



RESPONSE TO PUBLIC COMMENTS
Application for Standard Permit for
Collection/Storage/Transfer Facility
Granite State Recycling, LLC
33 B & B Lane, Weare, NH
October 10, 2018

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I. Introduction

On December 22, 2017, the New Hampshire Department of Environmental Services (NHDES) received an application from Granite State Recycling, LLC (GSR) for a standard permit to operate a solid waste collection/storage/transfer (C/S/T) facility located at 33 B & B Lane in Weare, New Hampshire. In the application, GSR proposed the following:

- Collection, storage and transfer of single stream recyclables, municipal solid waste (MSW) and construction and demolition debris (C&D);
- An average receipt rate of up to 300 tons per day;
- Receipt and sorting of all wastes inside an existing building; and
- Storage of processed wastes inside the building, and outside in trailers and covered containers.

GSR's standard permit application was accompanied by an application for a waiver of construction requirements contained in the New Hampshire Solid Waste Rules (Env-Sw 100 et seq.), specifically Env-Sw 1104, *Additional Construction Requirements*.

NHDES has approved the permit application, with conditions, and issued a solid waste permit to GSR (Permit #DES-SW-SP-18-001). NHDES determined that the rule for which GSR requested a waiver does not currently apply to the facility because GSR proposed no construction that would be subject to the rule for which the waiver was requested. Therefore, NHDES did not process the waiver application.

NHDES held a public hearing on the application in Weare, NH on June 6, 2018 and kept the public comment period/hearing record open through June 22, 2018. The public hearing was attended by over 50 individuals and NHDES received over 150 written comments. The majority of comments received at the hearing and during the public comment period were in opposition to the facility. NHDES considered these comments in evaluating whether the proposed activity meets all applicable criteria for issuance of a permit and has attempted to provide responses to all of the comments in this document.

For brevity, NHDES has summarized and consolidated individual comments that expressed similar thoughts or concerns. The information is organized and grouped as shown in the Table of Contents. The comments are shown in *underlined italic type*. The responses are shown in regular type.

Throughout this document there are many references to the NH Solid Waste Rules (Env-Sw 100 et seq.).¹ The NH Solid Waste Rules, adopted pursuant to RSA 149-M, establish provisions for all types of solid waste facilities, from transfer stations to landfills, and were developed with the express purpose to minimize risks to the environment, public health and safety by assuring

¹ The New Hampshire Solid Waste Rules (Env-Sw 100 et seq.) are available online at: <https://www.des.nh.gov/organization/commissioner/legal/rules/index.htm#solid>.

proper management of solid waste. Relative to permit decisions, the Solid Waste Rules provide the criteria by which permits shall be granted or denied. Review of GSR's permit application proceeded according to these rules and is documented in the Permit Application Review Summary, issued concurrently with the Permit and this response to comments. The approved permit and associated documentation are available online via NHDES' OneStop Data and Information retrieval system at <https://www.des.nh.gov/onestop/index.htm>.

Where applicable in the responses below, NHDES has noted Solid Waste Rule and Permit requirements that relate to the subject of individual comments. NHDES has also noted, where applicable, when comments expressed concerns regarding subjects that are outside of the purview of NHDES' solid waste permitting authority.

II. Permitting & Design

1. Type of Facility

- a. Several commenters expressed concern that the proposed facility is a disposal/dump site or treatment facility.

GSR did not request, nor does the permit authorize, disposal or treatment of waste at the facility. The permit authorizes GSR to operate a solid waste collection, storage and transfer (C/S/T) facility where waste will be collected, sorted, consolidated, temporarily stored, and then transferred to other authorized facilities.

- b. Several commenters inquired whether the facility would be run by a public or private entity.

The facility is owned and operated by GSR, a privately-owned limited liability company.

- c. One commenter expressed concern that the facility would be able to receive waste from anywhere within the state or out-of-state. Another commenter stated that encouraging the importation of tons of waste is an unsustainable proposition.

The United States Constitution and interstate commerce law prohibit states from restricting transfer of waste across state borders. Thus, NHDES does not have the authority to prohibit the importation of waste into NH and has approved GSR's request to accept waste from an unlimited service area. This means that the facility may receive authorized waste from any source, regardless of geographic location (including out-of-state) or generator type (e.g., residential, commercial).

Relative to the concern that NHDES encourages an unsustainable importation of waste, the NH Solid Waste Rules, specifically Env-Sw 405.04, do place limits on the amount of waste that a C/S/T facility can transfer to a NH disposal facility (landfill or incinerator). In

accordance with this provision, the permit issued to GSR requires the facility to send no more waste to New Hampshire disposal facilities than it receives from New Hampshire generators (see Permit Conditions (9) and (17)).

2. Waste Type Receipt/Acceptance

a. Numerous commenters raised concerns about acceptance of hazardous or toxic wastes, biohazardous waste, or industrial waste at GSR's facility.

Permit Condition (14) only authorizes GSR to receive select recyclables, municipal solid waste, and construction and demolition debris; the specific composition of these waste types are defined in Env-Sw 100. NHDES determined that the facility can accept these wastes and comply with solid waste regulations. For clarification, Permit Condition (14) also includes a list of wastes that the solid waste permit does not authorize GSR to accept.

NHDES notes that most terms used to describe waste in NH Solid Waste Rules and permits have specific definitions. Some commonly used terms such as "toxic waste" and "biohazardous waste" are not defined types of waste used in solid waste permit evaluations. We do have similar terms including "hazardous waste" and "infectious waste," which are defined in Env-Sw 100. GSR did not request, nor does the solid waste permit authorize, receipt of hazardous waste or infectious waste.

b. A few commenters expressed concern about GSR's intention to receive construction and demolition debris (C&D), asserting that C&D waste may contain potentially hazardous contaminants including asbestos or lead.

