

September 24, 2024

*Via Email Only*

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**Re: Air Permit Application #23-0114  
Alteration of Terrain Permit Application AoT 231113-224  
Water Quality Certification Application NHDES #2021-404I-002  
Solid Waste Standard Permit Application No. 2023-66600  
Standard Dredge and Fill Wetlands Permit Application No. 2023-03259  
Driveway Permit Application #14656**

Dear Ms. Berger, Ms. Colby, Mr. Demers, Mr. Moore, Ms. Rydel, Engineer Schlosser, Director Wimsatt, and Mr. Kallfelz,

I write to you in continued representation of North Country Alliance for Balanced Change in opposition to Granite State Landfill's ("GSL") proposed facility in Dalton and Bethlehem, New Hampshire. Please consider this letter as it relates to the above-referenced applications for GSL's proposed landfill facility (the "Project") and make it a part of the record of them.

Hunter Farm Road is a public way that spans a sizable portion of Dalton, including the Project site, into the municipality of Bethlehem and, to our knowledge, has never been discontinued. If that is the case, GSL's applications are unlawfully deficient because they make

no provision for the fact that a public way runs through the Project site. As such, the above-referenced applications for GSL's proposed Project cannot be lawfully approved.

### ***Layout and Discontinuance of Public Roads***

For more than one hundred years it has been the law in New Hampshire that municipal officials designate the location of a new roadway by laying out a "highway" and recording the return pursuant to the provisions of RSA Chapter 231 and its predecessor statutes. "Highway" is the technical, legal term for a public way. The public has the right to pass over public ways and to use them for highway purposes. *See Glick v. Ossipee*, 130 N.H. 643, 646 (1988). Moreover, no work may be done in a highway right-of-way without permission from the municipal officials. *See RSA 236:9; see also RSA 41:11.*

Also for more than one hundred years it has been the law in New Hampshire that a town may discontinue any class IV, V, or VI highway by vote of the town. RSA 231:43. A careful review of all publicly available Dalton Annual Town Warrants and Town Meeting Minutes from 1876 to 2022 reveals no warrant articles or votes to discontinue Hunter Farm Road. Thus, we have found no evidence to indicate Hunter Farm Road has ever been discontinued pursuant to RSA 231:43 and is anything other than a public way to which the public has rights to pass over and use for highway purposes.

### ***Official Records Show Hunter Farm Road***

Multiple records indicate the existence of Hunter Farm Road through Dalton and into Bethlehem.

GSL's own driveway permit application #14656 discusses Hunter Farm Road. In its response dated October 3, 2023 to the New Hampshire Department of Transportation's ("NHDOT") request for more information, GSL directly addresses Hunter Farm Road in reference to its impact on Douglas Drive: "We note that the connection shown between Hunter Farm Road and Douglas Drive on the NHDOT GIS database does not currently exist." The NHDOT GIS database shows portions of Hunter Farm Road in Dalton as a Class V road and in Bethlehem as a Class VI road. Even if Hunter Farm Road does not physically exist on the ground, it exists legally and its legal existence confers limitations on construction on and around it, which GSL must respect. Without permission from the Town of Dalton Select Board and the Town of Bethlehem Board of Selectmen to discontinue Hunter Farm Road, statutory law prohibits GSL from performing any work within the Hunter Farm Road right-of-way. *See RSA 236:9; see also RSA 41:11.* Furthermore, neither GSL nor the property owner Mr. Ingerson may prevent the public from using this public highway. *See Glick*, 130 N.H. at 646.

