **Remediation of the source of the exceedance**;
- (3) Further groundwater investigation;
- (4) Modification of facility operation as needed to **eliminate the cause of the exceedance**;
- (5) Treatment of the waste stream as needed to eliminate the cause of the exceedance;
- (6) **Groundwater restoration**; and
- (7) **If the facility operations cannot be modified to eliminate the cause of the exceedance or if the groundwater cannot be restored or remediated, a schedule of activities that will be implemented for facility closure.**

**Per Env-Or 703.20 Corrective Action Plan Approval and Implementation:**

(a) The department shall approve the corrective action plan if the department determines that the plan

is reasonably designed to:

- (1) **Achieve compliance with background concentrations**;
- (2) **Eliminate any future discharges of regulated contaminants to the groundwater**; and
- (3) **Protect human health and the environment**.

You didn't really address y question about financial liability, instead simply citing rules, etc. Per **Env-Sw 1403.02 Closure Cost Estimation**:

(a) The dollar amount guaranteed by a financial assurance plan shall be no less than the estimated total closure, including post-closure costs determined pursuant to (b) through (h), below. (b) The closure cost estimate shall be figured based on representative current market rates for having a third party perform all required closure activities at the point in the facility's active life when the **extent and manner of facility operations in compliance with permit conditions and applicable laws and rules makes closure the most expensive**, as indicated by the approved facility closure plan. For landfills, the closure cost estimate shall also include the cost of having a third party perform all required post-closure activities for a period of 30 years from the date of the estimate unless the post-closure period has been modified pursuant to Env-Sw 807.05(d).

To date, the 2023 Cost Estimate Form for NCES, attached, does not include any provision for PFAS mitigation, particularly since the department is not addressing remediation, as per Env-Sw 703.19.

You cite Env-Sw 1403.03, as an insurance policy is an allowable mechanism for financial assurance. Might I be able to obtain a copy of this insurance policy? I would like to ensure that it includes provisions for PFAS mitigation, as such will likely to be very costly.

Being that you cite **Env-Sw 800**, I would mention that under **Env-Sw 807.03**:

- (13) *Meeting all requirements in **Env-Sw 807.05** and filing all reports with the department in accordance with Env-Sw 1105.14; and*
- (14) *Undertaking any other activities, including **remedial activities**, as necessary to achieve compliance with **Env-Sw 807.04**.*

Per **Env-Sw 807.04 Performance Standards**: *The permittee shall implement an approved closure plan requiring that:*

- (d) *The **facility and site have no adverse impact to air, groundwater or surface water**; and*
- (e) *The **facility and site not otherwise pose a risk to human health or the environment**.*

Per **Env-Sw 807.05 Post-Closure Inspections, Monitoring, Maintenance and Reporting Requirements**:

- (a) *The post-closure period of a landfill shall be the period of time required to demonstrate the **facility has achieved the performance standards specified in Env-Sw 807.04**.*

Is it the position of the department that the NCES Landfill is meeting the performance standards under the very rules you cited?

I'm very concerned, as it seems the agency has abdicated its responsibilities as a regulatory agency, instead relying on industry to self-regulate and self-report. The very fact there is no current Corrective Action Plan for the NCES Landfill, despite the numerous detections and exceedances of PFAS and 1,4-Dioxane reported to the department in the groundwater monitoring reports, seems to confirm this. As you are aware, I am in the midst of a second lawsuit filed against me by this company, for the very claims I am making here based on their own groundwater monitoring reports. Within their amended complaint, all centered around the PFAS contamination at the NCES Landfill, they repeatedly state that **"Swan's claim is both false and defamatory. The NCES landfill is not releasing contaminants into the Ammonoosuc River watershed"**. That is a direct quote, asserted numerous times in their court filing. I share this merely to support my belief that this company is somehow trying to avoid mitigation costs for the widespread PFAS contamination at the NCES facility, as if placing

the blame and responsibility on the old Sanco Landfill they purchased in 1994 somehow frees them from being held financially responsible. They purchased the Sanco Landfill in 1994. They assumed responsibility in 1994. The entire NCES property lies within the watershed of the Ammonoosuc River. Stage II was built over the old Sanco Landfill, approved by the department. I believe that by making such an obviously false claim in court documents, that is this company's end game, to place blame squarely on the old, unlined landfill, aided in part by your department's acceptance and reliance upon that assertion, as the source of the widespread contamination, as if it is somehow distinct from the NCES Landfill.

I would hate to see the State of New Hampshire, Grafton County, or the Town of Bethlehem bear the costs of mitigation for PFAS contamination, especially in light of recent developments from the EPA relative to the regulation of these harmful "forever chemicals".