The permit issued by NHDES does not authorize GSR to accept asbestos waste or hazardous waste. The permit does authorize GSR to accept C&D waste and NHDES acknowledges that C&D waste has the potential to contain asbestos or lead-based paints. The NH Solid Waste Rules, facility permit, and facility operating plan include measures to prevent acceptance of unauthorized wastes at a solid waste facility. For example, regular inspection of wastes is a requirement of Env-Sw 1005.02(b) and Env-Sw 1105.09(b). To further assure compliance with the facility's authorized waste list identified in Permit Condition (14), Permit Condition (18)(h) requires GSR to revise its operating plan to include the waste load rejection procedures proposed in its application, and Permit Condition (18)(g) requires GSR's waste acceptance and rejection procedures to include waste profiling. Both of these provisions will assist in precluding the acceptance of asbestos waste, hazardous waste or other unauthorized wastes. NHDES recognizes that, while these measures may minimize acceptance of unauthorized wastes, they do not guarantee that no such waste will ever be received by a solid waste facility. As such, the facility's operating plan also contains contingency plans in the event that an unauthorized waste is received by the facility.

3. Waste Handling Procedures

- a. The applicant indicated to the Weare Conservation Commission that all waste sorting and storing activity would be conducted indoors and solid waste would be shipped within 48 hrs. Is this still the case with the current proposal?

The permit requires that all waste sorting activities occur inside the building. The permit authorizes storage of wastes inside the building as well as outside under cover (e.g. in enclosed trailers or covered containers).

The NH Solid Waste Rules prohibit storage of a waste for a period of time which results in a condition that adversely affects the environment, public health or safety. Env-Sw 405.03 states that a putrescible waste (e.g., MSW) shall be removed from the facility within one week of receipt, unless otherwise specified in the facility Operating Plan. GSR's Operating Plan states that trailer loads of baled recyclables or MSW will typically stay at the facility up to 24 hours, and on occasion may be stored up to 72 hours depending on weekend/holiday variability. Containers holding C&D loads may be stored outside up to one week and will remain covered while awaiting transport.

4. Facility Features

- a. Perimeter fencing is absent. Fencing at solid waste sites is advisable because it provides security and prevents stray litter from being transported to abutting properties.

Perimeter fencing is required to restrict unauthorized access in accordance with Solid Waste Rule Env-Sw 1103.03, *Access Control*, unless:

- Natural site features (e.g., thick vegetation, terrain, surface waters) restrict unauthorized access to the site; or
- All waste handling, storage and disposal areas at the facility are wholly contained within locked structures or devices when the facility operator is not present.

Because GSR's application was not clear about how access control will be provided in compliance with Env-Sw 1103.03, Permit Condition (6)(c) requires GSR to address access control.

The NH Solid Waste Rules also address windblown litter. Env-Sw 1005.01, *General Operating Requirements*, specifically Env-Sw 1005.01(d)(2), requires a facility to be operated and maintained in a manner that controls litter to the greatest extent practicable. GSR will be required to control windblown litter by tipping and handling waste inside the building, using closed containers when storing waste outside, and having GSR personnel

inspect for and, if observed, pick up windblown materials. See Section III for additional information regarding controlling litter, odor, noise, etc.

- b. One commenter stated that the septic system may need to be enlarged to accommodate the anticipated number of employees.

Env-Sw 404.03, *Design Features and Appurtenances*, specifically Env-Sw 404.03(a)(12), requires a C/S/T facility to have sanitation facilities available for facility operators. A septic system is depicted on the site plans submitted by GSR and NHDES records indicate that the State approved this system on November 20, 1986 for 500 gallons per day (approval #141473). Based upon this information, NHDES determined that GSR has fulfilled the requirement to provide sanitation facilities for facility operators. NHDES did not evaluate the condition or adequacy of the septic system during review of the permit application. It is the responsibility of the property owner to use and maintain the septic system in accordance with the system approval(s) issued by NHDES' Subsurface Systems Bureau.

5. Public Health and Safety

- a. A number of commenters expressed concern that this facility would pose a threat to public health and safety because of the potential for contamination from wastes handled at the facility. A few commenters further asserted that approving a permit for this facility would contradict NHDES' mission "to help sustain a high quality of life for all citizens by protecting and restoring the environment and public health in New Hampshire." One commenter stated that the application fails to adequately protect public health as required by RSA 149-M:1.

NHDES agrees that solid waste, if mismanaged, can pose a danger to public health, safety, and the environment. It is one of NHDES' responsibilities to regulate management of solid waste to minimize these risks. One of the ways in which NHDES fulfills this responsibility is to administer the NH Solid Waste Rules and the permitting system under which GSR is regulated. The NH Solid Waste Rules include specific siting, design and operating requirements for C/S/T facilities and NHDES takes seriously its responsibility to administer and enforce these rules.

6. Applicant Qualifications and Integrity

- a. Some commenters noted that the company has been operating a solid waste facility at the site without the required permit, suggesting a high probability of future compliance problems.

On December 12, 2017, NHDES issued Letter of Deficiency No. WMD 17-260 to GSR notifying the business of its non-compliance and requesting that it take specific action to

address the deficiency of operating without a permit. In the letter, NHDES requested that GSR submit an application for a standard permit. GSR submitted the requested permit application on December 22, 2017 and has complied with all of NHDES' requested actions to date. GSR's ongoing cooperation with NHDES' requests has demonstrated a willingness to comply with the NH Solid Waste Rules.

In addition, the permit application process requires an applicant to undergo a performance history review, including a background investigation conducted by the New Hampshire Department of Justice (NHDOJ) to implement the requirements of RSA 149-M:9, III and IX. The results of GSR's background investigation provided no basis for denial of the requested permit pursuant to RSA 149-M:9, IX.

b. GSR is registered with the New Hampshire Secretary of State as a rental company, not a company that has experience dealing with toxic wastes.

NHDES agrees that GSR's business type registration with the Secretary of State, by itself, would not be sufficient to demonstrate eligibility for a solid waste permit. However, NHDES' evaluation/determination was based on the permit application and NHDES' interactions with GSR. As noted in response to comment II.6.a, GSR's performance history review revealed no basis for denial due to lack of sufficient reliability, expertise, integrity or competence to operate the proposed facility.

