THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS. SUPERIOR COURT

Case Number: 217-2023-CV-00285

Casella Waste Systems, Inc.

v.

Jon Swan

AFFIDAVIT OF JON SWAN I/S/O
OBJECTION TO MOTION FOR SUMMARY JUDGMENT

Jon Swan, under oath, does hereby state:

1. Regarding Plaintiff's Exhibit 3 (internet post linking to Caledonian Record article "Casella Drops Defamation Lawsuit Against Dalton Landfill Opponent"). I did not author the text of this post. It was authored by the Caledonian Record because it was the headline of the newspaper story I linked to in the same post. Neither the post in question nor the newspaper article linked to it, nor the photograph included in the post, "disclose the terms set forth in [the Settlement Agreement]" or the existence of the Settlement Agreement. *See* Settlement Agreement at §7.

2. Regarding Plaintiff's Exhibit 4 (a July 18, 2023 internet post with DES letter), I did not author the DES letter that is included in Exhibit 4. It was authored by the New Hampshire Department of Environmental Services and sent to the Plaintiff on or about November 1, 2017. My comment about the article, "bad stuff is not being contained, and it's flowing with the groundwater within the watershed of the Ammonoosuc River," is an obvious and apparent expression of opinion based upon the content of the pictured letter, which discusses the detection

of PFAS in groundwater samples in monitoring wells at the Plaintiff's NCES landfill in Bethlehem N.H. PFAS is a water contaminant identified by the New Hampshire legislature (for example, in *e.g.*, RSA 149-M:64; 2024 N.H. Laws c. 349), and the department of environmental services as requiring prohibition (in some cases) and restriction and regulation (in others). *See* Exhibit A ("New Hampshire Specific Guidance on PFAS") (N.H. DES, EHP-21-04). In my post, I am also merely repeating what the Department of Environmental Services has stated, both about PFAS and about PFAS being discharged into the groundwater from the Plaintiff's NCES landfill.

3. Regarding the Plaintiff's Exhibit 5 (another July 18, 2023 internet post with DES letter), I did not author the DES letter that is included in Exhibit 4. It was authored by the New Hampshire Department of Environmental Services and sent to the Plaintiff on or about October 21, 2019. I attach a full copy as Exhibit B to this affidavit. My comment about the article, "contaminants are not being contained within the lined landfill still in operation" is an obvious and apparent expression of opinion based upon the content of the pictured letter, which discusses the detection of PFAS in groundwater samples in monitoring wells at the Plaintiff's NCES landfill in Bethlehem N.H. The post itself states that the levels of PFAS detected in the groundwater monitoring wells on the NCES site exceed the limits established for Ambient Groundwater Quality Standards for PFAS by the Joint Legislative Committee on Administrative Rules, which became enforceable standards on September 30, 2019. In my post, I am also merely repeating what the Department of Environmental Services has stated, both about PFAS and about PFAS being discharged into the groundwater from the Plaintiff's NCES landfill.

4. Regarding the Plaintiff's Exhibit 6 (an August 9, 2023 internet post on a "Twin Mountain and Carroll, NH Community and News Group" forum), I repeat information published by the New Hampshire DES and even the Plaintiff itself in public filings, letters and comment on numerous prior occasions. Specifically, I state that the NCES landfill in Bethlehem "is releasing contaminants into the Ammonoosuc River watershed." Exhibit 6. This was one of dozens of posts I had made on the subject over several years. This is obviously and apparently an expression of opinion about fact that the Plaintiff has reported, and the DES has documented, the discharge of PFAS, PFOA and 1,4-Dioxane from the NCES landfill, detected in groundwater monitoring wells over years of testing. I attach Exhibits C-E for reference. Exhibits C-E are, respectively, the summary pages of three multi-hundred-page monitoring well testing reports provided by the Plaintiff's engineers, Sanborn Head & Associates. In 2023, the Plaintiff disclosed state-identified contaminants detected in the groundwater at the NCES landfill, including, *e.g.*, PFAS, 1,4-Dioxane, Arsenic, Managese, benzo(a)anthracine and other polycilic aromatic hydrocarbons. Exhibits C-E. Further, the NCES landfill is in the Ammonoosuc watershed. *See* Exhibit F (complaint and answer), *see* respective ¶¶33 (alleging and admitting that the NCES Bethlehem landfill is in the Ammonoosuc River watershed). Thus, when I stated in my post that the NCES landfill is releasing contaminants in the Ammonoosuc watershed, I was repeating public statements made by the N.H. DES and the Plaintiff itself. In addition, I had documented my opinions about NCES' handling of PFAS in leachate on this platform previously, which I referenced in my post. *See* Exhibit G (posts from 2021 concerning a 154,000 gallon leachate spill at NCES), H (post from July 24, 2023 attaching Sanborn Head reports and DES responses, including follow up requests for testing to "determine the extent to which 'downgradient dilution'

or 'downgradient transport' of 1,4-Dioxane and PFAS is occurring within the watershed of the Ammonoosuc River. I believe this is going to become quite a big story, in my opinion."); Exhibit N (Excerpts from Swan Answers to Requests for Admission, Document production 00022-00035). Thus, the allegedly offending quote in Exhibit 6, my August 9, 2023 post, is embedded and contextualized in numerous preceding opinion posts that republish public documents and statements, including those of DES and the Plaintiff.

5. Regarding the Plaintiff's Exhibit 7 (an August 16, 2023 internet post commenting on DES' lax control of PFAS generally), I stated, "NCES Landfill is releasing 1,4-dioxane and PFAS contaminants into the watershed of the Ammonoosuc River." Particularly in the context of my immediately following comment, "The fox guards the henhouse, we've learned up north," my statements is obviously and apparently an expression of opinion about fact that the Plaintiff has reported, and the DES has documented, the discharge of contaminants including PFAS, PFOA and 1,4-Dioxane from the NCES landfill in the Ammonoosuc River watershed. *See* Exhibits B-F. As such, my statement was not only obvious and apparent opinion, but it was repeating public statements made by the N.H. DES and the Plaintiff itself.

6. Regarding the Plaintiff's Exhibit 8 (a September 1, 2023 internet post commenting on DES' lax control of PFAS generally), I stated, "[NCES] is failing to contain harmful contaminants like 1,4-Dioxane and PFAS[.] These chemicals are being released within the Ammonoosuc River watershed. Groundwater monitor well reports, submitted to NHDES by Sanborn & Head, confirm this. Downgradient migration and dilution of these harmful contaminants, via groundwater and within the watershed, is occurring, with no plans in place for remediation." Particularly in the context of my specific reference to the Plaintiffs own

groundwater monitoring well reports to N.H. DES, my statements are obviously and apparently expressions of opinion about fact that the Plaintiff has reported, and the DES has documented, the discharge of contaminants including PFAS, PFOA and 1,4-Dioxane from the NCES landfill in the Ammonoosuc River watershed. *See* Exhibits B-F. As such, my statement was not only obvious and apparent opinion, but it was repeating public statements made by the N.H. DES and the Plaintiff itself.

7. Regarding the Plaintiff's Exhibit 9 and 10, two September 2023 posts in which I circulate a notice about a protest at an October 7, 2023 "Open House" at the NCES landfill in Bethlehem, I state "It's leaking PFAS!" and "Call NHDES and EPA and ask them what they are going to do about the PFAS contaminants that are leaking from the landfill within the watershed of the Ammonoosuc River." This statement is a repetition of public statements by N.H. DES and the Plaintiff itself in its published groundwater monitoring-well reports and litigation admissions. *See* Exhibits B-F. It is also consistent with, and part of, an extensive array of communications I was involved in at that time. Exhibit I Swan Answers to Requests for Admission, document production nos. SWAN 0008-9, 11, 13; Exhibit J (September 9, 2023 post expressing opinion analysis of same issues using DES and Plaintiff-published documentation); Exhibit K ("Opinion Failure at the NCES Landfill") (expressing opinion analysis of same issues using DES and Plaintiff-published documentation). Thus, the Plaintiff has cherry-picked an isolated statement and removed it from the context of all of my communications around that time concerning that issue, which clearly evince the fact that my statements are ones of opinion, relying on already-public statements by DES and the Plaintiff. Thus, the allegedly breaching statement in Exhibits

9-10 are obvious and apparent expressions of opinion about the factual statements in those sources, amongst many others.

8. Regarding the Plaintiff's Exhibit 11, an October 7 comment I posted about a visit by then-executive councilor Cinde Warmington, I stated "How in good conscience can NHDES or the Governor of NH permit a PFAS-emitting project like a landfill in an area free of PFAS contamination? That will be the question going forward, especially as we watch the nightmare unfold that is the NCES Landfill in neighboring Bethlehem and its continued release of PFAS contaminants into the watershed of the Ammonoosuc River!" As the characterization "nightmare" clearly shows, I am obviously and apparently expressing an opinion because the NCES Landfill's emissions of PFAS and other contaminants are not actually dream. Furthermore, N.H. DES and the Plaintiff have stated expressly in public filings and communications that the NCES landfill is in the Ammonoosuc River watershed, and that it is producing PFAS, 1,4-Dioxane and other contaminants detected in the NCES landfill monitoring wells. *See* Exhibits B-F. Thus I am merely repeating what DES and the Plaintiff have publicly stated about these matters, and unambiguously and openly expressing my opinion about them.

9. Regarding the Plaintiff's Exhibit 12, an October 7, 2023 post showing a hand holding a protest sign that reads, "CLOSE THE DUMP, IT'S LEAKING!", this is post that I made electronically. Particularly in light of the context, *i.e.*, the prior statements (Exhibits 9-10) advertising a protest on October 7, 2023 at the NCES landfill site, and the obvious context of the photograph of a protest sign, this is an obvious and apparent expression of opinion (that the dump should be closed because it's leaking). Factually, the statement that the dump is leaking is also a repetition of statements made by other third parties, including DES, the Plaintiff, and

independent analysts providing comment for the public record. *See* Exhibit L (June 25, 2024 letter with study from Muriel Robinette summarizing extensive public record showing leaking of 1,4-Dioxane, PFAS and other contaminants, by source and date), Exhibits B-F, I-K.

10. With regard to Plaintiff's Exhibit 13, this post, made by me, is an October 10, 2023 summary of the public protest held October 7, 2023 at the NCES landfill entrance. The statements makes reference several times to the landfill leaking PFAS contaminants and groundwater contaminants detected in the landfill in the watershed of the Ammonoosuc River. This is a repetition of public statements by third parties, including N.H. DES and the Plaintiff itself. See Exhibits B-F, L. It is also openly and apparently an expression of opinion because it references a protest action and the protest grounds, which are inherently understood to be opinion by any reasonable person. *See* Exhibit K, Exhibit 12.

11. Regarding Plaintiff's Exhibit 14, I posted a statement obviously and apparently expressing an opinion because it was asking a rhetorical question, "How can we trust EPA and NHDES to protect Forest Lake when they won't protect the Ammonoosuc River from PFOA in NCES Landfill surface water runoff?" In light of the years of statements by DES and the Plaintiff that PFAS and 1,4-Dioxane have been detected at the NCES landfill site, to the extent this statement makes a factual assertion, it is a repetition of public statements by others. Exhibits B-F. Furthermore, the post at Exhibit 14 references and contains a link to a more extensive blog post I made on the issue. In that post, I talk about having tested the surface water running off the site, I attach the testing results from a N.H. DES-approved laboratory, and I remind all readers that, "All this is, of course, my opinion based on my research and experience." Exhibit M at 3. Thus, the Plaintiff is again trying to sever and isolate partial communications I have made in order to

make them appear non-compliant with the Settlement Agreement. But the totality of the post included the lengthy analysis of the surface water I tested, noting that it was an opinion.

12. Regarding the Plaintiff's Exhibit 15, the issue is exactly the same as in Exhibit 14. I obtained testing of surface water runoff into the Ammonoosuc River from the NCES landfill, detailed my analysis and the results from the accredited laboratory, and explained that I was expressing an opinion based on my research and experience. *See* Exhibit M. The communication in Exhibit 15 is but one of numerous communications around this topic taking place within this timeframe, which, taken in their totality, are expressions of opinion concerning the factual statements of third parties or my own research. Furthermore, most of the attached maps and information on Exhibit 15 derive from DES' and the Plaintiffs' own statements in the public record.

13. With regard to Plaintiff's Exhibit 16, I link to a blog post detailing the Plaintiff's new landfill requests for Dalton, N.H. and Bethlehem, N.H. I state that the "NCES Landfill discharges PFOA into Ammonoosuc River. Where's the media?" *Id.* This is a repetition of statements made by DES and the Plaintiff itself, as well as others, over many years in public filings. *See* Exhibits B-F, L. In addition, it is made in the context of an extensive record of clearly opinion statements concerning my own testing and analysis. *See* Exhibit M. In addition, the obviously rhetorical question is an obvious and apparent expression of opinion.

14. With regard to Plaintiff's Exhibit 17, I posted a Facebook communication on December 30, 2023, attaching a spreadsheet file and commenting on it. I state, "NCES is failing to contain harmful contaminants like PFAS and 1,4-Dioxane, with recent sampling of surface water runoff revealing 4 PFAS compounds directly entering the Ammonoosuc River." This is a

repetition of statements made by DES and the Plaintiff itself, as well as others, over many years in public filings. *See* Exhibits B-F, L. In addition, I make reference to my detailed opinion analysis of the surface water testing I conducted, which is an inseparable contextual background for this communication. Exhibit M. Thus, this statement is either a restatement of statements made by others in the public record, including N.H. DES and the Plaintiff itself, as well as others; or it is an obvious and apparent opinion.

15. I attach Exhibit O, a copy of an internet communication by a third party that demonstrates that Casella has revealed the terms or existence of the Settlement Agreement to a third party, Dave Leonard, who posted an electronic message knowledgably discussing the non-disclosure aspects of the Settlement Agreement in public.

16. When I agreed to the liquidated damages provision in the Settlement Agreement, I understood this provision to apply to any lawsuit because any individual omission or mistake on my part would not substantially harm any person, let alone Casella.

Further Affiant Sayeth Not.

Date: June 11, 2025

Jon Swan

State of New Hampshire
County of Grafton

This instrument was acknowledged before me on June 11, 2025, by Jon Swan, who was known to me or whose identity was satisfactorily proven and who swore before me that the above statements were true, to the best of his knowledge and belief, under the pains and penalties of perjury.

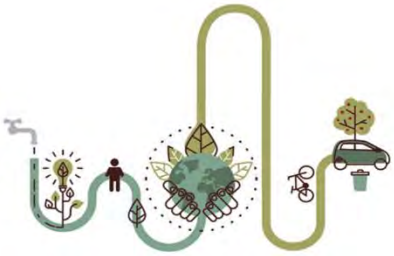
Notary Public / ~~Justice of the Peace~~
My Commission Expires: 06/29/2027

Renee E Powers
Notary Public, State of New Hampshire
My Commission Expires June 29, 2027

EXHIBIT A

NEW HAMPSHIRE DEPARTMENT OF Environmental Services

APPLETREE



New Hampshire-Specific Guidance on Per- and Polyfluoroalkyl Substances (PFAS)

This New Hampshire-specific information sheet is intended to help you understand and interpret the results of any testing for per- and polyfluoroalkyl substances (PFAS) in your well water. It also provides additional informational resources on PFAS, private well ownership and ways to reduce your exposure to PFAS.

On July 23, 2020, New Hampshire set Maximum Contaminant Levels (MCLs) and Ambient Groundwater Quality Standards (AGQS) for four PFAS compounds. The New Hampshire MCLs and AGQS are the state's regulatory standards. On May 14, 2025, the U.S. Environmental Protection Agency (USEPA) announced some revisions to the federal MCLs for a group of PFAS chemicals that were set on April 10, 2024. The current state and federal standards are summarized in the table below. These water quality standards (MCLs and AGQS) are set to be protective of sensitive populations including infants, children and women who are or may become pregnant. Other PFAS chemicals may be included in your test results but are not regulated by New Hampshire or the USEPA at this time.

Per-and Polyfluoroalkyl Substance	NH MCL and AGQS in nanograms per liter (ng/L)	USEPA MCL† in nanograms per liter (ng/L)
PFOA	12	4
PFOS	15	4
PFHxS	18	Not applicable
PFNA	11	Not applicable

†USEPA MCL is accurate as of May 14, 2025.

Interpreting Your PFAS Sampling Results

Below MCLs:

If your PFAS sampling result numbers are all below USEPA MCLs and NH MCLs and AGQS, **you do not need to take any action at this time**. If other chemicals or PFAS are present in your results, but below current standards or do not have standards to compare against, you can contact us to learn more.

Above MCLs:

If any of your PFAS sampling result numbers are above USEPA MCLs or NH MCLs and AGQS, **the New Hampshire Department of Environmental Services (NHDES) recommends that you do not use your water for drinking, cooking, or other food and beverage purposes unless it is filtered with a treatment system designed to remove PFAS**. **The treatment system must also be maintained and monitored at the appropriate frequency according to the manufacturer's specifications.** This guidance is consistent with the most current scientific information about these contaminants and is intended to protect the most sensitive people in the population.

If you would like help interpreting the water testing results provided to you, please see the resources and contact information on page 2.

Additional Information and Resources

Water Treatment Options

To reduce exposure to PFAS in your drinking water, you can use bottled water (temporary solution), install a water treatment system or connect to a public water supply. To learn more about drinking water quality, testing and treatment and interpreting your water quality test results, visit the NHDES webpages below:

- Information Specific to PFAS and Private Wells.
- General Information About Private Well Safety.
- Information About Choosing Appropriate Private Well Treatment.
- Be *Well* Informed Guide.

Private well users that have been impacted by PFAS above the USEPA or NH drinking water standards may be eligible to apply to the NHDES PFAS Rebate Program for Private Wells, which will provide a one-time rebate up to $5,000 for the installation of PFAS treatment or up to $10,000 for a service connection to a public water system.

- Information About PFAS Removal Rebates.

Health Concerns

NHDES works with the New Hampshire Department of Health and Human Services (DHHS) and the Centers for Disease Control and Prevention's Agency for Toxic Substances and Disease Registry (ATSDR) to evaluate and reduce exposures to harmful substances in New Hampshire. This cooperative agreement is intended to support communities like yours and evaluate risks from exposure to PFAS and other harmful substances. Specific information about PFAS exposure can be found at the following links:

- NHDES PFAS Health Impacts webpage.
- NH DHHS PFAS FAQs.
- EPA Final PFAS National Primary Drinking Water Regulation.
- ATSDR PFAS Information.

We recommend talking to your health care provider about your specific health concerns.

Contact Information

Please email NH-APPLETREE@des.nh.gov or call (603) 271-6802 with questions about the information provided in this document.

Please email pfasrebateprogram@des.nh.gov or call (603) 271-8539 with questions about the NHDES PFAS Rebate Program for Private Wells.

The Northern New England Poison Center (NNEPC) is also available as a resource to help answer health-related questions, if needed. The NNEPC can be reached at 1-800-562-8236.

This guide was made possible by a cooperative agreement [program # CDC-RFA-TS-23-0001] *from the Agency for Toxic Substances and Disease Registry (ATSDR). Its contents are solely the responsibility of the New Hampshire Department of Environmental Services' Environmental Health Program and do not necessarily represent the official views of the ATSDR, or the U.S. Department of Health and Human Services.*

EXHIBIT B

The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner

EMAIL ONLY

October 21, 2019

John Gay
Casella Waste Management, Inc.
1855 VT Route 100
Hyde Park, VT 05655

Subject: **Bethlehem** – North Country Environmental Services (NCES) Landfill, 581 Trudeau Road, DES Site #**198704033**, Project #1737

July 2019 Tri-Annual/2019 Annual Water Quality Monitoring Results, prepared by Sanborn, Head & Associates, Inc., and dated August 22, 2019

August 2019 PFAS Groundwater Results Data Transmittal, prepared by Sanborn, Head & Associates, Inc., and dated September 3, 2019

Dear Mr. Gay:

The New Hampshire Department of Environmental Services (NHDES) has reviewed the above-referenced documents for the NCES Landfill, as submitted on your behalf by Sanborn, Head & Associates, Inc. (SHA). The subject documents were prepared to comply with the on-going monitoring and reporting requirements of the site Groundwater Management and Release Detection Permit **GWP-198704033-B-007** (the Permit). Based on our review of the most-recent water quality data provided, we note that the monitoring results generally remain consistent with recent prior findings, with the exception of the results discussed below.

Based on our review of the above documents, we developed the comments that follow below. Comments requiring a response from Casella and/or SHA are summarized in ***bolded italicized font***.

1. As noted by SHA within the Annual Report, 1,4-dioxane was detected during the April 2019 monitoring round at a concentration of 1.8 micrograms per liter (µg/L) in the groundwater sample from monitoring well B-304UR, which is above the Ambient Groundwater Quality Standard (AGQS) and the highest detection on record for the monitoring well. We note B-304UR is within the Groundwater Management Zone (GMZ) related to the former (removed) unlined landfill where impacts to groundwater have been noted previously. The 1,4-dioxane detections during the last five monitoring rounds that included 1,4-dioxane analysis each exceeded the revised AGQS of 0.32 µg/L, which took effect September 1, 2018. Included in the Annual Report is an expanded evaluation of the 1,4-dioxane occurrences at B-304UR and B-304DR, as requested by NHDES. The evaluation identified the presence of an unused piezometer couplet, B-304S and B-304D, and historical subsurface infrastructure related to the former landfill gas flare in the vicinity of B-304UR and B-304DR. We understand, as discussed within the Annual Report, that subsurface infrastructure related to the former flare including; conduits, piping, condensate knock-out, and concrete pads, along with approximately 5,000 cubic yards of soil were removed from an area upgradient of B-304UR and B-304DR as part of reconstruction of stormwater pond #4 in May 2019. We note decommissioning of the B-304S and B-304D piezometer couplet was consistent with SHA's June 26, 2019 Work Plan. ***Concentrations of 1,4-dioxane in the groundwater samples collected from monitoring wells B-304UR and B-304DR should be revaluated following the November 2019 Permit monitoring round. The results should be transmitted to***

NHDES as part of the November 2019, due in January 2020, and include an evaluation of the results and any associated recommendations.