*In order to not get sued a third time by Casella, I need you to understand that all of this is my opinion, based on my research and experience.*

**Thank you!**

Jon Swan

On Thursday, April 18, 2024 at 12:39:21 PM EDT, Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)> wrote:

Dear Mr. Swan,

This email is sent in response to your email inquiries dated February 20, 26, 28, March 11, and April 10, 2024.

- Regarding the questions about financial responsibility in your 2/20/2024 email:

In accordance with [40 CFR 258 Subpart G](#); [Env-Sw 1400, Financial Assurance](#); and [Env-Sw 800, Landfill Requirements](#), a landfill facility is required to maintain financial assurance for closure and post-closure inspection, maintenance, and monitoring. The permittee must provide continuous coverage for post-closure inspection, maintenance, and monitoring until released from financial assurance requirements by NHDES. Per Env-Sw 1403.03, an insurance policy is just one of the allowable mechanisms for financial assurance.

- Regarding the question in your 2/20/2024 email about a corrective action plan:

A corrective action plan would be required to be submitted consistent with Env-Or 703.19 if results of groundwater release detection and/or assessment monitoring indicate detections of analytes at a facility are determined to be the result of a release from the landfill liner and/or leachate management systems.

- Regarding the questions, in your 2/26/2024, 2/28/2024, and 4/10/2024 emails about waste receipt, capacity, and life expectancy of the landfill:

Permit [Condition \(27\)\(a\)](#) requires the permittee to limit airspace use to 230,200 cubic yards per year. Airspace use is determined through landfill surveys, not through the quantity of waste received. The waste received in a year will not correlate exactly to the airspace used due to waste settlement, the nature of the waste, and compaction rates. In NCES' 2023 annual facility report, the permittee reports a total airspace usage of 227,700 cy.

Permit [Condition \(27\)\(b\)](#) requires the permittee to operate the facility through December 31, 2026. In the annual facility report, the permittee identifies that bringing Stage VI Phase II online adds 534,000 cubic yards of capacity.

In keeping with our usual procedures, we will continue to monitor and evaluate airspace usage.

- Regarding your questions about inspections in your 2/28/2024 email:

The Solid Waste Management Bureau has begun conducting focused facility inspections for compliance review of specific areas such as for daily cover, signage, litter, odors and paperwork. These are not intended to replace full facility inspections.

- Regarding your 3/11/2024 email:

NHDES does not interject into correspondence between other entities and legislators, so we will not be addressing Mr. Best's letter of testimony. NHDES will continue to monitor and evaluate waste management system capacity, and will continue supporting communities with waste diversion efforts within its authority, as resources allow.

Sincerely,

Mike Wimsatt

Michael J. Wimsatt, P.G., Director

Waste Management Division

NH Department of Environmental Services

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**From:** Save Forest Lake <[saveforestlake@yahoo.com](mailto:saveforestlake@yahoo.com)>

**Sent:** Wednesday, April 10, 2024 12:46 PM

**To:** Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)>

**Cc:** ~House Environment and Agriculture Committee

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**Subject:** Re: NCES Landfill: News, Congratulations, and Questions

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

Good Afternoon Director Wimsatt:

I write as a follow-up to my February 26, 2024 email regarding the NCES Landfill and questions about capacity, etc. I've not heard back from the department.

Attached is the 2023 annual tonnage for NCES, as reported in the Annual Facility Report, page 3. NCES is NOW reporting that **178,413.69 tons** of waste was received for year 2023. However, that figure does not match the data reported in the quarterly reports provided by NCES to the department. I've attached the data from each of those reports as well, totaling **221,227.82 tons** for 2023 (which would seemingly be a violation of their permit?). I would hope this is something the department will look into.

Also, considering the news today regarding PFAS and drinking water standards, I look forward to learning about how the department intends to deal with the leachate situation at the NCES

Landfill, which generated and shipped over 11 MILLION gallons of PFAS-laden leachate to the Concord and Franklin WWTPs for disposal.

<https://www.epa.gov/newsreleases/biden-harris-administration-finalizes-first-ever-national-drinking-water-standard>

**I do hope the department will come to realize that a pause in permitting new landfills, despite its testimony before the Senate E&NR on HB1620, is indeed needed. The last thing the State of New Hampshire needs at this point in time is a new landfill to generate millions of gallons of toxic PFAS-laden leachate to be transported hundreds of miles across the state for disposal at facilities unable to treat for the removal of these toxic PFAS chemicals.**

*In order to not get sued a third time by Casella, I need you to understand that all of this is my opinion, based on my research and experience.*

**Thank you!**

Jon Swan  
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Founder, [Save Forest Lake](https://www.saveforestlake.org)