In addition, the NH Solid Waste Rules require all employees who are engaged in the handling or management of solid waste (including supervisors and operators) to be trained and certified pursuant to Env-Sw 1600. The purpose of solid waste operator training is to: (1) ensure that facility operators are aware of the potential adverse impacts of solid waste facility operations and the requirements that apply to those operations; (2) increase the likelihood that solid waste facilities are operated in compliance with applicable requirements; and (3) reduce the likelihood of accidents or other threats to health and safety. Certification must be renewed annually and includes a continuing education component. Additionally, GSR is required by Env-Sw 1005.07 to staff the facility with persons who are qualified to operate it in accordance with the Solid Waste Rules and permit, and to have at least one certified principal operator present at the facility during operation. As part of the facility's approved operating plan, GSR also must implement an employee training program.

c. The applicant has not demonstrated ownership or a right to occupy the site.

GSR certified ownership of the facility property in the signature section of the application form, and a Town of Weare tax card dated August 17, 2018 states that Granite State Recycling, LLC is the owner of the parcel at 33 B & B Lane.

7. Public Comment Process

- a. Several commenters expressed dissatisfaction with NHDES' public comment process, stating that notices or other information were not circulated widely enough and that all residents of Weare should have been directly notified. Some commenters expressed concern that this proposed facility may affect other communities besides the Town of Weare. Other commenters requested that an additional public hearing be set up so that all residents of Weare and neighboring towns might have the opportunity to attend.

The requirements for notice of filing and opportunity for public comment are contained in the NH Solid Waste Rules, specifically Env-Sw 303, *Filing Provisions for Applications, Registrations, and Reports*, and Env-Sw 304, *Application Review*, as well as the Solid Waste Management Act, specifically RSA 149-M:9,VIII and RSA 149-M:11,IV(a). In consideration of the concerns expressed by these comments, NHDES reviewed the applicable public hearing notice procedures and determined that all requirements were followed. In addition, NHDES extended the comment period and took additional measures to notify interested parties of the extension. The Permit Application Review Summary contains a detailed description of the public hearing and comment procedures that were followed.

While NHDES endeavors to be inclusive in its efforts to solicit public input during standard permit application processing, we recognize those efforts may never fully satisfy all interested parties. Based on the well-attended hearing and the many written comments received on a broad range of issues surrounding this application, NHDES is confident that the public participation process for this particular application was inclusive and enabled NHDES to make a thorough and thoughtful review of the application.

- b. A few commenters wrote that they were unable to access the application documents using the OneStop system and requested that the comment period be extended to provide more time for people to access the information and provide comment.

In response to this concern, NHDES extended the public comment period by an additional week, from June 13 to June 22, 2018. The technical issue that caused the OneStop system to be temporarily unavailable was resolved by June 13, 2018.

- c. A few commenters stated that the public hearing process should involve a town vote.

The NH Solid Waste Rules and Solid Waste Management Act (RSA 149-M) do not require a public vote to be part of the public hearing process and NHDES has no authority to compel a town vote. The results of such a referendum would not change the basis on which NHDES must make its decisions for issuance or denial of permit applications, that is, NHDES must

base its decision on whether the application meets applicable requirements in the rules and statute. Toward that end, NHDES carefully reviewed and considered the specific concerns expressed by the public in order to better inform its review and evaluation of the application.

8. Waiver Application

a. The request for a waiver under Env-Sw 1104 is not acceptable.

NHDES did not process GSR's application for waiver of the construction requirements in Env-Sw 1104, *Additional Construction Requirements*. NHDES determined that GSR's application did not include any plans for construction that would be subject to Env-Sw 1104 and, therefore, a waiver was not necessary.

9. Inconsistencies Between Application and Prior Local Approval

a. Many commenters noted that the site plan included with the application to NHDES was different from the change of use site plan approved by the Weare Planning Board. Moreover, several commenters indicated that the scope of GSR's proposal to NHDES deviates from and/or exceeds what was approved by the Weare Planning Board. Further, one commenter noted that the Planning Board approved the change of use for H2O Waste Disposal & Marty Co. Dumpsters, not Granite State Recycling.

NHDES notes that several commenters identified inconsistencies between the content of GSR's solid waste facility permit application as presented to NHDES and the site plan previously presented to and approved by the Weare Planning Board. NHDES' evaluation was based upon the content of GSR's permit application and is independent of local approvals. Therefore, NHDES' review of the permit application did not include an evaluation of whether GSR has received requisite local approvals, or whether the application presented to NHDES is consistent with local requirements.

As stated in GSR's permit, and all solid waste facility permits issued by NHDES, an approval granted by NHDES does not eliminate the permittee's obligation to obtain all requisite federal, state, or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, approvals or conditions pertaining to the approved activity.

b. Several commenters stated that GSR has not been honest or transparent about its intentions while seeking approval from local governing bodies.

NHDES has not participated in any local approval processes relative to this facility, and has no comment on any real or perceived deficiencies about the manner in which local approvals were obtained. See also response to comment II.6.a.

- c. In consideration of inconsistencies between the change of use approval by the Town of Weare and the proposal in GSR's application to NHDES, the Town of Weare requested that NHDES take one of the following actions: (1) approve the permit with a condition that the applicant secure approval of a revised site plan from the Town; (2) decline to act on the permit application unless and until the applicant secures approval of a revised site plan from the Town; or (3) deny the permit application without prejudice to reapply if and only if the applicant secures approval of a revised site plan from the Town.

As noted in the response to comment II.9.a above, a permit approval by NHDES does not eliminate the permittee's obligation to obtain requisite local approvals and comply with local requirements. NHDES did not make any changes to its decision-making process or the approved permit in consideration of this request.

