



For a thriving New England

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April 23, 2024

Frank J. DelGiudice
Chief, Permits and Enforcement Branch
Regulatory Division
U.S. Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

Via email: CENAE-R-PN-NH@usace.army.mil; frank.j.delgiudice@usace.army.mil;
lindsey.e.lefebrvre@usace.army.mil

RE: Granite State Landfill Permit Application, File No. NAE-2021-02240: Request for an Extension of Public Comment Period and for a Public Hearing

Dear Mr. DelGiudice,

Conservation Law Foundation (“CLF”) writes in response to the U.S. Army Corps of Engineers’ April 8, 2024 Public Notice of Granite State Landfill, LLC’s (“GSL”) wetland permit application, File No. NAE-2021-02240, to construct a landfill in Dalton, New Hampshire. CLF is a non-profit environmental advocacy organization working to protect public health and natural resources in New Hampshire and throughout New England. CLF has a long history of advocating for the protection of aquatic resources, including wetlands and surface waters, and advocating to protect our communities and the environment from the harmful impacts of unsustainable waste practices.

Due to the significant size and scope of the proposed landfill, the major permanent impacts on wetlands and streams associated with the proposed project, and the prodigious public interest in and opposition to this landfill, CLF requests the Army Corps extend the comment period for at least an additional 30 days, and further requests that the Army Corps hold at least one public hearing in the Dalton area regarding the proposal.

I. The Army Corps should extend the comment period beyond 30 days.

Pursuant to 33 CFR § 325.2(d)(2), the Army Corps may extend the comment period after considering whether the proposal is routine or noncontroversial, mail time and need for

comments from remote areas, comments from similar proposals, and the need for a site visit. 33 CFR § 325.2(d)(2). Given the large size, extensive environmental impacts (including permanent impacts to wetlands and streams), long-term operating timeframe of the landfill, and even longer – i.e. permanent – lifespan of the landfill long after closure, and given the controversial nature of the project and widespread public interest, an extended comment period is warranted.

- a. GSL’s proposed landfill is far from routine and would have enormous environmental impacts.

GSL proposes to construct a massive landfill with excessive environmental impacts. GSL’s current application for Phase 1 of the landfill envisions a 70-acre initial footprint, with permanent impacts to approximately 10.19 acres of wetlands and 1,518 linear feet of stream impacts. GSL proposes additional temporary impacts to wetlands and streams during construction. The sheer size of these impacts distinguishes this proposal as uniquely detrimental to New Hampshire’s environment.

The landfill poses additional environmental threats. GSL proposes to build the landfill in close proximity to Forest Lake State Park. The landfill, and its associated pollution, noise, odors, and trucking impacts, not to mention risks of leaks, threaten the integrity of the park, the lake, the many area homes, and an aquifer that is an important source of drinking water. Leachate from the landfill will contain harmful PFAS – “forever chemicals” – that may contaminate the surrounding environment and will likely be released into the wider environment after being trucked from GSL’s facility to wastewater treatment facilities unequipped to process PFAS in leachate.

In addition to the environmental harms that can be expected from the construction and operation of the landfill, if constructed, the landfill will pose an omnipresent threat of even greater contamination to the surrounding environment. For example, in 2021 GSL’s parent company, Casella, caused a leachate leak from a landfill it operates in nearby Bethlehem that may be the largest ever leachate spill in the state, dumping as much as 154,000 gallons of liquid leachate into the environment.¹

The environmental impacts of the proposed project are significant and warrant an extension of the public comment period. Moreover, it is important to note that the project as described in GSL’s application is just one part of a much larger landfill project that GSL intends to build and operate. In 2020, when GSL first submitted its wetland application to the New Hampshire Department of Environmental Services, GSL explained that the landfill will be developed in at least three phases, for a total of 135 acres of landfill capacity and with impacts to more than 17 acres of wetlands.² Unless the Army Corps evaluates all of the impacts associated with the project as a whole, GSL’s attempt to divide up and segment the project into smaller parts will hide the true scope, scale, and severity of the landfill and its impacts. Such segmentation should not be allowed.

b. There is widespread public interest and controversy about GSL's proposed landfill.

