

Casella sues state over permit denial for proposed Dalton landfill

BY: CLAIRE SULLIVAN - APRIL 8, 2025 5:55 PM



Granite State Landfill LLC, a subsidiary of the Vermont-based Casella Waste Systems, filed the legal complaint in Merrimack County Superior Court Tuesday. (Photo by Claire Sullivan/New Hampshire Bulletin)

A company that has spent years trying to build a landfill near a lake in a northern New Hampshire town is taking a recent permit denial to court.

Granite State Landfill LLC, a subsidiary of the Vermont-based Casella Waste Systems, filed a legal complaint in Merrimack County Superior Court Tuesday against the state's Department of Environmental Services, arguing the administrative rule that the agency used to deny its application "violates the constitutional separation of powers by usurping legislative authority."

Last week, DES denied the company's solid waste permit application for the proposed landfill in Dalton, which has drawn years of opposition over its close proximity to Forest Lake and fears about negative public health and environmental impacts. The agency said the application had become dormant and was therefore denied under its rules. While the solid waste permit is one of several sought by the company, the project cannot move forward without it.

In Tuesday's legal complaint, the company argued that that dormancy rule is beyond the scope of the department's legal authority, making its denial of the permit application on that basis "unlawful." GSL is asking the court to declare that the rule is void for that reason and, consequently, the denial. The company also said it would seek an appeal of the denial through the state's Waste Management Council.

Jim Martin, a public information officer for the department, said DES "cannot comment on ongoing litigation."

This latest chapter comes at a new height of political opposition against the landfill. In her inaugural address, Republican Gov. Kelly Ayotte vowed she would not allow the project to go forward and endorsed a one-year pause on all new landfills in the state, a stark change in tone and policy from her predecessor Chris Sununu. In

the Legislature, a host of bills aim to address various waste issues in New Hampshire, including strengthening siting requirements that critics say are far too relaxed.

Jeff Weld, Casella's vice president of communications, said the company was "confident" its petition for declaratory judgment would be successful, and that "the development of the Granite State Landfill will remain on track." He defended the project as creating needed additional disposal capacity, something opponents have argued the state won't need for years.

"It is unfortunate that despite providing thousands of pages of documents over the course of two years and nearly a dozen separate supplemental submissions in response to requests from NHDES, that they chose to deny the permit application based on dormancy," Weld said. "The ongoing submissions, conversations, and work being conducted in support of the permit application supports our claim in the petition that there is no way for the application to be considered 'dormant' within any ordinary meaning of that word."

His statement echoes a point made in the legal filing; while the company argues that dormancy is not a legitimate reason for the department to deny its permit application, it also argues that the permit could in "no way" be considered dormant "within the ordinary meaning of that word."

The company said it has submitted "approximately 4,000 pages of documents and plans" to the department, that it has made "ten substantial submissions" since the application was filed in October 2023, and that "most of GSL's submissions were in response to additional information sought by NHDES in letters finding the application 'incomplete.'"

Amy Manzelli, an attorney with BCM Environmental & Land Law who represents the North Country Alliance for Balanced Change, a citizen group opposed to the landfill, said GSL and its parent company, Casella, "sometimes fall into this trap of mistaking quantity for quality."

"The complaint goes on at length about how much quantity of application material GSL submitted, but that doesn't necessarily mean they met the required quality of information that they needed to provide," Manzelli

said, “and I think they just missed the mark on that.”

She said she doesn’t think the company has a “winning argument.”

“There’s a clear statutory authorization to the Department of Environmental Services to make rules about denying permit applications, and so the department went ahead and did that,” Manzelli said.

In its permit denial last week, the department told the company that a permit application becomes dormant when the applicant fails to submit required information requested by the department within a year of first being notified that the application is incomplete, a date that came in February for Casella. A dormant, incomplete application “shall be deemed denied without further action by the department,” said Michael Wimsatt, director of DES’ waste management division, in a letter to the company.

Wimsatt said the application remained incomplete for a number of reasons, like not including a “site report that demonstrates that the location of the proposed facility complies with all applicable siting requirements and that the site is a suitable location for the proposed facility....” Additionally, “the maps, figures, and hydrogeological report” submitted by the applicant in 2023 had not been updated to show compliance with the state’s regulations that were updated in December, Wimsatt said.

Wimsatt also said that legal agreements submitted by the company “failed to fulfill application requirements because they were heavily redacted and referenced other legal agreements, which were not provided.”

The company asserts in its legal complaint that it “provided all the necessary information to complete the Application by February 27, 2025, at the latest.” It also argued the department was “not entitled to the entirety of the agreement between GSL and the landowner, where the redacted terms have no bearing on whether GSL will have the requisite ownership interest.” It also pointed to the fact that the updated rules were not in effect at the time its application was determined to be incomplete.

Adam Finkel, a Dalton resident and former federal regulator who opposes the project, has also frequently been critical of the department. He pointed to those critiques in outlining his doubts about Casella's legal argument.

“My real beef with DES and with the Legislature is that the statutes give them (the department) too much authority. ... Like (RSA) 149-M says, ‘Go ahead and make rules in the following 11 areas,’” Finkel said. “So there's almost nothing they're not allowed to do. So I was actually kind of amazed that Casella's now saying, you know, ‘You don't have authority to do this,’ because the statutes are so open ended.”

He urged the Senate, which has traditionally been a hurdle to landfill legislation, to approve a moratorium, bolster siting requirements, and greenlight other bills aimed at strengthening the state's waste policy.

“The Senate has no excuse now but to pass these bills, because we're under siege from a company that won't go away,” Finkel said.