- d. Where an applicant has first obtained local government approval for a project, any subsequent application to the state for permission to undertake that project must be consistent with the local approval conditions. Approval by NHDES of this permit application would have NHDES in effect aiding the applicant in violating the change of use conditions set by the Weare Planning Board. The application cannot be approved; NHDES lacks the legal authority to approve a permit application which changes, or indeed facilitates changes to the terms and conditions of a site plan approved by the local planning board.

NHDES agrees with the assertions that the solid waste permit issued to GSR does not change or facilitate changes to the terms and conditions of the site plan approved by the local planning board. However, NHDES does not agree that the permit issued to GSR must be consistent with local approval, nor does NHDES agree that the permit issued to GSR aids the applicant in violating local approvals or facilitates any related changes. As noted in the response to comment II.9.a above, an approval granted by NHDES does not eliminate the permittee's obligation to obtain all requisite federal, state, or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, approvals or conditions pertaining to the approved activity. To the extent that there may be differences between the State-issued solid waste facility permit and the local site plan approval, GSR must determine how it will comply with both approvals.

- e. A few commenters noted that the hours of operation requested in the application should not be granted. When the Sawyer Industrial Park was established by the Town, the approved operating hours were 7 am – 5 pm.

NHDES did not approve GSR's requested operating hours of 5 a.m. to 10 p.m. However, this determination was made based on the NH Solid Waste Rules, not local requirements for hours of operation of the Sawyer Industrial Park.

The NH Solid Waste Rules address the hours during which a solid waste facility may conduct routine operations. Pursuant to Env-Sw 1105.08, *Hours of Operation*, all active and routine facility operations shall occur between 6 a.m. and 6 p.m. under normal non-emergency conditions. The permittee may request approval from NHDES for regular operating hours outside of the normal 6 a.m. to 6 p.m. window if a demonstration is made pursuant to Env-Sw 1105.08(b). Since GSR's application made no such demonstration, Permit Condition (11) was added to specify that the facility shall limit routine operational activities to occur within the normal 6 a.m. to 6 p.m. window.

- f. *The applicant seeks to accept white goods, which may contain toxic or hazardous materials such as PCB's or CFC's. These materials are prohibited in the aquifer protection zone.*

NHDES did not approve GSR's request to accept white goods. However, this determination was made based on the NH Solid Waste Rules, not local aquifer protection zone requirements.

The NH Solid Waste Rules address management of white goods under Env-Sw 405, *Operating Requirements*, specifically Env-Sw 405.02(f) and (g). However, GSR's operating plan did not contain provisions to address these requirements. As such, NHDES did not approve white goods as an authorized waste at the facility. See Permit Condition (14) for a list of authorized and unauthorized wastes.

10. Size/Capacity of Facility

- a. *Several commenters expressed concern that the requested facility capacity is grossly out of proportion for the existing site and facility. One commenter noted that the application contains no analysis that would support the facility's ability to process the requested 300 tons per day (tpd).*

Approved design capacity, as defined by Env-Sw 102.09, is one of several factors used in the NH Solid Waste Rules to define the size of a facility. The actual rate at which a transfer station can manage waste depends on a number of different factors – each of which will exert control over the facility's throughput rate. For example, the throughput rate may be limited on any given day by the waste processing method, or by the available onsite storage capacity. Regardless of the approved design capacity of the facility, the operations must comply with all handling and storage requirements in Env-Sw 404.04, *Waste Handling and Storage Area Design Requirements*, and Env-Sw 405.02, *Collection and Storage*

Requirements. GSR submitted the necessary documentation for NHDES to determine that the facility can be designed, operated and closed in compliance with the Solid Waste Rules. GSR's Permit limits approved design capacity to 1,800 tons per week, determined as the average weekly tonnage received at the facility during any calendar quarter; and approved storage capacity to 1,600 cubic yards (see Permit Condition (10)).

b. *If it will take GSR seven years to get to 300 tpd, why apply for a permit for 300 tpd now?*

It is not unusual for an owner to seek a permit that allows for growth over time and NHDES does not dictate how long it must take for a transfer station to reach its approved design capacity. GSR will be required to comply with all applicable solid waste requirements regardless of how long it takes to reach full design capacity.

c. *The projected capacity of 300 tons per day does not specify an estimated breakdown by weight among the waste types.*

This information was not necessary for NHDES to evaluate GSR's proposal and the NH Solid Waste Rules do not require this information to be provided in the application for a standard permit.

d. *The application (Section II(7) – page 3 of 20) fails to comply with Env-Sw 404.04 (C/S/T Waste Handling and Storage Area Design Requirements). The application fails to demonstrate that the proposed storage capacity (measured in cubic yards) is adequate to handle the proposed collection rate (measured in tons).*

NHDES reviewed the application relative to Env-Sw 404.04, *Waste Handling and Storage Area Design Requirements* (see the Permit Application Review Summary), and found that all provisions of this rule were satisfied, with the exception of Env-Sw 404.04(c), relative to signage, for which compensating Permit Condition (6)(b) was added to the permit.

NHDES agrees that the application does not include a specific demonstration that the proposed storage capacity is adequate to handle the proposed collection rate. However, NHDES has determined that such an analysis was not required. As noted in the response to comment II.10.a above, GSR will be required to comply with all throughput, handling and storage requirements, any one of which may be the limiting factor at any given time.

11. Financial Assurance

a. *Financial assurance has not been demonstrated.*

GSR submitted a financial assurance plan as required by Env-Sw 314, *Standard Facility Permitting Provisions*, and Env-Sw 1400, *Financial Assurance*. The financial assurance plan includes an irrevocable letter of credit naming the State of New Hampshire as beneficiary to guarantee the cost of closing the facility, should GSR default on its obligation to properly close the facility when required to do so. As specified in Permit Conditions (7) and (20), GSR is required to finalize its financial assurance plan within 60 days of the permit effective date, and before the facility may accept MSW or C&D.