GSL's proposal to construct a landfill in Dalton is controversial and has attracted extensive interest and opposition from the public and even the New Hampshire legislature.³ It has sparked intense debate in Dalton and neighboring Whitefield.⁴ When DES held a public hearing for GSL's initial proposal in July, 2021, approximately a hundred people gathered at the hearing to protest the landfill, and approximately seventy people signed up to speak at the hearing. The public raised numerous concerns about the negative impacts the proposed landfill would have on the community and the environment, including concerns about the project's vast wetland impacts and threats to water resources.⁵

Since GSL withdrew and then re-submitted its applications, public interest in the proposed Granite State landfill and other landfills has only grown. In releasing the state's 2022 Solid Waste Management Plan, DES noted a "high level of interest and attention given to the draft plan, which confirms the public is engaged and concerned about solid waste management in New Hampshire."⁶ DES further noted: "Solid waste management is a topic that touches every person and every aspect of society. The way that we manage solid waste has implications for public health, safety, the environment, natural resources consumption, energy use and greenhouse gas emissions." *Id.* at 2.

Reflecting the considerable public concerns about landfills, and in particular GSL's proposed landfill, the New Hampshire legislature has taken up various bills to address waste management and the risks landfills pose to the environment, including addressing landfill siting, a proposed moratorium on landfills, and a bill to ban intentionally-added PFAS products from the state. *See* notes 4-5.

Given the great public interest in landfills and the risks they pose, and the controversy that has surrounded this particular proposal for years, the Army Corps should expect extensive public interest in this proposal, and should extend the comment period to accommodate that public interest.

II. The Army Corps should hold a public hearing regarding this proposal.

Pursuant to 33 CFR § 327.4(b), CLF requests that a public hearing be held in the Dalton area to enable meaningful public participation and ensure the Army Corps considers all applicable information in evaluating the proposal and as part of the Army Corps' broad public interest review. As described above, the significant size and scope of the proposed landfill, its extraordinary environmental harms, including substantial impacts to wetlands and streams, and the great public interest in this project warrant a public hearing. In 2021, when GSL first proposed to construct a landfill in Dalton, nearly one hundred people attended a public hearing about the landfill. A public hearing is necessary now for the public to be able to fully participate



in this process, and for the Army Corps to fully understand and properly evaluate the impacts of this proposal.

Thank you for your attention to this matter.

A handwritten signature in blue ink, which appears to read "Heidi Trimarco".

Heidi Trimarco
Staff Attorney, CLF
htrimarco@clf.org



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

November 18, 2020

GRANITE STATE LANDFILL LLC
1855 VERMONT RTE 100
HYDE PARK, VT 05655

Re: Request for More Information – Standard Dredge and Fill Wetlands Permit Application (RSA 482-A)
NHDES File Number: 2020-02239
Subject Property: Douglas Drive, Dalton, Tax Map #M405, Lot #33

Dear Applicant:

The New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau reviewed the above-referenced Standard Dredge and Fill Wetlands Permit Application (Application). Pursuant to RSA 482-A:3, XIV(a)(2) and Rules Env-Wt 100 through 900, the NHDES Wetlands Bureau determined the following additional information is required to complete its evaluation of the Application:

1. As is the case with most landfill projects in the state, when they are close to reaching capacity, requests are made to expand the landfill footprint in the immediate vicinity. While 3 phases are currently proposed, please address how potential future expansions will impact surrounding wetlands and surface waters on the property, as this long-term planning is critical to determine if avoidance and minimization of wetland resources has been fully demonstrated per Rule Env-Wt 311.07 and Env-Wt 313.03.
2. As stated in a letter dated September 27, 2019, signed by Water Division Director Thomas O'Donovan, NHDES requested that alternative sites in neighboring states be considered that may have less overall wetland impacts. The analysis provided in the application considered Maine and Vermont, which both prohibit out-of-state solid waste, but did not consider Massachusetts as a potential siting area. Please address this in your response, as there may be other areas that are better suited for landfill siting with less overall wetland impacts per Rule Env-Wt 311.07.
3. If excavation and blasting is proposed to prepare the site for the landfill, as well as the continued use of the existing quarry and gravel operations on-site, it is not clear how these activities will impact surrounding wetlands, groundwater levels and flow directions, or nearby drinking water supplies. There is a public water supply well near Forest Lake, as well as numerous private wells in the area that could be impacted if groundwater flow directions are altered as part of the construction. Provide further detailed groundwater analysis with supporting documentation to ensure detrimental groundwater impacts are avoided and minimized as required by Env-Wt 313.03(8).
4. As stated and offered in the application, provide any updates in regards to meetings with local officials, Conservation Commissions or Local Advisory Committees that may have occurred since the application was submitted, and provide any available meeting minutes for NHDES review.
5. On October 1, 2020, NHDES received a letter of concern from the Ammonoosuc River Local Advisory Committee (LAC) (copy attached). Please address each of the LAC comments as part of your response to this request.
6. On October 11, 2020, NHDES received a letter of concern from the Bethlehem Conservation Commission (BCC) (copy attached). Please address each of the BCC comments as part of your response to this request.
7. On November 18, 2020, NHDES received a letter with comments from the Dalton Conservation Commission (DCC) (copy attached). Although the DCC did not raise specific concerns with the application, they did express their trouble finding a reputable consultant to assist with the review and were limited in time on their response. NHDES recommends that you continue to coordinate directly with the DCC and incorporate any future recommendations in your response to this request.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095

NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588

TDD Access: Relay NH 1 (800) 735-2964

8. To help NHDES better understand the local zoning issues for the existing Bethlehem facility and the proposed Dalton project and how these decisions relate to avoidance and minimization of wetland impacts on the Dalton site, provide NHDES with the approved zoning ordinances from both towns and explain how the current proposal demonstrates that Env-Wt 311.07 has been met, particularly when the Bethlehem facility expansion will have significantly less overall wetland impact.
9. Section 8 and Section 9 of the application materials states that 17.49 acres of wetland will be impacted, however the application fee was based on 17.57 acres. In addition, the Siting, Evaluation and Minimization Report in Section 7 done by CMA Engineers lists 16.8 acres of total wetland impact. Please explain the discrepancies.
10. Review of the Phase 1-A historical assessment in Section 11 by Victoria Bunker, Inc. recommended that continued Phase 1-A on-site surveys are necessary to be conducted on the property. Please provide an update of the additional on-site surveys as well as any addition correspondence with NH Division of Historical Resources regarding the historical assessment pursuant to RSA 227-C:9.
11. Review of the existing conditions plan indicates that there are many existing roads on the property, some more recently constructed, that cross wetlands and streams; however, NHDES does not find records of permits in these areas. If there are unpermitted wetland impacts on the property, then a full wetland delineation for disturbed areas should be completed to fully assess any unpermitted wetland impacts per the federal delineation method as defined by Env-Wt 103.02 (see methods for atypical and difficult wetland situations). These areas should be labeled on the plans as such, and the application summary should be updated to reflect these additional impacts or restoration as necessary, as well as providing any additional application fees that may be required.
12. Areas of the property East of Douglas Drive do not appear to be fully assessed for a potential phase of the proposal, and a wetland delineation was not completed in this area. Please identify any wetland resources on this portion of the property to see if further avoidance and minimization can be achieved by relocating a phase of the project in this area per Env-Wt 311.07.
13. Similar to the above comment regarding demonstrating avoidance and minimization of wetland impacts as outlined in Env-Wt 311.07, it appears that the project could be located further upslope to the North reducing the overall wetland impact. Additional avoidance measures should be assessed for the entire 1,900-acre property to ensure this rule has been met.
14. It appears that finish grades of the landfill will be higher in elevation than the height of land (drainage divide) towards Forest Lake and Forest Lake State Park. Visual and aesthetic impacts must be further assessed in detail per RSA 482-A:1 as these impacts could “eliminate, depreciate or obstruct the commerce, recreation and aesthetic enjoyment of the public”.
15. As highlighted in the Archeological Report by Bunker dated July 2020, Forest Lake State Park is one of New Hampshire’s 10 original state parks, constituting 397 acres, which was built by the Civilian Conservation Corps (CCC) in 1935. The CCC cut ski trails between the top of Dalton Mountain and the shores of Forest Lake within Forest Lake State Park, and Dalton Mountain played a supporting role in the growth of regional recreation, as ski trail maps from 1934-1935 shows the location of Dalton Mountain and other ski slopes throughout the state. Further, the Ammonoosuc River LAC comment letter highlights the current day outdoor recreation and tourism that occurs in this region. Given the extensive recreational history and the current recreational use of Forest Lake State Park and the Ammonoosuc River, a response should be provided in greater detail whether impacts from this project could “eliminate, depreciate or obstruct the commerce, recreation and aesthetic enjoyment of the public” as outlined in RSA 482-A:1.
16. It is not clear how the downstream high-value Alder Brook wetland complex (which was previously considered for prime wetland designation by the Town of Dalton) and ultimately the Ammonoosuc River’s water quality will be protected if treatment of landfill runoff fails or if the landfill liners develop leaks over time. Downstream wetlands and surface waters should be monitored long term to protect from contaminants and pollution, and to ensure that these resources are protected pursuant to RSA 482-A:1. It should be noted that there are also downstream

communities that depend on the Ammonoosuc River as a drinking water source, so it is imperative that these issues are addressed as part of the project.

