

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT COUNCIL

Docket No. 25-08 WMC

Appeal of North Country Alliance for Balanced Change

ASSENTED-TO MOTION FOR LEAVE TO FILE SUR-REPLY

North Country Alliance for Balanced Change (NCABC), by its attorneys, BCM Environmental & Land Law, PLLC, respectfully moves the Waste Management Council (“Council”) to grant leave to file one sur-reply responding to both the: (1) State’s Reply to Appellant’s Objection to State’s Motion to Dismiss of the State of New Hampshire Department of Environmental Services (“Department”); and (2) GSL’s Motion for Leave to file Reply to NCABC Objection to GSL Motion to Dismiss (including its enclosed Reply), and states as follows in support:

1. No law expressly prohibits or permits the filing of sur-replies to the Council or establishes any deadline to do so.
2. As a consequence, and with all parties in agreement with NCABC’s ability to file the enclosed sur-reply, NCABC requests the Council grant it leave to do so.
3. Counsel for GSL and the Department assent to this request.

WHEREFORE, NCABC respectfully requests this honorable Council:

- A. Grant NCABC leave to file a sur-reply; and
- B. Grant such further relief as is necessary and proper.

Respectfully submitted,

**NORTH COUNTRY ALLIANCE FOR
BALANCED CHANGE**

By Its Attorneys,

BCM Environmental & Land Law, PLLC

Dated: August 8, 2025

/s/ Amy Manzelli, Esq.
Amy Manzelli, Esq. (NH Bar No. 17128)
3 Maple Street
Concord, NH 03301
(603) 225-2585
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CERTIFICATION

I certify that, pursuant to Ec-Wst 201.01(a), on this date the foregoing was submitted in PDF format to appeals@des.nh.gov and within five (5) business days, the original and one copy will be delivered by First Class Mail to:

Waste Management Council
Attn: Appeals Clerk
Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

I also hereby certify that on this date I have sent by electronic mail copies of this Notice of Appeal, including Exhibits, to all persons listed on the service contact list.

Dated: August 8, 2025

/s/ Amy Manzelli, Esq.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT COUNCIL

Docket No. 25-08 WMC

Appeal of North Country Alliance for Balanced Change

SUR-REPLY OF NORTH COUNTRY ALLIANCE FOR BALANCED CHANGE

North Country Alliance for Balanced Change (NCABC), by its attorneys BCM Environmental & Land Law, PLLC, respectfully files this brief sur-reply to both the: (1) State's Reply to Appellant's Objection to State's Motion to Dismiss of the State of New Hampshire Department of Environmental Services ("Department"); and (2) "GSL Motion for Leave to file Reply to NCABC Objection to GSL Motion to Dismiss (including its enclosed Reply). NCABC states as follows:

1. As noted in NCABC's Objection to the State's Motion to Dismiss (§ 60), the Department's decision at issue is also being challenged before the Merrimack County Superior Court in Docket No. 217-2025-CV-00316.
2. NCABC sought intervention in that case based on its and its Members' rights and interests in the proceeding, which largely mirror the rights and interests involved in this appeal before the Council.
3. On August 5, 2025, the Court granted NCABC's Motion to Intervene, explaining that "given NCABC's longstanding involvement in the administrative process opposing the landfill, the Court finds that intervention is appropriate in this matter." *See* Order, attached as **Exhibit A**.
4. Given that the Court determined that NCABC had sufficient rights and interests involved to intervene in the Superior Court appeal, it logically follows that the Council should determine that NCABC has a direct, definite interest sufficient to maintain this appeal.

5. Notably, the nature of the dispute before the Superior Court “involves application of administrative rules related to dormancy and is not a decision based on the substance of the permit application” (*see* Order), yet the Court still granted intervention.

6. In this appeal, the controversy is much more centered on the content of the permit application and the Department’s decision, so there is an even stronger basis for the Council to determine that NCABC has a direct, definite interest involved to establish standing.