**From:** Save Forest Lake <[saveforestlake@yahoo.com](mailto:saveforestlake@yahoo.com)>  
**Sent:** Monday, March 11, 2024 1:12 PM  
**To:** Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)>  
**Cc:** ~House Environment and Agriculture Committee  
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Tim Fleury <[admin@bethlehemnh.org](mailto:admin@bethlehemnh.org)>  
**Subject:** NH Post-NCES Disposal Preparation

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

Good Afternoon Director Wimsatt:

I am writing to share a concern I have, and to seek clarification from the department, relative to a letter from Robert Best, on behalf of the AVRRDD Mt. Carberry Landfill, to the NH House E&A Committee, dated April 25, 2023, attached. This letter was referenced by an anonymous attendee during a "Meet The Candidates Night" event on Friday, March 8, 2024 in the Town of Littleton.

During the Q&A with the candidates, a question was asked about Littleton reaching out to AVRRDD for its waste disposal needs to prepare for the closure of the NCES Landfill in Bethlehem in 2026. During the response from candidate Harrington, the anonymous attendee interrupted her mid-sentence by stating something to the effect that AVRRDD is not taking on any new customers. Apparently, the anonymous attendee also sent Ms. Harrington a copy of Attorney Best's letter to the House E&A Committee.

The Q&A about AVRRDD begins at 56:10 in the video:

<https://www.facebook.com/mudfoot/videos/1606915460082467/>

Obviously, we have been here before, as former AVRRDD Executive Director Sharon Gauthier had informed the Town of Dalton Selectboard that they were not interested in accepting Dalton waste back in 2019. Dalton eventually began sending its MSW/CD to Mt. Carberry by mid-2020, after a complaint was filed with the department.

It is frustrating to see AVRRDD continuing to maintain this kind of position as late as April of 2023, as evidenced by Mr. Best's letter. While it is seemingly true that Mt. Carberry appears to be operating at near max capacity of 305k cubic yards/year, with approximately 302k cubic yards of combined waste landfilled according to the 2022 Annual Facility Report, it should be noted that Mt Carberry accepted approximately 26,760 tons of out-of-state MSW/DC in 2022. In 2022, Littleton's combined MSW/CD waste was approximately 1187 tons. Thus, accepting Littleton's waste in 2022 would most likely required no displacement of out-of-state waste accepted by AVRRDD, and they would have remained in compliance with its operating permit, despite Mr. Best's unsubstantiated assertions. I suspect the results will be similar when waste from Bethlehem is also received by Mt. Carberry in the near future. Regardless, according to the April 22, 2022 Phase IIIA permit, under condition 24(c), AVRRDD "shall make available disposal capacity for NH-generated waste for the entire operating life of the facility", attached.

I bring this matter to your attention because there needs to be leadership and guidance provided by the department to NH towns like Littleton, so as to assist them in preparing for the eventual closure of the NCES Landfill in Bethlehem in 2026. Is the department doing anything to assist those towns in NH which utilize NCES to consider the available options? As you can see from the attachments, the Towns of Dalton, Franconia, Easton, Sugar Hill, and even Bethlehem have been proactive in preparing for a post-NCES world. However, misinformation from permittees like AVRRDD is not helpful, and I ask that the department address Mr. Best's letter sent to the House E&A Committee Committee. AVRRDD's operating permit requires them to prioritize capacity for NH waste over out-of-state waste, whether they like it or not. No one has ever made the assertion that Mt. Carberry has the capacity to replace NCES, it doesn't, and geographically, that wouldn't make sense. In fact, many in the North Country see the Mt. Carberry Landfill as a precious resource, whose capacity we wish to preserve solely for North Country waste, and we would welcome the opportunity to work with AVRRDD and NHDES for a concerted, proactive effort to reduce waste generation in the North Country as well as statewide, so as to ensure that a new landfill in the North Country, and elsewhere in the state, is never needed.

I am not alone in requesting that the department be more proactive in ensuring a smooth transition to a post-NCES landscape for the solid waste disposal needs of municipalities in New Hampshire.

*In order to not get sued a 3rd time by Casella, I need you to understand that all of this is my opinion, based on my research and experience.*

## Thank you!

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
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Founder, [Save Forest Lake](http://Save Forest Lake)

**From:** Save Forest Lake <[saveforestlake@yahoo.com](mailto:saveforestlake@yahoo.com)>  
**Sent:** Wednesday, February 28, 2024 8:30 AM  
**To:** Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)>  
**Cc:** Colby, Jaime <[jaime.m.colby@des.nh.gov](mailto:jaime.m.colby@des.nh.gov)>  
**Subject:** 2021 NCES Permit Violation? Site Visit Question

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

Good Morning Director Wimsatt:

As a follow up to my prior email about NCES and potential violations of the Stage VI operating permit, under 27(a), I was reminded that in 2021, NCES reported 227,038.07 tons of waste intake, or 283,797.59 cubic yards, at a compaction rate of .8. Would that not also be a violation of the Stage VI operating permit, under 27(a)?