- b. *Given questions about the property title and uncertainties about the applicant's compliance background, I request that you take particular care to establish an adequate and enforceable performance guarantee.*

NHDES has numerous enforcement mechanisms at its disposal to assure compliance with solid waste regulations. In addition, the NH Solid Waste Rules contain provisions to ensure that resources are available to close a facility if the owner defaults on its obligations (see discussion regarding financial assurance in II.11.a, above). NHDES has included provisions in the permit requiring GSR to fulfill these financial assurance obligations.

Additional information regarding NHDES's compliance assurance authority and options is provided in NHDES's Compliance Assurance Response Policy, available at <https://www.des.nh.gov/organization/commissioner/legal/carp/index.htm>.

- c. *Pursuant to RSA 149-M:9,X(a), NHDES should condition application approval on a bond sufficient to cover the estimated worst-case cost of cleaning up the aquifer in the event of a spill.*

The NH Solid Waste Rules require financial assurance to guarantee the cost of properly closing a facility; they do not require a permittee to provide financial assurance for the cost of potential corrective action. However, in the event that corrective action is needed, the permittee is responsible for such action by law and there are legal mechanisms for enforcement if required. For additional information about contingencies, refer to the response to comment IV.22.a.

12. Environmental Studies/Baseline Data

- a. *A few commenters suggested that environmental impact studies be conducted to determine what impacts the facility might have on water, wildlife and residents. One commenter noted a lack of baseline data on current soil and water conditions, and stated that it would be advisable to require submission of such data given the site's previous use as a metals fabrication facility.*

The NH Solid Waste Rules do not require an environmental impact study or soil and water sampling as part of a solid waste facility permit application. However, the application content does include a Site Report pursuant to Env-Sw 314.10, *Site Report*. The Site Report must contain certain information including a discussion of any known or suspected conditions at the site which are or should be of environmental, public health or safety concern. GSR's Site Report identified past groundwater impacts at the site related to mulch processing activities at an abutting property. NHDES responded to those impacts at the time of their occurrence, and required remedial actions to resolve the issue. GSR's Site Report did not identify any current environmental concerns that would preclude approval of the permit.

Env-Sw 314.10, *Site Report*, also requires the Site Report to include a narrative discussion of the proposed facility's proximity to and impact on sensitive environments such as wetlands, habitats for endangered or threatened wildlife, designated rivers, other surface waters, and water supplies. Based on the information in the Site Report, the facility is not located within a setback to a known sensitive environment.

After the public hearing, where concerns about drinking water quality were raised, GSR submitted analytical data from well water testing conducted at 33 B & B Lane in 2017 and 2018. This data is available via the NHDES OneStop system (available at: <https://www.des.nh.gov/onestop/index.htm>) by searching GSR's facility record.

13. Monitoring, Compliance and Enforcement

- a. Some commenters asked who would be responsible for monitoring GSR to assure they are operating in compliance. Several commenters expressed concern that NHDES may not have the resources to frequently monitor and inspect activities at the facility, while others assumed there would be little or no oversight of the facility, leaving GSR to self-audit.

NHDES assures facility compliance by various means, including unannounced inspections, random audits, and review of compliance monitoring and reporting information submitted to NHDES by the Permittee. NHDES also believes that effective training is a key component of compliance assurance and, through its solid waste operator certification program, provides regular training to assist operators in running a compliant facility (see response to comment II.6.b).

- b. A few commenters inquired whether routine water and soil testing would be required at this facility. One commenter noted that the applicant had indicated to the Weare Conservation Commission that he would be willing to conduct ongoing water quality monitoring at the site, and inquired if this is also being considered as part of NHDES' permit decision.

The NH Solid Waste Rules do not require the permittee of a C/S/T facility to conduct regular soil or water testing, and NHDES has not required such monitoring as a condition of the Permit. However, GSR's offer to conduct regular testing of the on-site drinking water supply well is consistent with NHDES' recommendation that all private well owners conduct regular water quality testing. A fact sheet on water quality testing is available on the NHDES website at:

<https://www.des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-2-1.pdf>

- c. One individual expressed concern that local authorities lack the knowledge, experience or capacity to regulate a facility of this nature.

NHDES does have the knowledge, experience and capacity to regulate a facility of this nature and is responsible for enforcing the State requirements pertaining to this solid waste facility. NHDES routinely provides local authorities notification of its actions pertaining to solid waste facilities in their town. NHDES will make every effort to respond to requests for information from the Town of Weare regarding State regulation of GSR as a permitted solid waste facility.

III. Impacts to Surrounding Areas

14. Odors

- a. Several commenters expressed concern that this facility will produce odors that would impact surrounding residences and businesses.

NHDES acknowledges that almost any facility which handles solid waste has the potential to be a source of odors. The NH Solid Waste Rules require that solid waste facilities be operated and maintained in a manner that controls odors to the greatest extent practicable (see Env-Sw 1005.01, *General Operating Requirements*, specifically Env-Sw 1005.01(d)). Odor control measures proposed by GSR include receiving and handling waste inside the building, limiting the length of time waste is stored following receipt, and applying odor suppressants if a temporary odor issue arises. To clarify that these odor control measures are required, NHDES has included Permit Condition (18)(m) requiring GSR to address use of odor suppressants in the facility's operating plan.

If anyone notices objectionable odors from the facility, NHDES recommends that they report the problem directly and promptly to GSR so that GSR can take measures to control the odors. If GSR receives complaints of recurring or persistent nuisances such as odor, noise, litter, etc., Env-Sw 1005.09(d) requires GSR to provide a written report to NHDES which describes the nature of the complaint(s) and GSR's response actions.

If anyone believes that GSR is not responding appropriately to their reports of nuisances, please contact the NHDES Solid Waste Management Bureau at (603) 271-2925.

15. Noise

- a. Many commenters expressed concern that noise from facility operations and/or incoming/outgoing traffic would degrade the quality of life for surrounding residences or cause harm to wildlife. Several commenters noted that road noise is already a nuisance and that this facility would exacerbate the issue.

