

STATE OF NEW HAMPSHIRE
WASTE MANAGEMENT COUNCIL

DOCKET No. 25-07 WMC

APPEAL OF GRANITE STATE LANDFILL LLC.

ORDER ON MOTION FOR REHEARING AND CLARIFICATION

I. BACKGROUND

On June 1, 2026, North Country Alliance for Balanced Change (“NCABC” or “Petitioner”) filed a Motion for Rehearing and Clarification of the Order on Petition to Intervene (“Order”) dated May 4, 2026, pursuant to RSA 541:3 and N.H. ADMIN RULE EC-WST 203.18. NCABC seeks rehearing of the Hearing Officer’s Order granting it limited intervention status and also requests clarification asserting that the Order appears to grant NCABC both intervenor status and *amicus curiae* status. NCABC contends that these designations are inconsistent and seeks clarification regarding the nature and scope of its participation.

Under the May 4, 2026 Order, NCABC was granted limited intervenor status pursuant to RSA 541-A:32, II and was also treated as *amicus curiae* for purposes of filing a post-hearing memorandum. As a limited intervenor, NCABC was added to the service list so they could receive copies of pleadings and orders in this matter, and to receive notice of hearings which they may attend through counsel or individually. As *amicus curiae*, NCABC was authorized to file a hearing memorandum of no more than ten (10) pages at the conclusion of the final hearing.

II. STANDARD OF REVIEW

RSA 541:3 provides that within 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing, specifying in the Motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the Motion.

RSA 541:4 provides, in relevant part, any such Motion shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.

N.H. ADMIN R. EC-WST 203.18 provides that a motion for rehearing shall conform the requirements of RSA 541 and EC-WST 203.09. Within 10 days of receipt of the motion for rehearing, the presiding officer shall deny the Motion if he or she concludes that it was not timely filed; or that it does not identify any error of fact, reasoning or law that could change outcome of the appeal.

III. ANALYSIS

A. NCABC's Argument

In its Motion, NCABC argues the Order is ambiguous because it appears to classify NCABC as both a limited intervenor and an *amicus curiae*, which it asserts are mutually exclusive designations. NCABC contends an intervenor is a party, while an *amicus curiae* is not, and that its ability to appeal the final decision depends on its party status.¹

NCABC further argues that, if intervention was not fully granted, the Hearing Officer erred because NCABC claims rights and substantial interests that may be affected by the permit and waiver at issue. NCABC also asserts if the matter is remanded, such action would constitute a de facto finding of application completeness, impairing its ability to participate at the Department level.

B. Discussion

In its Order, the Hearing Officer determined that NCABC did not demonstrate that its rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding; nor that it was entitled to intervene as a matter of law. RSA 541:32, I, (2). However, given the Petitioner's longstanding participation in the permitting process, it was granted intervenor status on a limited basis under RSA 541-A:32, III. That status allows NCABC to remain on the service list, receive notice of proceedings, and attend hearings.

¹ The Council takes no position regarding NCABC's assertion that as a limited intervenor, it would have the right to appeal a final decision if necessary. At this time, that assertion is not relevant to the NCABC's Motion for Rehearing.

To clarify, the Hearing Officer intended also to grant *amicus curiae* status for the sole purpose of permitting NCABC to file a post-hearing memorandum. However, considering NCABC's objection, the Order is clarified to withdraw *amicus curiae* status. As a limited intervenor, NCABC may request permission at the conclusion of the final hearing to submit a memorandum if it can demonstrate that the Department will not adequately defend its decision.

NCABC further argues that the Council erred by not granting full intervenor status because, if the Council ultimately remands the decision, NCABC may not be able to address issues resolved in these proceedings. This argument is premature. It remains unknown whether the Department's decision will be affirmed or remanded, and no findings have yet been made. NCABC's concern rests on speculation.

NCABC also misapprehends the basis for the Order. Although the Order noted that NCABC could participate before the Department on remand or appeal the issuance of any permit following remand, these observations were not the basis for denying full intervention. The Petition to Intervene was denied because NCABC did not present sufficient facts or legal authority establishing a direct and apparent interest such that it would suffer if it were denied intervention status. *Snyder v. New Hampshire Savings Bank*, 134 N.H. 32, 35 (1991). NCABC therefore did not establish standing to intervene as a full party.

Further, NCABC supports the Department's denial of GSL's permit application. Its position is aligned with the Department's interests in defending its determination that the application was dormant and incomplete. NCABC has stated it does not seek to expand the scope of the proceedings and has confidence in the Department's ability to defend its decision. Although NCABC claims it brings a different "perspective," it has not explained what that perspective entails or shown that the Department cannot adequately represent its interests. The protection of private rights is not at issue here. This proceeding concerns the Department's denial of a solid waste permit on grounds of dormancy and incompleteness. NCABC has not demonstrated that its interests diverge from, or are, inadequately represented by the Department.

CONCLUSION

For the reasons stated above, the Order is **CLARIFIED** to withdraw the *amicus curiae* status. NCABC remains a **limited intervenor** under the Council's May 4, 2026 Order.

With respect to NCABC's request for rehearing, NCABC has not demonstrated any error of fact, reasoning, or law that could change the outcome of the Order. See N.H. Admin. R. EC-WST 203.18(b)(1)b. Accordingly, the request for rehearing is **DENIED**.

So Ordered,

Date: June 10, 2026

/s/ Mary E. Maloney
Mary E. Maloney, Esq., NH Bar 1603
Hearing Officer, Waste Management Council