WHEREFORE, NCABC respectfully requests this honorable Council:

- A. Deny the State’s Motion to Dismiss;
- B. Deny GSL’s Motion to Dismiss; and
- C. Grant such further relief as is necessary and proper.

Respectfully submitted,

**NORTH COUNTRY ALLIANCE FOR
BALANCED CHANGE**

By Its Attorneys,

BCM Environmental & Land Law, PLLC

Dated: August 8, 2025

/s/ Amy Manzelli, Esq.
Amy Manzelli, Esq. (NH Bar No. 17128)
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Waste Management Council
Attn: Appeals Clerk
Department of Environmental Services
29 Hazen Drive

P.O. Box 95
Concord, NH 03302-0095

I also hereby certify that on this date I have sent by electronic mail copies of this Sur-reply, including Exhibits, to all persons listed on the service contact list.

Dated: August 8, 2025

/s/ Amy Manzelli, Esq.

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Granite State Landfill, LLC

v.

State of New Hampshire Department of Environmental Services

Docket No. 217-2025-CV-00316

**MOTION TO INTERVENE OF
NORTH COUNTRY ALLIANCE FOR BALANCED CHANGE**

North Country Alliance for Balanced Change (“NCABC”), by its attorneys, BCM Environmental & Land Law, PLLC, moves pursuant to Super. Ct. R. 15 to intervene in the above-referenced matter, respectfully stating as follows in support:

Introduction

1. In this action, Granite State Landfill, LLC (“GSL”) seeks to overturn a decision of the New Hampshire Department of Environmental Services (“Department”) denying GSL’s application for a Solid Waste Permit to construct a landfill in Dalton and Bethlehem, New Hampshire (“Application”).

2. In particular, GSL challenges the legality of the administrative rules the Department used as part of its rationale for its denial.

3. NCABC is a New Hampshire non-profit corporation with 501(c)(4) status that works to protect and enhance New Hampshire’s environment, especially clean water and air in New Hampshire’s North Country.

Motion to Intervene is GRANTED. Though the Court recognizes the nature of the present dispute involves application of administrative rules related to dormancy and is not a decision based on the substance of the permit application, given NCABC's longstanding involvement in the administrative process opposing the landfill, the Court finds that intervention is appropriate in this matter. So ordered.



Honorable John C. Kissinger, Jr.

EXHIBIT A

Relevant Facts and Procedure

4. NCABC is a non-profit organization that advocates for clean water, clean air, climate protection, and public health and educates residents, visitors, local officials, and others about such topics.

5. NCABC's educational efforts center on best solid waste practices, and their advocacy focuses on connecting New Hampshire's solid waste siting laws to science so that siting of new landfills and expansion of existing landfills can occur while also protecting public and environmental health.

6. NCABC has a board of directors and engages regularly with its donors, who finance NCABC's activities and guide its advocacy efforts, as well as volunteers and past board members, who also participate in the latter.

7. NCABC's board members (past and present) and donors own property and live in such close proximity to the proposed landfill that if it were constructed and operated many of them would:

- a. hear the landfill operations;
- b. experience an increase in landfill traffic in their neighborhood;
- c. draw their residential water supply from sources that stand to be contaminated by the landfill;
- d. live downwind from the landfill where they would be exposed to odors from the landfill; and
- e. suffer decreased property values.

EXHIBIT A

8. NCABC has actively engaged in the administrative process surrounding the landfill since at least 2019, submitting numerous letters to the Department, many of which were supported by experts retained by NCABC.

9. On April 3, 2025, the Department, through Michael J. Wimsatt, Director of the Waste Management Division, issued a “Denial by Dormancy of Standard Permit Application” related to the Application.

10. The Department issued the Denial on the basis that, pursuant to Env-Sw 102.65 and Env-Sw 304.06, the Application had not been completed within twelve months of the Department first notifying GSL that its Application was incomplete, rendering the application “dormant” for purposes of the rule.