In addition to controlling odor as described in response to comment III.14.a above, GSR is required to operate and maintain the facility in a manner that controls a number of other issues potentially associated with solid waste management facilities, including noise. The same requirement to control, report and respond to odors also applies to noise and the other issues listed in Env-Sw 1005.01(d).

Please note that these solid waste facility requirements pertain solely to on-site operations. NHDES recognizes that there is public concern about increased noise resulting from traffic over public roads, but this issue is not within the scope of NHDES' permitting authority. See also response to comment III.17.a.

16. Vectors

- a. A few commenters expressed concern that facility operations would attract rodents or other forms of wildlife like vultures and bears.

As noted in response to comment III.14.a., the same requirement to control, report and respond to odors also applies to vectors and the other issues listed in Env-Sw 1005.01(d). Measures GSR is required to use to control vectors (e.g., rodents) include tipping and processing waste indoors only, complying with waste storage time limitations, performing regular inspections of facility conditions, and, if vector issues do arise, retaining a pest-control service.

17. Traffic/Transportation

- a. Numerous commenters expressed concerns about the quantity and nature of traffic that would be associated with this facility. A number of commenters asked how much this facility is expected to increase truck traffic. Other commenters indicated that the volume of traffic in the area has been a growing issue, and that this facility will exacerbate congestion, increase safety hazards, accelerate damage to state and local roads, and decrease residents' general quality of life. One commenter cited a planning commission study stating that major transportation routes in the area (Routes 77 and 114) are already at or over capacity.

The extent to which NHDES regulates traffic is limited to facility entry/exit points and on-site traffic flow (see Env-Sw 1004.02, *Roads and Traffic Control*, and Env-Sw 1005.03, *Traffic Management*).

Env-Sw 1004.02(a) states that “[t]he design of the facility as it relates to the management of traffic on roads leading to and from the facility’s entrance and exit points shall meet all applicable local standards if the roads are municipal streets...” Accordingly, as the GSR facility is located on a municipal street, the design of its entrance and exit points must meet all applicable local standards. NHDES has no information indicating that the design of the facility relative to its entrance and exit points does not meet applicable local standards (e.g., ordinances).

Env-Sw 1005.03(a) states that “[f]acility operations shall be conducted in a manner that shall not allow incoming or exiting vehicles to obstruct the safe passage of traffic on any public road leading to and from the facility.” That is, trucks may not queue on public roads while waiting for access to the facility. This means that a facility must provide adequate queuing area on-site and keep vehicles moving to avoid bottle neck conditions.

Beyond the requirements described above, NHDES does not regulate traffic, traffic safety or transportation of solid waste on public roads. These issues are regulated in part by local government, the New Hampshire Department of Transportation, and the US Department of Transportation, with enforcement provided by local law enforcement and the New Hampshire Department of Safety.

- b. Many commenters noted concerns about the possibility of trucks leaking or spilling liquids while transporting waste to and from the facility. One commenter stated that no provision is made as to the means by which waste will be transferred into and out of the facility and that methods of transport may result in litter, odors and may contribute to unsanitary conditions.

As noted in the response to comment III.17.a above, the New Hampshire Department of Safety is responsible for enforcement of transportation and safety requirements on public roads. As required by RSA 266:72, *Spillage of Material*, any vehicle must be constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom. In the event that a waste transport vehicle leaks or causes a spill, it would be within the authority of local law enforcement and/or state police to respond.

- c. Several commenters stated that it would be inappropriate to site a collection/storage/transfer facility at the proposed location because the only access is via residential neighborhoods. A few commenters stated that it would be better to site this type

of facility near major transportation arteries designed to accommodate heavy traffic. A few commenters asked about the need for traffic studies to assess the facility's impact on roadway capacity. One commenter stated that the application does not contain information about potential offsite infrastructure improvements or sufficient data to allow NHDES to determine whether the applicant's proposed activity will exceed the design capacity of the relevant roads. One commenter suggested that the permit be conditioned on the presentation of evidence that the design capacity of affected roads will not be exceeded by the additional traffic related to the facility's operations.

The NH Solid Waste Rules under which GSR's permit was issued do not include provisions for NHDES to dictate transportation routes to/from the facility or to require public infrastructure improvements. The use, maintenance, and improvements of local and state roads are not within the jurisdiction of NHDES. Therefore, a study of off-site traffic impacts, or an assessment of the need for potential infrastructure improvements, were not required or performed as part of the NHDES' evaluation of GSR's permit application. Typically, such studies or assessments are associated with matters that come before the entities (e.g., local government, state transportation departments, federal highway administration) that do exercise control over roadway use, maintenance and improvements.

18. Air Quality

- a. Several commenters expressed concern about potential negative impacts to air quality associated with increased truck emissions, and that these emissions will affect the quality of life for those who reside along transportation routes leading to B & B Lane, such as Route 77, Route 114 and Gould Road. A few commenters cited that diesel fumes are carcinogenic.

NHDES regulates emissions from mobile sources (i.e., motor vehicles) pursuant to Env-A 1100, *Prevention, Abatement, And Control of Mobile Source Air Pollution*, which requires motor vehicles to maintain emission control equipment and also places limitations on vehicle idling times. In addition to these state-level requirements, air emissions from vehicles are also regulated at the federal level (See Code of Federal Regulations, 40 CFR Parts 59, 80, 85 and 86). Additional information regarding motor vehicles and toxic air pollutants is available on the NHDES website at:

<https://www.des.nh.gov/organization/commissioner/pip/factsheets/ard/documents/ard-5.pdf>

While vehicle emissions are regulated by other NHDES programs and other agencies, NHDES' determination was made based on the NH Solid Waste Rules, which do not include any vehicle air emission limitations. Therefore, NHDES did not evaluate vehicle air emissions when reviewing GSR's solid waste permit application or include any related conditions in the solid waste permit.

- b. One commenter expressed concern about air pollution if there is a waste incinerator at the facility.

