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FEATURED

State Tells Casella To Stop Placing Waste Outside Of Permitted Landfill Limits

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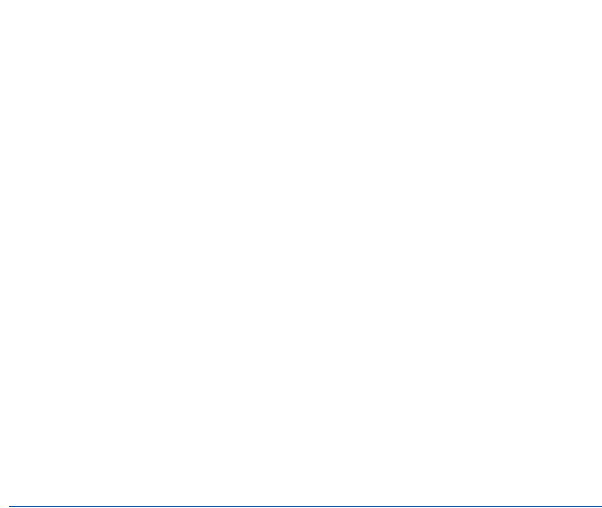


The state has found Casella Waste Systems to be in violation of its operating permit by placing waste outside the permitted vertical limits of its landfill in Bethlehem. (File photo)

On Friday, two days after a public hearing on a wetlands permit for a new proposed Casella Waste Systems landfill in Dalton, the state found the company in violation of its operating permit in Bethlehem for placing waste outside of the permitted vertical limits of its landfill there.

The finding comes after several months of back-and-forth letters between the New Hampshire Department of Environmental Services and Casella, whose engineer, in an April 30 letter responding to an April 23 DES letter of deficiency and order to cease what it called an overfill, said the company disagrees that it is out of compliance with the department's solid waste management rules.

In a Feb. 18 notice of findings, DES said Casella placed waste outside the permitted vertical limits of the northeast area of the landfill by up to 16 feet, in violation of Rule 806.02(b), which states "wastes shall be placed only within the permitted vertical and lateral limits of the landfill."



The department told Casella to immediately stop putting waste outside the limits and promptly relocate the trash to areas within the permitted vertical and lateral limits of the area and to provide DES with weekly updates on the progress in relocating the waste and the "status of implementing measures to reduce, eliminate, and prevent a recurrence of the situation."

Responding in April was Casella Engineer John Gay, who said there is nothing in the rules or permit conditions that prohibit the transitory placement of waste above what will eventually be the final permitted limits of the landfill.

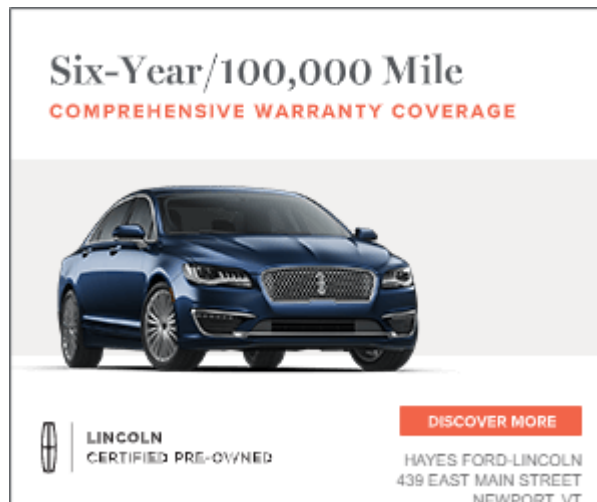
The landfill in Bethlehem is expected to close in about 2026, and Gay said as a landfill approaches final grades the overall objective is to operate so that when the facility is ready for closure, the waste mass will be at the final vertical limit approved by DES.

He said, “The top deck of the landfill is settling at a rate of 1.5 to 2 feet per year, which means that about 10 feet of settlement is expected before the landfill is closed ... Bringing in a contractor now to complete final grading makes no practical sense, given that approximately 10 feet of settlement is anticipated to occur before the landfill is projected to close.”

In its July 16 administrative order signed by DES Commissioner Robert Scott, however, the department was unmoved and stated that Casella has not complied with the April 23 letter of deficiency.

“To date, NHDES has no record of receiving the written report of the incident requested in the LOD,” wrote Scott. “NHDES has no record of receiving weekly reports of efforts by [Casella] to come into compliance with the permit, as modified.”

In reaching its finding of a violation, DES reviewed Casella’s 2019 annual facility report, monthly facility reports for 2020, and the monthly report for 2021 to determine compliance with capacity limitations.



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Although Casella has asserted it was not operating outside of the final permitted limits of the landfill, the pertinent issue is whether Casella remained in its permitted grades, said DES representatives.

In the department’s determination, the company violated the state’s solid waste management rules by placing waste outside the permitted vertical limits of the landfill, by failing to notify DES of the solid waste rule violations, by “operating the landfill in a manner inconsistent with the design limitations of the facility,” and by “failing to operate the facility in compliance with the solid waste rules and the terms and conditions of the permit as modified.”

DES ordered Casella to immediately stop placing waste outside the permitted vertical and lateral limits the landfill and to conduct within 30 days a survey of the landfill and submit to DES a comparison of the existing grades to the permitted and lateral limits approved for operation.

The company must also submit an incident report that includes a plan and schedule for relocating all waste to within the permitted operation limits.

Within four months, Casella must complete the relocation of all waste to the permitted areas and during that relocation must implement effective odor controls.

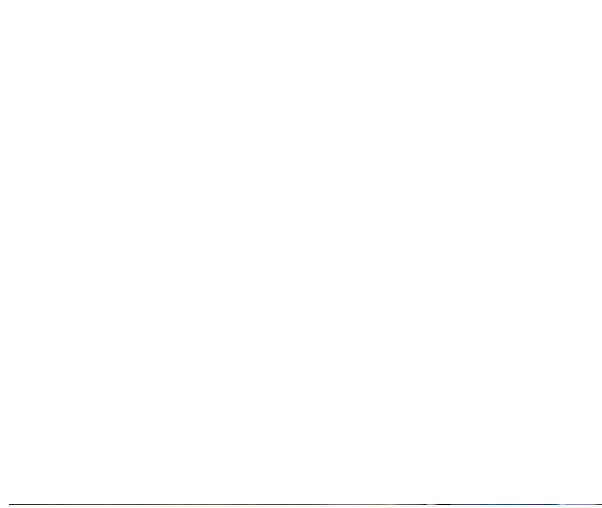
From the date of the order through December 2022, Casella must also conduct quarterly surveys of the landfill and submit to DES a comparison of the existing grades to the permitted vertical and lateral limits approved for operation.

If the company contests the DES findings and administrative order, it has 30 days to file an appeal.

The issue was one that had involved town legal counsel and was brought up during the Board of Selectmen's May 10 meeting, when selectmen responded to DES's letter of deficiency, Casella's April 30 response to that letter, and if any deficiencies violated Casella's 2012 settlement agreement with the Town of Bethlehem.

The opinion by the town attorney is he can see no violations of the settlement agreement, which has a height limit of 1,483 feet for a "final and capped" elevation and is not currently at its final and capped elevation, whereas the state has taken the position that Casella has an absolute limit for height during operation and before closing.

Town counsel's recommendation at that time was that the town does not have a role to play and the town should let the state and Casella work it out.



Robert Blechl