

## Giallongo, Stefanie

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**From:** Trowbridge, Philip  
**Sent:** Wednesday, June 30, 2021 12:01 PM  
**To:** john.gay@casella.com; Samuel Nicolai  
**Cc:** Tilton, Mary Ann; Pelletier, Rene; Giallongo, Stefanie; Price, David  
**Subject:** Public comments regarding Dalton Conservation Commission site access  
**Attachments:** 2021-06-28 Manzelli Letter to DES.pdf; FW\_ NH DES File # 2020-02239 Wetlands Permit Standard Application.pdf; 06.28.2020 - CLF Letter to NHDES - Requesting Postponment of Public Hearing for Granite State Landfill.pdf

See attached.

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Philip Trowbridge, P.E., Manager  
Land Resources Management Program  
Water Division, NH Department of Environmental Services  
P.O. Box 95  
Concord, NH 03302-0095  
phone (603) 271-4898  
email: [Philip.R.Trowbridge@des.nh.gov](mailto:Philip.R.Trowbridge@des.nh.gov)

June 28, 2021

Via Email Only

N.H. Department of Environmental Services, Wetlands Bureau

Attn: Commissioner Robert Scott

[robert.scott@des.nh.gov](mailto:robert.scott@des.nh.gov)

Re: NHDES File Number: 2020-02239 Wetlands Standard Permit Application;  
Subject Property: Douglas Dr., Dalton, Tax Map #M405/406, Lot #33/ 1, 2.1, 2.3,  
2.4, 2.5, 3 and Bethlehem Tax Map #406, Lot #1, 2 (“Application”)  
Requests for DCC Site Visit, Meeting with NCABC, Postponed Public Hearing

Dear Commissioner Scott,

I write in continued representation of the North Country Alliance for Balanced Change. Please make this letter a part of your record in this Application. This letter makes three procedural requests associated with the above-referenced application, all to the end of making sure that the review process avoids creating any constitutional due process or other issues that may affect the validity of the Department’s decision.

First, on behalf of my client, I respectfully request that the Department insist that the applicant must either facilitate the Dalton Conservation Commission’s meaningful completion of its site investigation pursuant to RSA 482-A:11, III, or forfeit its application. That statute, plus constitutional due process, requires that the Dalton Conservation Commission be permitted to undertake an investigation that is meaningful.

Scientifically, their investigation has not yet been meaningful because they have not been allowed to visit the site during the growing season. Site visits during the growing season are crucial for seeing and identifying the hydrogeological interface of groundwater and wetlands. During the Water Council hearings regarding the proposed Dalton Dragstrip, at the same property, Muriel Robinette explained to the Council critical test pit information identifying seasonal high-water tables in areas the then-applicant had slated for detention ponds, which would have failed due to lack of capacity.

If the Dalton Conservation Commission is deprived of its legal rights to investigate to obtain such information, not only could the application process suffer from poor design and poor environmental stewardship, but also, legally, the process would be subject to invalidation upon appeal. With all of that in mind, we urge the Department to insist that the applicant facilitate access to the Dalton Conservation Commission and its agents.

Second, I request a meeting of the key Department personnel reviewing the application so that my clients and I can discuss concerns and questions, which have gone unanswered for the most part. I understand Mr. Jon Swan has also recently requested a meeting. While this firm does not represent Mr. Swan in any capacity, and Mr. Swan is separate and distinct from the North

Country Alliance for Balanced Change, we would be open to consideration of a joint meeting for efficiency purposes.

Third, I respectfully request that the Department postpone the public hearing recently scheduled for July 14, 2021. It is too premature for the public hearing to be held, for a number of reasons. Namely, one of the key issues we wish to discuss at a meeting is the lack of baseline data. Moreover, as noted, the Dalton Conservation Commission has been prevented from completing its investigation. Indeed, forcing a public hearing to go forward in the face of such missing information would be a deprivation of due process, the cornerstone of which is a meaningful opportunity to be heard. With so much missing information, the opportunity to be heard would lack meaning. Simply postponing the public hearing should avoid this problem.

Thank you for your attention to these three reasonable requests.

Very truly yours,



Amy Manzelli, Esq.  
*Licensed in New Hampshire & Maine*  
(603) 225-2585  
manzelli@nhlandlaw.com

Cc:

Town of Bethlehem  
Town of Bethlehem Board of Selectmen  
Town of Bethlehem Town Clerk  
Town of Carroll  
Town of Dalton Conservation Commission  
Town of Dalton Zoning Board of Adjustment  
Town of Dalton Planning Board  
Town of Dalton Selectboard  
Town of Dalton Town Clerk  
Town of Littleton  
Town of Littleton Board of Selectmen  
Town of Littleton Town Clerk  
Town of Whitefield  
Town of Whitefield Board of Selectmen  
Town of Whitefield Town Clerk  
North Country Council