2. On July 18, 2019, the New Hampshire Joint Legislative Committee on Administrative Rules (JLCAR) adopted rules that establish Maximum Contaminant Levels (MCLs) and either revised or established AGQS for four per- and polyfluoroalkyl substances (PFAS) that include: 12 nanograms per liter (ng/L) for perfluorooctanoic acid (PFOA), 15 ng/L for perfluorooctane sulfonic acid (PFOS), 18 ng/L for perfluorohexane sulfonic acid (PFHxS), and 11 ng/L for perfluorononanoic acid (PFNA). The rules became enforceable standards on September 30, 2019. In consideration of the new standards we note concentrations of PFOA have been detected above the new AGQS during the most recent monitoring rounds at monitoring wells MW-701 (PFOA 20.6 ng/L), MW-802 (PFOA 14.2 ng/L), B-918M (PFOA 17.3 ng/L), and B-919U (PFOA 14.1 ng/L). As discussed within the Annual Report, MW-802 and B-919U are located within the GMZ for the former unlined landfill where other impacts to groundwater have been noted historically. Although impacts at MW-701 and MW-802 are believed to be associated with previously identified historical issues, the impacts should be tracked closely, as discussed below. ***PFAS occurrences at the site should be reassessed in comparison to the new PFAS standards and the adequacy of the existing monitoring well network should be evaluated.***

3. In consideration of the reoccurring detections of PFAS and consistent with the requirements of NHDES' *Groundwater Release Detection Permits* rules (NH Code of Administrative Rules Chapter Env-Or 700), Assessment Monitoring shall commence at release detection monitoring wells B-701 and B-918M. Sampling shall be completed on a quarterly basis for PFAS, NHDES Waste Management Division Full List of Analytes for volatile organics, including 1,4-dioxane (using a 0.25 micrograms per liter (ug/L) reporting limit), specific conductance @25°C, pH, temperature, turbidity, nitrate, sulfate, TKN, chloride, iron, and manganese. To better understand the occurrence of PFAS, the first round of sampling should include an expanded analytical list, using isotope dilution following the protocols outlined in the United States Department of Defense (USDOD) Quality Systems Manual (QSM) 5.2 (or later), reporting 25 individual PFAS. Results of the assessment monitoring shall be submitted to NHDES within 45 days of the date of each round of sampling. Sampling shall continue until the results indicate two consecutive rounds during which PFAS is not detected or NHDES determines further action is necessary. The list of required analyses may potentially be narrowed if the Assessment Monitoring results support such a reduction. ***Release detection monitoring wells B-701 and B-918M shall be sampled on a quarterly basis for PFAS, NHDES Waste Management Division Full List of Analytes for volatile organics, including 1,4-dioxane (using a 0.25 ug/l reporting limit), specific conductance @25°C, pH, temperature, turbidity, nitrate, sulfate, TKN, chloride, iron, and manganese until the conditions outlined above are met. Results are to be submitted to NHDES' within 45 days of sampling and should include an evaluation of the results and recommendations for corrective actions, further monitoring, and/or additional investigation.***

4. As discussed by SHA within the Annual Report, increased chloride concentrations have been detected above the historical data results at monitoring locations S-1, S-101 and SF-1, with the concentration detected at S-1 being the highest since 1996. Based on information provided within the Annual Report, the recent chloride impacts are likely the result of salt storage and mixing operations performed in the northern portion of the former "Tucker Pit". Based on the above-noted water quality impacts, NHDES requires that corrective measures to mitigate the chloride impacts in the area of the on-site salt storage and mixing operations be undertaken. Improvements to consider should include implementation of best management

practices (BMPs) such as those outlined in NHDES' WD-DWGB-22-30 Fact Sheet. Based on the elevated concentrations of chloride at S-1, S-101, and SF-1, the monitoring locations should continue to be monitored closely. Monitoring locations S-1 and SF-1 are sampled for chloride during each Permit monitoring round. However, sampling of the S-101 location should be included with the November 2019 and April 2020 monitoring rounds and should include the same parameters as are required by Permit at the S-1 and SF-1 locations. ***Monitoring location S-101 should be sampled during November 2019 and April 2020 as outlined above. Also please document any mitigation steps or BMPs NCES plans to implement, or has implemented, at the salt operations area as part of the November Data Transmittal, due in January 2020.***

5. As indicated on the "Groundwater Quality Field Sampling Summary" table attached to the Annual Report as Appendix D we note the observed depth to the bottom of monitoring well B-304DR is less than the documented installed depth by nearly 10 feet. Please review the difference and discuss the reason for the discrepancy. If the monitoring well needs to be rehabilitated, please coordinate prior to conducting the November Permit monitoring round. ***Please address discrepancy in the depth of monitoring well B-304DR as part of the November Data Transmittal, due in January 2020.***

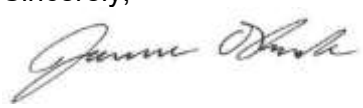
6. Consistent with NHDES guidance, samples collected for PFAS analysis should be analyzed using an isotope dilution method following the protocols for PFAS by LC/MS/MS outlined in the USDOD or USEPA methods reference in Item #3 above. NHDES recommends that samples be submitted for a broad PFAS analysis to evaluate the potential source, fate, and transport PFAS impacts at your site. Quantification of linear and branched isomers should be completed as required by USEPA Method 537.1. The laboratory should report acid forms, accounting for the mass of the counterion as described in USEPA Method 537.1. NHDES recommends that analytical data summary tables (and laboratory reports) include both CAS Nos. and the analyte names. Laboratory testing guidelines for PFAS can be found at:

https://www4.des.state.nh.us/nh-pfas-investigation/wp-content/uploads/2019/05/201905_Lab-Guidance-1.pdf

In addition, on summary tables, NHDES recommends that the PFAS be ordered by carbon chain length, and split by families.

If you have any questions with regard to our comments, please contact me directly at NHDES' Waste Management Division.

Sincerely,



James W. O'Rourke, P.G.
Waste Management Division
Tel: (603) 271-2909
Fax: (603) 271-2181
Email: James.ORourke@des.nh.gov

ec: Jaime Colby, P.E., SWMB/NHDES
Paul Rydel, P.G., HWRB/NHDES
Timothy White, P.G., Sanborn, Head & Associates, Inc.
Board of Selectmen, Town of Bethlehem
Attention Health Officer, Town of Bethlehem

EXHIBIT C

NHDES Waste Management Division
29 Hazen Drive; PO Box 95
Concord, NH 03302-0095

April 2023 Tri-Annual
Water Quality Monitoring Results
North Country Environmental Services, Inc. Landfill
581 Trudeau Road
Bethlehem, New Hampshire 03574

NHDES Site #: 198704033
Project Type: Water Quality Monitoring
Project Number: 1737

Prepared For:
North Country Environmental Services, Inc. (NCES)
581 Trudeau Road, P.O. Box 9
Bethlehem, New Hampshire 03574-0009
Phone Number (603) 869-3366
RP Contact Name: Mr. Joe Gay
RP Contact Email: John.Gay@casella.com

Prepared By:
Sanborn, Head & Associates, Inc.
20 Foundry Street
Concord, New Hampshire 03301
Phone Number: (603) 229-1900
Contact Name: Timothy M. White, P.G.
Contact Email: twhite@sanbornhead.com

Date of Report: May 31, 2023

Groundwater Monitoring Report Cover Sheet

Site Name: **North Country Environmental Services, Inc. (NCES) Landfill**

Town: **Bethlehem, NH**

Permit #: **GWP-198704033-B-007**

Type of Submittal (*Check all that apply*)

☐ Periodic Summary Report (*year*):

☒ Data Submittal (*month and year per Condition #7 of Permit*): **April 2023**

Check each box where the answer to any of the following questions is "YES"

Sampling Results

☒ During the most recent monitoring event, were any ***new*** compounds detected at any sampling point?

Well/Compound:

B-919U: arsenic

☐ Are there any detections of contamination in drinking water that is untreated prior to use? **NO**

Well/Compound:

☐ Do compounds detected exceed AGQS?

☐ Was free product detected for the ***first time*** in any monitoring point? **NO**

☐ Surface Water (*visible sheen*)

☐ Groundwater (*1/8" or greater thickness*)

Location/Thickness:

Contaminant Trends

☐ Do sampling results show an increasing concentration trend in any source area monitoring well? **Concentration trends are discussed in the text.**

Well/Compound:

☒ Do sampling results indicate an AGQS violation in any of the GMZ boundary wells?

AGQS exceedances at monitoring wells for April 2023 are indicated below and are discussed in the report text.

Well/Compound:

Arsenic: B-919M, MW-801, MW-802, MW-803 [inside GMZ]

Manganese: B-103S, B-103D, B-304DR, MW-801, MW-802, MW-803, B-919M [inside GMZ]; B-926U, MW-701 [outside GMZ]

1,4-Dioxane: B-304DR [inside GMZ]
PFOA: B-918M [outside GMZ]

Recommendations

☐ Does the report include any recommendations requiring DES action? (*Do not check this box if the only recommendation is to continue with existing permit conditions.*) **NO**

EXHIBIT D

NHDES Waste Management Division
29 Hazen Drive; PO Box 95
Concord, NH 03302-0095

STAGE VI PHASE II REPLACEMENT
Monitoring Well Information – Round 2 of 2
North Country Environmental Services, Inc. Landfill
581 Trudeau Road
Bethlehem, New Hampshire 03574

NHDES Site #: 198704033
Project Type: Water Quality Monitoring
Project Number: 1737

Prepared For:
North Country Environmental Services, Inc. (NCES)
581 Trudeau Road, P.O. Box 9
Bethlehem, New Hampshire 03574-0009
Phone Number (603) 869-3366
RP Contact Name: Mr. Joe Gay
RP Contact Email: John.Gay@casella.com

Prepared By:
Sanborn, Head & Associates, Inc.
20 Foundry Street
Concord, New Hampshire 03301
Phone Number: (603) 229-1900
Contact Name: Timothy M. White, P.G.
Contact Email: twhite@sanbornhead.com

Date of Report: May 8, 2023

Groundwater Monitoring Report Cover Sheet

Site Name: **North Country Environmental Services, Inc. (NCES) Landfill**

Town: **Bethlehem, NH**

Permit #: **GWP-198704033-B-007**

Type of Submittal (*Check all that apply*)

☐ Periodic Summary Report (*year*):

☒ Data Submittal (*month and year per Condition #7 of Permit*): **Stage VI Phase II Replacement Monitoring Wells groundwater data – Round 2 of 2**

Check each box where the answer to any of the following questions is "YES"

Sampling Results

☒ During the most recent monitoring event, were any ***new*** compounds detected at any sampling point?

Well/Compound:

B-929L [outside GMZ]: chromium, iron

B-914U [outside GMZ]: acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(g,h,i)perylene, benzo(k)fluoranthene, chrysene, dibenz(a,h)anthracene, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene, pyrene.

B-914L [outside GMZ]: PFBA, PFHpA, PFHxA, PFPeA

B-102S [inside GMZ]: PFOA

☐ Are there any detections of contamination in drinking water that is untreated prior to use? **NO**

Well/Compound:

☐ Do compounds detected exceed AGQS?

☐ Was free product detected for the ***first time*** in any monitoring point? **NO**

☐ Surface Water (*visible sheen*)

☐ Groundwater (*1/8" or greater thickness*)

Location/Thickness:

Contaminant Trends

☐ Do sampling results show an increasing concentration trend in any source area monitoring well? **Concentration trends are discussed in the text.**

Well/Compound:

☒ Do sampling results indicate an AGQS violation in any of the GMZ boundary wells?
AGQS exceedances at monitoring wells for March 2023 are indicated below and are discussed in the report text.
Well/Compound:
B-102S [inside GMZ]: manganese
B-102D [inside GMZ]: arsenic and manganese
B-903L [outside GMZ]: arsenic
B-930L [outside GMZ]: arsenic
B-914U [outside GMZ]: benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene
B-914L [outside GMZ]: PFOA

Recommendations

☒ Does the report include any recommendations requiring DES action? (*Do not check this box if the only recommendation is to continue with existing permit conditions.*) **Report recommends updating Groundwater Management and Release Detection Permit to incorporate new wells and decommission old wells.**

EXHIBIT E

NHDES Waste Management Division
29 Hazen Drive; PO Box 95
Concord, NH 03302-0095

July 2023 Tri-Annual/2023 Annual Water Quality Monitoring Results North Country Environmental Services, Inc. Landfill 581 Trudeau Road Bethlehem, New Hampshire 03574

NHDES Site #: 198704033
Project Type: Water Quality Monitoring
Project Number: 1737

Prepared For:
North Country Environmental Services, Inc. (NCES)
581 Trudeau Road, P.O. Box 9
Bethlehem, New Hampshire 03574-0009
Phone Number (603) 869-3366
RP Contact Name: Mr. John Gay
RP Contact Email: John.Gay@casella.com

Prepared By:
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6 Bedford Farms Drive, Suite 201
Bedford, New Hampshire 03110
Phone Number: (603) 229-1900
Contact Name: Timothy M. White, P.G.
Contact Email: twhite@sanbornhead.com

Date of Report: August 24, 2023

Groundwater Monitoring Report Cover Sheet

Site Name: **North Country Environmental Services, Inc. (NCES) Landfill**

Town: **Bethlehem, NH**

Permit #: **GWP-198704033-B-007**

Type of Submittal (*Check all that apply*)

☒ Periodic Summary Report (*year*): **2023**

☒ Data Submittal (*month and year per Condition #7 of Permit*): **July 2023**

Check each box where the answer to any of the following questions is "YES"

Sampling Results

☒ During the most recent monitoring event, were any ***new*** compounds detected at any sampling point?

Well/Compound:

B-918M – Nitrate (below AGQS and site background)
B-924U – Nickel (below AGQS and site background)
B-915M – PFBS (no AGQS established)
B-304DR – PFPeS (no AGQS established)
B-919U – PFNA (below AGQS)
MW-604 – PFBS (no AGQS established), PFOS (below AGQS)

☐ Are there any detections of contamination in drinking water that is untreated prior to use? **NO**

Well/Compound:

☐ Do compounds detected exceed AGQS?

☐ Was free product detected for the ***first time*** in any monitoring point? **NO**

☐ Surface Water (*visible sheen*)

☐ Groundwater (*1/8" or greater thickness*)

Location/Thickness:

Contaminant Trends

☐ Do sampling results show an increasing concentration trend in any source area monitoring well? **Concentration trends are discussed in the text.**

Well/Compound:

☒ Do sampling results indicate an AGQS violation in any of the GMZ boundary wells? **AGQS exceedances at monitoring wells for July 2023 are indicated below and are discussed in the report text.**

Well/Compound:
Arsenic: B-103S, B-103D, MW-802, MW-803, B-919M [inside GMZ]; B-927M [outside GMZ]
Manganese: B-103S, B-103D, B-304DR, MW-802, MW-803, B-919M [inside GMZ]; B-926U, MW-701 [outside GMZ]
1,4-Dioxane: B-304DR [inside GMZ]
PFOA: B-304UR, B-304DR, B-919U, B-928U [inside GMZ]
PFHxS: B-304DR [inside GMZ]

Recommendations

☐ Does the report include any recommendations requiring DES action? (*Do not check this box if the only recommendation is to continue with existing permit conditions.*) **NO**

EXHIBIT F

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

TOXICS ACTION CENTER, INC., and CONSERVATION LAW FOUNDATION, Plaintiffs, v. CASELLA WASTE SYSTEMS, INC., and NORTH COUNTRY ENVIRONMENTAL SERVICES, INC., Defendants.	Civil Action No.: 18-cv-393 **COMPLAINT**

INTRODUCTION

1. Defendants discharge pollutants—including, but not limited to, contaminated groundwater, landfill leachate, iron, manganese, and 1,4-dioxane—to the Ammonoosuc River via a 370-foot-long drainage channel ("Drainage Channel") located near the North Country Environmental Services landfill ("Landfill") in Bethlehem, New Hampshire. These discharges have violated, are violating, and will continue to violate the federal Clean Water Act ("CWA").

2. Plaintiffs Toxics Action Center, Inc. ("Toxics Action") and Conservation Law Foundation ("CLF") have members who live near, swim in, and otherwise use or would like to use the Ammonoosuc River, and whose use and enjoyment of the river has been and continues to be adversely affected by the Defendants' illegal discharge of pollutants.

3. Plaintiffs bring this citizen enforcement action under the "citizen suit" provision of the CWA, 33 U.S.C. § 1365, to end these longstanding, ongoing violations.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 33 U.S.C. § 1365(a)(1) and 28 U.S.C. § 1331.

5. Venue lies in this District under 33 U.S.C. § 1365(c)(1), because the Landfill and Drainage Channel are located within the District.

6. Pursuant to 33 U.S.C. § 1365(b), Plaintiffs gave notice of the violations alleged in this Complaint more than 60 days prior to the commencement of this lawsuit by a letter ("Notice Letter") mailed via U.S. mail to: (a) the Defendants; (b) the United States Environmental Protection Agency ("EPA"); and (c) the New Hampshire Department of Environmental Services.

7. A copy of the Notice Letter is attached as Exhibit 1 to this Complaint and is incorporated by reference herein.

8. Each of the parties listed above received the Notice Letter. Copies of return receipts and United States Postal Service tracking information are attached as Exhibit 2 to this Complaint.

9. The Notice Letter satisfies the pre-suit notice requirements of 33 U.S.C. § 1365(b)(1)(A).

10. Subsequent to Defendants' receipt of the Notice Letter, Defendants' counsel wrote a letter to Plaintiffs' counsel asking that communications with Defendants be directed to Defendants' counsel, but otherwise did not communicate with Plaintiffs or their counsel about the Notice Letter.

11. Neither EPA nor the State of New Hampshire has contacted Plaintiffs or Plaintiffs' counsel about the Notice Letter.

12. Neither EPA nor the State of New Hampshire has commenced or is diligently prosecuting a civil or criminal action against Defendants to address any of the violations at issue in this case. Neither EPA nor the State of New Hampshire has commenced, and neither is diligently prosecuting, any administrative penalty action against Defendants with regard to any of the violations at issue in this case.

PARTIES

13. Plaintiff Toxics Action is a non-profit corporation organized under the laws of Massachusetts. Toxics Action has approximately 1,900 members. Toxics Action works with citizens across New England in an effort to reduce, clean up, and remediate the effects of pollution in their communities.

14. Toxics Action has members who live and own property near the Ammonoosuc River, who use the river for recreational and aesthetic purposes, and who are adversely affected by the Defendants' illegal pollutant discharges to the Ammonoosuc River.

15. Plaintiff CLF is a non-profit corporation duly organized under the laws of Massachusetts with approximately 5,100 members, including approximately 550 members in New Hampshire. CLF works to protect New England's environment for the benefit of all people. CLF uses the law, science, and the market in an effort to create solutions that preserve natural resources, build healthy communities, and sustain a vibrant economy.

16. CLF has members who live and own property near the Ammonoosuc River, who use the river for recreational and aesthetic purposes, and who are adversely affected by the Defendants' illegal pollutant discharges to the Ammonoosuc River.

17. Defendant North Country Environmental Services, Inc. ("NCES"), is a for-profit corporation organized under the laws of New Hampshire. NCES is a wholly owned subsidiary

of New England Waste Services, Inc., which is itself a wholly owned subsidiary of Defendant Casella Waste Systems, Inc. NCES is the owner, and an operator, of the Landfill.

18. NCES plays a direct role in managing and funding the Landfill's operations and pollution control activities. Its operational role includes, but is not limited to, the management and disposal of solid waste, groundwater well installation and monitoring, surface water monitoring, maintenance and operation of leachate collection systems, maintenance and operation of the Drainage Channel, and provision of services incidental to pollution control.

19. Defendant Casella Waste Systems, Inc. ("Casella") is a publicly traded for-profit corporation organized under the laws of Delaware and headquartered in Rutland, Vermont. It is registered to do business in New Hampshire. Casella is an operator of the Landfill.

20. Casella plays a direct role in managing and funding the Landfill's operations and pollution control activities, including the maintenance and operation of the Drainage Channel. Casella personnel regularly communicate with staff at the New Hampshire Department of Environmental Services ("NHDES") regarding pollution control—including groundwater and surface water monitoring—at the Landfill. Casella personnel also work with third-party contractors and consultants to prepare Water Quality Monitoring Results and other documents related to the Landfill that are submitted to NHDES on behalf of NCES.

CITIZEN ENFORCEMENT SUITS UNDER THE CLEAN WATER ACT

21. The objective of the CWA "is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

22. The CWA prohibits the addition of any pollutant to navigable waters from any point source except as authorized by a National Pollutant Discharge Elimination System ("NPDES") permit applicable to that point source. 33 U.S.C. §§ 1311(a), 1342, 1362(12).

23. The CWA authorizes citizens to commence an enforcement action against any person who violates "an effluent standard or limitation" of the CWA. One such effluent standard or limitation is the requirement to obtain NPDES permit authorization before adding a pollutant to navigable waters from a point source. 33 U.S.C. §§ 1365(a), (f).

24. The CWA grants jurisdiction to United States District Courts to enforce effluent standards or limitations, to issue injunctions, to impose appropriate civil penalties for violations, and to award costs of litigation to citizen plaintiffs. 33 U.S.C. §§ 1365(a), (d).

FACTUAL BACKGROUND

The Landfill

25. The Landfill comprises approximately 46.5 acres of waste disposal space divided among five stages (numbered I–V), each of which incorporates synthetic liners and a leachate collection system.

26. The Landfill is located approximately 800 feet south of the Ammonoosuc River.

27. Beginning in the 1970s, Harold Brown owned and operated an unlined landfill ("Unlined Waste Disposal Space") at the site of what is now Stage II of the Landfill.

28. In 1985, Sanco, Inc. ("Sanco") purchased the Unlined Waste Disposal Space from Brown, along with 41 undeveloped abutting acres.

29. Beginning in 1987, Sanco constructed and/or directed the construction of Stage I of the Landfill.

30. In 1989, NCES purchased Stage I, the Unlined Waste Disposal Space, and the undeveloped abutting acreage from Sanco.

31. NCES subsequently excavated the Unlined Waste Disposal Space and placed the excavated material in Stage I of the Landfill.

32. NCES constructed and/or directed the construction of Landfill Stages II–V. NCES and/or its consultants constructed Stage II of the Landfill in the excavated site formerly occupied by the Unlined Waste Disposal Space. Stages III through V are located next to and above Stages I and II.

The Drainage Channel

33. The Landfill lies within the Ammonoosuc River watershed.

34. Groundwater underneath and near the Landfill flows to the northeast, towards the Ammonoosuc River. Preferential groundwater flow patterns lead from the Landfill to a network of groundwater seeps on a steep slope south of the Ammonoosuc River.

35. Casella, NCES, and their consultants refer to the one seep exhibiting the greatest discharge flow among the network of groundwater seeps as the "Main Seep."

36. The Main Seep is connected to the Ammonoosuc River by the Drainage Channel. The Drainage Channel is approximately 370 feet long.

37. The Main Seep and the Drainage Channel are located on property owned by NCES.

38. The Drainage Channel collects water that emerges from the Main Seep, and from other nearby seeps and wetlands, and conveys that water to the Ammonoosuc River.

39. The Drainage Channel also collects pollutants—including, but not limited to, contaminated groundwater, landfill leachate, iron, manganese, and 1,4-dioxane—that emerge from the Main Seep and then conveys those pollutants to the Ammonoosuc River. Leachate is liquid that has passed through or emerged from solid waste and that contains soluble, suspended, or miscible materials removed from such waste.

40. The Drainage Channel also collects pollutants—including, but not limited to, contaminated groundwater, landfill leachate, iron, manganese, and 1,4-dioxane—that emerge from other groundwater seeps and wetlands connected to the Drainage Channel and then conveys those pollutants to the Ammonoosuc River.

41. NCES and Casella personnel, and/or consultants acting on behalf of NCES and Casella, manage and monitor pollutant discharges from the Drainage Channel to the Ammonoosuc River. See infra Paragraphs 48–49, 56–62.

42. In 2010, consultants for Casella and/or NCES excavated approximately 176 tons of sediment containing elevated levels of iron, manganese, and arsenic from the Main Seep and the Drainage Channel as part of a Seep Restoration Project.

43. After excavating the discolored soil, consultants for Casella and/or NCES reconstructed the Drainage Channel.

44. The reconstructed Drainage Channel was designed to convey water—and any pollutants dissolved, suspended, or otherwise mixed in that water—from the Main Seep, and from other nearby seeps and wetlands, to the Ammonoosuc River.

Groundwater Permit and Water Quality Monitoring

45. The Landfill is registered under New Hampshire Groundwater Management and Release Detection Permit No. GWP-198704033-B-006 ("Groundwater Permit").

46. The Groundwater Permit requires NCES to collect and test separate groundwater samples from monitoring wells near the Landfill, some of which are located in a Groundwater Monitoring Zone ("GMZ") located between the Landfill and the Ammonoosuc River.

47. The Groundwater Permit also requires NCES to collect and test separate surface water samples from the Main Seep, from three other surface seeps in the GMZ, from the Drainage Channel, and from three locations in the Ammonoosuc River.

48. NCES, through its consultant, Sanborn, Head, and Associates, Inc. ("Sanborn Head"), submits "Water Quality Monitoring Results" to NHDES three times per year. The Water Quality Monitoring Results include test results from the required groundwater monitoring and surface water monitoring.

49. Sanborn Head coordinates the preparation and submission of Water Quality Results with both NCES and Casella personnel.

50. A copy of an Exploration Location Plan attached to the November 2017 Water Quality Monitoring Results submitted to NHDES is attached as Exhibit 3 to this Complaint and is incorporated by reference herein. Exhibit 3 depicts the aforementioned monitoring wells, surface water monitoring locations, and GMZ, and also depicts the Landfill, its component stages, and the nearby Ammonoosuc River.

51. The Water Quality Monitoring Results submitted to NHDES compare sample testing results to Ambient Groundwater Quality Standards ("AGQS") set by NHDES, and/or to Secondary Maximum Contaminant Levels ("SMCL") set by EPA, where applicable.

