FACT SHEET ON HB 177

Prepared by North Country Alliance for Balanced Change

February 5, 2021

**A. Putting a landfill right next to Forest Lake State Park is far from the only viable option for NH to manage its solid waste.**

1. Casella’s presentation would have the Committee believe that NH DES must allow Casella to build a massive new landfill on the Dalton site, right next to FLSP, because it is the only way that NH can ensure future landfill capacity.

Not true—the testimony at the Hearing demonstrated that if and when new landfill capacity is needed, alternative sites to the Dalton site, in NH (and elsewhere in New England) are available.

2. As discussed at the hearing, HB 177 would put off limits only a small percentage of the land in NH to landfill development, but otherwise would not in any way affect other land uses that are more compatible with state parks. That leaves plenty of land in NH left for Casella to find an alternative site. Please note that we can provide maps that show the minimal impact a 2-mile buffer would have around FLSP and a number of other NH state parks.

3. Casella has provided little to no evidence that it has done due diligence to find an alternative site for its next landfill. NH DES indicated to Casella that it is highly skeptical of Casella’s required efforts to find an alternate site in NH or elsewhere in New England that would do less environmental damage, especially given that the Dalton site will harm 17 acres of wetlands and destroy 5 vernal pools.

4. Moreover, the Mt. Carberry landfill in Success, N.H. has ample capacity currently available, and significant capacity expansion opportunities. And we note that we have worked closely with Androscoggin Valley Regional Refuse Disposal District over the last year—it opposed HB 1319 in the last House session but is not opposed to HB 177 due to the improvements in the legislative language.

**B. In fact, the Dalton site is a terrible site for a new landfill.**

1. The Dalton site proposed by Casella is a “greenfield”, i.e., undisturbed site. NH DES has never permitted a landfill on a greenfield site and given the fact that non-greenfield sites are available, there is no good reason to start now.

2. The Dalton site would destroy 17 acres of wetlands and 5 vernal pools.

Casella says it will provide mitigation for the wetlands, but that the destruction of the vernal pools is unavoidable. NH DES is unconvinced that destruction of the vernal pools is necessary or appropriate. An additional concern is that the affected area, the Alder Brook catchment, is the highest ranked wildlife habitat in the NH 2020 Wildlife Action Plan.

3. The Dalton site would make it the second landfill in the Ammonoosuc River watershed, putting at even greater risk the water supply and the tourism potential of a number of downstream communities (including Littleton).

**C. Casella has made dubious legal arguments seemingly designed to scare local officials and the NH legislature.**

1. Local opposition (in Dalton) to Casella’s landfill proposal is not retroactive.

The town of Dalton voted to adopt Emergency Temporary Zoning months before Casella filed its first permit application at NH DES.

2. HB 177 is not retroactive with respect to NH DES’ permitting process.

This bill was initiated as HB 1319 in the last legislative session, passed in the NH House, but was not considered further due to the pandemic.

3. HB 177 is not unconstitutional in its differential treatment of the status of the landowner that applies for permitting of a landfill. There are excellent policy reasons for such differential treatment.

4. Casella argues that HB 177 will have negative economic impacts on the firm’s financial health but fails to recognize that siting a landfill in Dalton so near to FLSP will have significant economic impacts on the regional economy. In fact, Casella fails to deal with a myriad of externalities, i.e., costs that it will not bear but others will. This point is driven home by the stated opposition of Taylor Caswell, Commissioner of NH’s Business and Economic Affairs, due to the negative impact of the proposed landfill on tourism.

**D. Casella has made dubious scientific arguments.**

1. Casella argues that its liner technology is state-of-the art, but it refuses to acknowledge the scientific consensus that all liners, eventually, will leak, and that solid waste buried even under the most exacting protocols are potential sources of contamination in perpetuity.

2. Casella has argued before NH DES that its proposed landfill will not result in any type of environmental harm to FLSP or the surrounding area. This flies in the face of all available evidence of the harms caused by similarly situated landfills, including documented evidence from landfills owned.

and/or operated by Casella.

3. Casella refuses to acknowledge that FLSP lies directly downwind (given prevailing winds) from its proposed landfill. This magnifies dramatically the risks of atmospheric deposition of harmful materials and the likelihood of noxious odors in and around FLSP.

4. As Dr. Adam Finkel has testified, the choice of 2 miles as the distance for a buffer is not arbitrary, but in fact represents a reasonable scientific compromise considering the rate of groundwater flow that is likely if and when there is landfill leakage, and the corresponding amount of time available to remediate.

5. PFAS are a problem that will not go away in NH. Casella’s plan for dealing with the problem of PFAS is seemingly to ignore the problem as much as possible.

**E. Casella has been evasive and disingenuous in providing needed information to decision-makers, including local and state officials—and NH legislators.**

1. Casella has refused to provide an application for zoning relief to the town of Dalton despite repeated requests to do so by the Dalton Select Board. The NH Supreme Court addressed this issue in 2004 saying: “A plain reading of the statute is that RSA chapter 149-M does not preempt lawful, applicable local regulations that are consistent with State law.” (Casella vs Town of Bethlehem)

2. Casella points to its site visit with members of the Dalton Conservation Commission as evidence of its efforts to coordinate with local officials. It’s important to note that of the three town officials on that site visit, **two of them have a direct financial interest** in the landfill and have been forced, against their will, to recuse themselves from town consideration of the landfill.

3. The wetlands permit application, filed at NH DES in September 2020, was a significantly incomplete submission, given the fact that NH DES issued a Request for More Information that included 26 different topics.

4. Casella’s claims that surface water will not flow from the landfill site toward FLSP belies the fact that there is only a low ridge that separates the two catchment areas. Under certain conditions, surface water may indeed flow from the landfill site to FLSP.

5. Casella’s claims that groundwater flow cannot contaminate FLSP because “groundwater does not flow uphill” is refuted by scientific consensus. That claim is simply not true, and Casella cannot know how groundwater will in fact flow without collecting and analyzing significantly more hydrogeologic data on the site and surrounding area.

6. Casella’s claims that there will be no environmental impacts on FLSP and the surrounding area from its proposed landfill are unsupported.

NCABC has asked NH DES to require Casella to provide at a minimum one year’s worth of baseline hydrogeologic data as necessary to support any regarding environmental impact.

7. NCABC’s wetlands expert and attorney note that Northern Pass provided significantly more data to state decision-makers than has Casella, despite the fact that the Dalton landfill project will have approximately seven times the impact on wetlands.

8. Casella has long argued that the landfill will not be visible from FLSP or surrounding areas, but now claims that in fact its viewshed analysis indicates that at certain locations and at certain times the landfill will have a viewshed impact.

9. Casella has said nothing about the known hazards of scavenger animals. In particular, seagull droppings significantly increase the risk of eventual permanent eutrophication of a fragile mountain lake such as Forest Lake.