

Orr&Reno

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**VIA ELECTRONIC MAIL &
FIRST CLASS MAIL**

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Eric Moore, Chair & Members

Dalton Selectboard

756 Dalton Road

Dalton, N.H. 03598

***Re: Demand to comply with RSA 149-M:17
Right to Know Request, RSA 91-A***

Dear Members of the Selectboard:

This office represents Jon Swan. As you know, Mr. Swan is concerned that the Selectboard's recent contract with Casella's North Country Environmental Services solid waste facility in Bethlehem is *ultra vires*, or outside the power of the Selectboard.

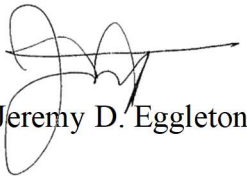
Regarding the new contract for solid waste disposal with NCES, the Selectboard's decision to shift the Town's solid waste management to NCES was contrary to the law of the State of New Hampshire. RSA 149-M:17 requires the Town to obtain a majority vote at Town Meeting in order to contract with a third party solid waste disposal facility. *See* RSA 149-M:17, IV. As I understand it, no such vote happened; moreover, as I understand it, the proposal to relocate solid waste disposal sites from AVRDD Mt. Carberry to NCES is not a noticed question on this year's warrant. As such the Selectboard's recent contract with NCES was done without valid legislative authority and is *ultra vires*. **I am demanding on behalf of Mr. Swan, a tax payer in this community, that the Selectboard reverse its unlawful decision and restore the Town's contractual relationship with Mt. Carberry.**

The failure to do so may give rise to an award of attorney's fees if we are required to go to Court in order to obtain necessary injunctive relief. This is particularly the case here, where there is a strong likelihood that NCES is required to close in 2026, leaving the Town of Dalton without a contractual relationship for the disposal of solid waste. This is a fact that the Selectboard should

have been aware of, had it done its diligence. Lastly, as discussed at the January 27, 2025 Selectboard meeting, the New Hampshire Municipal Association has apparently opined to the Selectboard that the failure to abide by the Town Meeting approval requirements of RSA 149-M:17 voids the Dalton-Casella agreement. **This letter requests a copy of said communication from the N.H.M.A.** Again, if forced to litigate this matter in Court, the facial non-compliance with the clear terms of RSA 149-M:17, the failure to abide by the legal advice sought from the N.H.M.A. and the failure to have done any due diligence before shifting Dalton's solid waste disposal from Mt. Carberry to NCES will certainly justify attorney's fees.

In addition to the foregoing, **Mr. Swan requests all email and text-message communications between any member of the Dalton Selectboard and any agent of Casella and/or NCES.** The advancement of an unlawful agreement of this nature, and in this manner, suggests that there has been *ex parte* communication between members of the Selectboard and Casella and/or its agents. Such communications, if they are occurring, would certainly be a violation of RSA 91-A:2-a, and would raise questions about the impartiality of the Selectboard in its dealings on behalf of the people of Dalton.

Very truly yours,



Jeremy D. Eggleton

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