52. The SMCL for iron is 0.3 mg/L.

53. The SMCL for manganese is 0.05 mg/L.

54. The AGQS for manganese is 0.84 mg/L.

Pollutant Discharges from the Drainage Channel to the Ammonoosuc River

55. Water Quality Monitoring Results submitted to NHDES indicate that the Drainage Channel is discharging pollutants to the Ammonoosuc River.

56. In the November 2017 Water Quality Monitoring Results, NCES reported the following information regarding iron and manganese concentrations in samples collected from the Main Seep (location S-1):

Complaint Paragraph Number	Sample Date	Iron Concentration (mg/L)	Manganese Concentration (mg/L)
56a	11/6/12	0.54	0.18
56b	4/10/13	4.5	0.65
56c	7/9/13	1.0	0.18
56d	11/5/13	2.4	0.50
56e	4/21/14	0.25	0.12
56f	7/17/14	0.09	0.06
56g	11/5/14	1.1	0.21
56h	4/15/15	0.75	0.15
56i	7/21/15	0.12	0.038
56j	11/10/15	0.77	0.14
56k	4/11/16	0.87	0.097
56l	7/12/16	0.12	0.053
56m	11/7/16	0.16	0.044
56n	4/3/17	0.38	0.075
56o	7/26/17	0.32	0.077

57. In the November 2017 Water Quality Monitoring Results, NCES reported the following information regarding iron and manganese concentrations in samples collected from the Drainage Channel (location SF-1):

Complaint Paragraph Number	Sample Date	Iron Concentration (mg/L)	Manganese Concentration (mg/L)
57a	11/6/12	1.8	0.34
57b	4/10/13	3.8	0.50
57c	7/9/13	1.1	0.27

57d	11/5/13	1.6	0.37
57e	4/21/14	3.9	0.45
57f	7/17/14	2.1	0.41
57g	11/5/14	2.1	0.28
57h	4/15/15	2.2	0.35
57i	7/21/15	1.9	0.32
57j	11/10/15	1.6	0.33
57k	4/11/16	5.9	0.35
57l	7/12/16	1.4	0.32
57m	11/7/16	1.1	0.27
57n	12/1/16	2.9	0.31
57o	4/3/17	3.2	0.50
57p	7/26/17	1.5	0.37
57q	11/6/17	1.3	0.31

58. In the November 2017 Water Quality Monitoring Results, NCES reported the following information regarding the concentrations of 1,4-dioxane in samples collected from the Drainage Channel (location SF-1):

Complaint Paragraph Number	**Sample Date**	**1,4-Dioxane Concentration (µg/L)**
58a	11/7/16	0.31
58b	12/1/16	0.26
58c	4/3/17	0.28

59. The testing data listed in Paragraphs 57–58 indicate that the Drainage Channel is discharging iron, manganese, and 1,4-dioxane to the Ammonoosuc River.

60. Testing data for samples collected from the Ammonoosuc River itself further indicate that the Drainage Channel is discharging these pollutants to the Ammonoosuc River.

61. In the November 2017 Water Quality Monitoring Results, NCES reported the following information regarding iron and manganese concentrations in samples collected from the Ammonoosuc River *upstream* from the Drainage Channel (location AR-1):

Complaint Paragraph Number	Sample Date	Iron Concentration (mg/L)	Manganese Concentration (mg/L)
61a	7/9/13	0.22	0.018
61b	7/17/14	0.19	0.017
61c	7/21/15	0.18	0.015
61d	7/12/16	0.10	0.016
61e	4/3/17	0.10	0.018
61f	7/26/17	0.18	0.017

62. In the November 2017 Water Quality Monitoring Results, NCES reported the following information regarding iron and manganese concentrations in samples collected from the Ammonoosuc River *downstream* from the Drainage Channel (location AR-2):

Complaint Paragraph Number	Sample Date	Iron Concentration (mg/L)	Manganese Concentration (mg/L)
62a	7/9/13	0.24	0.021
62b	7/17/14	0.43	0.031
62c	7/21/15	0.25	0.030
62d	7/12/16	0.17	0.029
62e	4/3/17	0.20	0.037
62f	7/26/17	0.23	0.029

63. On each of the dates listed in Paragraphs 61 and 62, iron and manganese concentrations downstream from the Drainage Channel were higher than those upstream from the Drainage Channel.

64. The presence of iron, manganese, and 1,4-dioxane in the Drainage Channel is attributable to, and indicative of, the presence of landfill leachate and/or contaminated groundwater from the Landfill and/or the Unlined Waste Disposal Space.

65. Iron, manganese, and 1,4-dioxane are commonly found in landfill leachate, and in groundwater contaminated by landfill waste and/or by activities associated with waste disposal.

66. 1,4-dioxane is a synthetic industrial chemical; it is not naturally occurring.

67. Consultants for Casella and/or NCES have concluded that the presence of iron and manganese in the Drainage Channel is the result of groundwater contamination from the Unlined Waste Disposal Space.

68. Water Quality Monitoring Results indicate that leachate, contaminated groundwater, and other pollutants attributable to the Landfill are also present in the Drainage Channel.

69. Water Quality Monitoring Results indicate that groundwater monitoring wells between the Landfill and the Ammonoosuc River regularly contain iron and manganese concentrations that exceed the applicable AGQS and/or SMCL. These monitoring wells draw groundwater from the flow pattern that leads from the Landfill to the Drainage Channel. See Paragraph 34; Exhibit 3.

70. Water Quality Monitoring Results indicate the presence of 1,4-dioxane in groundwater monitoring wells between the Landfill and the Ammonoosuc River. These monitoring wells draw groundwater from the flow pattern that leads from the Landfill to the Drainage Channel. See Paragraph 34; Exhibit 3.

71. The presence of 1,4-dioxane and elevated concentrations of iron and manganese in groundwater that flows from the Landfill to the Drainage Channel demonstrate that the Landfill is a source of the 1,4-dioxane, iron, and manganese in the Drainage Channel.

72. Average iron and manganese concentrations in samples collected from some groundwater monitoring wells in the GMZ have increased from 2008 to present. Other groundwater monitoring wells in the GMZ have contained consistent levels of iron and manganese from 2008 to present.

73. The stable and/or increasing iron and manganese concentrations in these monitoring wells demonstrate that the presence of these metals in groundwater linking the Landfill to the Drainage Channel is attributable, at least in part, to the Landfill. If iron and manganese concentrations were attributable solely to soil contamination from the Unlined Waste Disposal Space, the concentrations would be expected to exhibit a decreasing—rather than stable or increasing—trend from 2008 to the present, as the residual effects of the Unlined Waste Disposal Space diminish over time.

74. Between 1996 and 2006, NCES applied sodium bromide to waste added to Stages II and III of the Landfill. NCES intended the sodium bromide to function as a manner of leak detection—if bromide is detected in groundwater near the Landfill, it is an indication that Landfill cells are leaking.

75. Following these applications of sodium bromide, bromide has been regularly detected in samples collected from monitoring wells that draw groundwater from the flow pattern that leads from the Landfill to the Drainage Channel. The presence of bromide in these samples is an indication that the Landfill is releasing leachate and other pollutants to

groundwater that is thereafter collected and discharged to the Ammonoosuc River by the Drainage Channel.

ADVERSE EFFECTS OF POLLUTANTS DISCHARGED FROM THE DRAINAGE CHANNEL

76. When iron is present in water at concentrations above the SMCL, it can result in a rusty hue, a reddish-colored sediment, and a metallic taste.

77. Iron can form solid precipitates in water that can settle on the gills and eggs of aquatic organisms and obstruct oxygen uptake and negatively affect reproduction and mobility.

78. Dissolved iron can be absorbed through the gills and stomachs of aquatic organisms and can bioaccumulate to levels that interfere with cellular processes.

79. Exposure to elevated levels of manganese can damage the gills, intestinal mucosa, and kidneys of fish.

80. 1,4-dioxane is a likely human carcinogen. EPA has classified 1,4-dioxane as likely to be carcinogenic by all routes of exposure.

81. 1,4-dioxane is highly mobile in water and does not readily biodegrade in the environment.

82. Because leachate contains pollutants removed from solid waste, it can present a diverse and variable array of environmental risks depending on its constituents. The nature of these constituents, and thus the degree of risk, can change over time. To Plaintiffs' knowledge, the constituents of the leachate discharged to the river via the Drainage Channel are not being regularly and comprehensively characterized.

83. Groundwater contaminated by landfilling activity can also present a diverse and variable array of environmental risks depending on its constituents. The nature of these constituents, and thus the degree of risk, can change over time. To Plaintiffs' knowledge, the

constituents of the contaminated groundwater discharged to the river via the Drainage Channel are not being regularly and comprehensively characterized.

VIOLATIONS OF THE CLEAN WATER ACT

84. Defendants have violated and continue to violate the CWA because they have discharged and continue to discharge pollutants—including, but not limited to, landfill leachate, contaminated groundwater, iron, manganese, and 1,4-dioxane—to the Ammonoosuc River without NPDES permit authorization.

85. Defendants' past and ongoing discharges of pollutants from the Drainage Channel to the Ammonoosuc River violate the CWA, 33 U.S.C. §§ 1311 and 1342, because: (a) the Drainage Channel is a "point source" within the meaning of the CWA; (b) the Ammonoosuc River is a "navigable water" within the meaning of the CWA; (c) the Drainage Channel is adding substances to the Ammonoosuc River that are "pollutants" within the meaning of the CWA; and (d) Defendants are not authorized by any NPDES permit to discharge pollutants from the Drainage Channel to the Ammonoosuc River.

A. The Drainage Channel is a Point Source.

86. The CWA defines point source as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).

87. The Drainage Channel is a confined and discrete channel, or conduit, from which groundwater that emerges from the Main Seep, and from other groundwater seeps and wetlands, is discharged to the Ammonoosuc River.

88. As discussed above in Paragraphs 55–75, water discharged from the Drainage Channel to the Ammonoosuc River contains leachate, contaminated groundwater, iron, manganese, and 1,4-dioxane.

89. Leachate, contaminated groundwater, iron, manganese, and 1,4-dioxane are pollutants within the meaning of the CWA. See infra Paragraphs 96–97.

90. The Drainage Channel thus is a confined and discrete conduit from which pollutants may be, and are, discharged to the Ammonoosuc River, and is therefore a point source within the meaning of the CWA.

B. The Ammonoosuc River is a Navigable Water.

91. The CWA defines navigable waters as "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7). "Waters of the United States" are defined by EPA regulations to include, *inter alia*, all tributaries to interstate waters. See 40 C.F.R. § 122.2.

92. The Ammonoosuc River is a permanent flowing body of water that empties into the Connecticut River. The Connecticut River is an interstate waterway. It serves as a border between New Hampshire and Vermont, flows south into Massachusetts and Connecticut, and empties into Long Island Sound.

93. The Ammonoosuc River thus is a navigable water within the meaning of the CWA.

C. The Drainage Channel is Adding Pollutants to the Ammonoosuc River.

94. The CWA defines "pollutant" as including, *inter alia*, "solid waste, . . . chemical wastes, . . . and industrial [and] municipal waste." 33 U.S.C. § 1362(6).

95. The Drainage Channel is adding iron, manganese, 1,4-dioxane, contaminated groundwater, and leachate to the Ammonoosuc River. Each of these substances is a pollutant within the meaning of the CWA.

96. The iron, manganese, and 1,4-dioxane discharged via the Drainage Channel are solid and chemical waste, because they are discarded to the river as waste by Defendants, and they are solid, chemical, and industrial and/or municipal waste because they originate from and/or are attributable to industrial waste, municipal waste, and/or activities associated with waste disposal.

97. The contaminated groundwater and leachate discharged via the Drainage Channel are solid and chemical waste because they are discarded to the river as waste by Defendants, and because they contain chemicals that are discarded to the river as waste by the Defendants. They are also solid, chemical, and industrial and/or municipal waste because they are attributable to, originate from, and/or contain chemicals that originate from industrial waste, municipal waste, and/or activities associated with waste disposal.

D. Defendants Are Not Authorized to Discharge Pollutants From the Drainage Channel to the Ammonoosuc River.

98. No NPDES permit authorizes the discharge of pollutants from the Drainage Channel to the Ammonoosuc River.

99. The Landfill is registered under the 2015 NPDES Multi-Sector General Permit ("MSGP").

100. The MSGP does not authorize the discharge of pollutants from the Drainage Channel to the Ammonoosuc River.

101. Section 8.L.3.1 of the MSGP, concerning sector-specific requirements for "Landfills, Land Application Site, and Open Dumps," states that the MSGP does not authorize discharges of leachate, drained free liquids, or contaminated groundwater.

102. The New Hampshire Groundwater Permit does not authorize the discharge of pollutants from the Drainage Channel to the Ammonoosuc River.

E. Defendants' Unauthorized Discharges Are Ongoing and Continuous.

103. Defendants have conveyed pollutants—including, but not limited to, landfill leachate, contaminated groundwater, iron, manganese, and 1,4-dioxane—to the Ammonoosuc River via the Drainage Channel each day from March 8, 2013, (the start of the applicable statute of limitations under the CWA) through the present, and they will continue to discharge these pollutants each day unless or until action is taken to stop the discharge.

104. The Water Quality Monitoring Results and other monitoring conducted by Defendants and/or their consultants generally indicate that the flow of contaminated groundwater from the Main Seep to the Discharge Channel is continuous, and they do not indicate any interruption in this flow. Defendants and/or their consultants have estimated this flow as being approximately 100 gallons per minute, which translates to 144,000 gallons per day.

105. Each day of discharge of each pollutant from the Drainage Channel to the Ammonoosuc River without NPDES permit authorization constitutes a separate and distinct day of violation of the CWA.

PLAINTIFFS AND THEIR MEMBERS ARE HARMED BY THE CWA VIOLATIONS

106. Members of Toxics Action and CLF live near, own property near, work near, and/or visit the Ammonoosuc River and use the river for recreational and aesthetic purposes.

107. Plaintiffs' members consider a clean and vibrant Ammonoosuc River to be an important resource and an aesthetically significant part of the area in which they live, work, visit, and/or recreate.

108. Plaintiffs have members who want the Ammonoosuc River to contain as little pollution as possible, to be free of illegal pollution discharges, and to be afforded the full protections of the Clean Water Act.

109. Plaintiffs have members who used to swim in and otherwise use the Ammonoosuc River downstream from the Drainage Channel, but now limit, or avoid entirely, swimming in or using those areas due to concerns about the human health, aquatic health, and aesthetic impacts of pollutants discharged by the Defendants to the Ammonoosuc.

110. Plaintiffs have members who have observed discoloration and other signs of pollution in and near the Ammonoosuc River (including red, brown, and/or orange discoloration, which can be attributable to iron pollution), which has decreased their enjoyment of the river.

111. Plaintiffs have members who would recreate in or near, or otherwise use and enjoy the area of the river downstream from the Drainage Channel, but who refrain from doing so because they are concerned about the cancer risk from 1,4-dioxane.

112. Plaintiffs have members who are concerned that the Ammonoosuc River has been polluted by Defendants' discharges and that the health of aquatic life has been harmed by this pollution. Their enjoyment derived from activities in and around the Ammonoosuc River is diminished due to these concerns.

113. Plaintiffs have members who spend less time in and around the Ammonoosuc River than they otherwise would because they are concerned about pollutants discharged by Defendants to the Ammonoosuc River.

114. Plaintiffs have members who are concerned that the Ammonoosuc River has been, and continues to be, deprived of the protections afforded by the Clean Water Act, and who have been deprived of the public process and other avenues for access and comment associated with the Clean Water Act's permitting process.

115. Because Defendants have not applied for, or received, a NPDES permit for pollutant discharges from the Drainage Channel to the Ammonoosuc River, Plaintiffs and their members are deprived of access to the monitoring and reporting that would be required if Defendants were governed by an NPDES permit authorizing their discharge of pollutants to the Ammonoosuc River.

RELIEF REQUESTED

Plaintiffs request that this Court:

a. Declare Defendants to have violated and be in violation of the CWA by discharging pollutants from the Drainage Channel to the Ammonoosuc River without NPDES authorization;

b. Order Defendants to comply with the CWA by ceasing all unauthorized pollutant discharges to the Ammonoosuc River, seeking NPDES permit authorization for any future pollutant discharges to the Ammonoosuc River, and complying with the discharge limitations, monitoring requirements, and other requirements of such permit if and when issued;

c. Order Defendants to implement measures to remedy, mitigate, or offset the harm to the environment caused by the violations alleged herein;

d. Assess an appropriate civil penalty against Defendants for each day of each violation of the CWA occurring from March 8, 2013, forward, as provided by 33 U.S.C. §§ 1319(d), 1365(a), and 40 C.F.R. §§ 19.1–19.4.

e. Award Plaintiffs their costs of litigation (including reasonable attorney and expert witness fees), as provided by 33 U.S.C. § 1365(d);

f. Order such other relief as the Court deems appropriate.

PLAINTIFFS,

TOXICS ACTION CENTER, INC., and
CONSERVATION LAW FOUNDATION

Dated: May 14, 2018

/s/ Thomas Irwin
Thomas Irwin (NH Bar #11302)
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

TOXICS ACTION CENTER, INC. and CONSERVATION LAW FOUNDATION, Plaintiffs	)	
v.	)	Case No. 1:18-cv-00393-PB
CASELLA WASTE SYSTEMS, INC. and NORTH COUNTRY ENVIRONMENTAL SERVICES, INC., Defendants	)	

DEFENDANTS' ANSWER TO COMPLAINT

Defendants, North Country Environmental Services, Inc. ("NCES") and Casella Waste Systems, Inc. ("Casella"), respectfully submit this answer to the complaint filed on May 14, 2018.

INTRODUCTION

1. Defendants deny the allegations of paragraph 1.

2. Defendants deny the allegations of paragraph 2.

3. Defendants deny the allegations of paragraph 3.

JURISDICTION AND VENUE

4. Paragraph 4 states a legal conclusion for which no response is required.

5. Paragraph 5 states a legal conclusion for which no response is required.

6. Defendants admit that they received a written notice from plaintiffs on or about March 8, 2018. Defendants are without knowledge sufficient to admit or deny the remaining allegations of this paragraph and therefore deny them.

7. Defendants admit that Exhibit 1 is a copy of the notice they received on or about March 8, 2018. To the extent this paragraph includes further allegations, defendants deny them.

8. Defendants admit they received the notice attached as Exhibit 1 to the complaint. Defendants are without knowledge sufficient to admit or deny the remaining allegations of this paragraph and therefore deny them.

9. Paragraph 9 states a legal conclusion for which no response is required.

10. Defendants admit the allegations of paragraph 10.

11. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

12. Defendants admit that neither the EPA nor the State of New Hampshire has commenced an action against defendants for the violations alleged by plaintiffs. Defendants deny the remainder of the allegations of paragraph 12.

PARTIES

13. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

14. Defendants deny the allegations of paragraph 14.

15. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

16. Defendants deny the allegations of paragraph 16.

17. Defendants deny that NCES is organized under the laws of the State of New Hampshire and that NCES is "an" operator of the landfill. Defendants admit the remainder of the allegations of this paragraph.

18. Defendants deny that NCES maintains and operates the "Drainage Channel." Defendants admit the remainder of the allegations of this paragraph.

19. Defendants deny that Casella is an operator of the landfill. Defendants admit the remainder of the allegations of this paragraph.

20. Defendants deny the allegations of paragraph 20.

CITIZEN ENFORCEMENT SUITS UNDER THE CLEAN WATER ACT

21. Paragraph 21 states a legal conclusion for which no response is required.

22. Paragraph 22 states a legal conclusion for which no response is required.

23. Paragraph 23 states a legal conclusion for which no response is required.

24. Paragraph 24 states a legal conclusion for which no response is required.

FACTUAL BACKGROUND

The Landfill

25. Defendants admit the allegations of paragraph 25.

26. Defendants deny the allegations of paragraph 26; by way of further answer, the landfill is approximately 900 feet from the river at its closest point.

27. Defendants admit the allegations of paragraph 27; by way of further answer, the phrase "Unlined Waste Disposal Space" is inaccurate.

28. Defendants deny the allegations of paragraph 28.

29. Defendants admit the allegations of paragraph 29.

30. Defendants deny the allegations of paragraph 30.

31. Defendants admit the allegations of paragraph 31; by way of further answer, the phrase "Unlined Waste Disposal Space" is inaccurate.

32. Defendants admit the first and third sentences of paragraph 32. Defendants deny the second sentence of paragraph 32.

The Drainage Channel

33. Defendants admit the allegations of paragraph 33.

34. Defendants deny the allegations of paragraph 34.

35. Defendants admit that NCES and its consulting hydrogeologists refer to this seep as the "Main Seep." Defendants are without knowledge sufficient to admit or deny the remainder of the allegations of this paragraph and therefore deny them.

36. Defendants admit the allegations of paragraph 36.

37. Defendants admit the allegations of paragraph 37.

38. Defendants deny that the "Drainage Channel" "collects" or "conveys" water in the sense those terms are used in this paragraph. Defendants admit the remainder of the allegations of this paragraph.

39. Defendants deny the allegations of paragraph 39.

40. Defendants deny the allegations of paragraph 40.

41. Defendants deny the allegations of paragraph 41.

42. Defendants admit that consultants and contractors of NCES suctioned sediment from the "Drainage Channel" and the "Main Seep" in 2010. Defendants deny the remainder of the allegations of this paragraph.

43. Defendants deny the allegations of paragraph 43.

44. Defendants deny the allegations of paragraph 44.

Groundwater Permit and Water Quality Monitoring

45. Defendants admit that NCES has such a permit. Defendants deny the remainder of the allegations of this paragraph.

46. Defendants admit the allegations of paragraph 46.

47. Defendants admit the allegations of paragraph 47; by way of further answer, NCES is required to sample at one location in the "Drainage Channel."

48. Defendants admit the allegations of paragraph 48.

49. Defendants deny that Casella personnel coordinate with Sanborn Head. Defendants admit the remainder of the allegations of paragraph 49.

50. Defendants admit the allegations of paragraph 50.

51. Defendants admit that the monitoring results are compared to the AGQS. Defendants deny that the SMCL are "applicable" standards.

52. Paragraph 52 states a legal conclusion for which no response is required.

53. Paragraph 53 states a legal conclusion for which no response is required.

54. Paragraph 54 states a legal conclusion for which no response is required.

Pollutant Discharges from the Drainage Channel to the Ammonoosuc River

55. Defendants deny the allegations of paragraph 55.

56. Defendants admit the allegations of paragraph 56.

57. Defendants admit the allegations of paragraph 57.

58. Defendants admit the allegations of paragraph 58.

59. Defendants deny the allegations of paragraph 59.

60. Defendants deny the allegations of paragraph 60.

61. Defendants admit the allegations of paragraph 61.

62. Defendants admit the allegations of paragraph 62.

63. Defendants admit the allegations of paragraph 63.

64. Defendants deny the allegations of paragraph 64.

65. Defendants deny the allegations of paragraph 65.

66. Defendants admit the allegations of paragraph 66.

67. Defendants admit that Sanborn Head, as part of its hydrogeological services to NCES, has concluded that contamination from the unlined landfill has increased the concentrations of natural-occurring iron and manganese in the groundwater at the Main Seep. Defendants deny the remainder of the allegations of paragraph 67.