Also, at what point in time did the limited facility site visits for just daily cover replace the complete facility site visits? What initiated that change in facility oversight by NHDES?

I appreciate your time.

*In order to not get sued a 3rd time by Casella, I need you to understand that all of this is my opinion, based on my research and experience.*

**Thank you!**

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078

Founder, [Save Forest Lake](#)

**From:** Save Forest Lake <[saveforestlake@yahoo.com](mailto:saveforestlake@yahoo.com)>  
**Sent:** Monday, February 26, 2024 10:34 AM  
**To:** Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)>  
**Cc:** ~House Environment and Agriculture Committee  
<[houseenvironmentandagriculturecommittee@leg.state.nh.us](mailto:houseenvironmentandagriculturecommittee@leg.state.nh.us)>; ~Senate Energy and Natural Resources Committee <[senateenergyandnaturalresources@leg.state.nh.us](mailto:senateenergyandnaturalresources@leg.state.nh.us)>; Governor Sununu <[governorsununu@nh.gov](mailto:governorsununu@nh.gov)>; Mary Moritz <[selectman1@bethlehemnh.org](mailto:selectman1@bethlehemnh.org)>; Bruce Caplan <[selectman2@bethlehemnh.org](mailto:selectman2@bethlehemnh.org)>; Gabe Boisseau <[selectman3@bethlehemnh.org](mailto:selectman3@bethlehemnh.org)>; Linda Moore <[selectman4@bethlehemnh.org](mailto:selectman4@bethlehemnh.org)>; Chris Jensen <[selectman5@bethlehemnh.org](mailto:selectman5@bethlehemnh.org)>; Tim Fleury <[admin@bethlehemnh.org](mailto:admin@bethlehemnh.org)>; Selectmen <[selectmen@townofflilletton.org](mailto:selectmen@townofflilletton.org)>; Jared Sullivan <[jared.sullivan@leg.state.nh.us](mailto:jared.sullivan@leg.state.nh.us)>; Linda Massimilla <[linda.massimilla@leg.state.nh.us](mailto:linda.massimilla@leg.state.nh.us)>; David Rochefort <[david.rochefort@leg.state.nh.us](mailto:david.rochefort@leg.state.nh.us)>; Matthew Simon <[matthew.simon@leg.state.nh.us](mailto:matthew.simon@leg.state.nh.us)>; Carrie Gendreau <[carrie.gendreau@leg.state.nh.us](mailto:carrie.gendreau@leg.state.nh.us)>; Kenney, Joseph <[joseph.d.kenney@nh.gov](mailto:joseph.d.kenney@nh.gov)>; Warmington, Cinde <[cinde.warmington@nh.gov](mailto:cinde.warmington@nh.gov)>; [mmcleod@graftoncountynh.gov](mailto:mmcleod@graftoncountynh.gov);

[wpiper@graftoncountynh.gov](mailto:wpiper@graftoncountynh.gov); Julie Libby <[jlibby@graftoncountynh.gov](mailto:jlibby@graftoncountynh.gov)>; Omer C. Ahern Jr <[omer.ahern.jr@gmail.com](mailto:omer.ahern.jr@gmail.com)>; Tom Brady <[tom.brady@cooscountynh.us](mailto:tom.brady@cooscountynh.us)>; Chuck Henderson <[chuck.henderson@shaheen.senate.gov](mailto:chuck.henderson@shaheen.senate.gov)>; Ben Belanger <[ben.belanger@hassan.senate.gov](mailto:ben.belanger@hassan.senate.gov)>; Stephanie Weiner <[stephanie.weiner@mail.house.gov](mailto:stephanie.weiner@mail.house.gov)>; Scott, Robert <[robert.r.scott@des.nh.gov](mailto:robert.r.scott@des.nh.gov)>; Colby, Jaime <[jaime.m.colby@des.nh.gov](mailto:jaime.m.colby@des.nh.gov)>; Michael Regan <[regan.michael@epa.gov](mailto:regan.michael@epa.gov)>

**Subject:** Re: NCES Landfill: News, Congratulations, and Questions

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

Good Morning Director Wimsatt:

I hope all is well and you had an enjoyable weekend! I write in response to your below-email reply of January 24, 2024, in which I had inquired as to whether or not NCES has enough remaining capacity to meet its permit obligations, particularly since the 2022 Annual Facility Report, pages 2 and 23, attached below, noted that remaining capacity as of 12/31/2022 is approximately 349,890 cubic yards, with 4 years of minimum permitted life remaining.

