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Bethlehem
Consumat -
Sanco
Stage II

STATE OF NEW HAMPSHIRE

INTER-DEPARTMENT COMMUNICATION

FROM:


Philip J. O'Brien, Ph.D.
Director
Waste Management Division

DATE: March 29, 1994

AT (OFFICE):



SUBJECT: **Consumat - Sanco Stage II Construction Plans**

TO: Steven M. Houran
Associate Attorney General
NH Dept. of Justice

CONFIDENTIAL

We are currently reviewing design plans for construction of the Stage II landfill at Consumat - Sanco, Inc. (CSI) in Bethlehem. CSI is proposing to construct the lateral expansion area beginning in the spring of 1995, but is requesting approval to operate the Stage II airspace that overlies the Stage I Landfill starting sometime this summer. (Stage I will reach capacity in a few months.)

We are uncertain how to address the question of local approval in this instance and would appreciate your opinion on how to best proceed. As you know, local approval for Stage II remains a disputed issue in court and the Town voted recently to discontinue further negotiations with CSI to resolve the matter outside of court. Therefore, it is less than transparent to us how the requirements of RSA 149-M:10,IV should be addressed in this instance. As you know, the Department issued the Stage II permit in 1989, at which time local approval was understood to exist. Subsequently, the ZBA challenged the applicability of the approval and the Town voted to prohibit the expansion of any landfill in Town except those operated by the Town. With its application for construction approval, CSI provided the enclosed cover letter dated February 11, 1994 that states on page 2 "to the best of my knowledge Consumat Sanco Landfill is in compliance with all existing permit requirements...". The permit (enclosed) requires the facility to obtain local approval, (see condition 1 of section 1). This is all that we have at this time that could be construed to address "evidence of local approval". Note further that the February 11, 1994 letter apparently was not copied to the Town of Bethlehem.

Certain RCRA D issues will apparently prevent the Department from being able to approve landfill construction in any new areas prior to the Department receiving from EPA authorization to administer RCRA D (unlikely to occur prior to June of this year.) Therefore, the more immediate question is whether any approval the

Department might be inclined to grant for operating the Stage II airspace over Stage I (e.g. vertical expansion over Stage I; no new construction per se) must be preceded by some definitive statement by the Town about the existence of local approval for the same?

Please contact Pamela H. Sprague or me to discuss these issues further. Thank You.