68. Defendants deny the allegations of paragraph 68.

69. Defendants deny the allegations of paragraph 69.

70. Defendants deny the allegations of paragraph 70.

71. Defendants deny the allegations of paragraph 71.

72. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

73. Defendants deny the allegations of paragraph 73.

74. Defendants admit the first sentence of paragraph 74 and deny the second sentence.

75. Defendants deny the allegations of paragraph 75.

ADVERSE EFFECTS OF POLLUTANTS DISCHARGED FROM THE DRAINAGE CHANNEL

76. Defendants admit the allegations of paragraph 76.

77. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

78. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

79. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

80. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

81. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

82. Defendants deny the allegations of paragraph 82.

83. Defendants deny the allegations of paragraph 83.

VIOLATIONS OF THE CLEAN WATER ACT

84. Defendants deny the allegations of paragraph 84.

85. Defendants deny the allegations of paragraph 85.

A. The Drainage Channel is a Point Source.

86. Paragraph 86 states a legal conclusion for which no response is required.

87. Defendants deny the allegations of paragraph 87.

88. Defendants deny the allegations of paragraph 88.

89. Defendants deny the allegations of paragraph 89.

90. Defendants deny the allegations of paragraph 90.

B. The Ammonoosuc River is a Navigable Water.

91. Paragraph 91 states a legal conclusion for which no response is required.

92. Defendants admit the allegations of paragraph 92.

93. Paragraph 93 states a legal conclusion for which no response is required.

C. The Drainage Channel is Adding Pollutants to the Ammonoosuc River.

94. Paragraph 94 states a legal conclusion for which no response is required.

95. Defendants deny the allegations of paragraph 95.

96. Defendants deny the allegations of paragraph 96.

97. Defendants deny the allegations of paragraph 97.

D. Defendants Are Not Authorized to Discharge Pollutants From the Drainage Channel to the Ammonoosuc River.

98. Defendants admit the allegations of paragraph 98.

99. Defendants admit the allegations of paragraph 99.

100. Defendants admit the allegations of paragraph 100.

101. The MSGP speaks for itself. To the extent this paragraph misstates the MSGP, defendants deny it.

102. NCES's permit speaks for itself. To the extent this paragraph misstates the permit, defendants deny it.

E. Defendants' Unauthorized Discharges Are Ongoing and Continuous.

103. Defendants deny the allegations of paragraph 103.

104. Defendants deny the allegations of paragraph 104.

105. Defendants deny the allegations of paragraph 105.

PLAINTIFFS AND THEIR MEMBERS ARE HARMED BY THE CWA VIOLATIONS

106. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

107. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

108. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

109. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

110. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

111. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

112. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

113. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

114. Defendants are without knowledge sufficient to admit or deny the allegations of this paragraph and therefore deny them.

115. Defendants deny the allegations of paragraph 115.

RELIEF REQUESTED

Defendants respectfully request that the court deny the relief requested by plaintiffs and award defendants their attorney's fees and costs.

AFFIRMATIVE DEFENSES

A. The complaint fails to state a claim for which relief can be granted.

B. Plaintiffs' claims are time-barred.

C. The court lacks subject-matter jurisdiction.

D. Plaintiffs have unclean hands.

E. Plaintiffs are estopped from pursuing the claims in the complaint.

F. Plaintiffs commenced and have maintained this action principally for purposes other than obtaining the relief sought in the complaint, and those purposes are unlawful and improper.

Respectfully submitted,

NORTH COUNTRY ENVIRONMENTAL SERVICES, INC. and
CASELLA WASTE SYSTEMS, INC.,
By Their Attorneys,

Date: October 4, 2018

/s/ Bryan K. Gould

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Telephone: (603) 224-7761
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CERTIFICATE OF SERVICE

I hereby certify that the within pleading is being served electronically upon counsel listed below through the court's ECF system.

Daniel J. Mullen, Esq., Ransmeier & Spellman P.C.
David A. Nicholas, Esq., Nicholas Law Office
Joshua R. Kratka, Esq., National Environmental Law Center
Kevin P. Budris, Esq., National Environmental Law Center
Thomas Irwin, Esq., Conservation Law Foundation

Date: October 4, 2018

/s/ Bryan K. Gould
Bryan K. Gould, Esq.

EXHIBIT G

munity

RECENTLY, the New Hampshire Supreme Court overturned a decision t

2

Like Comment

Jon Swan
May 15, 2021 ·

In case you were not aware, there was a 154,000 gallon leachate spill at
Bethlehem. Link to Cal-Rec article underneath this post. We certainly c
operation next to Forest Lake State Park!

YOUTUBE.COM

154,000 Gallons of Leachate Spilled

The recent 154,000-gallon toxic spill at Casella's NECS Bethlehem Lanc

TG Langhoff, Nicole Sauvageau and 8 others

Like Comment

Jon Swan Author

https://www.caledonianrecord.com/.../article_f7c325bc...

CALEDONIANRECORD.COM

State Investigating "Significant" Landfill Leachate Spill

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State Investigating “Significant” Landfill Leachate Spill

Robert Blechl rblechl@caledonian-record.com Staff Writer
May 14, 2021

The state is investigating a landfill leachate spill of up to 154,000 gallons at the Casella Waste Systems landfill, in Bethle entrance to which is pictured here. (Photo by Robert Blechl)

As Casella Waste Systems tries to drum up support and obtain permits for a new landfill in Dalton, the state is investigating what officials are calling a “significant” leachate spill - up to

154,000 gallons - at the company’s North Country Environmental Services landfill in Bethlehem.

“We would describe that as a significant release of leachate,” said Michael Wimsatt, director of the New Hampshire Department of Environmental Services Waste Management Division. “We were notified more or less in real-time when the folks at NCES discovered this. We are doing an investigation to understand what the magnitude was.”

Leachate results mostly from rain and precipitation entering and passing through a landfill, but also from the decomposition of some organic materials and from other liquids that are land-filled, and it contains the materials, pollutants and chemicals, some toxic and carcinogenic, from the materials it has percolated through.

As they investigate the extent of the leachate spill in Bethlehem, DES officials visited the landfill site this week.

In an incident report that the company submitted to DES on May 7, Casella engineer John Gay cited equipment and human errors as the cause of the spill that lasted off and on for nearly 48 hours, from the morning of May 1 to the morning of May 3, at the landfill’s Stage IV, Phase II.

The stage’s sump pumped leachate to the on-site storage Tank A while Tank A was at capacity, wrote Gay.

“The pump did not receive an ‘inhibit’ signal from the system control and resulted in intermittent pumping after tank storage were full,” he said. “The continued pumping from Stage IV Phase II resulted in leaching flowing to a former valve box ‘401’ that is no longer in service. Over this

period and intermittently, valve box 401 filled with leachate and over-topped.”

Leachate flowed over the ground surface into the forebay of a stormwater detention pond, he said.

The landfill stage has a master supervisory control and data acquisition system electronic unit (SCADA) that collects and transmits electrical signals to various electronic control units at the NCES site, he said.

“Radio communication from the master SCADA control unit and the subordinate State IV Phase II control unit was under repair because the control signal had been lost,” wrote Gay. “There was discussion between our SCADA controls vendor and our electrician on the necessary repairs, components were ordered, and a replacement of parts occurred on Tuesday April 27. After the parts were replaced, it was determined that the new parts had not resolved the communication error and therefore the issue was not resolved. The electrician inadvertently left the controls system in ‘automatic’ mode and left the site. NCES was not aware of this situation. On the morning of May 1 when the incident began, Stage IV Phase II control unit was not able to receive a pump inhibit signal.”

Remediation measures include managing all stormwater in the detention pond as wastewater to be taken to a municipal wastewater treatment facility as well as removing the sediment underlying an area of the pond, said Gay.

Measures to reduce or prevent a reoccurrence include ensuring that any vendor who has performed site maintenance checks in with NCES staff before leaving the landfill facility, he said.

Soon after the spill discovery, NCES took a number of remediation measures, including pumping off much of the release discharged to the stormwater detention pond to the leachate containment system and excavating subsoils and sludges from the bottom of the pond, said Wimsatt.

“There will be further work to evaluate the nature of the release and the extent of any releases into the ground,” he said. “We’re not aware of any direct impacts to surface water, but again, we’re still in the beginning of our investigation stages.”

With the investigation ongoing, it was undetermined Friday if the incident will constitute a violation of NCES’s permit from the state to operate the landfill.

The incident drew reactions from opponents to the proposed Casella landfill beside Forest Lake State Park in Dalton, among them members of the North Country Alliance for Balanced Change.

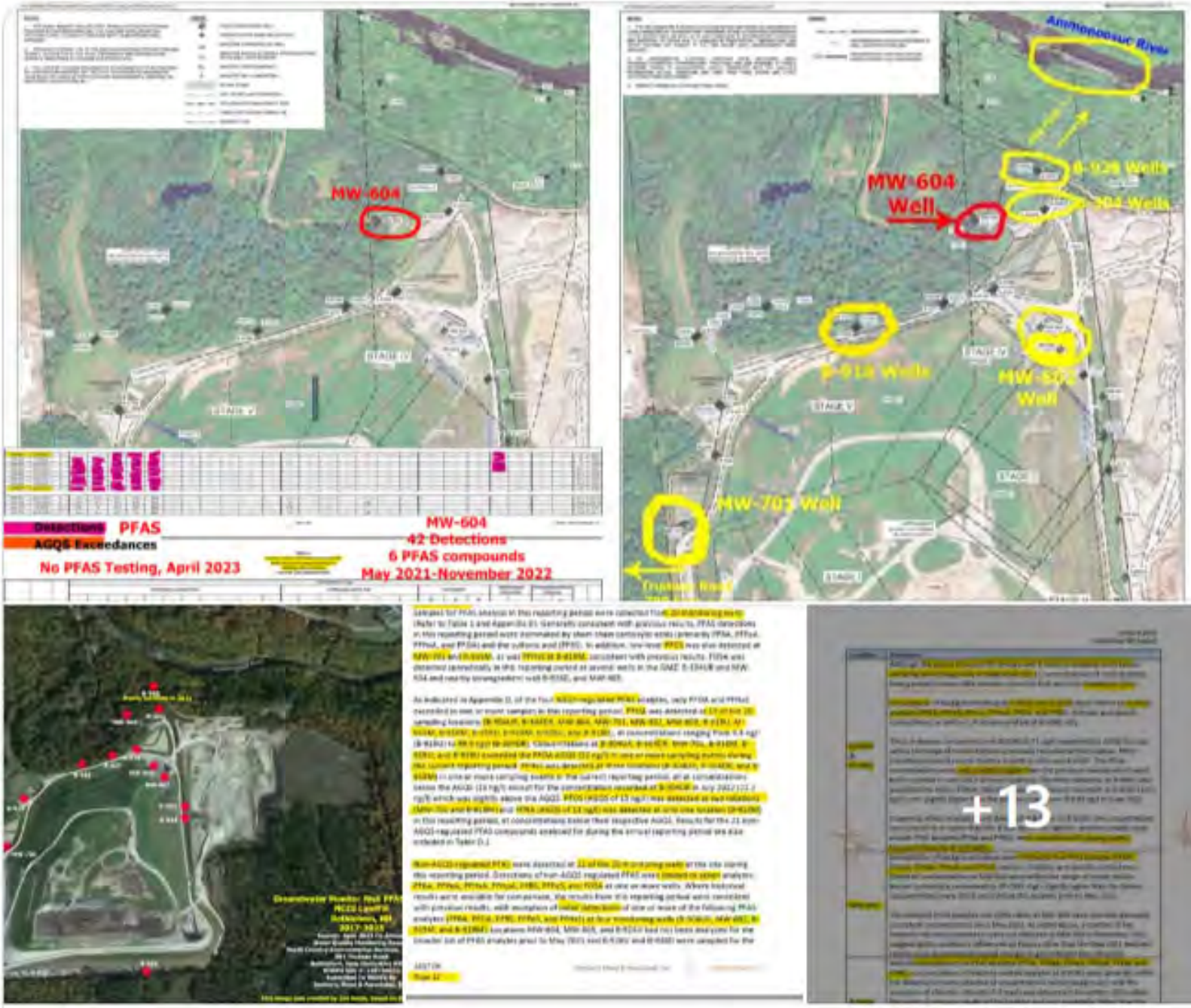
“All systems, no matter how well designed, will fail at some point in their life cycle,” said Dalton resident and NCABC board member Erik Johnson. “Any system failure at a landfill means the impact can last forever in the environment and the surrounding community.”

NCABAC board member Gary Ghioto said, “Leachate is a nasty byproduct of industrial landfills, a polluting soup of chemicals, garbage and other wastes that rainwater percolates out of what’s dumped in that mountain of trash over in Bethlehem next to the Ammonoosuc River. Can you imagine a 154,000-gallon spill of that stuff next to your favorite state park. Like Forest Lake State Park?”

Robert Blechl

EXHIBIT H

July 24, 2023 ·



Jon Swan
July 24, 2023 ·

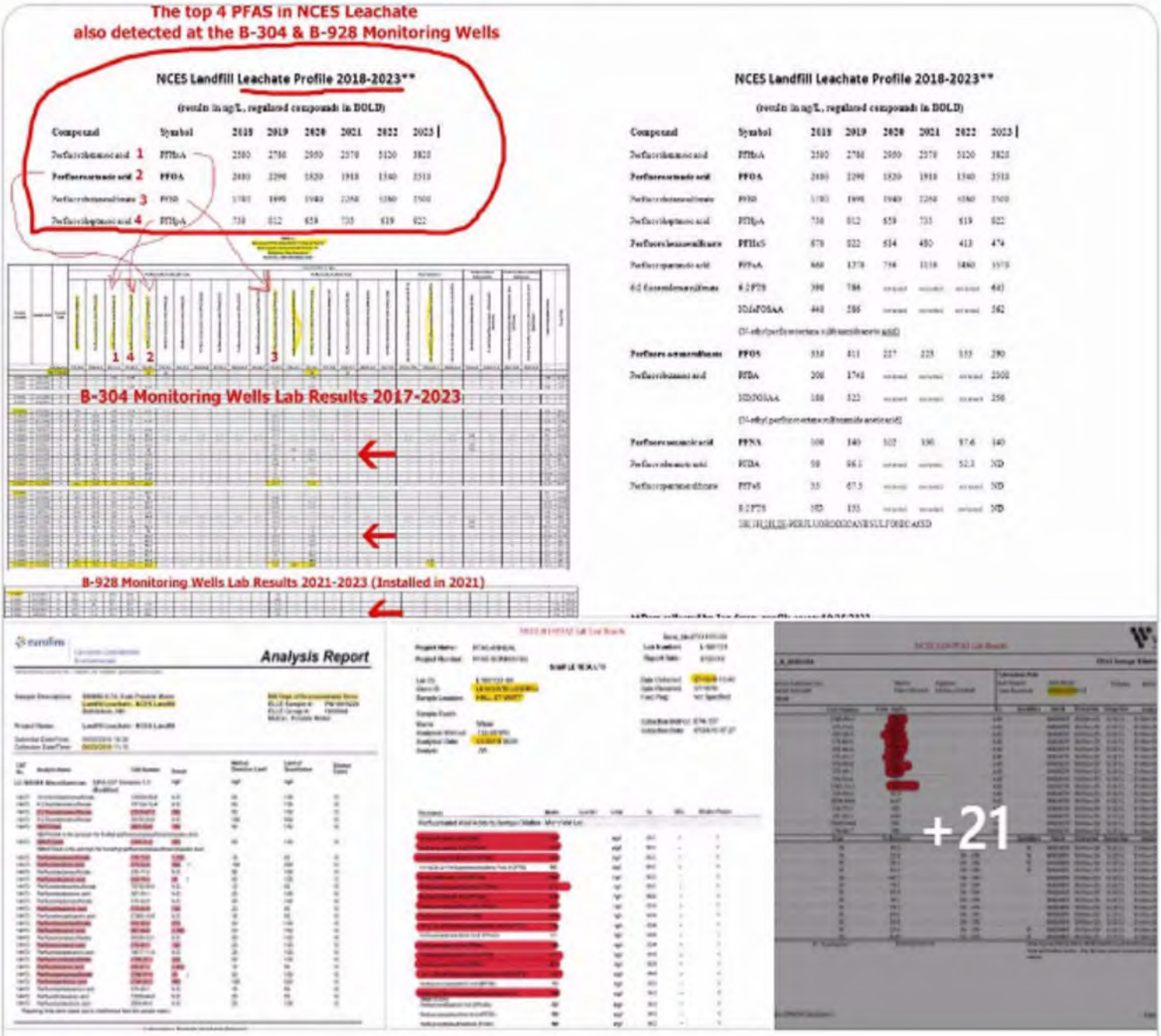
NCES Landfill groundwater monitoring well MW-604 profiled. You've already met the B-304UR/DR and B-928U/D wells, plus the B-918M, MW-701, and MW-802 wells...there's certainly a lot of information out there on these various wells, and others not-yet profiled by me, but the data and verbiage used in the reports are becoming grossly redundant, but the test charts are the key...the data does not lie.

It's very interesting that NHDES is now asking for more data to be collected to determine the extent to which "downgradient dilution" or "downgradient transport" of 1,4-Dioxane and PFAS is occurring within the watershed of the Ammonoosuc River. I believe this is going to become quite a big story, in my opinion. Jon Swan

EXHIBIT I

Close The Casella Waste Systems NCES Landfill In Bethlehem, NH
September 17, 2023 ·

The data does not lie...it's time to close the dump!



Jon Swan
September 17, 2023 ·

I created this profile of PFAS compounds detected in NCES Landfill leachate, based off of the lab reports I received this week from my 91-A RTK requests sent to the City of Concord and NHDES, both of whom operate WWTPs in Concord and Franklin, which accept leachate from NCES. NCES now produces around 10 MILLION gallons/year, trucked from Bethlehem, to the

Jon Swan
September 17, 2023 ·

I created this profile of PFAS compounds detected in NCES Landfill leachate, based off of the lab reports I received this week from my 91-A RTK requests sent to the City of Concord and NHDES, both of whom operate WWTPs in Concord and Franklin, which accept leachate from NCES. NCES now produces around 10 MILLION gallons/year, trucked from Bethlehem, to the tune of 8000 gallons per MBI tanker. That is a lot of trips! I've also included a copy of an invoice, contract, and effluent PFAS lab results from the City of Concord, where Casella will pay a price per gallon of $.06 in 2024, from $.0575/gallon, for disposal of their PFAS-laden leachate. Keep in mind, the effluent of both WWTPs is emptied into the Merrimack River.

As you can see from the data, the PFAS compounds detected at the various groundwater monitoring wells at NCES match up pretty closely with the PFAS compounds detected in NCES leachate. The top 4 PFAS compounds detected at BOTH the B-304 and B-928 wells are PFHxA, PFOA (regulated, with an AGQS limit of 12 ng/L, and likely to be deemed a hazardous substance by the EPA in 2024 under CERCLA), PFBS, and PFHpA. The top 7 PFAS in NCES leachate have been detected at B-304, but have seemingly not migrated to the B-928 wells, yet, as "downgradient dilution" is how SHA and NHDES describe what is taking place at the NCES Landfill. Thus, the weaker results at B-928, but seemingly closely mirroring results at upgradient B-304. I've also included some dialogue with each attachment in this post. Take a look at the PFAS graphs for some of the other groundwater monitoring wells at NCES, you'll see the same compounds detected. I've attached a map depicting where these wells are on the property. The site lies within the watershed of the Ammonoosuc River, btw. Why NHDES is failing to act on this only makes me feel there is a coverup of sorts underway. I can understand why SHA is downplaying all of this, they work for Casella. This is why EPA needs to get involved.

Blaming the presence of these PFAS contaminants on the old, unlined landfill, or May 1-3 154k gallon leachate spill, or past earthwork, etc., just doesn't seem to be a reasonable explanation.

In my opinion, based on my research, I would conclude, and feel very strongly about this, that the NCES Landfill, despite it's over-30-year-old "state of the art" double-liner system, is failing to contain PFAS compounds, and other contaminants like 1,4-Dioxane. It is my belief that the NCES Landfill is leaking, and has been, for quite some time. It is very disconcerting that NHDES is allowing this landfill to continue to operate, which will ensure more leachate generation and more releases of PFAS and other contaminants into the watershed of the Ammonoosuc River, for years to come. I also believe that the NCES Landfill will eventually become another Superfund site. We certainly don't want to see this repeated at Forest Lake, and will do everything we can to make sure this kind of environmental disaster does not happen, again.

I will be returning to NHDES this week to continue my research of the old, non-digitized files for the NCES Landfill. Is it a coincidence that Casella is suing me again? I don't think so.

Of course, all of this is my opinion...IS

Letters to the Editor

The Courier
12-28-94

Landfill brochure

Bethlehem, NH

To the Editor:

I have read a brochure being circulated in Bethlehem by the Casella Brothers of Vermont who formalized their two-year owner-operator control of the Trudeau Road landfill last summer. The reason the Casellas bought the landfill is to make money. The reason they published the brochure was to stand that truth on its head. Here's how they do it.

They start off by claiming their "highest priority is protecting the health and safety of the community." That sounds like we've been adopted--that for 200 years Bethlehem has been an orphan community, floundering around, unable to protect its health and safety until the white knights from Rutland finally came to our rescue. We don't need our police, fire, water and highway departments to protect our health and safety. We need the Casellas and John Bohlig, a man for years "protected" the health and safety of third world countries by helping Westinghouse build nuclear power plants in them.

Then we are told the landfill, now approaching a million tons of trash and selective poisons (ash, asbestos, chemicals), has a new name: North Country Environmental Services (NCES). With a name like that, NCES should be listed in the Yellow Pages as an activist environmental group, dedicated to saving endangered species, protecting waterways, preserving old-growth forests, etc. But calling a projected 100 acre mountain of waste a "rose" smells of propaganda. Under any name, Bethlehem is already known as home of a massive landfill, its out-of-state owners driven by profit to haul waste from all over the Northeastern United States and pile it up in Bethlehem. They help themselves to and despoil our natural resources, cause property values to plunge, then try to cover their tracks with self-serving claims of providing "solid waste solutions to the Town of Bethlehem and its New England environment." The NCES brochure may take the residents of Bethlehem as fools, but the irony of burying more than 120,000 tons of waste a year in Bethlehem as a means of solving this tiny town's solid waste disposal needs (1400 tons a year, including construction waste) is not lost on anyone. It is rather like destroying the town in order to "save" it.

The brochure then implies that NCES/Casellas initiated a project to dig up and move the old unlined landfill to a lined site. The unvarnished truth is that the state, instead of enforcing its 1984 order to remediate that 4-acre original site, agreed instead to the Casellas' demands for permits that double the size and height of the Town's 14 acre landfill permit in exchange for scraping the old site and dumping the trash on top of the torn and leaking "state of the art" lined area, thus saving the state from liability for negligence. If that operation cost the Casellas $1 million as they claim, then they need a new business manager. And if the elevated levels of toxic chemicals in the groundwater and the Ammonoosuc River is a "temporary" problem caused by the relocation operation, rather than the chronic problem it really is, then the Casellas needed to warn the community they cherish so dearly in advance so we could ask what they planned to do to minimize the effect and be warned to stop fishing and swimming in the river "temporarily."

Mr. Bohlig well knows and pointedly ignores in his brochure that the residents of Bethlehem have voted three times for town warrants that say "No" to new landfills; "No" to expansion of existing landfills; and "No" to deal-making negotiations between town officials or any self-proclaimed representatives of the Town and landfill owners. As one citizen said to Mr. Bohlig at a public meeting: "Why don't you just listen to what we've said and shut the landfill down and go away?"

But then there is a new order in Wedlick and Raymond Bushway, votes and people don't count. Although expressly prohibited by the last Town warrant, deal-making between these two selectmen and Bohlig continue in private, with Wedick and Bohlig boasting of them in public statements, including the NCES brochure.

"Good News for the People of Bethlehem" would be to replace Wedlick and Bushway because of their refusal to enforce the laws, close the dump, and send our 900 tons of household trash to the St. James municipal dump in Berlin. "Good News" would be to let Wedlick know that he and Bohlig cannot secretly draft a warrant for 1995 or 1996 whose purpose, by manipulation or threat or lawsuit, is to overthrow existing laws and allow unlimited expansion of the landfill. "Good News" for the more than 40 homes and businesses in the 3500 foot radius of the "remote" landfill would be compensation for reduced property value and/or a cash settlement. And "Good News" for all New Hampshire residents and taxpayers for generations to come would be for the State legislature to stop collaborating with waste industry lobbyists and start supporting government professionals--as opposed to political appointees--with the technical expertise to draft a feasible long-range waste disposal plan for the State.