17. Review of Grading Sheet C401A, as required to be submitted under Env-Wt 311.05, found the following errors that should be addressed:
 - a) Wetland impacts for road grading near DMH-27 were not included on the Wetland Impact Plan (Sheet 6).
 - b) Wetland impacts for closed drainage between DMH-4 and DMH-26 were also not included on the Wetland Impact Plans. These areas should be included in the application along with any additional fees that may be necessary.
18. Review of Grading Sheet C401-B found the following issues:
 - a) A small area of wetland impacts (247 square feet) for slope grading could be avoided or eliminated by installing a knee wall in this location.
 - b) Wetland impacts near HW-13 do not match with the Wetland Impact Plan on Sheet 12. This impact area could be reduced in scope given the limited grading needed at this location.
 - c) Wetland impacts could be further reduced with the use of retaining walls North of HW-8 near grade line 1120 in 2 locations (before and after the pond entrance road).
 - d) NHDES recommends that roadway station numbers be added the grading plans to better help identify these areas.
19. Review of Grading Sheet C402 found that there are many side slope wetland fill areas that could be eliminated by installing retaining walls in several locations. Please address these areas in your response.
20. Review of Grading Sheet C403-B found that there are proposed wetland impacts for stormwater ponds in 2 locations which is not allowed per Env-Wt 524.04(b). Also, stormwater Pond 31 has a similar wetland impacts. Please revise the plans to eliminate these wetland impacts.
21. Review of Grading Sheet C404A found that wetland impacts are shown for a diversion swale for stormwater conveyance. Please relocate outside of wetlands per Env-Wt 524.04(b).
22. Review of Grading Sheet C404-B found that stormwater ponds dug below existing grade, which are adjacent to wetland areas, may drain the surrounding wetlands and cause impacts. Please address how the hydrology of these wetland areas will be maintained.
23. Review of the stream crossing proposal for an access road finds that the flood stage increases at the inlet by 3 feet over existing conditions during the 100-year storm, and flow velocities at the outlet increase by 9.74 feet per second (fps). A larger opening may be needed to ensure that upstream flooding and downstream scouring are avoided as part of this crossing, as this can be detrimental to aquatic organism passage. Please address this in your response.
24. The application states that the project does not impact habitats ranked as Tier 1 or Tier 2 as identified by the NH Wildlife Action Plan (WAP); however, review of the Wetland Permit Planning Tool (WPPT) finds that there are indeed Tier 2 habitats that fall within the project area which are described as the "Highest Ranked Habitat in the Biological Region". Please update the wetland application and forms accordingly, and overlay the project's limits of disturbance on the WAP maps to clearly show where the project impacts will occur, and how the project avoids these important areas as described in RSA 482-A:1 and Rule Env-Wt 313.03(b)(2).
25. Provide written permission from NH Department of Transportation (NHDOT) for those portions of the project that occur within the NHDOT right-of-way along NH Route 116 pursuant to RSA-A:11, II.
26. The review of on-site and off-site mitigation options was conducted and resulted in two parcels under consideration for preservation. The two parcels include upland buffer preservation of a 244-acre lot located west of the proposed landfill and 106 acres of land off of Trudeau Road in Bethlehem. NHDES has reviewed the parcels and note the following:
 - a) The 244-acre lot is located west of the proposed landfill and does not abut land that is subject to a conservation interest, a requirement to be met as noted in Env-Wt 803.06(a)(2). Due to the parcel's location on the

landscape, the long-term habitat value of the resources may not be sustainable overtime due to the uncertainty of adjacent activities. For this parcel to continue to be considered, it would be advised to determine abutting land uses and opportunities for future conservation efforts. This may include consulting with local conservation entities on their goals and determine if any future lands in the area will be protected so this parcel is not isolated.