Current Dalton tax maps 408, 407, and 406 show Hunter Farm Road spanning the southwestern portion of Dalton and continuing into Bethlehem. The maps indicate Hunter Farm Road extends from Faraway Road, runs through Forest Lake State Park, and connects to Douglas

Drive. The New Hampshire Department of Transportation's ("NHDOT") Roads and Projects map depicts Hunter Farm Road intersecting Douglas Drive in Bethlehem. To be precise, Hunter Farm Road runs through the following properties:

- Dalton Tax Map 408, Lot 6
- Dalton Tax Map 407, Lot 1
- Dalton Tax Map 406, Lot 3
- Dalton Tax Map 406, Lot 2.1
- Dalton Tax Map 406, Lot 2.5
- Dalton Tax Map 406, Lot 2.4
- Bethlehem Tax Map 406, Lot 1

Dalton tax maps 408, 407, and 406 are attached as **Exhibits A, B, and C**, respectively. NHDOT's map depicting Hunter Farm Road is attached as **Exhibit D**.

### *Conclusion*

Allowing the development of the Project over Hunter Farm Road, a public roadway, is akin to permitting the construction of a facility over any other public highway; it is not allowed. Unless GSL can prove the discontinuance of Hunter Farm Road or the Town of Dalton Select Board and Town of Bethlehem Board of Selectmen discontinue Hunter Farm Road, the Project's pending permit applications must be denied.

Very truly yours,



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Enclosures

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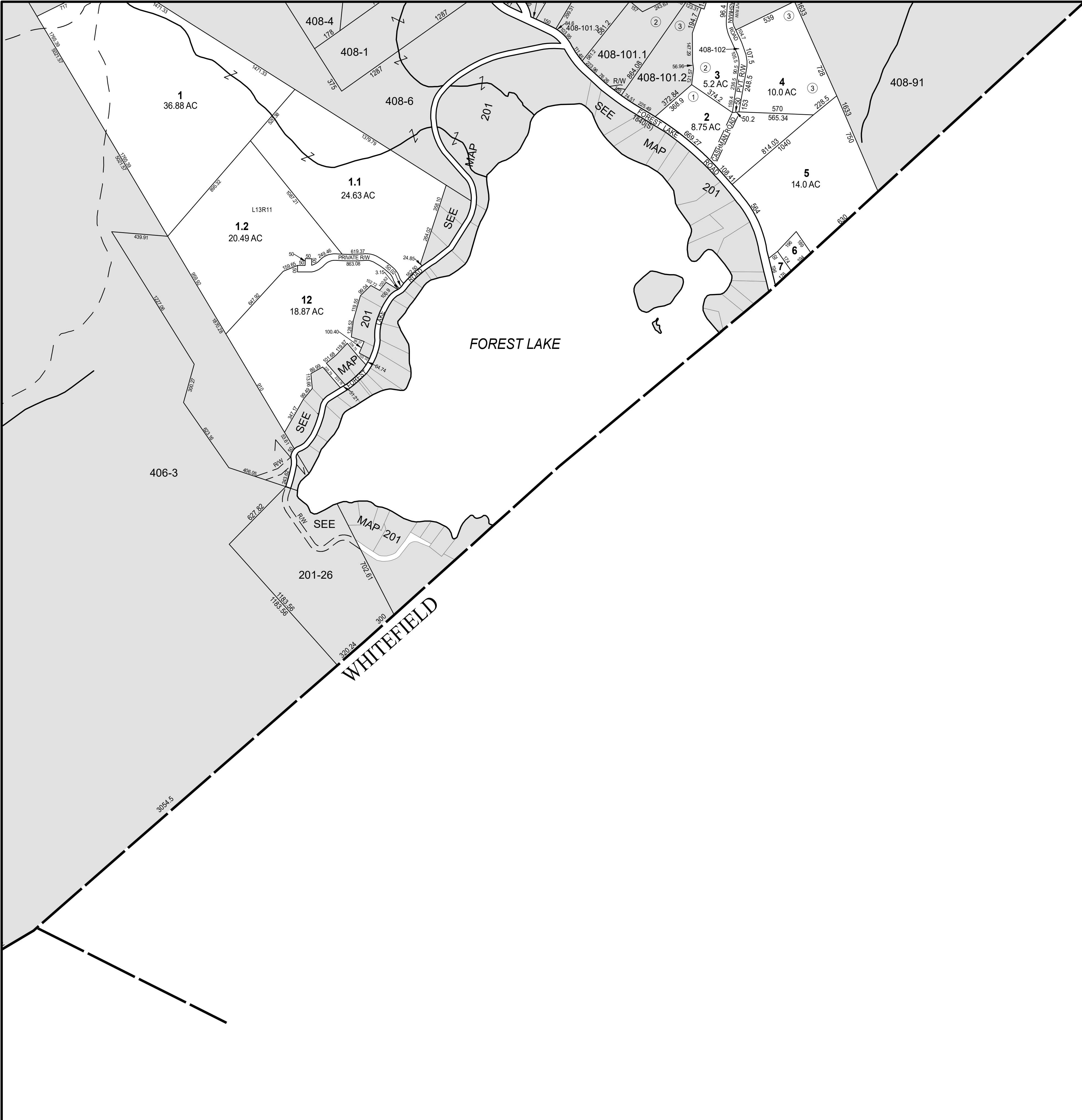