In this newspaper Mr. Bohlig was quoted as saying his goal was to change Bethlehem's "perception" of the landfill, rather than the reality of it. The brochure and cans of paint are the beginning of a predictable campaign to wear the community down with propaganda and fear. If you are tired of hearing about this issue, consider who is prolonging it. Those of us who say "The garbage and toxic chemicals are coming!" or those who make promises they have no intention of keeping, beginning with the original one of a 14 acre landfill that by the year 2001 would be converted to a golf course.

Dr. George Manupelli, Pres.

Jon Swan

September 19, 2023 ·

Had to share this December 28, 1994 letter to the editor...did Dr. Manupelli have a crystal ball? Seems not much has changed since then, other than the size of the landfill, the amount of waste trucked in, and of course, the knowledge about PFAS chemicals.

"torn and leaking "state of the art" lined area...is Dr. Manupelli reaching out to me from the past? Is he talking about the Stage I landfill liner? hmmm

Jon Swan
September 20, 2023 ·

December 14, 1994 Littleton Courier article detailing a public information session in Bethlehem regarding the NCES Landfill. Note the bottom of the 2nd column where Mr. Richard Reed of NHDES declared that the waste relocation project of 1993 would "result in a gradual decrease in groundwater contamination levels". Next paragraph, Mr. John Regan of NHDES Groundwater Protection Bureau said that elevated levels of contamination recently detected in the seep were "not unexpected" in light of the trash relocation project. He apparently continued, with the reporter summarizing that "with that area relocated, additional contamination is unlikely".

So here you have NHDES officials weighing in on the situation then, in 1994, yet here was are today with both SHA, Casella, and NHDES blaming the old, unlined landfill for the current levels of contamination at the NCES Landfill groundwater monitoring wells.

Casella's Bohlig is then cited in the article as stating that declining levels of contamination should occur in the months and years to come.

Based on my research, it is my belief that the current contamination in groundwater monitoring wells throughout the northern section of the landfill property stems from the Stage I liner system, as I have already uncovered documents that reveal holes and issues with welding the seams, etc. The Stage II overlay of Stage I, as discussed in this article, probably also contributed to what I feel is a liner failure at NCES, despite the assertion of Ms. Pamela Sprague of NHDES, as cited in the article that this would "lessen the chances of problems with that portion of the facility".

Keep in mind, too, the Stage I liner is now over 30 years old...I've found some interesting documents on the liner itself, the work performed, etc. and will share at some point once I finalize my file review here at NHDES. Stay tuned. Of course, all of this is my opinion, based on my research of the historical record. JS

**Added 2 drawings from the Dec 12 1994 public info session packet detailing the Stage II "overlay" of waste over Stage I...and a more basic drawing of Stage I and II, including the area of the old, unlined landfill within the Stage II area

EXHIBIT J

Jon Swan
September 5, 2023 ·

91.4 ain't just your favorite radio station! 91.4 ng/L is the amount of PFOA compound detected at the B-304DR groundwater monitoring well at the NCES Landfill in Bethlehem, according to the newly-released July 2023 Tri-Annual Groundwater Monitoring Report, submitted to NHDES by Sanborn & Head on behalf of Casella Waste Systems. 91.4 ng/L is 7 TIMES the AGQS limit (12 ng/L) for PFOA. Keep in mind, too, this monitoring well is approximately 550 ft +/- from the Ammonoosuc River, and is within the watershed. The new-in-2021 B-928 wells data seemed to remain consistent with the B-304 wells, confirming that downgradient migration/dilution is what is occurring, and within the watershed of the Ammonoosuc River.

PFOA was detected at 11 of 19 wells tested in July, 2023.

According to the EPA, in 2022: "EPA is proposing to designate two per- and polyfluoroalkyl substances (PFAS) -- perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers -- as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. This proposed rulemaking would increase transparency around releases of these harmful chemicals and help to hold polluters accountable for cleaning up their contamination."
https://www.epa.gov/.../proposed-designation...

I've attached a couple of snippets from the cover letter of August 24, 2023 from Mr. Tim White of Sanborn & Head. His assessment of the situation at NCES is pretty disturbing, further confirming for me that NHDES is being placated, or is complicit, in underestimating the severity of the situation at NCES. Mr. White's summary of both the situation relative to PFOA, 11 of 19 wells having detections for PFOA, with B-304DR registering a whopping 91.4 ng/L, and his groundwater quality summary citing the unlined landfill alibi, characterizing impacts as diminishing, is simply a nonsensical, false narrative, seemingly meant to placate NHDES. Disturbing, to say the least...

I've also attached the data chart for the B304 Wells, for PFAS, page 298. The B-304UR well had 7 detections of PFAS compounds, with 1 exceedance of AGQS limits. The B-304DR well had 9 detections of PFAS compounds, with 2 exceedances of AGQS limits. Date July 11, 2023. The downgradient B-928 Wells PFAS data chart showed 6 detections for each well, with 1 exceedance at B-928U, yup, for PFOA, just 400 feet from the Ammonoosuc River.

I am of the opinion that the NCES Landfill is indeed, leaking, based on the data and historical record. Remember, both PFAS and 1,4-Dioxane are miscible with water, meaning they like it and play well in it, like an Olympic swimmer, as opposed to oil and vinegar. The old, unlined landfill alibi is a ruse, in my opinion, meant to seemingly placate officials at NHDES and in the Town of Bethlehem.

I continue to correspond with town officials, the EPA, and NHDES. At some point, someone in power is going to have to address this situation. It is dangerously irresponsible to continue to feed waste to this landfill, ensuring the continued release of dangerous contaminants into the Ammonoosuc River watershed for years to come...all of this, of course, is my opinion. Jon Swan

To view the 483-page NCES July 2023 Tri-Annual report: https://tinyurl.com/22cwn965

PFOA: https://en.wikipedia.org/wiki/Perfluorooctanoic_acid
"Studies have found correlation between high PFOA exposure and six health outcomes: kidney cancer, testicular cancer, ulcerative colitis, thyroid disease, hypercholesterolemia (high cholesterol), and pregnancy-induced hypertension."

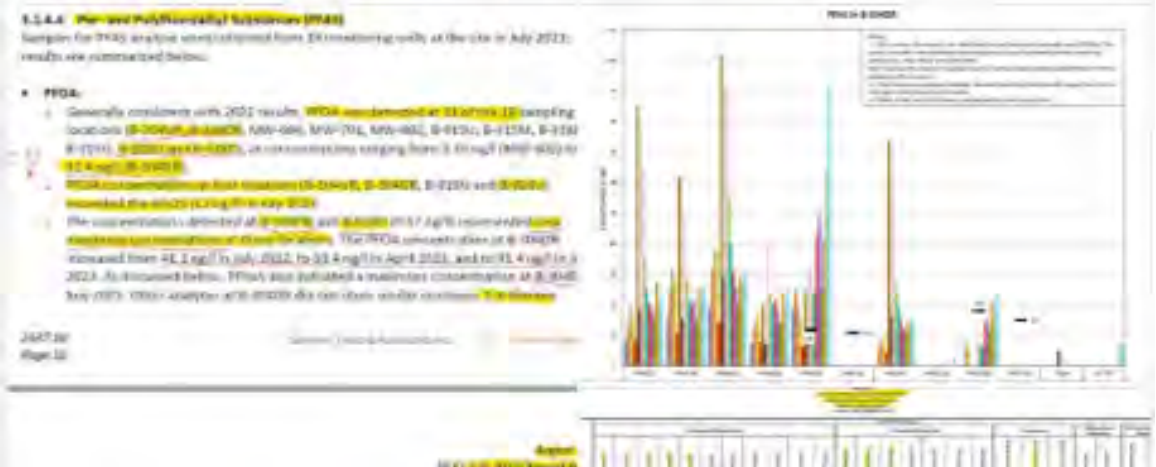


EXHIBIT K

OPINION: FAILURE AT THE NCES LANDFILL

By JON SWAN

Published: 9/29/2023

Jon Swan of Dalton is the founder of Save Forest Lake.

I have some bad news to share with my fellow Granite Staters. Based on my analysis of groundwater monitoring reports, and my research of the historical record, it is my belief that we are witnessing the failure of the controversial NCES Landfill in Bethlehem.

Toxic "forever chemicals," also known as PFAS, were detected in groundwater at 11 of 19 monitoring wells tested, according to the July 2023 Tri-Annual Groundwater Monitoring Report submitted to NHDES by Sanborn, Head and Associates (SHA) on behalf of Casella Waste Systems and the NCES Landfill.

Of particular concern is the detection and high level of PFOA. The EPA is proposing to designate PFOA as a hazardous substance under the Superfund law, which would help to hold polluters accountable for cleaning up their contamination. According to the July report, new maximum concentrations of PFOA contaminants were detected in groundwater at the two monitoring wells closest to and upgradient of the Ammonoosuc River, a mere 550 and 400 feet away.

I have recently obtained and analyzed lab test results from 2018 to 2023 for NCES landfill leachate, also known as "garbage juice," which is trucked daily in tankers to the City of Concord wastewater treatment plant (WWTP) and the NHDES-operated Franklin WWTP. The top PFAS compounds present in NCES Landfill leachate have also been consistently detected in the groundwater at their various monitoring wells. In other words, it would appear that the NCES Landfill is failing to contain the leachate it generates, based on the data from both the NCES groundwater monitoring well reports and the NCES leachate lab results.

Like an episode of CSI, the landfill's leachate "DNA" matches the evidence left behind at the scene of the crime. In this instance, the crime scene is the watershed of the Ammonoosuc River, downgradient of the NCES Landfill.

Unfortunately, the numerous detections of PFAS contaminants in groundwater at NCES have been downplayed in the reports submitted to NHDES since at least 2017, when PFAS testing became a requirement. I believe a false narrative has been relied upon by all parties, to dispel any concerns that the landfill may actually be leaking. Blame is consistently placed on the former Sanco unlined landfill, like an alibi, to explain the presence of contaminants in groundwater at the various monitoring wells outside of the lined landfill. A search of the July 2023 report reveals that "unlined landfill" comes up 52 times!

The problem with that narrative is the fact that the old Sanco unlined landfill was actually excavated by Casella Construction in the fall of 1993. The waste was relocated to Stage I of the "state-of-the-art," double-lined landfill, as Casella Waste Systems boasted on August 25, 1993. Ironically, on November 5, 1993, Paul Sanborn, president of Sanborn, Head and Associates, (yes, the same company using the "unlined landfill" as an alibi today), wrote to NHDES to inform them of the completion of the waste-relocation project. He stated residual contamination was not present in the soils in the excavation area, thus clearing the way for NHDES approval for the development of the Stage II landfill expansion over the unlined landfill site. On December 9, 1993, Mr. James Berg of NHDES wrote of the department's "concurrence" that "no further excavation to remove additional soils is necessary." In other words, the unlined landfill was excavated of all trash and deemed free of contamination by both SHA and NHDES.

Fast-forward to today and I ask, which is a more plausible explanation for the continuous detections and exceedances of groundwater quality limits, for PFAS and other contaminants, at the NCES Landfill? The unlined landfill, excavated 30 years ago, and given a clean bill of health by the same engineering firm and NHDES? Or, could we be witnessing the failure of the 30-year-old "state-of-the-art" double-liner system of Stage I?

Regardless of the cause, the data does not lie. There is and has been a steady, consistent release of PFAS and other contaminants from the NCES Landfill into groundwater, all within the watershed of the Ammonoosuc River. Will the EPA investigate? I've sent numerous requests since NHDES appears unconcerned. Will the town of Bethlehem be home to a new Superfund site? I don't see how it doesn't. The fears and concerns of so many Bethlehem residents, over the years of contentious growth of this landfill, seem to now be justified, and, sadly, realized.

NHDES failed in its mission to protect the environment (*and the citizens of Bethlehem*). Will Casella be held responsible for the expense of PFAS cleanup and remediation? We shall see, as it seems their track record of accepting responsibility is shaky at best.

It would be irresponsible for NHDES to allow the NCES Landfill to continue to operate, ensuring the continued generation of millions of gallons of leachate annually, which the monitoring reports confirm is not being contained within the lined landfill. It's time for NHDES to do its job and close this controversial dump, and potential Superfund site, once and for all.

It would be unconscionable for NHDES to permit another one of these toxic landfills for out-of-state trash next to pristine Forest Lake and the Ammonoosuc River, endangering private, PFAS-free wells in neighboring Dalton, Littleton, Whitefield, and Bethlehem, as well as public water supplies in downstream communities.

https://www.concordmonitor.com/My-Turn-The-failure-of-the-NCES-Landfill-52355912

Will you join us on Saturday, October 7, 2023 for a peaceful PROTEST at the NCES Landfill "Open House"?

It's time to #CloseTheDump!

Call NHDES and EPA and ask them what they are going to do about the PFAS contaminants that are leaking from the landfill within the watershed of the Ammonoosuc River:

NHDES Commissioner Robert Scott: (603) 271-3503
robert.r.scott@des.nh.gov

EPA Administrator Michael Regan: (202) 564-4700
Regan.Michael@epa.gov

Link for more info about the protest: https://www.facebook.com/events/835620928061754

Join us!

EXHIBIT L

BCM Environmental & Land Law, PLLC
Solutions for Northern New England

June 25, 2024

Via Email
New Hampshire Department of Environmental Services

Michael Wimsatt
Director, Waste Management Division
michael.wimsatt@des.nh.gov

Jaime Colby
Supervisor, Engineering and Permitting Section
Jaime.M.Colby@des.nh.gov

Re: NCES Repeated Enforcement Request

Dear Director Wimsatt and Ms. Colby,

I write in continued representation of North Country Alliance for Balanced Change ("NCABC") concerning an opinion letter prepared by Calex Environmental Consulting ("Calex") demonstrating that the NCES Landfill is presently allowing the continued transport of contaminants in groundwater as a result of *current* landfill operations in violation of New Hampshire law and the facility's permits. I provided this letter to the Department on Friday, March 22, 2024, and requested that the Department take immediate enforcement action to prevent such discharges.

The Department, via Director Wimsatt, responded on Thursday, April 18, 2024, explaining that it was aware of releases from operations associated with the lined NCES Landfill, but that groundwater monitoring results suggested that the facility was not experiencing active, ongoing discharge or release from current operations. I attached my letter and your response for ease of reference.

Calex's analysis demonstrates that historically released contaminants from both the original unlined landfill and operations of the lined landfill have resulted in groundwater contamination actively migrating downgradient in the watershed and into the Ammonoosuc River. **This operational condition of regulated contaminants leaving the property boundary violates the NCES permit and Env-Or 703.20(a), Env-Sw 1002.02(d), Env-Sw 1005.01(f), and Env-Sw 2002.01**.

As detailed below, while monitoring is a key component of the Department's oversight, more must be done to eliminate the migrating contamination and return the site groundwater to background levels. Therefore, NCABC repeats its request that the Department take further action. Please make this letter part of your record in this matter.

Analysis

As explained in detail in Calex's opinion letter, some of the contaminants reflected in the groundwater monitoring data are from the active landfill operations, and the concentrations for several contaminants are above background—and even exceed the Ambient Groundwater Quality Standards in some cases. **This is inconsistent with the Department's rules concerning groundwater release detection permits, including the one held by NCES, and the Department is wrong to enable NCES Landfill to maintain this status quo.**

Under Env-Or 703.01(a)(2), a lined solid waste landfill, such as the NCES Landfill, requires a groundwater release detection permit to operate. Numerous compliance criteria attach to these permits, including that a permittee must take certain steps if the concentration of any constituent is detected above background levels. Env-Or 703.17(d). Specifically, the permittee must: (1) notify the Department; and (2) conduct assessment monitoring. *Id.* If the assessment monitoring detects contaminants above background levels, the permittee must submit a corrective action plan to the Department. Env-Or 703.18(f)(2).

In turn, a corrective action plan must include:

(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.

Env-Or 703.19(a) (emphasis added).

The Department may approve a corrective action plan only if "the plan is reasonably designed to: (1) [a]chieve compliance *with background concentrations*; (2)

[e]liminate any future discharges of regulated contaminants to the groundwater; and (3) [p]rotect human health and the environment." Env-Or 703.20(a) (emphasis added).

Relatedly, the Department's solid waste rules provide that a solid waste facility, such as the NCES Landfill, "shall not contaminate surface water or groundwater in violation of federal or state law, any rules implemented by the department or any administratively-attached board, or the conditions of any permit issued by the department or any administratively-attached board." Env-Sw 1002.02(d). If any operating problems occur at a facility, the permittee must correct, abate, and remediate such problems in a timely manner. Env-Sw 1005.01(f). Even if the Department merely *suspects* that a facility is the source of potential harm to human health or the environment, it is obligated to investigate the issue. Env-Sw 2002.01.

The **twelve years** the Department has already permitted NCES to monitor and attempt to manage this issue has not achieved compliance. The fact that the contaminants are coming from the NCES Landfill's current operations and that several contaminants are above background levels shows that the source of the exceedances has not been remediated, that the facility's operations have not been modified to eliminate the cause of the exceedances, and that the groundwater has not been restored. Therefore, all the remedial steps required by a corrective action plan have not been met. If the corrective action plan is insufficient to achieve background levels and eliminate the ongoing (and future) discharges, then it should not have been approved in the first place. By law, the Department must ensure that the NCES Landfill Release Detection Wells return to background levels, that there are no future contaminant discharges, and that human health and the environment are protected. The Department must ensure the corrective action plan is able to achieve these goals. This is especially true given the proximity of the Ammonoosuc River, which Calex opined is likely experiencing discharges of contaminated groundwater and surface water.

While the Department may believe there are no active, ongoing discharges or releases coming from NCES Landfill's liner system or its operations, Calex's opinion letter demonstrates such historical discharges are causing site conditions to be out of compliance with background AND leaving the site boundary, a clear violation of the landfill's permit. What is more, it is indisputable that background levels have not yet been achieved, which continues to pose a danger to human health and the environment, namely the Ammonoosuc River and its watershed. The Department and NCES have a duty to achieve background levels in a timely manner, but according to Calex's analysis, background levels—and even Ambient Groundwater Quality Standards—are still being exceeded after twelve years.

Conclusion

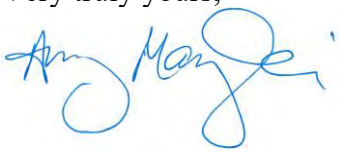
We appreciate that the Department is, and has been, monitoring the NCES Landfill's groundwater concentrations to determine when they achieve compliance with

background. However, Calex's analysis shows sufficient residuals from the present landfill operations such that contaminants in groundwater continue to migrate downgradient within the Ammonoosuc watershed threatening and discharging into the River. The Department is responsible for ensuring NCES takes whatever steps are necessary to eliminate these discharges and restore background conditions in groundwater.

Monitoring is one part of the process, but merely monitoring the situation is not enough to achieve compliance and does not meet the standards set by the law governing the Department. The Calex opinion identified the need for a pore water investigation at the River/groundwater interface to quantify the contaminant loading to the Ammonoosuc River. For the Department to rely only upon diluted surface water tests is condoning the defunct approach of "dilution is the solution to pollution." Further action must be taken to remediate the discharges associated with the NCES site into the Ammonoosuc River and watershed. Human health and the environment will continue to be impacted if the Department permits the status quo to persist.

On behalf of my client North Country Alliance for Balanced Change, I respectfully repeat the request to the Department to immediately enforce applicable laws against NCES to achieve operational compliance at this site and reply back to me to confirm to me the Department is doing so.

Very truly yours,



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From:	Amy Manzelli
To:	Mike Wimsatt; Colby, Jaime
Cc:	"town.clerk@townofdalton.com"; "adminassistant@townofdalton.com"; "selectmen@townofdalton.com"; "planningboard@townofdalton.com"; "selectmen@townoflittleton.org"; "vpotter@townoflitteton.org"; "abrousseau@townoflittleton.org"; "admin@bethlehemnh.org"; "townclerk@bethlehemnh.org"; "selectmen@townofcarroll.org"; "administrativeassistant@whitefieldnh.org"; "townclerk@whitefieldnh.org"; "mmoren@nccouncil.org"; "nccinc@nccouncil.org"; "onthefarm21@gmail.com"; "tracie.j.sales@des.nh.gov"; "riversprogram@des.nh.gov"; "michael.marchand@wildlife.nh.gov"; "sabrina.stanwood@dncr.nh.gov"; "amy.lamb@dncr.nh.gov"; "Nicholas.Sanders@dot.nh.gov"; "Kelvin.A.Brooks@doh.nh.gov"; "James.W.Orourke@des.nh.gov"
Subject:	NCES Enforcement Request & Opinion Letter
Date:	Friday, March 22, 2024 2:57:48 PM
Attachments:	image001.png 2024-03-22 Calex NCES Opinion letter.pdf

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Good Afternoon Director Wimsatt and Ms. Colby,

Please see attached the opinion letter of Calex Environmental Consulting.

As you will see, after Calex's careful and comprehensive analysis of decades of scientific records, Calex concludes NCES is currently releasing landfill contaminants into groundwater, at least in part, from NCES' current landfilling activities. In other words, Calex opines, NCES' current releases of landfill contaminants are not only from the historical Sanco landfill.

NCES releasing landfill contaminants from its current operations violates both New Hampshire laws and NCES permits. Accordingly, on behalf of my client North Country Alliance for Balanced Change, I respectfully request the Department immediately enforce applicable laws against NCES and reply back to me to confirm to me that it is doing so.

Thank you,
Amy

Amy Manzelli, Esq. she/her
Offices in Concord & Keene, New Hampshire and Norwich, Vermont
manzelli@nhlandlaw.com
Phone 603.225.2585

March 22, 2024

BCM Environmental and Land Law, PLLC
3 Maple Street
Concord, New Hampshire 03301

Attn: Amy Manzelli, Esq.

SUBJECT: Hydrogeological Opinion
Release Events at the NCES Landfill Site
Bethlehem, New Hampshire

Dear Attorney Manzelli,

Calex Environmental, LLC (Calex) was asked by North Country Alliance for Balanced Change (NCABC) for an opinion regarding whether the North Country Environmental Services (NCES) Landfill Site (Site) in Bethlehem, New Hampshire has in the past or is currently experiencing releases due to its landfilling activities. Of particular concern to NCABC is the potential source(s) of per- and polyfluoroalkyl substances (PFAS) that have been detected in groundwater monitoring wells downgradient of the operating NCES solid waste landfill and in surface water seeps entering the Ammonoosuc River. In addition, NCABC asked whether the detected PFAS at the Site is likely originating (solely) from leachate released from the historical Sanco landfill (excavated in the early 1990's and placed into Stage I, Phase I of the double lined NCES Landfill) or whether (all/some of) the PFAS could have originated from the current, active landfill operations. The consultant for the operating NCES Landfill Site, Sanborn Head and Associates (SHA) has recently opined (October 6, 2023) that the PFAS originates from the historical Sanco landfill that ceased operations in 1987.

In its evaluation of these questions, Calex reviewed the history of the NCES Landfill Site and focused on the most recent groundwater data as reported by SHA in "July 2023 Tri-Annual/2023 Annual Water Quality Monitoring Results" dated August 24, 2023, referred to as the 'Report' in this Opinion. For ease of following the discussion and referring to the appropriate Report page(s), the numbering refers to the entire 483-page PDF e.g., pg. 280/483 is page 280 of the 483-page PDF of the SHA 2023 Report.

EXECUTIVE SUMMARY

This analysis focused on historical groundwater analytical results for the NCES site, as presented in the Report. The first release evaluated occurred as a result of the excavation of the historical Sanco Landfill and placement into Stage I of the NCES landfill. This release of landfill contaminants into the groundwater is seen in the monitoring well data as spikes of typical landfill leachate parameters such as manganese, iron, sulfate etc. and in some wells, volatile organic compounds (VOCs). For VOCs, the return to background appeared to occur mostly prior to 2000, as illustrated in **Figure 1**. These trend plots clearly illustrate the slug of contaminants that were released into groundwater during Sanco landfill removal activities that dissipated over time.