GSR did not propose, nor does the solid waste permit authorize, any waste incineration at the facility. As noted in the response to comment II.1.a, GSR is permitted as a C/S/T facility for the collection, storage and transfer of wastes.

19. Impacts to Rural Character, Property Values & Businesses

- a. Numerous commenters expressed concern that this type of facility would negatively impact the quiet, rural character of the local area. Several commenters asserted that the existence of this facility will decrease property values in the surrounding neighborhoods. One commenter expressed concern that this facility may have negative impacts on nearby businesses.

The character of a community and property values depend on many factors. However, evaluating or attempting to control community character or property values are not within the scope of NHDES' permitting authority. Therefore, GSR's effect on community character or property values was not considered as part of NHDES' evaluation of the application. Likewise, consideration of potential impacts to local businesses is not within the scope of NHDES' evaluation or decision-making authority.

- b. A few commenters expressed concerns that the Town of Weare may have been selected for this facility because it is a rural area with a lower population and socio-economic profile. Another commenter stated that the Proposal seems to be an unjust burden on Weare citizens who have clearly voiced their opposition to the facility.

NHDES did not participate in selecting the proposed location of the facility and did not review or approve GSR's reasons for selecting the location for its business. NHDES' review of GSR's application relative to location was limited to whether the facility met applicable siting requirements in the NH Solid Waste Rules. NHDES determined that the facility does meet those siting requirements, as documented in the Permit Application Review Summary available online via the NHDES OneStop system.

IV. Groundwater, Surface Water and Wetlands Protection

20. Groundwater/Aquifer protection

- a. One commenter stated that there seems to be a lack of interest from NHDES in protecting groundwater. Many commenters expressed concern about the proposed facility's location on excessively-drained soils over an aquifer that provides drinking water for the local community. These comments highlighted concerns about contaminants leaching into the

aquifer from wastes handled and stored at the facility. Some commenters asserted that the large volume of waste that GSR intends to receive will drastically increase the likelihood of spills/releases resulting in groundwater contamination. One commenter recommended that GSR provide a hydrogeological study establishing sufficient methods of protecting the aquifer.

Protection of natural resources such as groundwater, surface water and soil, is a high priority for NHDES. NHDES has multiple programs and regulations targeted at protecting natural resources. NHDES acknowledges that solid waste, if not properly managed, has the potential to impact natural resources. The NH Solid Waste Rules, against which NHDES evaluated GSR's application, include multiple provisions with the direct purpose of protecting natural resources including groundwater, surface water, and soil. Some examples of these requirements include:

- Env-Sw 404.03(a)(7) requires a C/S/T facility design to incorporate a closed drainage system or functionally equivalent operating system to manage the discharge of liquids, if any, from waste handling and storage areas and from equipment cleaning area(s);
- Env-Sw 404.04(j) requires that municipal solid waste, including refuse, not be collected or stored on the ground; and
- Env-Sw 404.05(h) requires that wastes which exhibit a characteristic that has the potential to cause groundwater or surface water contamination be stockpiled in a manner so as to prevent the contamination.

Some measures that GSR is required to use to comply with these requirements include sorting waste inside the building over an impervious floor, and storing wastes either inside the building or, if outside, in covered containers. Other operational controls in GSR's permit to limit the potential for releases to groundwater include, for example, a prohibition on receipt of liquid waste, no floor drains inside the building leading to the septic system or other outside discharge points, spill control and clean up measures inside the building that do not allow discharges from the tipping floor, and contingency plans for promptly responding to and cleaning up spills or leaks when they occur.

The above-noted requirements are not dependent on the results of a hydrogeological study. They apply to any C/S/T solid waste facility regardless of where the facility is located, or local hydrogeological conditions. Therefore, NHDES evaluated GSR's application to ensure that the facility could be sited and operated in compliance with the natural resource protective measures contained in the NH Solid Waste Rules.

- b. A few commenters objected to having this facility on B & B Lane, citing a history of impacts on water quality from existing activities in the industrial park (e.g., Haynes Mulch).

NHDES has responded to the groundwater impacts in the vicinity of 33 B & B Lane resulting from mulch processing activities at an abutting property. As stated in the response to comment II.12.a, remedial actions were taken to resolve the issue and NHDES is not requiring further action or use restrictions at this time. Records regarding this issue are available online via the NHDES' OneStop system (available at: <https://www.des.nh.gov/onestop/index.htm>) by searching for groundwater discharge sites.

- c. Sealing the building floor will not achieve the desired result because it does not provide a system for the collection, treatment and disposal of the liquids that are carried into the building.

As noted in the response to comment IV.20.a, Env-Sw 404.03(a)(7) requires a C/S/T facility to be designed with a closed drainage system or functionally equivalent operating system to manage the discharge of liquids that may occur in waste handling, storage and equipment cleaning areas. GSR proposed to comply with this requirement by managing waste inside a building on an impervious concrete floor with rubber berms across all doorways and using speedi-dri, or similar material, to absorb excess liquid, if necessary. NHDES has determined that these features and procedures are functionally equivalent to having a closed drainage system, and therefore meet the requirement of the applicable rule.

- d. Many commenters objected to the storage of waste outside the building in dumpsters. One commenter also noted that the dumpster storage location depicted on the site plan prepared by GeoInsight in the permit application is abutting the 75 foot well protection radius for the property's drilled well.

NHDES acknowledges that improper storage of some waste types can cause problems, including contributing to groundwater contamination. The NH Solid Waste Rules require that waste be managed in a manner that controls the production of leachate to the greatest extent practicable and also prohibit storage or handling of waste directly on the ground surface. GSR proposed to comply with these requirements by storing waste either indoors or, if outside, in covered containers, protected from precipitation. NHDES has approved these procedures, which are enforceable conditions of the permit.

