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State Requests That Casella Amend Landfill Wetlands Permit Application

Residents Voice Concerns, DES Explains Reasoning; Public Informational Session To Be Scheduled

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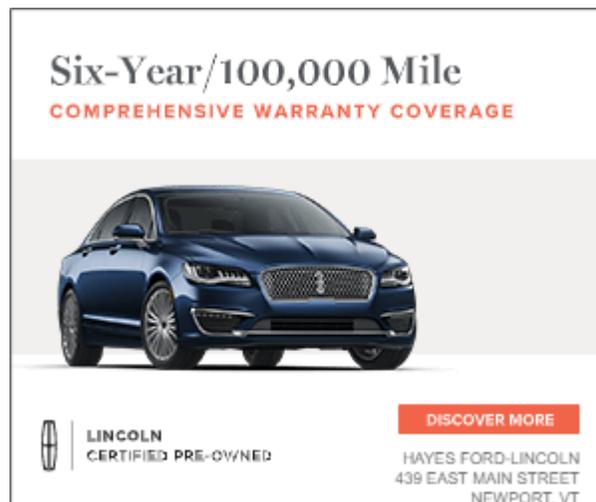


After a state-requested amendment to Casella Waste Systems' wetlands permit application for a landfill in Dalton, a public information session will be scheduled, likely for late September, at White Mountains Regional High School in Whitefield. Here, area residents attended the July 14 public hearing on the application in the school's auditorium. (File photo by Robert Blechl)

The state has requested that Casella Waste Systems amend its wetlands application for a new landfill in Dalton to exclude the full 17-acre wetlands impact and focus only on the first of three proposed landfill phases, as it has done with its other applications.

Landfill opponents say the amendment requested by the New Hampshire Department of Environmental Services smacks of favoritism and makes it easier for DES to approve a wetlands permit.

DES representatives say that department-requested amendments are common, the amended Casella wetlands application helps coordinate multiple permit applications, does not make a potential wetlands approval any easier, compels the company to provide more information upfront, and slows down the wetlands permitting process, as some had requested.



The amended application that Casella agreed to now extends the DES's review and decision-making period by about 14 months, from late October 2021, when the department was expected to issue an approval or denial of the permit, to December 2022.

"The important key here from our perspective is we want to have a grasp on the full impacts that may take place, if any, that are negative," Rene Pelletier, assistant director of DES's Water Division, told The Caledonian-Record on Wednesday. "Slowing this process down is a benefit not only to the applicant, but to the general public to be ensured that we did a very thorough and diligent evaluation of the project. This isn't a cloak and dagger thing for us. This is what we're doing to be very deliberate in looking at an application and its processes."

For many, the decision came out of the blue, said Eliot Wessler, a Whitefield resident and president of the North Country Alliance for Balanced Change.

“DES had already established a hard-and-fast timetable based on their rules and regulations,” Wessler said in a statement issued Wednesday. “Casella’s wetlands application was complete, and this set in motion a timeline that DES told the public it would have to accept — DES would hold a public hearing in mid-July, it would close the public record on Casella’s wetlands permit application in mid-September, and it would hand down its decision no later than the end of October. Now — boom — all of a sudden DES tells Casella to submit a slimmed-down application, and the two of them agree, without any public input, to put off a decision for a year and a half.”

On July 14, a public hearing was held on the wetlands permit application, which Casella submitted to DES in September 2020.

At the hearing in Whitefield, opponents showed up en masse, with nearly all of the nearly 60 who gave testimony urging DES to deny the permit.

Since then, DES has made a visit to the proposed landfill site, which abuts Forest Lake State Park.

On Aug. 26, Pelletier wrote a letter to Casella engineer, Joe Gay to request the amendment per RSA 482-A, New Hampshire’s wetlands statute, and stating that the wetlands application be amended so that other “Water Division-related permit applications to be submitted at the same time to allow for a comprehensive and coordinated review of the impacts of the project on water resources.”

The project entails filling wetlands to facilitate the construction of a 180-acre landfill with a total 137-landfill footprint, though opponents have voiced skepticism that Casella would stop there.

In his letter to Gay, Pelletier said DES’s Waste Management Division is reviewing an application for a solid-waste permit and its Air Resources Division is reviewing a temporary permit.

While the wetlands application includes all three proposed phases, the solid-waste permit application covers only the first phase, he wrote to Gay.

To align the proposed areas of impact in both applications, DES requested Casella submit the amendment to reflect only those wetlands impacts associated with the first phase and to include a timeline for submitting the amended application.

In addition, DES requested that the amended wetlands application be submitted in conjunction with other permit applications under DES's Water Division purview and related programs, specifically a DES alteration of terrain permit to address stormwater management, flood storage, land disturbance and wildlife and habitat impacts, and a federal permit from the U.S. Army Corps of Engineers to ensure that discharges meet state water quality standards.

The next day, Aug. 27, Gay responded to say the company agrees to the amendment and expects to submit an amended wetlands permit application by Dec. 15. He also requested an extension of DES's wetlands review and asked to DES render its decision on or before Dec. 31, 2022.