The second release event evaluated was in the mid 2000's to about 2012. The extensive regulatory record shows that these landfill releases were clearly from current operations (e.g.,

leachate spills, sumps, tanks, force mains, caps, and liners) which were impacting downgradient groundwater conditions. The Leachate Management Improvement Project (LMIP) particularly addressed leachate storage and handling areas in use for those current landfill operations, leachate generated because of several phases of cells later (e.g., more recent) than leachate residuals from the former Sanco Landfill. The data from many monitoring wells show that contaminant release(s) are still migrating in groundwater from the active landfill operations and likely commingled with some leachate residuals from the former Sanco landfill. The ultimate goal of Release Detection Monitoring at a lined landfill site such as NCES is for all groundwater to maintain background quality. This environmental condition has not been attained at the NCES Site, and not just because of residual leachate from the former Sanco landfill. The detection of elevated bromide (a tracer required to be added in some NCES stages) in some of the wells (B-304UR, B-304DR, B-928U, B-928D, and B-926U) demonstrates that these wells are impacted by contaminants released from the more recent Stage II and Stage III landfill operations.

Lastly, the presence of PFAS at the NCES site was evaluated, to see if it could only have been sourced from leachate generated by the former Sanco Landfill. PFAS have been detected in groundwater at many locations on the NCES Site, both upgradient and downgradient of the former Sanco footprint. This fact indicates that not all the detected PFAS could have originated solely from leachate residuals of the former unlined Sanco landfill. When PFAS detections coincide with bromide detections, the source of the PFAS may originate from post-1996 waste leachate releases, because the tracer sodium bromide was added to waste deposited in Stages II and III of the NCES lined landfill cells.

ARE THERE DOCUMENTED RELEASES AT THE NCES SITE?

Yes, there are many releases from the Site that are documented in the regulatory record and groundwater data represented in the Report.

1) Initial releases between 1990 to 1993

It was reported by SHA and agreed to by the New Hampshire Department of Environmental Services (NHDES) (November 10, 1994) that the excavation of the historical Sanco Landfill and its placement into Stage I of the NCES Landfill resulted in a release of typical landfill contaminants due to the exposure of the Sanco wastes to precipitation during the 22 months of excavation and placement activities. This release of landfill contaminants into the groundwater is seen in the monitoring well data as spikes of typical landfill leachate parameters such as manganese, iron, sulfate etc. and in some wells, volatile organic compounds (VOCs).

Examples of groundwater contaminated by these releases can be seen in Appendix C, Time Series Plots for groundwater monitoring wells in the Report, such as B-102S (pg. 280/483), B-102D (pg.281/483), B-103S (pg. 282/483), and B-103D (pg. 283/483). **Figure 1** shows some example trend plots for B-103D which illustrate the historical jump in contamination in the post removal time of the early/mid 1990s when the Sanco landfill relocation project occurred and the relatively rapid decline of contaminants after capping of the Sanco waste and its footprint with the next landfill cell. The plots in **Figure 1** were taken from the B-103D trend plots shown on pg. 283/483 of the Report. The location of well B-103D is noted in red on the Site plan sketch, showing that it is located north of and very close to the old Sanco landfill, shown by the small rectangle. The large, angled, rectangle-like area depicts the Groundwater Management Zone assigned to define historical groundwater contamination from the former Sanco Landfill.

These historical analytical data show that historical releases from the old landfill flowed downgradient with the groundwater and dissipated, such that the groundwater data returned to "background" conditions in some wells. In B-103D illustrated in **Figure 1**, the iron and manganese returned to background a bit after 2010. For VOCs, the return to background appeared to occur mostly prior to 2000, as illustrated in **Figure 1**. These trend plots clearly illustrate the slug of contaminants that were released into groundwater during Sanco landfill removal activities that dissipated over time.

Even some of the wells monitored outside the Groundwater Management Zone (GMZ) show this trend, such as monitoring wells located laterally to the old landfill, B-914U and B-914L pg. 245 and 246/483, showing relatively rapid dissipation of manganese and iron between 2000 and 2010. In addition, the Main Seep (S-1) trends shown on pg. 286/483, illustrate the significant decrease in landfill constituents with time, again likely due to the waste relocation and capping over the former old landfill footprint.

The historical landfill release interpretation prior and during its excavation and emplacement into a lined cell is not the only source of contamination detected in the onsite monitoring wells. Releases from the old landfill do not solely explain the recently detected PFAS data onsite.

Introduction of a Tracer

As the construction of the new lined NCES landfill meant disposing of waste over the former Sanco landfill footprint, the NHDES wanted to be able to verify that changes in downgradient groundwater quality could be differentiated between new NCES landfill operations versus residual Sanco landfill releases remaining in the underlying soil/aquifer. To facilitate this understanding, SHA recommended using an ionic tracer, which NHDES agreed to and added its use to NCES' operating permit. Specifically, sodium bromide was required to be added to the NCES landfilling operations beginning in 1996 for its Stage II and Stage III waste disposal cells. This requirement meant that detections of landfill contaminants coincident with bromide detections would be interpreted by the Agency to mean that current (e.g., post-1996) NCES operations were likely the source of that contamination and not residual contamination originating from under the old Sanco landfill footprint. More on this in the following Section 2.

2) Release(s) to Groundwater mid 2000's to 2012

In September 2008, the NHDES completed its technical review of documents submitted in support of an Application to expand the NCES permit for Stage IV Phase II cell construction. In their response letter NHDES denied a requested modification to the NCES' Landfill permit citing as one of their reasons, downgradient groundwater contamination from VOCs and bromide as indicative "… that the operation of the existing landfill has resulted in releases of regulated contaminants in violation of condition #9 of Groundwater Management and Releases Detection Permit …" (December 12, 2008, NHDES). In their denial of the modification request, the NHDES listed seven wells, MW-402U, MW-403L, B-913M, B-919U, B-921M, B-921U, and B-304UR as exhibiting data that supported their rationale, namely the presence of VOCs and detections of bromide in groundwater.

Calex looked for the data for these seven wells cited by the NHDES in the most recent groundwater quality Report, but the Report provided only historical data for two of the seven wells, as apparently the others have been decommissioned due to landfill expansion over time. The trend plots in Appendix C of the Report show the historical data for B-919U (pg. 274/483)

illustrating the dissipation of an apparent spike of VOCs and 1,4 dioxane in the mid 2000s to early 2012 timeframe while B-304UR (pg. 269/483) showed high VOCs and low detections of bromide in the subject timeframe. **Figure 2** illustrates some of the trend plots for B-304UR taken from the Report, pg. 269/483.

The Site plan on **Figure 2** identifies the location of B-304UR as a red dot which is located about halfway down into the GMZ. In looking at the analyte plots of **Figure 2**, one sees large spikes of VOC detections in the mid 2000s until about 2012 or 2013, while the apparent smaller detections of bromide are driven by the different plot scales (mg/l versus ug/l) of the results. The 1,4 dioxane plot shows consistent detections in the same timeframe. These data, (and the other wells listed by NHDES) showing spikes in VOCs comingled with bromide detections, indicated to NHDES that these release(s) were not from the old landfill, but had instead occurred from the operating landfill.

NHDES in its December 23, 2008, letter required that NCES propose corrective actions that include "… both soil and groundwater data needed to identify the source of each exceedance of the background concentrations for VOCs and bromide, and to confirm that the source(s) of the exceedances have been effectively remediated." The Agency issued a second denial for the landfill expansion on March 25, 2009, noting that NCES had failed to determine the source of continuing groundwater contamination at the site.

In response to NHDES' continued requests for evaluation of source(s) of releases from the current operations to the groundwater, NCES submitted a 2009 Corrective Action Plan (CAP) that was revised in response to Agency comments and resubmitted on February 19, 2010, which was subsequently approved by NHDES on May 19, 2010. Conditions that were identified as contributing to landfill releases causing the groundwater exceedances and actions undertaken to correct those conditions, were summarized on Figure 6 of the CAP for MW-402U as follows:

- March 2001, Force Main break repair.
- September through November 2002 Stage I toe repair.
- March 3, 2006, Leachate Tanker Truck Spill at Load-Out Building.
- May 12, 2006, Leachate Spill at Leachate Load-Out Building.
- April/May 2007, Stage I CAP and Detention Pond #3 Inlet Culvert drainage improvements including east portion of Stage I anchor trench.
- September 26, 2008 – January 3, 2009, and April 13, 2009 – May 15, 2009, Leachate Management Improvements Project (LMIP) and related contaminated soil removals (i.e., adjacent to Stage II and consolidation tanks; force main and swales).
- August/September 2009, Repair of Stage I Down Chute Drainage and east portion of Stage I anchor trench.
- November 19, 2009 – January 7, 2010, Stage I Landfill Gas Extraction System Improvements.

Conditions that were identified as contributing to landfill releases causing the groundwater exceedances and actions undertaken to correct those conditions, were summarized on Figure 8 of the CAP for B-913M as follows:

- August 7, 2006, Leachate Spill along temporary Stage II Leachate Force Main.
- April/May 2007, Stage I CAP and Detention Pond #3 Inlet Culvert drainage improvements including east portion of Stage I anchor trench.
- August/September 2009, Repair of Stage I Phase I Capping System Down Chute Drainage System and east portion of Stage I anchor trench.

On August 27, 2010, NHDES granted the initially requested 2008 permit modification for expansion of lined cells for the NCES Landfill. This extensive regulatory record shows that landfill releases were clearly from current operations (e.g., leachate spills, sumps, tanks, force mains, caps, and liners) which were impacting downgradient groundwater conditions. The Leachate Management Improvement Project (LMIP) particularly addressed leachate storage and handling areas in use for current operations, leachate generated because of several phases of cells later (e.g., more recent) than leachate residuals from under the former Sanco Landfill.

Continued groundwater monitoring and statistical trend analyses were required by NHDES after the 2010 Corrective Action Plan to assess the success of the remedial actions and document groundwater improvements. The NCES Groundwater Release Detection permit under RSA 485-C:13 for lined landfills requires that if groundwater conditions begin to exceed background conditions, assessment monitoring is required and if groundwater quality trends do not go back to background, as some wells appeared to do after the Sanco Landfill was removed, a corrective action plan would be required to identify and remediate source(s) of releases, addressed in the next section.

3) Groundwater trends in 2018 – 2023

Calex evaluated the analytical trend plots in Appendix C for monitored wells in the Report to see if the remedial actions performed in the 2010 timeframe had caused the Release Detection Wells to return to background conditions. It did in some cases, but several wells continue to show background exceedances and/or upward trends in recent years, a timeframe starting in approximately 2018 and continuing into 2023, some of which are listed here:

- B-304UR (pg. 269/483) shows contaminated groundwater containing dioxane, volatile organic compounds (VOCs), bromide, chloride, and nitrate.
- B-304DR (pg. 270/483) shows spikes in bromide, chloride, manganese, dioxane, and total VOCs.
- MW-803 (pg. 273/483) illustrates spikes in manganese, iron, and chloride.
- B-919M (pg. 275/483) shows detections of arsenic, manganese, and iron.
- B-928 U and B-928 D (pgs. 277-278/483) both detect dioxane, and bromide.
- B-927M (pg. 262/483) illustrates exceedances of iron, an increasing trend in manganese, and VOCs.
- B-926U (pg. 259/483) has bromide and manganese above background.
- MW-701 (pg. 240/483) shows variable increases in manganese.

Figure 3 illustrates some trend plots from B-304DR, a well located within the GMZ and near B-304UR that was illustrated in **Figure 2**. The plots show spikes in bromide detections very clearly beginning prior to 2020 and falling off sharply. The manganese plot in **Figure 3** shows a broad

spike around the same period, but still remaining above standards, while the VOCs plot shows a similar discrete timeframe of detections. These data suggest impacts from releases from the operating landfill since the bromide is commingled in the groundwater. These same trend observations are also illustrated in **Figure 2** for the same 2018 to 2023 timeframe.

The data from these monitoring locations show that contaminant release(s) are still migrating in groundwater onsite from the active landfill operations and likely commingled with some residuals from the former Sanco landfill. The ultimate goal of Release Detection Monitoring at a lined landfill site such as NCES is for all groundwater to maintain background quality. This environmental condition has not been attained at the NCES Site, and not just because of residuals from the former Sanco landfill.

The detection of elevated bromide in some of the wells (B-304UR, B-304DR, B-928U, B-928D, and B-926U) demonstrates that these wells are impacted by contaminants released from the more recent Stage II and Stage III landfill operations where leachate carrying bromide would be managed. Monitoring is ongoing under the CAP to evaluate the effectiveness of remedial actions performed (i.e. the Leachate Management Improvement Project in response to multiple releases in the 2001 - 2006 timeframe).

Calex's analysis of the groundwater quality data and regulatory history of the NCES landfill site clearly shows that:

1) Contaminant releases from former Sanco landfill operations have occurred,
2) Contaminant releases from recent (post-1996) landfill operations have occurred, and
3) Groundwater is still impacted above background in the leachate management area for landfill operations (upgradient of the former Sanco landfill footprint) as well as downgradient of the former Sanco landfill footprint and current landfill operations.

These conclusions are consistent with the findings discussed in the Report.

4) Per- and polyfluoroalkyl substances (PFAS)

Within the last decade, per- and polyfluoroalkyl substances (PFAS), sometimes called "forever chemicals", have figured prominently at many contaminated sites. Due to the concerns of pervasive PFAS compounds being detected around the country and in New Hampshire, NHDES began requiring testing of various potential PFAS source areas (e.g., car washes, certain manufacturing sites, CERCLA sites, dry cleaners, landfills). In 2017, NCES first added some wells to its testing regime for PFAS and has expanded its testing and analysis since that time. As of the Report, thirty-one monitoring wells were tested for selected PFAS constituents. In addition, surface water testing for PFAS was required by NHDES in 2023, which was reported by SHA in its October 2023 SSI Report.

The attached **Figure 4** utilizes Figure 3 from the Report as a base plan and illustrates the locations of current and former detections of PFAS around the NCES landfill site, both in groundwater and surface water. The Figure also highlights the approximate footprint of the former Sanco landfill as a red box and illustrates the approximate direction of groundwater flow (blue arrows) near the footprint of the historical landfill based on groundwater contours from July 2023. Groundwater, in general, flows northerly to northwesterly away from the former Sanco footprint and current NCES landfill. This interpretation is consistent with the Report.

WHAT ARE THE POSSIBLE SOURCES OF PFAS AT THE NCES SITE?

Figure 4 illustrates that PFAS have been detected in groundwater at many locations on the NCES Site, both upgradient and downgradient of the former Sanco footprint. This fact indicates that not all the detected PFAS could have originated solely from residuals under the former unlined Sanco landfill. The unlined historical Sanco landfill is likely a source of PFAS to the NCES Site due to the age of its waste, but other factors at the NCES Site point to additional source(s) of PFAS. Factors which indicate PFAS source(s) other than, or in addition to, the former unlined Sanco landfill are:

- Location – Whether a sampled well is located hydraulically upgradient or downgradient of the historical unlined Sanco landfill determines whether it intercepts PFAS contamination from residual releases from the historical landfill. Some PFAS detections occur at well locations that encountered PFAS sources from other than the old landfill:
    - MW-701 contained PFAS concentrations that substantially increased between April 2023 and July 2023 (pg. 306/483), while this location is outside the GMZ and is upgradient of the historical former unlined Sanco landfill **(Figure 4)**. Leachate source(s) for PFAS at this location must somehow be from the NCES landfill operations and subject to its Release Detection Permit.
    - B-915 U and B-915M located near the stormwater ponds (**Figure 4**) are upgradient of the former historical landfill footprint. PFAS detections at this location originated from current NCES landfill operations. The Report points to its source from historical leachate infrastructure operations and releases, was addressed by the Leachate Management Improvement Project (LMIP) completed in May 2009.
    - B-918U, B-918M, B-918D located cross gradient to the former historical landfill and within the historical leachate infrastructure area that experienced multiple releases of leachate in the 2001 to 2008 timeframe, addressed by the 2010 CAP remediation and the LMIP (**Figure 4**).
- Bromide – When PFAS detections coincide with bromide detections, the source of the PFAS may originate from post-1996 waste leachate releases, because the tracer sodium bromide was added to waste deposited in Stages II and III of the NCES lined landfill cells.
    - High PFAS concentrations in B-304DR and B-304UR (pgs. 269-279/483 in the Report) exceed NHDES Ambient Groundwater Quality Standards (AGQS) for selected PFAS compounds and are coincident with other parameters that show post-1996 waste leachate generation due to the detected bromide tracer and VOCs. (as illustrated in **Figures 2 and 3**). This condition suggests that a “recent” (post-1996) leachate source is contributing PFAS at this location.
    - PFAS concentrations in B-919U (pg. 315/483 of the Report) appear to be steady or possibly increasing with consistent exceedances of the AGQS for PFOA. The location of this sampling point is proximate to the NCES landfill operations and in an area that shows VOCs and bromide (B-919M) in groundwater, post-1996 generated leachate.

- PFAS concentrations in B-918M (pg. 257/483), located in the infrastructure area remediated due to releases in 2001-2006 timeframe, are also coincident with high bromide detections, suggesting PFAS contributions from post-1996 leachate.
- MW-802/803 (pgs. 272-273/483) PFAS detections, are located downgradient of the former Sanco Landfill, yet show consistent detections of bromide, with spikes in bromide that appear to correlate with significant changes in water levels. The coincidence of PFAS with consistent bromide concentrations suggests that some PFAS contributions at this location may come from releases of post-1996 leachate.
- Detections of PFAS occur in B-919M (pg. 275/483) where consistent detections of bromide are seen. The spikes in bromide appear to coincide with a significant drop in water levels in the 2014/2015 timeframe. The coincidence of PFAS with consistent bromide concentrations suggests that some PFAS contributions at this location may come from releases of post-1996 leachate.

HYDROGEOLOGICAL OPINIONS

Based on a comparison of historical groundwater quality data to the recent PFAS data, it is Calex's opinion that the PFAS constituents are sourced from both historical leachate releases originating from the former Sanco landfill and recent (post-1996) landfilling operations, based on the following lines of evidence:

- Detection of PFAS in several monitoring well locations that are hydraulically upgradient of the former unlined Sanco landfill.
- Presence of PFAS in many monitoring well locations where groundwater is comingled with detections of the bromide tracer, indicating that post-1996 leachate has impacted water quality of the well.
- The NCES landfill site exhibits many documented releases of leachate, both originating from the unlined former Sanco landfill area as well as significant releases of leachate in the infrastructure area and onsite from active (post-1996) landfill operations. These releases are documented in NCES' regulatory history and in the long-term groundwater quality data for the Site. Therefore, the NCES Site has two primary sources of PFAS contamination originating onsite. 1) Residual contamination from waste disposed of during the 1980's under the footprint of the old Sanco landfill, as well as 2) leachate from post-1996 landfilled waste in NCES cells that has documented releases onsite. To date, there has been no attempt by NCES or NHDES to differentiate these two sources of PFAS contributions, instead generically calling PFAS contamination "from the old landfill".
- The NCES landfill site is currently operating while many of the Release Detection Wells show exceedances of background conditions. In some groundwater locations, analytes even show exceedances of AGQS. As reflected in groundwater contours of **Figure 4**, contaminated groundwater is moving northerly towards the Ammonoosuc River, while contaminated surface water seeps, one within approximately 50 feet of the river, flow northerly towards the River. It is Calex's opinion that the data indicate that discharges of contaminated groundwater and surface water are likely entering the Ammonoosuc

River. Surface water sampling in the river has not detected any contamination likely due to dilution.

CONCLUSIONS

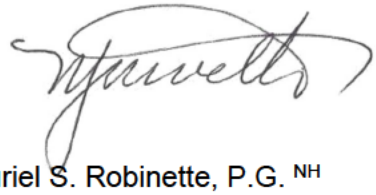
Regardless of the precise hydrogeological source(s) to the PFAS contamination, the data show that PFAS, as well as other regulated compounds, have migrated beyond the historical and current landfill footprints and are migrating downgradient in groundwater onsite. Some of the groundwater manifests as discharges to seeps, one of which is very close to the compliance boundary and the Ammonoosuc River. The current landfill owner/operator is responsible for keeping any and all landfill-derived contaminants controlled onsite whether the contaminants originate from the old unlined landfill residuals or current operations.

The NCES Site is required by law to operate in compliance with its Permits. Any regulated contaminant should not be allowed to leave the Site and enter the Ammonoosuc River. With a seep (SF-1) (**Figure 4**) that shows contamination located less than 50 feet from the edge of the River, it is important for the NHDES to require a multi-level pore water investigation of the groundwater/river interface to determine, and quantify, the contaminant loading to the River so that effective groundwater/surface water mitigation measures can be implemented to keep regulated contaminants from leaving the Site and entering the River.

Please do not hesitate to call if you have any questions. Thank you.

Sincerely,

CALEX ENVIRONMENTAL, LLC



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REFERENCED DOCUMENTS

November 7, 2023, NHDES Comments on 2023 Water Quality Submittal and SSI-Surface Water PFAS Sampling.

October 6, 2023, SSI Surface Water PFS Sampling Data Transmittal, NCES Landfill, SHA.

August 24, 2023, July 2023 Tri-Annual/2023 Annual Water Quality Monitoring Results, SHA.

August 28, 2010, NHDES Permit Modification for NCES Stage IV landfill.

February 19, 2010, Corrective Action Plan, SHA.

February 8, 2010, NHDES Comments on November 24, 2009 Corrective Action Plan.

March 25, 2009, NHDES Denial of NCES Application Permit Modification for Stage IV Phase II.

September 10, 2008, NHDES letter to NCES noting issues of concern.

November 10,1994, NHDES Memorandum, North Country Environmental Services Landfill Water Quality Evaluation and Release Detection Permit Modification.

October 5, 1994, NCES Stage II Expansion, SHA.

FIGURES

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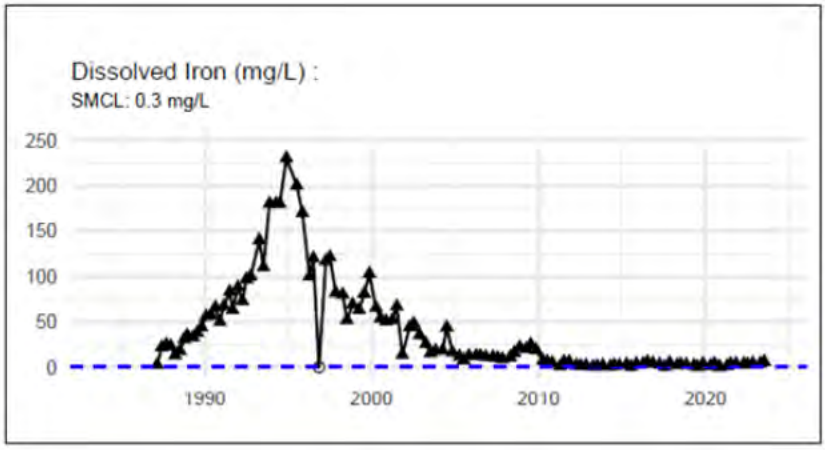

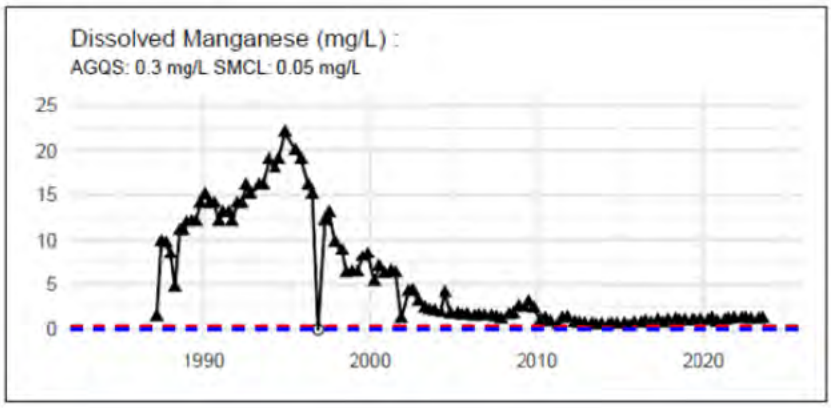

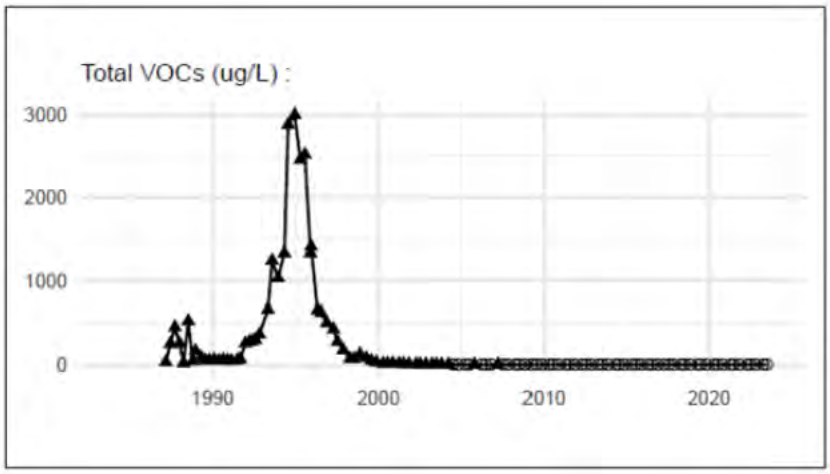

Notes: Plots taken from Page 283/483 of July "2023 Tri-Annnual/2023 Annual Water Quality Monitoring Results", August 2023, SHA.