Your response was:

*"NHDES is in receipt of the 2022 annual facility report, which indicates there is sufficient capacity at the NCES landfill to meet its permit obligations. NHDES will continue to monitor and evaluate airspace usage."*

I have a few points to raise, and hopefully you can provide some clarity.

1. According to the Stage VI operating permit, DES-SW-SP-03-002, attached from page 8 of the Stage VI Approval of October 9, 2020, under Determination of Public Benefit, term 27 (a) notes that 230,200 cubic yards (or 184,160 tons, using a .8 cy/ton compaction rate) is the maximum amount of annual capacity permitted. I am now in receipt of the 4 quarterly reports for the NCES Landfill, year 2023, and have attached page 2 of each quarterly report, as each provides quarterly totals of waste intake in tonnage. By my calculations, it would appear that NCES is in violation of its operating permit for year 2023, as total waste intake, according to the facility reports, was 221,227.82 tons, or 276,534 cubic yards, using the .8 compaction rate cited by CMA Engineers. Thus, in 2023, NCES took in 46,334 cubic yards of waste (or 37,067.82 tons) **over its permitted annual allowance** under the Stage VI operating permit. Will the department be addressing this apparent violation of the Stage VI operating permit? Or am I missing something?

2. According to pages 2 and 23 of the NCES 2022 Annual Facility Report, as of 12/31/2022, the landfill had 349,890 cubic yards, or approximately 279,912 tons, of remaining permitted capacity (.8 compaction rate). If you add up the waste intake reported for 2023, as stated above, NCES took in 276,534 cubic yards, or 221,227.82 tons of waste. If you subtract the

2023 totals from the reported remaining capacity as of 12/31/2022, NCES has approximately 73,356 cubic yards, or 58,684.18 tons, of remaining permitted capacity as of 12/31/2023. According to the Stage VI operating permit, NCES is to operate the facility "through at least December 31, 2026". That's 3 years from 12/31/2023. By my estimation, it would appear that the NCES Landfill will exhaust that remaining permitted capacity sometime this spring, 2024, nearly 2.5 years short of the minimum permitted capacity life required by the Stage VI operating permit. What happens then?

I have attached your "Notice of Findings" letter of October 18, 2019 because it feels like *deja vu* all over again. Do towns utilizing NCES for waste disposal need to be forewarned of possible closure? There are no expansion plans awaiting approval to save the day or prolong the inevitable, it would seem.

I look forward to your response, and please, if I am wrong, please explain what I am missing. I feel like my calculations have been pretty spot on, to date, based on available data.

*In order to not get sued a 3rd time by Casella, I need you to understand that all of this is my opinion, based on my research and experience.*

**Thank you!**

Jon Swan  
25 Cashman Rd  
Dalton, NH 03598  
(603) 991-2078

Founder, [Save Forest Lake](#)

---

**From:** Save Forest Lake <[saveforestlake@yahoo.com](mailto:saveforestlake@yahoo.com)>  
**Sent:** Tuesday, February 20, 2024 10:19 AM  
**To:** Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)>  
**Cc:** ~House Environment and Agriculture Committee  
<[houseenvironmentandagriculturecommittee@leg.state.nh.us](mailto:houseenvironmentandagriculturecommittee@leg.state.nh.us)>; ~Senate Energy and Natural Resources Committee <[senateenergyandnaturalresources@leg.state.nh.us](mailto:senateenergyandnaturalresources@leg.state.nh.us)>; Michael Regan <[regan.michael@epa.gov](mailto:regan.michael@epa.gov)>; Tim Fleury <[admin@bethlehemnh.org](mailto:admin@bethlehemnh.org)>; Julie Libby <[jlibby@graftoncountynh.gov](mailto:jlibby@graftoncountynh.gov)>; [wpiper@graftoncountynh.gov](mailto:wpiper@graftoncountynh.gov); [mmcleod@graftoncountynh.gov](mailto:mmcleod@graftoncountynh.gov); [ohern@graftoncountynh.gov](mailto:ohern@graftoncountynh.gov); Grafton County Commissioners <[cmsroffice@co.grafton.nh.us](mailto:cmsroffice@co.grafton.nh.us)>; Linda Moore <[selectman4@bethlehemnh.org](mailto:selectman4@bethlehemnh.org)>; Bruce Caplan

