

COLUMNS

Opinion: The coddling of Casella Waste Systems continues



by **Eliot Wessler**
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A view of the NCES landfill in Bethlehem operated by Casella Waste System's subsidiary company. Credit: File

A year and a half ago, the Concord Monitor published my **My Turn**. It said New Hampshire's Department of Environmental Services's failure to hold Casella's North Country Environmental Services accountable for its poor performance at the landfill in Bethlehem amounted to coddling by NHDES, given its own evidence that NCES had racked up more violations (by an order of magnitude) than any other landfill in New Hampshire.

Fast forward a year and a half: with much fanfare, the department recently announced a settlement whereby NCES agreed to pay \$1.9 million to settle 29 detailed counts of landfill operating violations.

If that sounds good, or at least like a good start, it really isn't. Given NHDES's authority to levy penalties up to \$25,000 per day, the 29 counts carry (by my calculation) a potential penalty of well over \$100 million. While regulators rarely assess maximum penalties, the gap between NHDES' penalty authority and the settlement amount is effectively a slap on the wrist for a company valued at \$7 billion with over \$1.5 billion in annual revenues.

Some, though not all, of the 29 counts are extremely serious, with potentially dire impacts on the health and welfare of Bethlehem residents, and thousands more relying on water supplies downgradient and downstream from NCES. For example, one violation was for "... (p)unctures of the overlay liner (that) had the potential (to) adversely affect the integrity of facility operations..." NHDES noted that it "... did not receive any notification (from NCES) of ... damage incidents and did not receive any written damage reports ... for any of the 11 overlay liner punctures." Another violation was for NH's largest ever leachate spill (over 150,000 gallons), which NCES not only failed to timely report, but worse yet failed to discover for three days.

NHDES may be patting itself on the back for negotiating the \$1.9 million penalty, but there is no reason for the people of New Hampshire to be celebrating. Rather than signaling that our state has finally taken a tough stand against Casella's poor performance, this settlement points to NHDES's continued coddling of Casella.

In other states with longer and stronger histories of enforcing compliance, one might reasonably expect that environmental regulators would shut the landfill down, concluding that a company with such violations is unfit to operate existing landfills and certainly unfit to obtain permits for any new landfills. But not here in New Hampshire.

And it gets worse — Casella is also now being coddled by the state Senate. A small group of senators proposed an amendment to HB707, which just last week squeaked by in the Senate on a 12-12 vote. This amendment could have been (and probably was) written by Casella's lobbyists as a lifeline for the company. If passed in the House, and signed by the Governor, HB707 as amended would grease the skids for Casella to both 1) keep open and expand its poorly-run NCES landfill and 2) obtain permits for it to build its proposed GSL landfill in Dalton, just five miles away from NCES.

The Senate's HB707 amendment should be a non-starter — it makes two changes to the original HB707 that are completely out of synch with both Governor Ayotte's priorities for landfill reform and New Hampshire values.

First, the amendment would put landfill siting completely in the hands of state bureaucrats, eliminating any opportunity for local control based on land-use regulations, zoning laws or even contractual agreements. This affects every community in our state, even those with closed landfills. The amendment's supporters argue this is necessary to prevent a landfill capacity crisis in our state. Their argument is out-of-touch: NHDES is on record that even if the NCES landfill closes as scheduled in two years, under the most-likely assumptions our state has enough landfill capacity for decades.

Second, it would change the membership composition of the Governor's proposed landfill Site Evaluation Committee to stack the deck in favor of landfill developers, making it much more likely that a landfill developer would be granted permits to build a completely new landfill, irrespective of the merits of the project. In addition, the Senate amendment has a baffling inconsistency: it would exempt any and all landfill expansions from SEC review despite the fact that the amendment explicitly states that landfill expansions are preferable to new landfill construction.

Fortunately, there is a way out of the mess that Casella's apologists in the Senate have created. The responsibility now lies squarely with the House to reject the Senate's HB707 amendment. And there is an important role for Governor Ayotte as well: in line with her multiple commitments to foster sensible landfill reform legislation, the Governor should make clear that she will veto any bill that includes the special-interest changes the Senate made in amending HB707.

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