11. On April 8, 2025, GSL commenced this action to challenge the legality of these administrative rules.

Standard for Intervention

12. It is well established in New Hampshire law that motions to intervene are freely granted as a matter of practice. LaMarche v. McCarthy, 158 N.H. 197, 200 (2008) (“The right of a party to intervene in pending litigation in this state has been rather freely allowed as a matter of practice”).

13. Super. Ct. R. 15 instructs that “[a]ny person shown to be interested may become a party to any civil action upon filing and service of an Appearance and pleading briefly setting forth his or her relation to the cause; or, upon motion of any party, such person may be made a party by order of court notifying him or her to appear therein.”

EXHIBIT A

14. In New Hampshire, an association has standing to represent its members in a challenge of an administrative agency's action if the association's members have been injured. Appeal of Richards, 134 N.H. 148, 156 (1991).

15. The association must have more than a mere interest in the problem and will not have standing if the alleged injury caused by the administrative agency's action(s) affects the public in general. Id.

16. In deciding whether to grant intervention, a court will assess whether the would-be intervenor has a right involved which is direct and apparent, "such as would suffer if not indeed be sacrificed were the court to deny the privilege." Snyder v. New Hampshire Sav. Bank, 134 N.H. 32, 35 (1991) (quoting R. Wiebusch, 4 New Hampshire Practice, Civil Practice and Procedure § 176, at 129-30 (1984)) (internal quotation marks omitted).

NCABC Satisfies the Standard for Intervention

17. NCABC has a right and direct interest in this matter because NCABC's board members (past and present), donors, and volunteers, live and regularly recreate near the site of the proposed landfill and will be directly affected by the proposed landfill, including negative impacts from air pollution, noise, traffic, property values, odors, and negative health and safety impacts.

18. The proposed landfill is inconsistent with the surrounding residential and scenic environment and would negatively affect the use and enjoyment of their homes and community.

19. Due to these injuries that its board members (past and present), donors, and volunteers would suffer if the landfill proceeds, NCABC has more than a mere interest in the outcome of this case.

EXHIBIT A

20. Further, because of their proximity to the proposed landfill, the effects of the landfill on NCABC's board members (past and present), donors, and volunteers will be well beyond that experienced by the general public.

21. In sum, NCABC's board members (past and present), donors, and volunteers stand to be injured by the proposed landfill, so NCABC has associational standing to represent them.

22. Intervention is further appropriate because NCABC's own interests as an organization would suffer if it were denied intervention.

23. As detailed above, NCABC is a non-profit organization advocating for environmental protection and public health—especially in the context of solid waste management—with particular focus on the North Country, including the area of the proposed landfill.

24. The relief plaintiff seeks would adversely affect NCABC's own interest in protecting the North Country and its residents from unsound solid waste practices and the ill effects associated with the proposed landfill in particular.

25. While NHDES has an interest in upholding its decision on the proposed landfill and solid waste laws generally, NCABC has a particularized interest in ensuring that the denial is upheld based on its own organizational goals and the interests of its members that would be adversely affected by the proposed landfill.

26. NCABC has been an extremely active participant in these proceedings from the outset, investing significant time and resources in its advocacy by retaining lawyers, scientists, and other experts to support its work, and its request to intervene in this case is simply a continuation of that active participation.

EXHIBIT A

Conclusion

27. For the reasons set forth above, NCABC has standing to intervene in this case, so this Motion should be granted with NCABC being permitted to participate as a full party in the proceedings.

Positions of the Parties

28. NHDES takes no position on this request.

29. Granite State Landfill objects to this request.

WHEREFORE, North Country Alliance for Balanced Change respectfully requests that this Honorable Court:

A. Grant this Motion; and

B. Grant such other and further relief as may be just and equitable.

Respectfully submitted,

**NORTH COUNTRY ALLIANCE
FOR BALANCED CHANGE**

By their Attorneys,

BCM Environmental & Land Law, PLLC

Dated: June 23, 2025

By: /s/ Amy Manzelli
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CERTIFICATION OF SERVICE

I certify that on this date, I have had a copy of this pleading forwarded to the other parties via the electronic filing system.

/s/ Amy Manzelli
Amy Manzelli, Esq.