There is no requirement in the NH Solid Waste Rules to locate solid waste facility operations outside the 75 foot well protective radius shown on the site plan. The NH Water Quality Rules, specifically, Env-Wq 1008.06, *Protective Well Radii - Distance*, establish a 75 foot well protection radius for the purpose of maintaining separation between private drinking water wells and subsurface septic systems, not between wells and surface uses. NHDES evaluated GSR's permit application relative to the siting requirements in Env-Sw 403, Env-1003, and Env-Sw 1102. NHDES found that GSR's facility, as proposed, meets the siting requirement in the NH Solid Waste Rules.

- e. Some commenters referenced water contamination issues in New Hampshire such as recent detections of per- and polyfluoroalkyl substances (PFAS) in drinking water supplies in Merrimack and groundwater impacts at the Coakley Landfill in North Hampton, asserting that approval of GSR's application may lead to similar environmental concerns.

NHDES does not believe that GSR's transfer station will result in impacts to groundwater similar to those observed in North Hampton or Merrimack. The GSR facility is not comparable to the Coakley Landfill in North Hampton or the situation in Merrimack. The Coakley Landfill is an unlined trench-style landfill that accepted hazardous and liquid wastes. Drinking water impacts in Merrimack are generally attributable to air emissions from the Saint-Gobain Performance Plastics plant in Merrimack, and the handling and disposal of the plant's waste at the now closed Merrimack Municipal Landfill. GSR is a transfer station, not a disposal facility or processing and treatment facility.

21. Surface Water & Wetlands

- a. Many commenters expressed concern that there are surface waters in the vicinity of the facility, including Daniels Lake to the east, as well as streams and wetlands to the west and south. These comments were primarily concerned with whether this facility might contaminate these waterbodies.

The NH Solid Waste Rules include setback requirements from certain water bodies. NHDES has determined that the facility is sited in accordance with the NH Solid Waste Rules, and meets the required setbacks from designated rivers, shorelands, wetlands, and floodplains. See the Permit Application Review Summary for NHDES' review regarding siting requirements in Env-Sw 403, Env-Sw 1003, and Env-Sw 1102.

- b. Some commenters questioned whether this facility should qualify for exclusion from NPDES stormwater permitting.

In New Hampshire, NPDES stormwater discharge requirements are within the purview of the Federal government and not within the authority of NHDES' solid waste permitting program. Questions about GSR's NPDES no-exposure certification should be directed to the U.S. Environmental Protection Agency (EPA), specifically David Gray at gray.davidj@epa.gov or (617) 918-1577.

22. Contingencies

- a. A few commenters requested information on response actions if water supplies are affected as a result of GSR's operations. Some commenters further inquired who would be

responsible if the facility were to have detrimental impacts. One individual asserted that NHDES, as the approving agency, would be liable for any potential issues.

The permittee is responsible for contamination which may occur as a result of the facility's operation. If contamination is detected in a private or public drinking water supply, NHDES is able to respond in various ways to seek voluntary compliance and assure all appropriate action is taken by responsible parties. These actions may include identifying the source of the contamination, implementing a corrective action plan, and providing/restoring a supply of clean drinking water to the affected parties. The exact nature of the corrective action would depend on the nature and scope of the environmental impact. If voluntary compliance with corrective action fails, NHDES has authority to administratively enforce the applicable rules and statutes, and to request the NH Department of Justice, Office of the Attorney General to seek enforcement through the courts.

- b. In the event of a crisis or emergency at the facility, does the government have clear measures, timeline and a budget in place to clean up the mess?

It is impossible to anticipate all hypothetical crises or emergencies. However, as noted in the response to comment IV.22.a, NHDES has authority to compel responsible parties to address violations of the NH Solid Waste Rules and statute.

- c. One commenter expressed concerns about emergency response services, and noted that if the facility accepts hazardous materials it would require technical expertise and equipment that a town with volunteer emergency services may not be able to accommodate.

Review of local emergency response capabilities is not within the scope of NHDES' permitting authority. Nevertheless, NHDES recommends that GSR and local emergency response officials coordinate to ensure that each are properly prepared for emergencies.

V. Public Benefit

23. Requirements of RSA 149-M

- a. A few individuals commented that the application fails to meet the public benefit requirement of RSA 149-M. Some of these commenters specifically noted that RSA 149-M:11, IV requires NHDES to consider the concerns of citizens and other affected entities and that the overwhelming opposition of the people present at the public hearing demonstrates that this proposal is not in the public interest.

NHDES acknowledges that numerous citizens and affected entities submitted comments opposing the facility for various reasons, and NHDES considered each of these concerns as required by RSA 149-M:11, IV(a). Overall public support, or lack thereof, does not in itself

determine whether a facility provides a substantial public benefit as defined by the criteria in RSA 149-M:11, III. The NH Solid Waste Rules establish in Env-Sw 405.04 that a C/S/T facility shall be deemed to provide a substantial public benefit so long as it (1) does not send more waste to New Hampshire landfills or incinerators than it receives from New Hampshire generators, and (2) operates as part of an integrated waste management system that separates and diverts recyclable materials in a way that avoids disposal in a landfill or incinerator. In its application, GSR asserted that it would fulfill the public benefit requirements of Env-Sw 405.04 and Permit Conditions (9) and (17) require GSR to operate therewith.

24. Benefit to the Town of Weare

- a. Several commenters stated that this type of facility is not necessary, or that it would be redundant since the Town of Weare already has a public transfer station that serves the needs of the community.

The two facilities are not identical. Unlike the Town of Weare's limited public transfer station that serves only residents of the Town of Weare, GSR is a private facility with an unlimited service area that is authorized to serve areas beyond the Town of Weare (see response to comment II.1.c) as well as businesses that may not have access to publicly-owned transfer stations that typically accept only residential/household waste.

- b. Some commenters inquired what economic benefits, if any, this facility will bring to the Town of Weare (e.g., tax revenue, job creation). Other commenters stated that such a facility is not good for the Town of Weare, or that it would bring no benefit to the Town.

As noted in the response to comment III.19.a, potential economic impacts are not considered as part of NHDES' evaluation of a solid waste permit application. The NH Solid Waste Rules do not include a requirement for permit applicants to provide tax revenue or local employment.