<[selectman2@bethlehemnh.org](mailto:selectman2@bethlehemnh.org)>; Chris Jensen <[selectman5@bethlehemnh.org](mailto:selectman5@bethlehemnh.org)>; Gabe Boisseau <[selectman3@bethlehemnh.org](mailto:selectman3@bethlehemnh.org)>; Mary Moritz <[selectman1@bethlehemnh.org](mailto:selectman1@bethlehemnh.org)>; Warmington, Cinde <[cinde.warmington@nh.gov](mailto:cinde.warmington@nh.gov)>; Kenney, Joseph <[joseph.d.kenney@nh.gov](mailto:joseph.d.kenney@nh.gov)>; Chuck Henderson <[chuck.henderson@shaheen.senate.gov](mailto:chuck.henderson@shaheen.senate.gov)>; Ben Belanger <[ben.belanger@hassan.senate.gov](mailto:ben.belanger@hassan.senate.gov)>; Stephanie Weiner <[stephanie.weiner@mail.house.gov](mailto:stephanie.weiner@mail.house.gov)>; Jared Sullivan <[jared.sullivan@leg.state.nh.us](mailto:jared.sullivan@leg.state.nh.us)>; Scott, Robert <[robert.r.scott@des.nh.gov](mailto:robert.r.scott@des.nh.gov)>; Governor Sununu <[governorsununu@nh.gov](mailto:governorsununu@nh.gov)>

**Subject:** Re: NCES Landfill: News, Congratulations, and Questions

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

Good Morning Director Wimsatt:

Thank you for your response email of January 24, 2024. Below, you had answered my question relative to PFAS contamination and liability. I have a new one, based on Casella's recently-released Form 10-K.

*Q: [On NCES'] 2023 "Cost Estimate Form" [...] I do not see monies set aside for any potential remediation/mitigation for PFAS contamination. Am I missing something? [W]hich entity will be liable for any potential [PFAS-related] cleanups which may be required in the future, post-NCES closure?*

A: In accordance with 40 CFR 258.73, a cost estimate is only required to include costs for remediation/mitigation when a corrective action plan is required. This facility is not currently subject to a corrective action plan for PFAS. Post-closure, the facility permittee would remain responsible for potential future required corrective actions.

I have attached a copy of Casella's recent 10-K form, as well as 2 snippets of pages 23-24 from the report. Of particular concern is the statement in the first paragraph of page 24, in which the company informed investors of the risk to the company posed by PFAS contamination and liability. The last sentence reads: *"Any such liability is likely to be uninsurable, with no coverage likely under our pollution or product liability policies."*

How does the department and the state intend to hold Casella responsible when they have informed investors that *"such liability is likely to be uninsurable"*? Considering the fact that the NCES Landfill is likely to close by 2027 at the latest, according to Casella, what mechanisms are in place to ensure that Casella will be held responsible and, able to meet those future costs? At what point will the department require a corrective action plan be in place for the NCES Landfill?

I appreciate your time and attention to this.

Jon Swan

25 Cashman Rd

Dalton, NH 03598

(603) 991-2078

Founder, [Save Forest Lake](#)

***"Forest Lake's water is tested annually with NHDES, is extraordinarily clean, and it is free of PFAS.***

***We want to keep it that way."***

**Fred Anderson, President**

**Forest Lake Association**

On Wednesday, January 24, 2024 at 02:07:11 PM EST, Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)> wrote:

Dear Mr. Swan,

This email follows up on questions in your December 31, 2023 email, below. Your questions are provided in italics, and the answers are in plain text.

*Does the department have any data confirming any of these claims of service?*

NHDES does not maintain this type of data. The waste management market is fluid, involving both contracts and the spot market. The customers served by a particular company may change quickly.

*Has the department received any complaints from NH municipalities or customers/haulers that they are being turned away by NCES/Casella?*

NHDES has not received complaints of the nature you describe.

*Does NCES have enough remaining capacity to make it to the required minimum permitted life of December 31, 2026?*

NHDES is in receipt of the 2022 annual facility report, which indicates there is sufficient capacity at the NCES landfill to meet its permit obligations. NHDES will continue to monitor and evaluate airspace usage.

*[On NCES'] 2023 "Cost Estimate Form" [...] I do not see monies set aside for any potential remediation/mitigation for PFAS contamination. Am I missing something? [W]hich entity will be liable for any potential [PFAS-related] cleanups which may be required in the future, post-NCES closure?*

In accordance with 40 CFR 258.73, a cost estimate is only required to include costs for remediation/mitigation when a corrective action plan is required. This facility is not currently subject to a corrective action plan for PFAS. Post-closure, the facility permittee would remain responsible for potential future required corrective actions.