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<p>THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.</p> <p>THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM, NAD 83.</p> <p>PHOTOGRAPHY DATE: OCTOBER, 1982</p> <p>COMPLETION DATE: DECEMBER 31, 1988</p>	<p>REVISED &amp; REPRINTED BY</p> <p><b>CAI Technologies</b></p> <p>Precision Mapping. Geospatial Solutions.</p> <p>11 Pleasant Street, Littleton, NH 03561 800.322.4540 - www.cai-tech.com</p>	<p><b>LEGEND</b></p> <p>AREA SURVEYED ..... Ac</p> <p>AREA CALCULATED ..... AcC</p> <p>RECORD DIMENSION ..... 100'</p> <p>PARCEL NUMBER ..... 2</p> <p>WATER ..... -W-</p> <p>EXEMPT PROPERTY ..... E</p> <p>SUBDIVISION LOT NO. .... ②</p> <p>RIGHT OF WAY/ACCESS ..... R/W</p> <p>COMMON OWNERSHIP ..... OR</p> <p>WETLANDS ..... W</p>		<p>FEET</p> <p>400 200 0 400 800 1,200</p> <p>SCALE: 1" = 400'</p> <p>METERS</p> <p>100 50 0 100 200 300</p> <p>REVISED TO: APRIL 1, 2023</p>	<p>PROPERTY MAPS</p> <p><b>DALTON</b></p> <p>NEW HAMPSHIRE</p>	<p>INDEX DIAGRAM</p> <table border="1"><tr><td>404</td><td>409</td><td>413</td></tr><tr><td>405</td><td>408</td><td>414</td></tr><tr><td>406</td><td>201</td><td>407</td></tr></table> <p>GN</p>	404	409	413	405	408	414	406	201	407	<p>MAP NO.</p> <p><b>408</b></p>
		404	409	413												
		405	408	414												
		406	201	407												



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LEGEND	
AREA SURVEYED .....	Ac
AREA CALCULATED .....	AcC
RECORD DIMENSION .....	100'
PARCEL NUMBER .....	2
WATER .....	-W-

EXEMPT PROPERTY .....	Ⓔ
SUBDIVISION LOT NO. ....	②
RIGHT OF WAY/ACCESS .....	600'
COMMON OWNERSHIP .....	OR
WETLANDS .....	WETLANDS

FEET 400 200 0

SCALE: 1" = 400'

