

STATE OF NEW HAMPSHIRE
WETLANDS COUNCIL
DOCKET NO. 24-21 WtC
IN RE APPEAL OF DALTON CONSERVATION COMMISSION
Second Supplement to Objection to Motion to Dismiss

The Dalton Conservation Commission, with the assent of counsel for the Applicant and the State, hereby supplements its Objection filed March 28, 2025. In support hereof, DCC states:

1. On March 28, 2025, the DCC filed an Objection to the Motion to Dismiss filed by the Applicant (and joined by the State). The DCC now files this supplement on the basis of new developments in this case arising on April 3, 2025.

2. On April 3, 2025, the Department issued a decision to the Applicant, Granite State Landfill, LLC (“GSL” or the “Applicant”) in a collateral permit case before the Waste Management Division. The Department denied the Applicant’s Solid Waste/Waste Management permit for its proposed Dalton landfill.

3. As alluded to in the DCC’s March 28, 2025 Objection, the present Shoreland Permit is but one of several permits required from the Department for the Applicant to construct and operate its proposed landfill in Dalton, New Hampshire. The present Shoreland Permit is to allow the Applicant to construct enhancements to the location where its landfill driveway spills out onto N.H. Route 116 in Bethlehem. Without the Shoreland Permit, it would be impossible to operate the landfill because the driveway as presently configured would not suffice to allow the movement, back and forth, of dozens of solid waste and leachate trucks each day.

4. Similarly, without the landfill itself, there would be no need to reconfigure and enhance the driveway or its meeting with N.H. Route 116. All of the permits are related to one another and to the landfill that the Applicant is attempting to construct. Without any one of the permits (Shoreland, Waste Management, Dredge and Fill, Alteration of Terrain, etc.), the landfill cannot be constructed and operated. This is one project, not four or five projects, and it must be considered in the aggregate.

5. DES has now denied the Applicant's Solid Waste/Waste Management Permit, File No. 2023-66600. Exhibit A. The basis of the denial was dormancy, but more specifically, the failure of the Applicant to have provided the information requested by DES in order to consider the permit request, despite having more than a year to do so after the Department delivered notice of the deficiencies in the Solid Waste/Waste Management permit file.

6. The denial of the Solid Waste/Waste Management permit, No. 2023-66600 means that the Applicant's landfill in Dalton cannot move forward. Since this is, or should be, an aggregate project encompassing multiple permits, the failure of one permit means that the other permits must be moot and therefore denied as a matter of law.

7. In the alternative, the Hearing Officer should stay consideration of these issues pending the resolution of proceedings relating to permit Solid Waste/Waste Management Permit No. 2023-66600. The sole purpose of the proposed reconstruction of the junction of the driveway and N.H. Route 116 is to serve the proposed landfill. Thus, the sole purpose of the present Shoreland Permit application is to permit access to a landfill that is, as of this date, dead in the water. It would be a waste of the parties' and the tribunal's time, energy and resources to pursue the adjudication of this Shoreland Permit under the present circumstances.

Respectfully submitted,

Dalton Conservation Commission

By its Attorneys,

Date: April 4, 2025

By: /s/ Jeremy D. Eggleton
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CERTIFICATION OF SERVICE STATEMENT

I hereby certify that this Assented-to Motion, has/had been served in accordance with Ec-Wet 201.03 and Ec-Wet 203.01(d); (2) was/has been served upon persons appearing on the attached Service List via electronic mail and/or First Class Mail on April 4, 2025 and (3) otherwise meets the requirements set forth in Ec-Wet 203.01(b)(5).

Date: April 4, 2025

/s/ Jeremy D. Eggleton
Jeremy D. Eggleton

EXHIBIT A



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



VIA EMAIL ONLY

April 3, 2025

Toni King, Regional Environmental & Compliance Manager
Granite State Landfill LLC
c/o Casella Waste Systems, Inc.
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Email: toni.king@casella.com

SUBJECT: Proposed Granite State Landfill (GSL), 172 Douglas Drive, Dalton, NH

Denial by Dormancy of Standard Permit Application

Standard Permit Application for Granite State Landfill, initially received October 31, 2023 and assigned Application No. 2023-66600

Dear Toni King:

The New Hampshire Department of Environmental Services, Waste Management Division (NHDES) is notifying you that pursuant to the New Hampshire Solid Waste Rules (the Rules), the below-described application for a solid waste landfill in Dalton, NH is incomplete and became dormant on February 28, 2025. As defined by Env-Sw 102.65 of the Rules, a dormant application is one for which the applicant fails to submit the information required to complete the application within 12 months of the date NHDES first notified the applicant that the application is incomplete. Pursuant to Env-Sw 304.06, "[a]n incomplete application that becomes a dormant application as defined in Env-Sw 102 shall be deemed denied without further action by the department." The application as of February 28, 2025, consisted of the following submittals:

- Granite State Landfill, LLC. (16 October 2023). Volume 1, Sections I-IV, Identification, Facility Description, Status of Other Permits/Approvals, and Legal Notifications and Agreements. Received October 31, 2023. Assigned WMD Log No. 2023-66600-01.
- Granite State Landfill, LLC. (16 October 2023). Volume 2, Part 1, Section V, Site Report with Attachments V(1)-V(4). Received October 31, 2023. Assigned WMD Log No. 2023-66600-02.
- Granite State Landfill, LLC. (16 October 2023). Volume 2, Part 2, Section V, Site Report Attachments V(5)-V(6). Received October 31, 2023. Assigned WMD Log No. 2023-66600-03.
- Granite State Landfill, LLC. (16 October 2023). Volume 3, Section VI, Preliminary Facility Design Plans and Specifications. Received October 31, 2023. Assigned WMD Log No. 2023-66600-04.
- Granite State Landfill, LLC. (16 October 2023). Volume 4, Section VII, Operating Plan. Received October 31, 2023. Assigned WMD Log No. 2023-66600-05.
- Granite State Landfill, LLC. (16 October 2023). Volume 5, Sections VIII-X, Closure Plan, Financial Report, and Performance History. Received October 31, 2023. Assigned WMD Log No. 2023-66600-06.
- Granite State Landfill, LLC. (16 October 2023). Volume 6, Sections XI-XIII, Public Benefit, Signatures, and Fee Calculation Form. Received October 31, 2023. Assigned WMD Log No. 2023-66600-07.

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- Granite State Landfill, LLC. (16 October 2023). Volume 7, Full Size Plans for Design Drawings and Closure Plan. Received October 31, 2023. Assigned WMD Log No. 2023-66600-08.
- CMA Engineers, Inc. (8 December 2023). Supplemental Submittal – Certified Mail Receipts. Received December 12, 2023. Assigned WMD Log No. 2023-66600-09.
- CMA Engineers, Inc. (3 January 2024). Supplemental Submittal – Certified Mail Receipts. Received January 3, 2024. Assigned WMD Log No. 2023-66600-10.
- CMA Engineers, Inc. (6 February 2024). Supplemental Submittal – Certified Mail Receipts, and Additional Information for Hydrogeological Report, Traffic Study Report, and Geotechnical Report. Received February 8, 2024. Assigned WMD Log No. 2023-66600-11.
- CMA Engineers, Inc. (12 February 2024). Supplemental Submittal – Delivery Confirmations. Received February 12, 2024. Assigned WMD Log No. 2023-66600-12.
- Granite State Landfill, LLC. (19 April 2024). Response to NHDES Incomplete Application (Part 1: Exhibits 1-8; Part 2: Exhibits 9-16). Received April 22 and 25, 2024. Assigned WMD Log No. 2023-66600-13.
- Cleveland, Waters and Bass, PA. (22 April 2024). Submittal of Additional Information Responding to NHDES Incomplete Application Correspondence. Received April 22, 2024, stamped “confidential” by the applicant, and described in the Cleveland, Waters and Bass cover letter as “confidential business information, as that term is defined in Env-C 208.03(a)....”.
- Cleveland, Waters and Bass, PA. (17 June 2024). Submittal of Additional Information Responding to NHDES Incomplete Application Correspondence. Received June 17, 2024, stamped “confidential” by the applicant, and described in the Cleveland, Waters and Bass cover letter as “confidential business information, as that term is defined in Env-C 208.03(a)....”. Assigned WMD Log No. 2023-66600-14.
- Granite State Landfill, LLC. (23 August 2024). Response to NHDES Incomplete Application. Received August 28, 2024. Assigned WMD Log No. 2023-66600-15.
- Granite State Landfill, LLC. (26 November 2024). Response to NHDES Incomplete Application (#2023-66600). Received November 26, 2024. Assigned WMD Log No. 2023-66600-16.
- Cleveland, Waters and Bass, PA. (27 February 2025). Submittal of Additional Information Responding to NHDES Incomplete Application Correspondence. Received February 27, 2025, and stamped “confidential” by the applicant, and described in the Cleveland, Waters and Bass cover letter as “confidential business information, as that term is defined in Env-C 208.03(a)....”.
- Granite State Landfill, LLC. (27 February 2025). Response to NHDES Incomplete Application. Received February 27, 2025. Assigned WMD Log No. 2023-66600-17.

NHDES issued letters deeming the application incomplete on February 28, 2024; June 24, 2024; October 22, 2024; and January 27, 2025. These letters requested information necessary to deem the application complete. The letters also provided notice of the dormancy deadline. Based upon its review of your most recent submittals, NHDES has determined that the application remains incomplete for the following reasons:

1. The information submitted does not include a site report that demonstrates that the location of the proposed facility complies with all applicable siting requirements and that the site is a suitable location for the proposed facility as required by Env-Sw 314.03(a)(5). In addition, the maps, figures, and hydrogeological report submitted as part of the site report initially provided by the applicant

on October 23, 2023 as Volume 2, Parts 1 & 2 (WMD Log No. 2023-66600-02 and -03) were not updated to demonstrate compliance with the re-adopted Part Env-Sw 804, *Siting Requirements*, of the Rules, which became effective on December 21, 2024.

2. The information submitted also does not include copies of the documents that demonstrate that the applicant and their successors and assigns will have a legal right for the use of the properties as proposed in the application as required by Env-Sw 314.03(a)(3).

The February 28, 2024 incompleteness determination letter explained that the submitted legal agreements were heavily redacted, preventing NHDES review. Each of the subsequent incompleteness determination letters reiterated that copies of the legal agreements as required by Env-Sw 314.03 needed to be provided. The legal agreements submitted by the applicant failed to fulfill application requirements because they were heavily redacted and referenced other legal agreements, which were not provided. For instance, the Access Agreement and Option to Purchase Real Estate dated December 11, 2018, ("Option Agreement") included in Attachment IV(3) of Volume 1 of the Standard Permit Application for a Solid Waste Landfill dated October 16, 2023 (WMD Log No. 2023-66600-01) was heavily redacted. These redactions rendered it unable to fulfill permit application requirements.

Similarly, the applicant submitted a Memorandum of Understanding (MOU), under separate cover by Cleveland, Waters and Bass. NHDES received this MOU on April 22, 2024. The document was undated and unsigned. The applicant later submitted a signed version of the MOU (updated MOU), with signatures dated April 15, 2024, under separate cover by Cleveland, Waters and Bass, as indicated above. The updated MOU was received by NHDES on June 17, 2024 (WMD Log No. 2023-66600-14). However, the updated MOU does not fulfill application requirements because it was heavily redacted and references and relies on the terms of the Option Agreement, an April 23, 2019 amendment to that agreement, and a September 9, 2019 second amendment to that agreement, copies of which NHDES did not receive from the applicant. Additionally, the Option Agreement was between the current property owners and North Country Environmental Services, Inc. ("NCES"). In the applicant's April 19, 2024 response letter, the applicant references the modifications to the Option Agreement via the updated MOU and other amendments and that under the modified Option Agreement, the applicant has the right to acquire certain property. However, NHDES did not receive a copy of any assignment agreement between NCES and the applicant.

Finally, a separate submittal dated February 27, 2025, was provided under separate cover by Cleveland, Waters and Bass. NHDES received this document on February 27, 2025. While the applicant provided a short memorandum and an "interpolated agreement" discussing the legal agreements, no copies of such agreements were provided as required by Env-Sw 314.03(a)(3). Therefore, it does not satisfy application requirements.

As discussed, the following information was referenced in the documents submitted by the applicant but was not provided:

- An April 23, 2019 amendment to the Option Agreement referenced in Item B of the updated MOU;
- A September 9, 2019 amendment to the Option Agreement referenced in Item B of the updated MOU; and
- The assignment of rights from NCES to the applicant as referenced in Item D of the updated MOU.

Because the applicant did not submit information necessary to complete the application within one year of NHDES's initial determination of incompleteness, the application has been deemed denied in accordance with Env-Sw 304.06(d) and Env-Sw 305.03(b)(6). Any person aggrieved by this decision can file an appeal with the NH Waste Management Council (Council). Any such appeal must be filed directly with the Council in accordance with the Council's rules, [Env-WMC 204, Appeals: Filing; Notice; Parties and Representatives; Scheduling; Motions](#). The appeal must be filed **directly with the Council within 30 days** of the date of this decision and must set forth fully **every ground** upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council. Information about the Council, including a link to the Council's rules, is available on the [Waste Management Council's website](#).

If you have any questions regarding this letter, please contact me.

Sincerely,



Michael J. Wimsatt, P.G., Director
Waste Management Division
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Waste
Management
Division

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State of New Hampshire
Wetlands Council Docket No. 24-21 WtC
In re appeal of Dalton Conservation Commission

Service List

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Serve (electronically and by mail within five days)

Appellant

Dalton Conservation Commission

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