Sincerely,

Mike Wimsatt

Michael J. Wimsatt, P.G., Director

Waste Management Division

NH Department of Environmental Services

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Tel 603-271-1997 Fax 603-271-2456  
[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)  
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---

**From:** Save Forest Lake <[saveforestlake@yahoo.com](mailto:saveforestlake@yahoo.com)>  
**Sent:** Sunday, December 31, 2023 12:07 PM  
**To:** Scott, Robert <[robert.r.scott@des.nh.gov](mailto:robert.r.scott@des.nh.gov)>; Wimsatt, Mike <[michael.j.wimsatt@des.nh.gov](mailto:michael.j.wimsatt@des.nh.gov)>; Colby, Jaime <[jaime.m.colby@des.nh.gov](mailto:jaime.m.colby@des.nh.gov)>  
**Cc:** Jared Sullivan <[jared.sullivan@leg.state.nh.us](mailto:jared.sullivan@leg.state.nh.us)>; Linda Massimilla <[linda.massimilla@leg.state.nh.us](mailto:linda.massimilla@leg.state.nh.us)>; David Rochefort <[david.rochefort@leg.state.nh.us](mailto:david.rochefort@leg.state.nh.us)>; Matthew Simon <[matthew.simon@leg.state.nh.us](mailto:matthew.simon@leg.state.nh.us)>; Carrie Gendreau <[carrie.gendreau@leg.state.nh.us](mailto:carrie.gendreau@leg.state.nh.us)>; ~House Environment and Agriculture Committee <[houseenvironmentandagriculturecommittee@leg.state.nh.us](mailto:houseenvironmentandagriculturecommittee@leg.state.nh.us)>; ~Senate Energy and Natural Resources Committee <[senateenergyandnaturalresources@leg.state.nh.us](mailto:senateenergyandnaturalresources@leg.state.nh.us)>; Kenney, Joseph <[joseph.d.kenney@nh.gov](mailto:joseph.d.kenney@nh.gov)>; Warmington, Cinde <[cinde.warmington@nh.gov](mailto:cinde.warmington@nh.gov)>; [mmcleod@graftoncountynh.gov](mailto:mmcleod@graftoncountynh.gov); Julie Libby <[jlibby@graftoncountynh.gov](mailto:jlibby@graftoncountynh.gov)>; [wpiper@graftoncountynh.gov](mailto:wpiper@graftoncountynh.gov); Tim Fleury <[admin@bethlehemnh.org](mailto:admin@bethlehemnh.org)>; Selectmen <[selectmen@townoflittletown.org](mailto:selectmen@townoflittletown.org)>; Ben Belanger <[ben\\_belanger@hassan.senate.gov](mailto:ben_belanger@hassan.senate.gov)>; Chuck Henderson <[chuck\\_henderson@shaheen.senate.gov](mailto:chuck_henderson@shaheen.senate.gov)>; Stephanie Weiner <[stephanie.weiner@mail.house.gov](mailto:stephanie.weiner@mail.house.gov)>; Michael Regan <[regan.michael@epa.gov](mailto:regan.michael@epa.gov)>  
**Subject:** NCES Landfill: News, Congratulations, and Questions

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

Good Morning Commissioner Scott, Director Wimsatt, and Ms. Colby:

I am writing to share a couple of news reports about the recent decision of the NH State Supreme Court, concluding that the department acted lawfully in issuing the Stage VI expansion permit for the NCES Landfill. I offer my congratulations on the department's victory over the citizens of the North Country! Besides, what difference does a few more years matter, considering 30 years of opposition, lawsuits, noise, odor, contamination, and community strife, all of which has plagued Bethlehem in hosting this corporation and its unwanted, unwelcomed landfill?

In light of that, there were several items which caught my eye and I feel need to be addressed, and hopefully the department can help provide clarification.

1. In the attached press release from Casella Waste Systems, dated 12/29/23, it is stated:

"North Country Environmental Services is a wholly owned subsidiary of [Casella](#), and provides disposal capacity for more than **60,000 businesses and residents** in nearly **200 towns** throughout the state of New Hampshire.".

Yet, figures consistently touted by Casella, as recently as a 2022 press release, those numbers were a bit lower: "**50,000 households, 5500 businesses, and 150 cities and towns**"

[https://issuu.com/mcleancommunications/docs/casella\\_waste\\_systems/s/16343220](https://issuu.com/mcleancommunications/docs/casella_waste_systems/s/16343220)

Does the department have any data confirming any of these claims of service?

I would assume that the addition of 4500 more businesses and households/residents and 50 more cities and/or towns in NH would have resulted in a spike in waste intake at NCES.

However, the numbers reported in the annual facility reports do not reflect that. In fact, the numbers for yearly waste intake at NCES show a decline, from approximately 433k tons in 2016 to approximately 227k tons in 2021 and 181k tons in 2022.