0 400 800 1,200

METERS 100 50 0 100 200 300

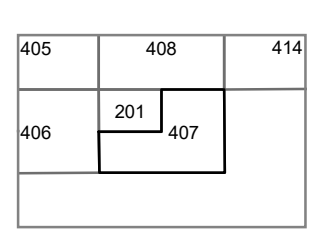
REVISED TO: APRIL 1, 2023


PROPERTY MAPS

DALTON

NEW HAMPSHIRE

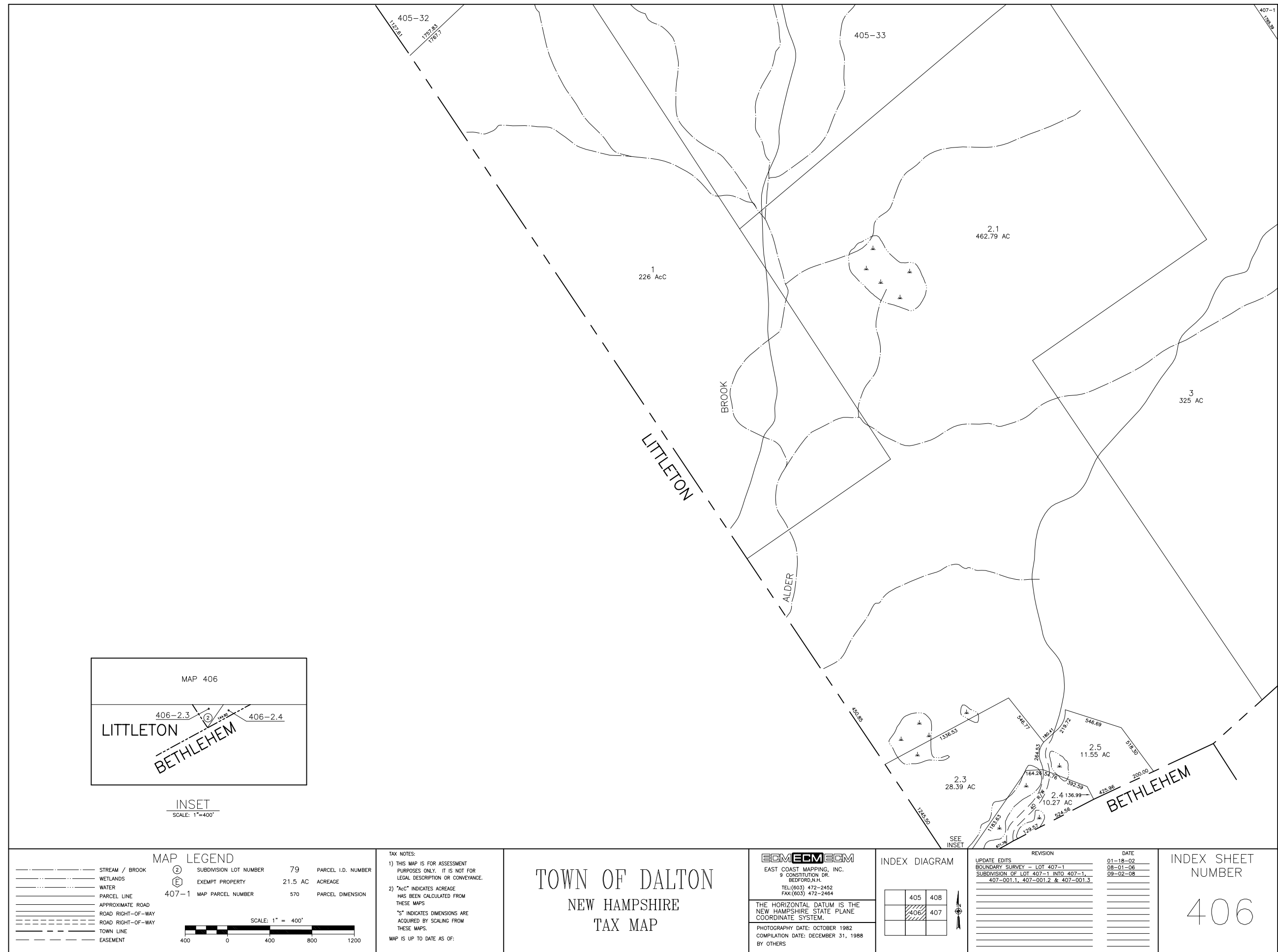
INDEX DIAGRAM





MAP NO.

407



**Legend**

NH Roads

Municipalities



Turnpikes



Interstate



US Routes



Municipalities



Airports



Railroads



Abandoned



Active



Inactive



Out of State

Turnpikes



Interstate



**Notes**



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION