



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

December 6, 2023

Amy Manzelli, Esq.
BCM Environmental & Land Law, PLLC
3 Maple St.
Concord, New Hampshire 03301

RE: NHDES File Number: 2023-66600 Solid Waste Standard Permit Application
Proposed Granite State Landfill, Dalton, New Hampshire

Dear Attorney Manzelli,

Thank you for your letter dated November 28, 2023 regarding the subject application. The New Hampshire Department of Environmental Services (“NHDES”) takes its statutory obligations very seriously and I sincerely appreciate the concerns you have raised.

Please be aware that NHDES does not have the ability to suspend processing of the application. Env-Sw 304.03(e) states:

Notwithstanding any other provision of this part, the department shall suspend the processing of any application when required by other provisions of law, including RSA 485-C:14.

Neither the filing of a lawsuit in Superior Court, nor an appeal of a permit decision to the N.H. Supreme Court is a “provision of law” that requires NHDES to stop processing an application. Conversely, the law does require NHDES to process applications within certain timeframes. A rule cannot change this statutory requirement. The failure to process the application in a timely way could, therefore, result in a permit by default and thereby prevent NHDES from evaluating health and safety concerns as well as issues related to public benefit.

In addition, your request that the application be processed under what you refer to as the “New Rules” does not provide a basis for any change in NHDES’ normal processing protocol. Although you provide argument as to why retrospective application of rules can sometimes be permitted, in this case, you are actually asking for

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prospective application of rules that do not yet exist. The final content of those rules and the date of their enactment are currently unknown. NHDES will work with its counsel to determine how to apply rules properly during the application process. However, no rules will be applied prior to enactment.

Thank you for your time and consideration.

Sincerely yours,



Michael J. Wimsatt, Director
Waste Management Division

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