2. Which begs the question, has the department received any complaints from the reported 150-200 NH municipalities or 55,500-60,000 NH businesses and residents/households, particularly waste haulers, that the NCES facility is not willing to accept their NH-generated waste?

I have attached a copy of a 2019 news report, in which AVRRDD, owners of the Mt. Carberry Landfill in Success, NH, did just that, initially responding to inquiries for service from Dalton town officials, that it was not interested in accepting waste from Dalton. Dalton, of course, now sends its waste to the AVRRDD Mt. Carberry facility, thanks to the department reminding them of their permit requirements to make available disposal capacity for NH-generated solid waste!

Has the department received any complaints from NH municipalities or customers/haulers that they are being turned away by NCES/Casella, despite the permit requirement that they make available disposal capacity for NH generated waste for the entire operating life of the facility, as per Stage VI permit condition 27(c)?

3. Within the attached Waste Today news report, there is a link to a November, 2023 story about the GSL project: **RELATED: Casella applies for permit to construct New Hampshire landfill**

In the article, it is reported: "The proposed 70-acre lined landfill is intended to replace the North Country Environmental Services Landfill in Bethlehem, New Hampshire, which **will stop accepting waste in 2028.**"

Also, on page 3, Volume 2, part 1 of the current GSL Solid Waste Permit Application, it is stated:

#### *Section V – Site Report*

*The Granite State Landfill (GSL) is proposed to be sited on properties located in the Town of Dalton off NH Route 116. It is expected that GSL will begin operations **around the time that the North Country Environmental Services Landfill in Bethlehem (NCES, also owned by Casella) closes in 2027.***

In light of these conflicting dates for when NCES is to actually close down operations, I thought it prudent to review the remaining capacity numbers for NCES. According to the 2022 Annual Facility Report, as of end of year 2022, there was 349,890 cubic yards of remaining capacity, and 4 years of remaining life. However, if converted to tons, using .78 or .8 for compaction, I rounded up and used .8, thus calculating approximately 279k tons as remaining capacity. Considering that the 3 submitted quarterly facility reports for 2023 report waste intake at 117,812.52 tons, not counting ADC, just MSW/CD, the facility would have a remaining capacity of approximately 162,099.48 tons, give or take, after Q3, September 2023.

So, my question would be, **does NCES have enough remaining capacity to make it to the required minimum permitted life of December 31, 2026?**

It would seem not, and perhaps by nearly 2 years, according to my math and intake volume, unless I'm missing something, based on the data being reported by the permittee.

As I see it, there appears to be a potential conflict fast approaching, relative to the ability of NCES to adequately service its NH customers, as required by condition 27(c), and/or remain in compliance with the minimum permitted life of the Stage VI operating permit.

I hope the department can provide clarification, correction, or timely response, so as to address potential permit violations, as well as to avoid leaving those utilizing NCES for disposal in the lurch, scrambling for disposal elsewhere, particularly while there is time to plan accordingly now.

4. Lastly, I have attached a copy of the 2023 "Cost Estimate Form" for NCES closure. I do not see monies set aside for any potential remediation/mitigation for PFAS contamination. Am I missing something? Considering the fact that PFOA has been detected at a minimum of 4 different locations in surface water at NCES, with my own 2 distinct samplings revealing detections, directly entering the Ammonoosuc River, I am wondering which entity will be liable for any potential cleanups which may be required in the future, post-NCES closure? Casella/NCES? NHDES/The State of NH? The Town of Bethlehem? Grafton County? EPA under Superfund?

I appreciate your time and I hope you were able to celebrate your Supreme Court victory in conjunction with the New Year's Eve celebrations.

All of this, of course, is my opinion, based on my research and experience. Thank you!

Jon Swan

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Dalton, NH 03598

(603) 991-2078

Founder, [Save Forest Lake](#)

**"Forest Lake's water is tested annually with NHDES, is extraordinarily clean, and it is free of PFAS.**

**We want to keep it that way."**

**Fred Anderson, President**

**Forest Lake Association**

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

**-The Lorax**

**\*\*Is the NCES Landfill in Bethlehem, NH releasing 1,4-Dioxane and PFAS into the Ammonoosuc River watershed?**

**Read all about it at [Save Forest Lake](#)**

[Save Forest Lake YouTube Channel](#)

[Save Forest Lake on Facebook](#)

[Save Forest Lake on Twitter](#)

**Casella Has Sued Me Again: <https://www.gofundme.com/f/casella-has-sued-me-again>**

**Granite State Landfill LLC State Permitting: [Read the permit applications here](#)**

**Is it time for an overhaul of NHDES? Based on their reaction to NCES PFOA discharges into the Ammonoosuc River, YES!**

**[State Says NCES Landfill Not Leaking](#)**