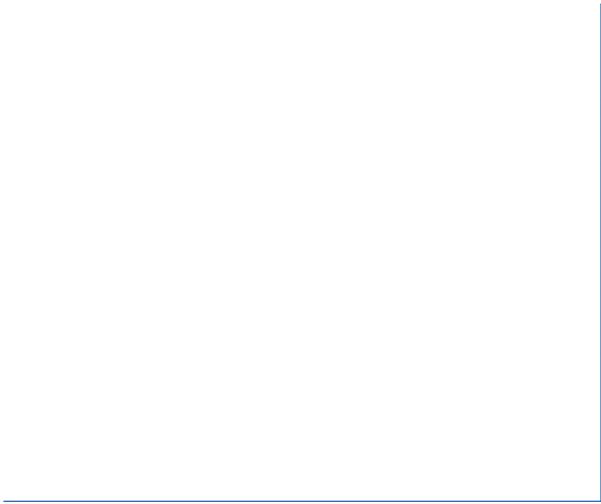
DES's Reasoning

The decision to request the amendment was made about a week ago, after Pelletier and DES technical staff discussed the application, Pelletier said Wednesday.

"We did a site visit about three weeks ago and had some concerns about Alder Brook [a wetlands complex near the proposed site]," he said. "It is not uncommon for us to request people to submit amendments if we don't have enough information to make a good intellectual decision."

An important component in any application, be it for a box store or solar array, is the hydrology of a site, and DES wasn't able to have enough information about hydrology for the U.S. Army Corps of Engineers, which, once an application is filed there, triggers a DES permit application review of stormwater-related issues, said Pelletier.

"So we suggested they look at only Phase 1," he said. "They applied to fill the 17 acres of wetlands, which is one through three. Our concern is why are we approving wetlands to be filled when we don't even know if phase two or three will be submitted or approved. That was the long and the short of it — we didn't want to approve that full impact. We didn't get to it sooner because we assumed that they were going to submit their alteration of terrain so we'd get a better handle on the hydrology of the site. That didn't take place, so we figured we were going to back up."



Gay was made aware before DES's Aug. 26 letter that an amended application would be requested by DES because the department was not going to approve what the company deemed to be all three phases, said Pelletier.

A primary reason for the amendment is because DES does not yet know the number of acres that would be impacted by the first phase, he said.

"That's why we requested an amendment," said Pelletier. "Get us an amendment and get the other applications in the process so we can look at the global effects on the site, vis a vis the stormwater how you control it and are you going to de-water the Alder Brook wetland, which is a very viable wetland that they're working around. We just had a litany of concerns and we didn't feel we had enough full information to make a good technical decision."

Pelletier said one question he was asked by a number of residents on Tuesday is if it will now be easier for DES to approve a wetlands application when the full impact of the 17 acres is taken out of the equation.

He said no, and said he's not even sure if what Casella is proposing will ultimately be permissible.

"If it does anything at all, it focuses in on a proposal that they're requesting to get approved by the waste management section," said Pelletier. "If it ever gets approved by waste management and we approve it – and again, that remains to be seen – we're going to have a lot better information on-site hydrology to evaluate if they come in with a phase two or a phase three ... It in no way makes it easier for them to get the other two permits because they have to go through the same process they

would for this phase one ... There are multiple bureaus within the water division that have to do an analytical look at all of this, and then once we have all of that information, I believe as an agency we'll be able to make a more intelligent decision, that being whether it's approved or denied."

Another public hearing will be scheduled and all of the public comments on the original wetlands permit application, whether submitted via email or mail or voiced at the July 14 public hearing, will remain in the public record, he said.

"Early on in the process, we had a lot of requests from the general public to slow this process down," said Pelletier. "It shouldn't be a 'slam bam thank you ma'am kind of review. We took that into consideration. As time went on, we then considered, because of the lack of information we had, to request the amendment."

DES public information officer, James Martin said a public information session is likely to be held in late September at White Mountains Regional High School, and can also be attended virtually.

"It will be an opportunity for people to come and get a better understanding of all the various permits and processes that go into a project such as this," said Martin.

Since DES's requested amendment, Pelletier said he has received a number of emails, a good share of them voicing concerns and criticisms of DES.

"I think we did the right thing as an agency," he said. "To me, it's an equitable approach for all people involved. We just have to get everything choreographed and get a handle on the time and all of the technical issues and go from there."

Citizen Concerns

Wessler remains skeptical of DES's position that the full 17-acre impact taken out of the amended application will not make it easier for the department to issue an approval.

"We still want to believe DES will be fair, but it's awfully hard to believe that given the change that they've made," he said. "It doesn't look like this will be the fair process that we hoped for."

NCABC believes DES and Casella agreed to the new process because a mountain of evidence piled up against the project in the public record, said Wessler.

“First, there is no public need for additional capacity in New Hampshire,” he said. “Second, the Dalton dump would put the environment and quality of life for thousands of people in the North Country at significant risk. And third, as a result of the huge leachate spill at Casella’s Bethlehem dump, there’s little confidence that Casella can safely operate another dump in New Hampshire.”

DES also did not seem to know how to handle the overwhelming public opposition to this project, said Wessler.

“So it seems very likely that DES and Casella cooked up this scheme because DES had little choice but to deny the wetlands permit application,” he said.

To serve and protect the people of New Hampshire, DES should be looking at the whole project, including all of the phases, said Wessler.

“The Aug. 26 letter doesn’t come close to explaining why DES is doing this or changing the timeline so close to the end of the process,” he said. “But the effect seems pretty clear to virtually everyone who has looked at the Aug. 26 letter — in a new application, Casella will be able to argue that less than 17 acres of wetlands will be destroyed in the first phase of the project, and this will grease the skids for DES to approve the project.”

Robert Blechl