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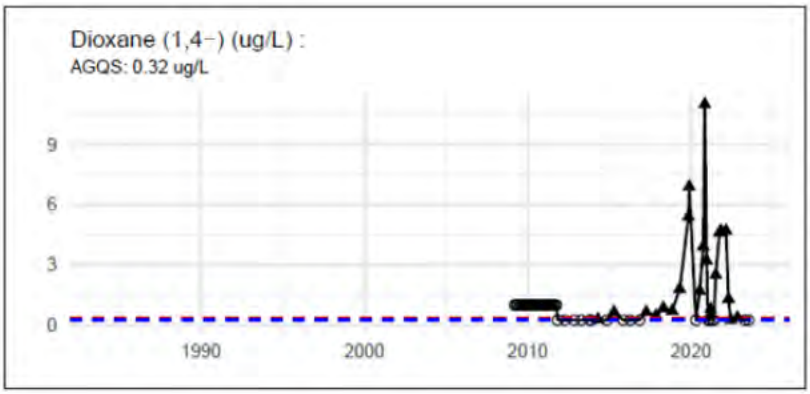
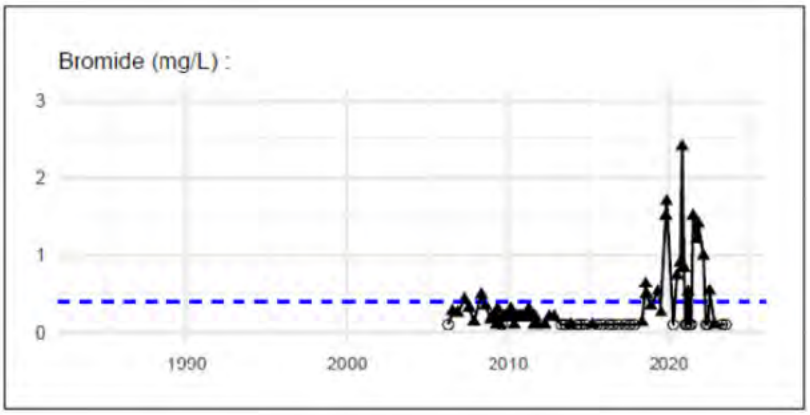
DES Site:

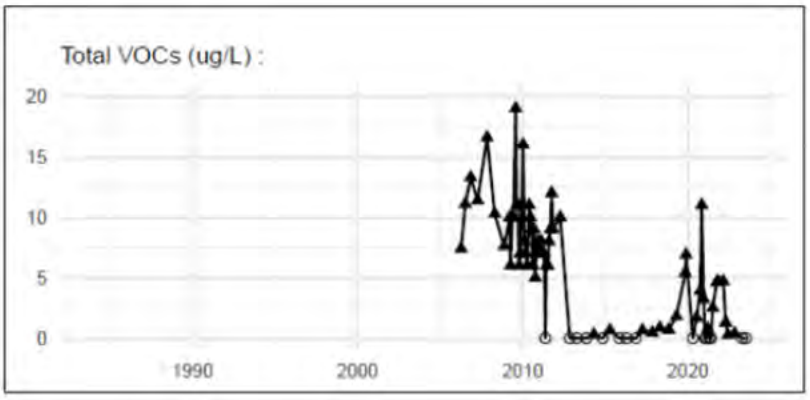
Example Trend Plots from B-103D for Releases from Sanco Landfill Excavation

SIZE	CALEX PROJECT	DWG NO	REV
		Figure 1	

Drawn By: | March 2024 | SHEET







Notes: Plots taken from Page 269/483 of July "2023 Tri-Annnual/2023 Annual Water Quality Monitoring Results", August 2023, SHA.

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DES Site:

Example Trend Plots from B-304UR for Releases from Post – 1996 Waste Disposal Operations

SIZE	CALEX PROJECT	DWG NO	REV
		Figure 2	

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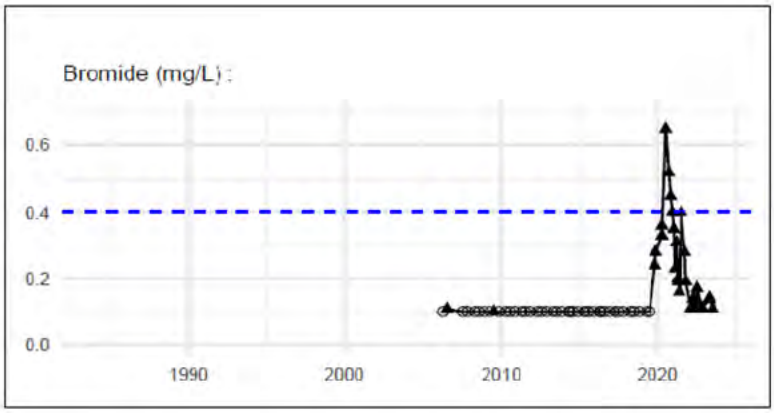

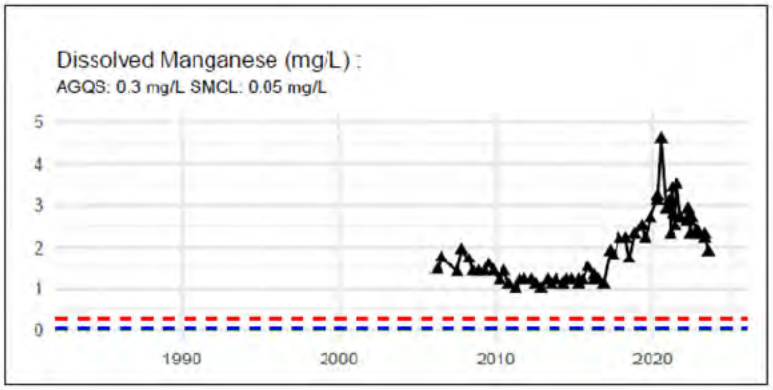

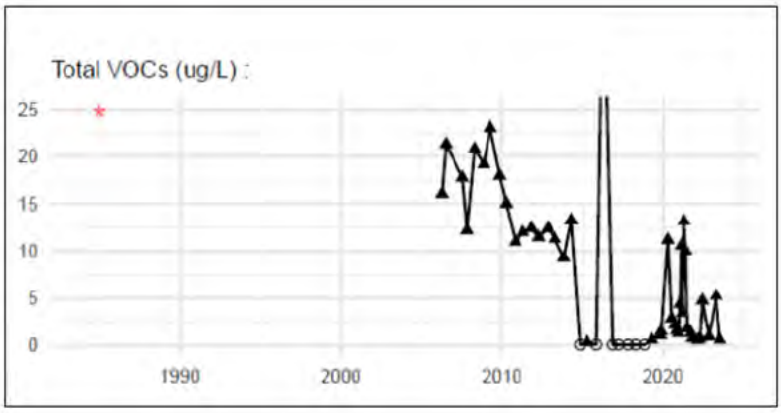

Notes: Plots taken from Page 270/483 of July "2023 Tri-Annnual/2023 Annual Water Quality Monitoring Results", August 2023, SHA.

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DES Site:

Example Trend Plots from B-304DR Showing Comingled Releases from Post – 1996 Operations

SIZE	CALEX PROJECT	DWG NO	REV
		Figure 3	

Drawn By: | March 2024 | SHEET

NOTES:

1. THE GROUNDWATER ELEVATION CONTOURS SHOWN ARE BASED ON GROUNDWATER LEVELS MEASURED BY SANBORN HEAD PERSONNEL IN WELLS SCREENED ACROSS/NEAR TO THE WATER TABLE ON APRIL 18-19, 2023. VARIATIONS IN GROUNDWATER ELEVATIONS ARE EXPECTED TO OCCUR DUE TO CHANGES IN PRECIPITATION, TEMPERATURE, AND OTHER FACTORS NOT EVIDENT AT THE TIME WATER LEVEL MEASUREMENTS WERE OBTAINED.

2. THE GROUNDWATER ELEVATION CONTOURS WERE DEVELOPED USING GENERALLY-ACCEPTED HYDROGEOLOGIC PRACTICES, AND ARE INTENDED TO DEPICT INFERRED TRENDS IN GROUNDWATER LEVELS CONSISTENT WITH THE AVAILABLE INFORMATION. ACTUAL CONDITIONS MAY VARY FROM THOSE SHOWN AND OTHER INTERPRETATIONS ARE POSSIBLE.

3. REFER TO FIGURE NO. 2 FOR ADDITIONAL NOTES.

LEGEND:

GROUNDWATER MANAGEMENT ZONE

1311.1 GROUNDWATER ELEVATION RECORDED AT WELL LOCATION IN JULY 2023

1305 GROUNDWATER ELEVATION CONTOUR (DASHED WHERE LESS CONSTRAINED)

LEGEND

Former Footprint of Historical Sanco LF

Detected PFAS

General Groundwater Flow Direction

AMMONOOSUC RIVER

MOCHMER REED RD

LAUREL LANE

OUTFALL 2

OUTFALL 1

(MAIN SEEP)

LIMIT OF WETLANDS DELINEATED BY B.H. KEITH ASSOCIATES IN APRIL 1999

STORMWATER POND 4

STORMWATER POND 5

STORMWATER POND 6

TOWN DISTRICT 5

TOWN DISTRICT V

STAGE I

STAGE II

STAGE III

STAGE IV

STAGE V

STAGE VI

PHASE I

PHASE II

PHASE III

PHASE IV

APPROXIMATE EXTENT OF FORMER UNLINED LANDFILL

Figure taken from Sanborn Head & Associates (SHA), July 2023 Groundwater Elevation Contour Plan.
PFAS data from SHA, July 2023 Tri-Annual/2023 Annual Water Quality Monitoring Results.
SHA October 2023 SSI Surface Water PFAS Sampling Data Transmittal.

Environmental Consulting

PO Box 236
Colebrook, NH 03576

DES Site:

PFAS DETECTIONS AT NCES LANDFILL SITE

SIZE	CALEX PROJECT	DWG NO	REV
		Figure 4	

Drawn By: | March 2024 | SHEET

From: Wimsatt, Mike
To: Amy Manzelli
Subject: RE: NCES Enforcement Request & Opinion Letter
Date: Thursday, April 18, 2024 1:16:11 PM
Attachments: image001.png

Dear Attorney Manzelli,

Thank you for your email and for providing a copy of Calex Environmental Consulting's opinion letter. The New Hampshire Department of Environmental Services is aware that releases have occurred from operations associated with the lined landfill at North Country Environmental Services (NCES) over the years. Our site remediation project files contain documentation of these releases and NHDES' responses to them. When a release occurs, NH's Contaminated Site and Groundwater Release Detection Rules, Env-Or 600 and 700, require assessment monitoring, initial response action, and corrective actions in accordance with a NHDES-approved corrective action plan. NHDES is, and has been, evaluating compliance of the solid waste facility's operations with applicable rules and statutes, and we have, and will continue to, 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 active, ongoing discharge or release from the current operations or the landfill liner system.

Sincerely,
Mike Wimsatt

Michael J. Wimsatt, P.G., Director
Waste Management Division
NH Department of Environmental Services
PO Box 95, 29 Hazen Drive
Concord, New Hampshire 03302-0095
Tel 603-271-1997 Fax 603-271-2456
michael.j.wimsatt@des.nh.gov
www.des.nh.gov

From: Amy Manzelli <manzelli@nhlandlaw.com>
Sent: Friday, March 22, 2024 2:58 PM
To: Wimsatt, Mike <michael.j.wimsatt@des.nh.gov>; Colby, Jaime <Jaime.M.Colby@des.nh.gov>
Cc: town.clerk@townofdalton.com; adminassistant@townofdalton.com; selectmen@townofdalton.com; planningboard@townofdalton.com; selectmen@townoflittleton.org; vpotter@townoflitteton.org; abrousseau@townoflittleton.org; admin@bethlehemnh.org; townclerk@bethlehemnh.org; selectmen@townofcarroll.org; administrativeassistant@whitefieldnh.org; townclerk@whitefieldnh.org; mmoren@nccouncil.org; nccinc@nccouncil.org; onthefarm21@gmail.com; Sales, Tracie <tracie.j.sales@des.nh.gov>; Sales, Tracie <riversprogram@des.nh.gov>; Marchand, Michael <michael.marchand@wildlife.nh.gov>; Stanwood, Sabrina <sabrina.stanwood@dncr.nh.gov>; Lamb, Amy <amy.lamb@dncr.nh.gov>;

Sanders, Nicholas <Nicholas.Sanders@dot.nh.gov>; Kelvin.A.Brooks@doh.nh.gov; O'Rourke, James <James.W.Orourke@des.nh.gov>
Subject: NCES Enforcement Request & Opinion Letter

Good Afternoon Director Wimsatt and Ms. Colby,

Please see attached the opinion letter of Calex Environmental Consulting.

As you will see, after Calex's careful and comprehensive analysis of decades of scientific records, Calex concludes NCES is currently releasing landfill contaminants into groundwater, at least in part, from NCES' current landfilling activities. In other words, Calex opines, NCES' current releases of landfill contaminants are not only from the historical Sanco landfill.

NCES releasing landfill contaminants from its current operations violates both New Hampshire laws and NCES permits. Accordingly, on behalf of my client North Country Alliance for Balanced Change, I respectfully request the Department immediately enforce applicable laws against NCES and reply back to me to confirm to me that it is doing so.

Thank you,
Amy

Amy Manzelli, Esq. she/her
Offices in Concord & Keene, New Hampshire and Norwich, Vermont
manzelli@nhlandlaw.com
Phone 603.225.2585

EXHIBIT M

All Posts

PFAS Detected In NCES Landfill Runoff Into The Ammonoosuc River

November 14, 2023 | Ammonoosuc River, Bethlehem, Casella, NCES, NH DES

GRANITE STATE ANALYTICAL SERVICES, LLC.

22 Manchester Road, Unit 2, Derry, NH 03038
Phone (800) 699-9920 | (603) 432-3044 website www.granitestateanalytical.com

CERTIFICATE OF ANALYSIS FOR DRINKING WATER

DATE PRINTED: 11/09/2023
CLIENT NAME: Jon Swan
CLIENT ADDRESS: Ammonoosuc River SEEP
Bethlehem, NH 03574

SAMPLE ID #: 2310-04700-001
SAMPLED BY: Jon Swan

SAMPLE ADDRESS: Jon Swan
Ammonoosuc River SEEP
Bethlehem NH 03574

Legend	
Passes	✓
Fails EPA Primary	⊗
Fails EPA Secondary	▽
Fails State Guideline	✕
Attention	⚠

DATE AND TIME COLLECTED: 10/20/2023 10:00AM
DATE AND TIME RECEIVED: 10/20/2023 02:09PM
ANALYSIS PACKAGE: PFC-18-NoFB-alpha-NH
RECEIPT TEMPERATURE: ON ICE 7.8° CELSIUS
CLIENT JOB #:

Test Description	Result	Test Units	Pass /Fail	DQ Flag	RL	Limit	Method	Analyst	Date - Time Analyzed
11-chloroeicosafluoro-3-oxaundecane-1-sulfonic Acid*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
4,8-dioxa-3H-perfluorononanoic acid*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
9-chlorohexadecafluoro-3-oxanone-1-sulfonic acid*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
Date Extracted	-					No Limit	EPA 537.1	2062	11/01/2023 12:24AM
Hexafluoropropylene Oxide Dimer Acid (HFPO-DA)*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
N-Ethyl Perfluorooctanesulfonamidoacetic Acid (NEtFOSAA)*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
N-Methyl Perfluorooctanesulfonamidoacetic Acid (NMeFOSAA)*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
Perfluorobutanesulfonic Acid (PFBS)*	4.35	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
Perfluorodecanoic Acid (PFDA)*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
Perfluorododecanoic Acid (PFDoA)*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
Perfluoroheptanoic Acid (PFHpA)*	<2.00	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM
Perfluorohexanesulfonic Acid (PFHxS)*	<2.00	ng/L	✓		2.00	18 ng/L	EPA 537.1	2062	11/01/2023 04:29PM
Perfluorohexanoic Acid (PFHxA)*	4.73	ng/L			2.00	No Limit	EPA 537.1	2062	11/01/2023 04:29PM

etic Acid (NMeFOSAA)*							
Perfluorobutanesulfonic Acid (PFBS)*	4.35	ng/L		2.00	No Limit	EPA 537.1	2062 11/01/2023 04:29PM
Perfluorodecanoic Acid (PFDA)*	<2.00	ng/L		2.00	No Limit	EPA 537.1	2062 11/01/2023 04:29PM
Perfluorododecanoic Acid (PFDoA)*	<2.00	ng/L		2.00	No Limit	EPA 537.1	2062 11/01/2023 04:29PM
Perfluoroheptanoic Acid (PFHpA)*	<2.00	ng/L		2.00	No Limit	EPA 537.1	2062 11/01/2023 04:29PM
Perfluorohexanesulfonic Acid (PFHxS)*	<2.00	ng/L	✓	2.00	18 ng/L	EPA 537.1	2062 11/01/2023 04:29PM
Perfluorohexanoic Acid (PFHxA)*	4.71	ng/L		2.00	No Limit	EPA 537.1	2062 11/01/2023 04:29PM

Donald A. D'Anjou, Ph. D.
Laboratory Director

GSA Final Report
2 of 26

Page 2 of 3

I sent this via email to EPA New England (Boston office) this morning...Nov 14, 2023:

Considering that I have not heard anything from EPA regarding my concerns that the NCES Landfill is failing to contain harmful contaminants from being released upgradient of and into the surrounding watershed of the Ammonoosuc River, I conducted my own "water sampling" of the water emerging from the "Main Seep" via the surface water channel, discharging directly into the Ammonoosuc River.

My sample was taken directly from the water cascading off of the NCES property via the seep drainage channel on Friday morning, October 20, 2023. The surface water was flowing strongly off the property's edge, in such a way that it allowed me to collect my sample without trespassing on NCES property. My access into the Ammonoosuc River was granted by a property owner on the other side of the river, and my sampling was witnessed by that property owner. I was up to my waist and armpits in the Ammonoosuc River the entire time, and it was cold!

I have attached the lab report, which I just received last Thursday, November 9, 2023. I did not test for any other contaminants, like 1,4-Dioxane, solely PFAS.

On pages 2-3 of the report, you can read that there were **3 detections of PFAS contaminants being released directly into the Ammonoosuc River:**

Perfluorobutanesulfonic Acid (PFBS) 4.35 ng/L

On pages 2-3 of the report, you can read that there were **3 detections of PFAS contaminants being released directly into the Ammonoosuc River**:

Perfluorobutanesulfonic Acid (PFBS) 4.35 ng/L
Perfluorohexanoic Acid (PFHxA) 4.73 ng/L
Perfluorooctanoic Acid (PFOA) 2.39 ng/L

Page 10 also shows a result of **1.37 ng/L for Perfluoroheptanoic Acid (PFHpA)**, a "J" qualifier, thus below the reporting limit but apparently above the laboratory method detection limit (MDL).

I would note that **these 4 PFAS compounds are the same top 4 found PFAS compounds consistently detected in NCES leachate lab reports**, from 2018-2023, obtained from NHDES and the City of Concord WWTPs. Basically, the contaminants detected entering the Ammonoosuc River at the Seep drainage channel match the PFAS profile of NCES Landfill leachate. The same can be said for the numerous detections and exceedances of PFAS contaminants at the upgradient B-304 and B-928 wells.

It would seem to me that this release of contaminants directly into the Ammonoosuc River is a violation of the Clean Water Act.

I must admit, it is disturbing to think that a concerned citizen has been forced into this action, because both state and federal regulators have failed to do so.

I do hope the EPA and the Town of Bethlehem will take this latest revelation seriously. I can only imagine the volume of contaminants being released into the Ammonoosuc River, via the drainage channel surface water discharge. It has become quite clear to me that the relationship between SHA/Casella and NHDES officials has become compromised. An investigation into what is occurring at the NCES Landfill is warranted, and I believe this lab report provides concrete evidence in support of my prior charges that the landfill is failing.

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

Jon Swan

EXHIBIT N

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Jon Swan
February 26, 2023 ·

Opinion: Lax landfill oversight is just one of many good reasons to limit out-of-state trash
By ELIOT WESSLER 2/26/2023
Eliot Wessler lives in Whitefield and works with a number of grassroots organizations in NH's North Country.

Congratulations to the Concord Monitor for the recent article documenting the lax oversight of New Hampshire's landfills. The article shines a hot light on the problems at the municipally-owned Conway landfill, and makes clear that these problems have been festering for a long time due to the chronic (and continuing) under-staffing and underfunding of NH's Department of Environmental Services (DES).

Even worse problems are popping up at New Hampshire's privately-owned landfills compounded by two additional factors: the lack of any real-time control over the types of and sources of trash that such landfills can accept, and the aggressive litigation by privately-owned landfills that many fear makes DES reticent to take action for permit violations.

A case in point is the NCES landfill in Bethlehem, owned by Casella Waste Systems. DES did recently crack down on NCES a bit, finding that NCES was being overfilled in violation of its permit. Predictably, Casella filed suit against DES but ultimately withdrew the suit. But it's a wide open question how many other violations may have occurred at the NCES landfill that were not flagged by DES due to resource constraints and/or fear of litigation.

One incident that NCES could not make fly under the radar is the recent 150,000+ gallon leachate spill, the largest such accident in New England. Casella didn't even report the spill to DES until two days after it occurred, at which point Casella commissioned what it characterized as an "audit" of the spill. But the "audit" was done by one of Casella's prime contractors with an obvious conflict of interest. So much for self-regulation.

Back to leachate. It's the toxic juice, full of PFAS and other toxic chemicals, that accumulates at all landfills. The best case is all of the leachate is collected at the landfill site and then hauled away in tankers to wastewater treatment plants. From there the wastewater with mixed-in leachate is released, usually into a river (into the Merrimack River in the case of NCES). But sometimes, at the landfill or somewhere along the way, there are accidents.

It would be nice to be able to say that Casella voluntarily tested for PFAS contamination at the NCES spill site, or that DES required it to do such testing. But neither of those things happened. It is truly sad that the people who live near the spill site probably will never know whether their water supply wells were contaminated with PFAS due to the spill.

Jon Swan
August 2, 2023 ·

"A group of citizens in Hardwick who were interested in spurring economic development in the town approached us about the possibility of reopening the landfill

In my opinion, this is Casella-speak for "we need a Plan B and figured we'd give the re-opening of the Hardwick Landfill a shot, since the Dalton project is going to be a no-go and NCES is having PFAS-containment issues and will close by 2026, if not sooner...as reported in today's Cal-Rec. Again, my opinion, but Casella is way off schedule and needs a home for its MA, NH, and CT trash collections. I've been pretty spot-on, so far...Jon Swan

https://www.wastetodaymagazine.com/.../casella-seeks.../

Casella seeks to reopen Massachusetts landfill
The Vermont-based company plans to reopen the Hardwick Landfill by 2028 if it can obtain the proper permits and zoning approval.