- b) The 106-acre parcel consists of multiple lots added together which are located along the state designated, Ammonoosuc River. The parcel abuts White Mountain National Forest lands, consists of high value wildlife habitat, and may have the potential for habitat enhancement at the sand and gravel mining site. For this upland preservation effort to go forward, the following items would need to be provided:
- (1) Delineate wetlands within the proposed compensatory mitigation area and all contiguous wetlands and surface waters to be completed by a certified wetland scientist in accordance with Env-Wt 406.01.
 - (2) Include a functional assessment of the proposed mitigation site.
 - (3) Provide a date when a complete mitigation proposal will be submitted to the department.
 - (4) Document the current conditions which includes submittal of color photographs to illustrate important site features with location(s) noted on the property survey plan, including the location(s) of significant ecological features; existing impervious surfaces, including but not limited to buildings, structures, and trails; wells; power lines or pipelines; historic resources; and other improvements that will be in place at the time of the establishment of the compensatory mitigation area.
 - (5) Identify any existing encumbrances or restrictions on the property.
 - (6) Summarize the conservation goals in accordance with Env-Wt 804.
 - (7) Complete a baseline documentation report in accordance with Env-Wt 808.15.
 - (8) Describe how the property proposed for preservation will be legally protected in perpetuity. A letter noting the proposed grantee indicates that they will accept the easement or fee simple deed will be needed.
 - (9) A copy of the proposed conservation easement language or language noting conveyance of fee simple ownership or conservation easement which protects the conservation values in perpetuity, in accordance with Env-Wt 808.14.
 - (10) If protective measures already exist on the mitigation site(s), identify the existing protective measures and describe how the proposed additional measures would provide greater protection of the aquatic resources on the site(s).
 - (11) Submit a property survey plan in accordance with Env-Wt 808.11 that identifies the boundaries of the compensatory mitigation area.
 - (12) Submit a draft legal description of the compensatory mitigation area; and
 - (13) Submit a stewardship plan for the property that has been accepted by the conservation easement grantee.

27. Based on review of the impacts noted in the application materials, stream impacts have not been included in the Aquatic Resource Mitigation (ARM) Fund payment calculation. The permanent loss of 216 linear feet of perennial stream resources and 1,046 linear feet of intermittent streams needs to be included in the total calculation for mitigation payment. The square footage of these resources has been removed from the total so the impacts are not double counted. With these losses, the payment would result as follows:

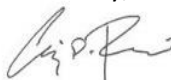
Wetland loss of 738,399 square feet of wetlands =	\$2,994,882.52
216 feet of perennial stream =	\$19,730.30
1,046 feet of intermittent stream =	\$286,637.47
TOTAL ARM Fund payment =	\$3,301,250.29

In addition, it should also be noted that NHDES received comments and questions from the North Country Alliance for Balanced Change, Save Forest Lake group, as well as numerous public comments from citizens in the region, which have all been reviewed and were considered as part of this request. For future public comments regarding this application, NHDES set up the following email address to receive this important public input at:
wetlandsapplicationpubliccomments@des.nh.gov

Please submit the required information as soon as practicable. Pursuant to RSA 482-A:3, XIV(a)(2), **the required information must be received by the NHDES Wetlands Bureau within 60 days of the date of this request, no later than January 17, 2021, or the Application will be denied.** Should additional time be necessary to submit the required information, an extension of the 60-day time period may be requested. In accordance with applicable statutes and regulations, the applicant is also expected to provide copies of the required information to the municipal clerk and all other interested parties.

Pursuant to RSA 482-A:3, XIV(a)(3), the NHDES Wetlands Bureau will approve or deny the Application within 30 days of receipt of all required information, or schedule a public hearing, as required by RSA 482-A or associated rules. If you have any questions, please contact me at craig.rennie@des.nh.gov or (603) 271-0676.

Sincerely,



Craig D. Rennie, CWS, CWB
Inland Wetland Supervisor
Land Resources Management

cc: Douglas Ingerson, Jr., JW Chipping
BH Keith Associates
Dalton Clerk/Conservation Commission
Bethlehem Clerk/Conservation Commission
Ammonoosuc River LAC
NHDES Rivers Program

ec: Lori Sommer, NHDES Mitigation Coordinator
Ridge Mauck, NHDES Alteration of Terrain
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Lindsey Lefebvre, ACOE
Beth Alafat, EPA
Amy Manzelli, North Country Alliance for Balanced Change
Jon Swan, Save Forest Lake
Tom Irwin, Conservation Law Foundation