Richard Walling, Chair, Ammonoosuc River LAC  
Jaime Colby, NHDES Solid Waste Management Bureau  
Stephanie Giallongo, NHDES Wetlands Bureau  
Rene Pelletier, NHDES Wetlands Bureau  
Tracie Sales, Rivers Coordinator, NHDES  
Michael Wimsatt, NHDES, Solid Waste Management Bureau  
Michael Marchand, NH Fish & Game, Nongame & Endangered Species  
Sabrina Stanwood, NH Div. of Forests & Lands, Natural Heritage Bureau  
Amy Lamb, NH Div. of Forests & Lands, Natural Heritage Bureau  
U.S. Army Corps of Engineers, Lindsey Lefebvre  
Region 1 EPA, Deborah A. Szaro  
Client  
BCM Internal



June 29, 2021

*Via Electronic Mail*

Commissioner Robert Scott  
New Hampshire Department of Environmental Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

Craig Rennie  
Inland Wetlands Supervisor  
New Hampshire Department of Environmental Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

**RE: NHDES File Number: 2020-02239 Wetlands Standard Permit Application – Request to Postpone the July 14, 2021, Public Hearing.**

Dear Commissioner Scott and Mr. Rennie,

Conservation Law Foundation (“CLF”) writes to request that the New Hampshire Department of Environmental Services (“NHDES”) postpone the public hearing for the above referenced permit application until the Dalton Conservation Commission (“DCC” or “Commission”) has been given the opportunity to complete its site investigation pursuant to RSA 482-A:11, III. Until the Commission has been given access to the site during the growing season, moving forward with the public hearing and application review process would result in the deprivation of due process.

To date, both the applicant and the landowner have denied the Commission meaningful access to the site during the growing season, a time when critical observations need to be made to properly assess the validity of the applicant’s permit application. Thus far, access to the site was only provided during the winter, when the ground and groundwater was frozen. These conditions significantly limited the ability to gather the data necessary to enable an objective and informed evaluation of the field conditions described in the application. The Commission, which plays an important role in the wetlands permitting process, has repeatedly requested access during the spring and summer months. However, the landowner and applicant have repeatedly denied these reasonable requests. The denial of access during this critical period hinders the ability of the Commission to carryout its statutory role of providing an independent assessment of the site, the application, and the project’s impacts.



Failure to allow the Commission to perform its legal investigatory powers to observe and gather information diminishes not only their review of the application, but the entire permitting process by closing off vital information needed to fully understand the scope and magnitude of the landfill proposed by Granite State Landfill.

CLF respectfully requests that NHDES require the applicant and the landowner to facilitate the Commission's access to the site as needed to complete their site investigation. Additionally, NHDES should postpone the scheduled public hearing on the application until the site investigation is completed and the Commission's findings are published. Failure to do so would significantly undermine the purpose of the public hearing, which is to allow members of the public the opportunity to be heard after being presented with all relevant information. Thank you for your time and consideration of this request.

Respectfully submitted,

A handwritten signature in cursive script that reads "Peter W. Blair Jr.".

Peter Blair, Esq.  
Staff Attorney  
Conservation Law Foundation.

Cc:  
Jamie Colby, NHDES Solid Waste Management Bureau  
Stephanie Giallongo, NHDES Wetlands Bureau  
Rene Pelletier, NHDES Wetlands Bureau

**From:** [Scott, Robert](#)  
**To:** [Trowbridge, Philip](#); [Pelletier, Rene](#); [Monroe, Pamela](#); [Aslin, Christopher](#)  
**Subject:** FW: NH DES File # 2020-02239 Wetlands Permit Standard Application  
**Date:** Tuesday, June 29, 2021 3:25:33 PM

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*Robert R Scott*  
**Commissioner**  
**New Hampshire Department of Environmental Services**  
**29 Hazen Drive, PO Box 95**  
**Concord, NH 03302-0095**  
**W: 603.271.2958**  
**C: 603.892.1706**  
[robert.r.scott@des.nh.gov](mailto:robert.r.scott@des.nh.gov)

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**From:** Sugar Hill Selectmen <selectmen@sugarhillnh.org>  
**Sent:** Tuesday, June 29, 2021 3:13 PM  
**To:** Scott, Robert <Robert.R.Scott@des.nh.gov>; Giallongo, Stefanie <Stefanie.M.Giallongo@des.nh.gov>; Price, David <DAVID.A.PRICE@des.nh.gov>  
**Subject:** NH DES File # 2020-02239 Wetlands Permit Standard Application

**EXTERNAL:** Do not open attachments or click on links unless you recognize and trust the sender.

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Commissioner Robert Scott, NH DES Wetlands Bureau  
Stefanie M. Giallongo, Wetlands Specialist, NH DES  
David Price, Wetland Specialist, NH DES

RE: NH DES File # 2020-02239 Wetlands Permit Standard Application

Dear Commissioner Scott, Ms. Giallongo and Mr. Price,  
The Sugar Hill Select Board and the Sugar Hill Conservation Commission urge you to honor the request of the Dalton Conservation Commission to delay the wetlands permit public hearing on the above referenced application until after the spring of 2022.

Permits and approvals should not be rushed. The Dalton Conservation Commission has been prevented from completing its investigation into the wetlands and there is not sufficient baseline data to make any meaningful decisions.

This is a project that will impact a number of towns in the North Country. Please consider postponing the hearing.

Respectfully,

Richard Bielefield  
Select Board Chair

Christopher Ellms  
Sugar Hill Conservation Commission Chair