POSTED BY HALEY RISCHAR | AUGUST 01, 2023

Casella Waste Systems Inc., a Rutland, Vermont-based waste and recycling services provider, is looking to reopen a landfill in Hardwick, Massachusetts, reports MassLive.

During a July 18 meeting, the company told the town's board of selectmen that it plans to reopen the Hardwick Landfill by 2028 if it can obtain the proper permits and zoning approval.

Casella's Vice President Brian G. Oliver said the company is anticipating expanding the site to a 38-acre footprint. He added that roughly 50 trucks will enter the landfill per day, with operating hours of 7 a.m. to 4 p.m. Monday through Friday, and 7 a.m. to 11:30 a.m. on Saturdays.

The expanded site would accept an average of 1,125 tons of waste per day, or 350,000 tons per year, including municipal solid waste and construction and demolition debris.

As reported by MassLive, revenue generated for the town will come from a $6-per-ton tipping fee, which will equate to roughly $2.1 million annually. This is subject to the board and company negotiating a host community agreement. Additionally, the company would pay $500,000 per year to dispose of landfill leachate at the Gilbertville municipal wastewater treatment facility. Oliver said the landfill has the capacity to operate for another 13 years, should it reopen. According to MassLive, Casella ceased operations at the Hardwick Landfill following a January 2007 town meeting that rejected a zoning agreement the company sought to continue operating.

The Hardwick board of selectman said they plan to meet to discuss the proposal.

Casella provided Waste Today with the following statement:
"A group of citizens in Hardwick who were interested in spurring economic development in the town approached us about the possibility of reopening the landfill, which has been inactive since the town voted to reject a zoning amendment in 2007 that would have allowed it to continue operating. Casella decided to explore the possibility of re-engaging with the Hardwick community based on the request. The project will only be viable with the appropriate support from the community, and we are at the stage where we are assessing if that interest exists.

Close The Casella Waste Systems NCES Landfill In Bethlehem, NH
August 9, 2023 ·

Department of Environmental Services

To the Editor:

NHDES needs to do a lot more to protect us.

If you went to the Lancaster or Littleton Farmers Market recently you probably saw the NH Department of Environmental Services booth. And you may have taken home their literature showing that PFAS is in a surprising number of everyday products, including non-stick cookware and pizza boxes!

NHDES is to be commended for taking this initiative to educate people how we can limit even more PFAS from entering the environment. But NHDES needs to do a lot more to protect us from the PFAS already in the environment. That's a job only NHDES can do, and unfortunately it's not doing it well.

A case in point is NHDES' laissez-faire response to PFAS contamination at the NCES landfill in Bethlehem. It's been two years since the 150+ thousand gallon leachate spill and we still don't have resolution on the extent of PFAS contamination. In addition, the test wells around the NCES landfill are showing PFAS contamination, posing a significant threat to local residents, and the entire water supply in the Ammonoosuc River watershed. And yet, as described in the Record article on August 1st ("DES Says PFAS in Wells in Bethlehem") DES is slow-walking decision-making on where the PFAS is coming from and how to stop it.

We in the North Country, and in fact everyone in our state, should demand more. NHDES needs to conduct more vigilant oversight of existing PFAS hotspots like the NCES landfill in Bethlehem, and hold the polluters accountable for the damages their PFAS contamination causes.

Eliot Wessler

Whitefield, N. H.

Jon Swan
August 2, 2023 ·

DES Says PFAS In Test Wells In Bethlehem; CLF Intervenes In Lawsuit Against DES
by Robert Blechl Aug 1, 2023

As questions continue over Casella Waste Systems' involvement in the writing of a landfill setback bill, recent public documents show officials in New Hampshire inquiring about contaminants showing up in test wells at the landfill in Bethlehem and an environmental group granted intervenor status in Casella's lawsuit against the New Hampshire Department of Environmen... **See more**

CALEDONIANRECORD.COM

DES Says PFAS In Test Wells In Bethlehem; CLF Intervenes In Lawsuit Against DES

As questions continue over Casella Waste Systems' involvement in the writing of a landfill setb...

Keep NH Green
Jon Swan · August 24, 2023 ·

On WMUR, **NHDES Director Mike Wimsatt** stated:

"We've been concerned about this for SEVEN & A HALF YEARS"

https://youtu.be/0OBC_KUkp7s

Then WHY on earth did NHDES just **APPROVE** a NEW air permit **ONE WEEK AGO**??!!

#CapturedAgency #ProfitOverPeople

See more

YOUTUBE.COM

Saint Gobain Closing August 23, 2023 NHDES Director Wimsatt: "We've Been Concerned For 7 1/2 Years"

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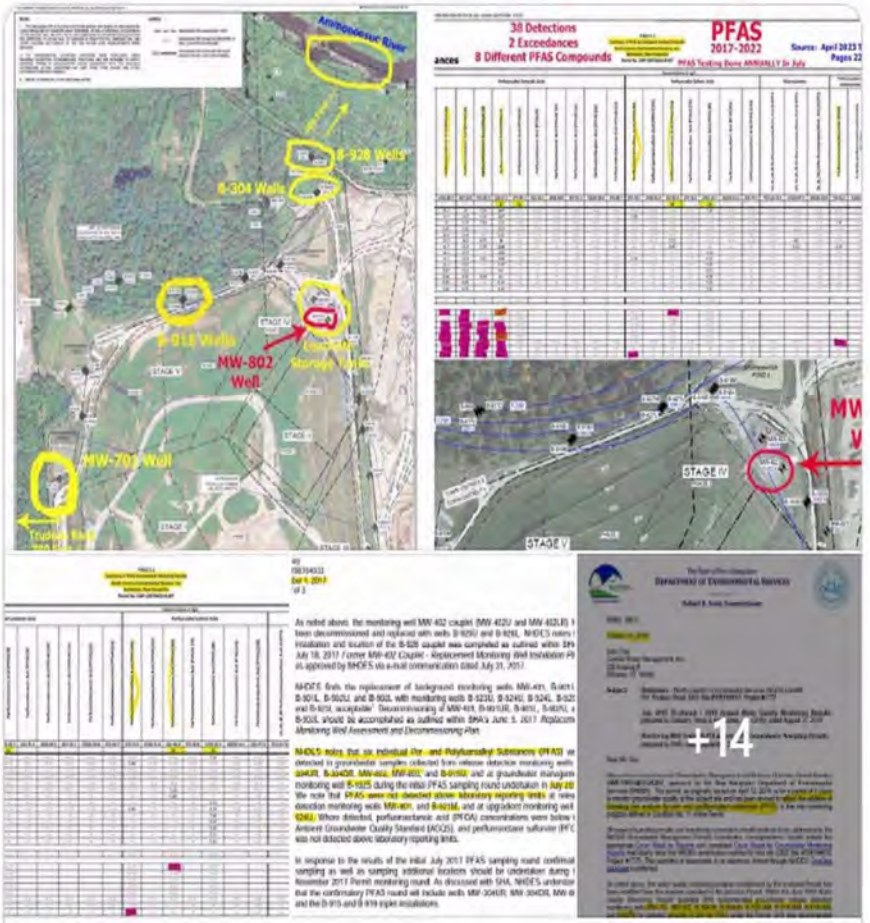
Jon Swan
July 19, 2023 ·



Jon Swan
July 18, 2023 ·

I'd like to introduce you to NCES groundwater monitor well MW-802. From 2017-2022, MW-802 has had 38 PFAS detections, 2 exceedances of the AGQS, with 8 differe... See more

Jeanne Louise and Cathy Fulkerson 1 comment

Like Comment Share

u local New Hampshire
Jon Swan · July 23, 2023 ·

Jon Swan
July 23, 2023 ·

Forest Lake State Park today, Sunday July 23, 2023. Yeah, makes sense to site a landfill next door!

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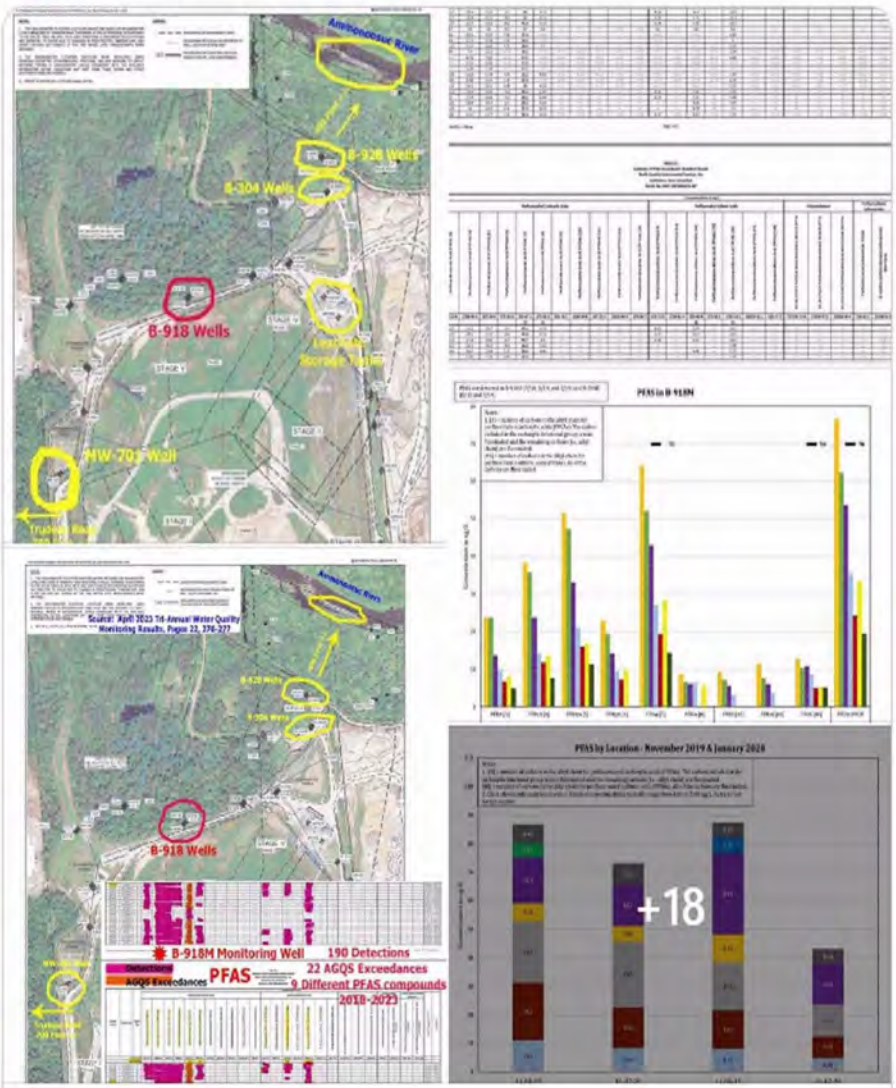
Jon Swan
July 5, 2023 ·



Close The Casella Waste Systems NCES Landfill In Bethlehem, NH
July 5, 2023 ·

In a continuation of our research series "Is the NCES Landfill leaking?", here is data and documentation relative to groundwater monitoring well B-918M. Previo... See more

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Jon Swan
June 29, 2023 ·

House Trashes Bill to Overhaul Landfill Siting Rules and Regulations
By GARRY RAYNO June 29, 2023

CONCORD — The House killed a bill that some believe favored the solid waste industry over those impacted by those facilities.

Meeting on the final day of regular session before veto day in September, the House voted down a committee of conference report on Senate Bill 61 on a 238-134 vote before the Senate could act on it.

A number of representatives spoke in opposition to the bill that would have imposed a two-year moratorium on new landfills while a consultant is hired to rewrite the state's laws and rules governing landfill siting, particularly set-back requirements from water bodies.

They cited recent revelations that the former lobbyist for Vermont-based Casella Waste Systems, which proposed a new landfill in Dalton, worked with Department of Environmental Services officials in crafting the language of the bill.

"This bill needs to be thrown in the trash," said Rep. Kelley Potenza, R-Strafford. "It not only kicks the can down the road, it kicks it in the wrong direction."
She said there are ethical issues with drafting legislation that is influenced and controlled by industry representatives that put the health and safety of New Hampshire citizens at risk.

She also questioned why the Department of Environmental Services needs to hire a consultant to help rewrite the rules and the statutes when it has already begun the process of rewriting the setback rules which expire next year.

Potenza noted the state does not need a new landfill going out 20 years and instead should be exploring how to reduce the out-of-state trash being dumped in state landfills.

"Come January we can produce a bill that offers real protection for our surface water," Potenza said. "Let's make doing the right thing possible again."
Instead of the uniform 200-foot setback currently in regulations, the set-back should be determined by hydro-geological conditions to protect both surface and groundwater, she said.

But Rep. Kimberly Aaron, R-Pelham, argued the bill provides a two-year abeyance while the new rules and statutes on new landfills are drafted, with a 90-day extension if needed.

The new rules will be in effect when the pause ends, she noted, replacing the 30-year-old rules.

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Jon Swan
June 9, 2023 ·

Jon Swan
June 9, 2023 ·

Received this in the mail today. In my opinion, based on what I read from the flier, it would appear that Casella is admitting that their NCES Landfill in Bethlehem, NH is emitting tens of thousands of tons of greenhouse gasses each year into the surrounding environment, possibly beyond. What is in those emissions? #PFAS? Carcinogens?

In fact, I received the following in an email response, May 4, 2023:

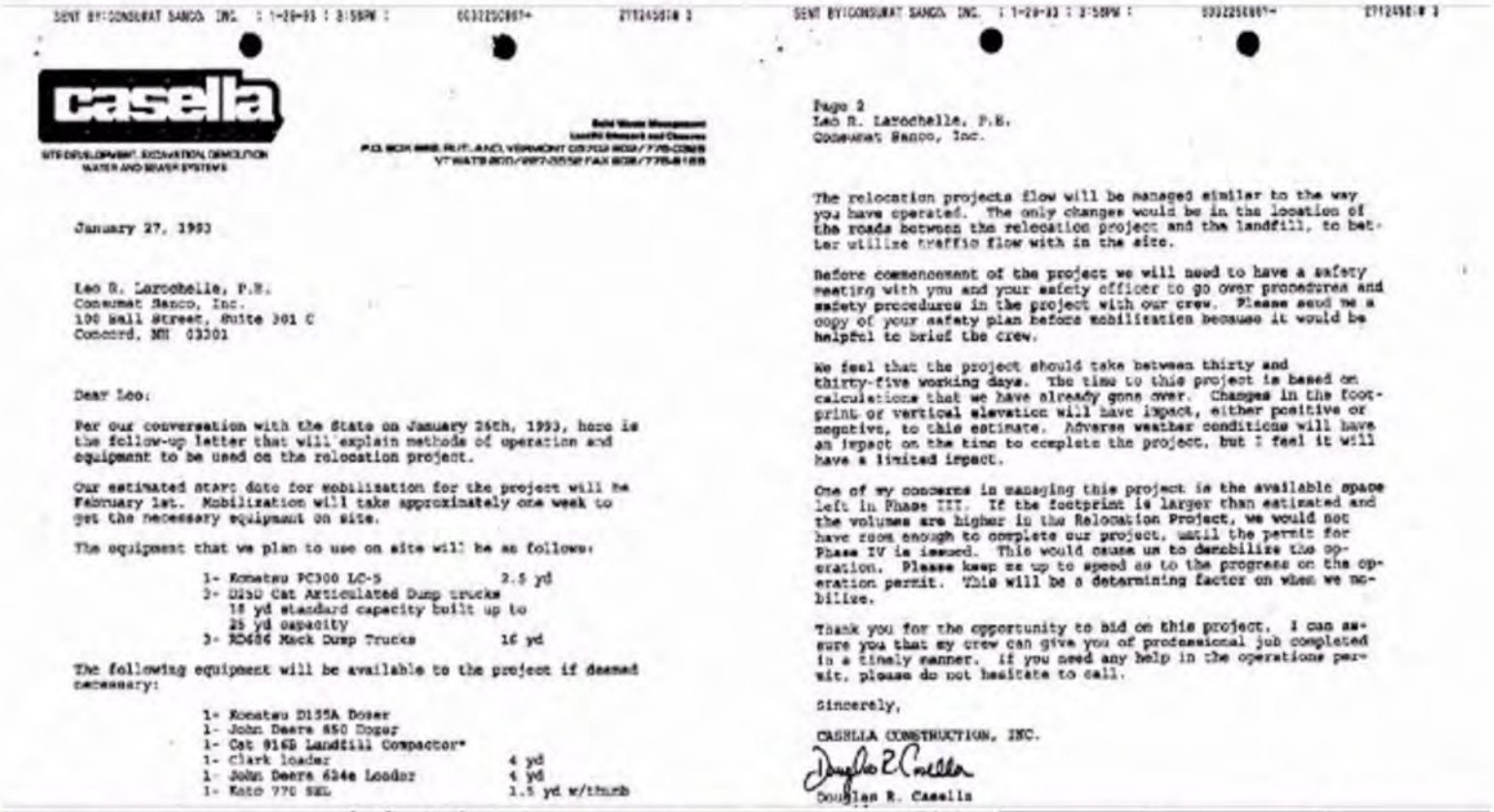
"At the present time, ARD (NHDES Air Resources Division) is not aware of any data or reports regarding PFAS emissions of landfills in New Hampshire."

Mark Sanborn
NH Department of Environmental Services
Assistant Commissioner

Jon Swan
September 15, 2023 ·

I've been working on this since 2:30AM this morning...sent to James O'Rourke of the NHDES Waste Management Division, who is the point of contact for the NCES Landfill groundwater release detection permit monitoring reports, submitted by Sanborn, Head & Associates on behalf of Casella Waste Systems. This was a lot of work...I did cc and bcc a lot of recipients, DES, elected officials, and of course, our supporters. I am attaching snippets of the docs sent.

Good Morning Mr... See more



SENT BY:CONSUMAT SANCO INC. ; 1-29-93 ; 3:58PM ; 6032250897→ 2712456#0 3

casella

SITE DEVELOPMENT, EXCAVATION, DEMOLITION
WATER AND SEWER SYSTEMS

Solid Waste Management
Landfill Closure and Closure
P.O. BOX 866, RUTLAND, VERMONT 05702-0866 / 775-0325
VT WATS 800/287-0552 FAX 802/775-1188

January 27, 1993

Leo R. Larochelle, P.E.
Consumat Sanco, Inc.
100 Hall Street, Suite 301 C
Concord, NH 03301

Dear Leo:

Per our conversation with the State on January 26th, 1993, here is the follow-up letter that will explain methods of operation and equipment to be used on the relocation project.

Our estimated START date for mobilization for the project will be February 1st. Mobilization will take approximately one week to get the necessary equipment on site.

The equipment that we plan to use on site will be as follows:

1-	Komatsu PC300 LC-5	2.5 yd
3-	D150 Cat Articulated Dump trucks 18 yd standard capacity built up to 25 yd capacity	
3-	RD686 Mack Dump Trucks	16 yd

The following equipment will be available to the project if deemed necessary:

1-	Komatsu D155A Dozer	
1-	John Deere 850 Dozer	
1-	Cat 816B Landfill Compactor*	
1-	Clark loader	4 yd
1-	John Deere 624e Loader	4 yd
1-	Kato 770 SEL	1.5 yd w/thumb

SENT BY:CONSUMAT SANCO INC. ; 1-29-93 ; 3:58PM ; 6032250897→ 2712456#0 3

Page 2
Leo R. Larochelle, P.E.
Consumat Sanco, Inc.

The relocation projects flow will be managed similar to the way you have operated. The only changes would be in the location of the roads between the relocation project and the landfill, to better utilize traffic flow with in the site.

Before commencement of the project we will need to have a safety meeting with you and your safety officer to go over procedures and safety procedures in the project with our crew. Please send me a copy of your safety plan before mobilization because it would be helpful to brief the crew.

We feel that the project should take between thirty and thirty-five working days. The time to this project is based on calculations that we have already gone over. Changes in the footprint or vertical elevation will have impact, either positive or negative, to this estimate. Adverse weather conditions will have an impact on the time to complete the project, but I feel it will have a limited impact.

One of my concerns in managing this project is the available space left in Phase III. If the footprint is larger than estimated and the volumes are higher in the Relocation Project, we would not have room enough to complete our project, until the permit for Phase IV is issued. This would cause us to demobilize the operation. Please keep us up to speed as to the progress on the operation permit. This will be a determining factor on when we mobilize.

Thank you for the opportunity to bid on this project. I can assure you that my crew can give you of professional job completed in a timely manner. If you need any help in the operations permit, please do not hesitate to call.

Sincerely,

CASELLA CONSTRUCTION, INC.

Douglas R. Casella

Douglas R. Casella

Citizens of Bethlehem

Under agreement with your Board of Selectmen and the State of New Hampshire, we have started work to completely remove, all of the solid waste from the old unlined landfill and the single lined pans of the Sanco landfill located on Trudeau Road. Material, previously placed in the old unlined landfill will be relocated into the new state of the art double lined landfill. Completion of this project, which will take approximately 40 days, will remediate over 15 years of previous practices appropriate for those days but clearly not acceptable under today's standards. In performing this work, it is not possible to avoid some stirring of the waste and the creation of some odors which may be obtained. We deeply apologize for any inconvenience and will do everything possible to expedite the project. We welcome any inquiries and will be pleased to assist the public as we proceed with this important contribution to the preservation of our environment.

We are proud to be making a difference.

Thank You

8/25/93

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Jon Swan
September 25, 2023 ·

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by Alexis Keenan September 4, 2023

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Jon Swan
September 30, 2023 ·

OPINION: FAILURE AT THE NCES LANDFILL

By JON SWAN

Published: 9/29/2023

Jon Swan of Dalton is the founder of Save Forest Lake.

I have some bad news to share with my fellow Granite Staters. Based on my analysis of groundwater monitoring reports, and my research of the historical record, it is my belief that we are witnessing the failure of the controversial NCES Landfill in Bethlehem.

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Opinion: Failure at the NCES Landfill

Jon Swan of Dalton is the founder of Save Forest Lake. I have some bad news to share with my...

EXHIBIT O

Lucy S Golden
May 19 at 11:27 PM

Looks like Goliath gave up....

Casella Drops Defamation Lawsuit Against Dalton Landfill Opponent
by Robert Blechl May 18, 2023 ... See more

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Fred Cunningham
Brian Fuller anyone who has a problem with a landfill should be given a compost container thing, and be told that all of their trash can not leave their property.

Share 1d

Lucy S Golden Author
Fred Cunningham unless they live in another state, in which case it can be sent to NH.

Share 1h

Dave Leonard
You don't have the specifics of the case, if you do then someone is violating the gag order.

Share 1d

Lucy S Golden Author
I just posted the Caledonian article. If you have questions, you can ask them.

Share 1d

Lucy's Post

Dave Leonard
Lucy S Golden do you have permission to post copyrighted material, from the Caledonia record, or are you stealing from them. Myself and others have been told to remove posted articles. Yup breaking ethical standards, common for you. It's funny an article can be written about a case that part of the settlement is non disclosure. But ethical standards aren't part of this reporters character.

Share 1d

Lucy S Golden Author
Dave Leonard interesting that you suddenly have developed a concern about ethics. And go ahead and censor if the content of this rocks your boat, as well as that of the Casella crew. And if that's the case, you've answered an unspoken question.

Share 1d Edited

Dave Leonard
Lucy S Golden I do not post full articles, this article doesn't rock anything of mine. Just pointing out that per the settlement there's not to be outside discussions and all the facts of the case should not be known except by the parties. But anything to cast a bad light on Casella can be printed, so much for unbiased reporting.

Share 1d

Lucy S Golden Author
Dave Leonard sounds like you have more inside info than I do. Care to share more? Or is it too confidential?

Share 1d Edited

Dave Leonard
Lucy S Golden all I know is there was a non disclosure clause put down by the court. With that mom disclosure clause in place, I know nothing,but I guess the pr person knows more than he should. Typical for the anti landfill group do anything to claim a win, whether or not it's true.

Share 1d