

September 13, 2021

Via Email Only

N.H. Department of Environmental Services, Wetlands Bureau

Attn: Commissioner Robert Scott

robert.scott@des.nh.gov

**Re: NHDES File Number: 2020-02239 Wetlands Standard Permit Application;
Subject Property: Douglas Dr., Dalton, Tax Map #M405/406, Lot #33/ 1, 2.1,
2.3, 2.4, 2.5, 3 and Bethlehem Tax Map #406, Lot #1, 2 (“Application”)
DES Requested Amendment to Application**

Dear Commissioner Scott,

I write in continued representation of the North Country Alliance for Balanced Change. Please make this letter a part of your record in this Application.

First, on behalf of my client, I respectfully disagree with DES’ decision to request an amendment to the Application. Not only is this decision highly unusual, but it borders on or is unlawful. Requesting an application to be reviewed in pieces like DES is proposing loses the wholistic view of the total wetland impacts the project will make on the immediate property and surrounding lands. This Application proposes major impacts to the environment of the property and the area, and therefore not reviewing it as a whole means it is far more likely for wetlands to be negatively impacted by the project. North Country Alliance for Balanced Change disagrees with the intention of the requested amendment and respectfully requests DES to reevaluate this course of action and instead continue forward as a standard application in order to protect the environment of the area as the law intends.

RSA 482-A, which as you know is the New Hampshire statute that governs dredging and filling in wetlands, uses the words “project” or “projects” seventy-two times. The essence of wetland permitting pursuant to RSA 482-A is to identify the project, and then to make sure it has been designed to avoid, minimize, and mitigate wetland impacts. Here, the applicant has identified the project as an approximate 180-acre landfill designed to be active for at least thirty-eight years, with three phases, with wetland impacts of approximately seventeen acres. Evaluating wetland impacts of anything less than that project would be to evaluate something other than — less than — the actual project, which would be non-sensical, unlawful, and seemingly only explained as some sort of exercise in administrative gymnastics to escape the fact that the applicant had not submitted an approvable Application.

This Application has run its course with DES and is still not approvable. The requested amendment in an effort to make it approvable clearly violates the point that the review of environmental impacts should have a logical ending point. It appears as if DES

has requested this amendment because the Application is not approvable as-is. If this is the case, then DES should simply deny the Application rather than coaching the applicant into creating an approvable application. That is not the role DES should be playing, nor is it appropriate.

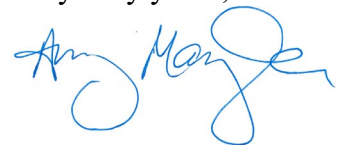
If, as DES claims, the true motivation is that the Wetlands Bureau simply cannot process the wetlands Application because the Application contains information with respect to the entire project whereas the application to the Solid Waste Bureau contains only information limited to Phase I of the project, the appropriate solution would be to go high not to go low. In other words, DES should require the applicant to provide information about the entire project, all three phases for all permits (air, solid waste, and wetland state permitting, as well as all federal permits). This would be the most accurate way to evaluate all of the impacts to natural resources so that all of the agencies with permitting jurisdiction can understand if the project does or does not meet the permitting requirements.

At this time, North Country Alliance for Balanced Change understands DES' decision to have completely obviate the Application, meaning North Country Alliance for Balanced Change, along with its consultants and counsel, has wasted the last year working diligently to bring the issues of the Application to the attention of DES and advocating for it to be denied because of them.

In reliance on the DES and GSL letters, North Country Alliance for Balanced Change will not be wasting further resources. We had planned on and were almost finished preparing additional substantive comments from myself, our experts Mr. Van de Poll and Ms. Robinette, and at least one other. We stopped that work upon notice of the amendment and will hold off on further comment until the amendment is filed. If we are wrong in any way about holding off on comments and being able to comment on the amendment, please notify us as soon as possible and extend us one week from your notice to us for us to submit additional comments.

Thank you for your attention to this matter.

Very truly yours,



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Cc:

Town of Bethlehem
Town of Bethlehem Board of Selectmen
Town of Bethlehem Town Clerk
Town of Carroll
Town of Dalton Conservation Commission
Town of Dalton Zoning Board of Adjustment
Town of Dalton Planning Board
Town of Dalton Selectboard
Town of Dalton Town Clerk
Town of Littleton
Town of Littleton Board of Selectmen
Town of Littleton Town Clerk
Town of Whitefield
Town of Whitefield Board of Selectmen
Town of Whitefield Town Clerk
North Country Council
Richard Walling, Chair, Ammonoosuc River LAC
Jaime Colby, NHDES Solid Waste Management Bureau
Stephanie Giallongo, NHDES Wetlands Bureau
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Tracie Sales, Rivers Coordinator, NHDES
Michael Wimsatt, NHDES, Solid Waste Management Bureau
Michael Marchand, NH Fish & Game, Nongame & Endangered Species
Sabrina Stanwood, NH Div. of Forests & Lands, Natural Heritage Bureau
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U.S. Army Corps of Engineers, Lindsey Lefebvre
Region 1 EPA, Deborah A. Szaro
Client
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