

September 20, 2024

Via Email

New Hampshire Department of Environmental Services

Michael Wimsatt
Director, Waste Management Division
michael.wimsatt@des.nh.gov

Jaime Colby
Supervisor, Engineering and Permitting Section
Jaime.M.Colby@des.nh.gov

Re: NHDES File Number: 2023-66600 Solid Waste Standard Permit Application; Subject Properties: Dalton Tax Map 406, Lots 2.1, 2.3, 2.4, 2.5, 3, and 3A and Bethlehem Tax Map 406, Lots 1 and 2 (“Application”)

Dear Director Wimsatt and Ms. Colby,

I write in continued representation of North Country Alliance for Balanced Change (“Alliance”). On October 31, 2023, Granite State Landfill, LLC, a subsidiary of Casella Waste Systems, Inc., (“GSL” or “Applicant”) submitted a new application for a Standard Permit for Solid Waste Landfill to the Solid Waste Management Bureau (“Bureau”) of the New Hampshire Department of Environmental Services (“Department”) for its proposed landfill on the private road of Douglas Drive in Dalton and Bethlehem, New Hampshire (“Proposed Landfill” or “Proposal”).

There are several issues with the Application related to leachate disposal. Namely, GSL has not provided—and appears to not have—agreements with wastewater treatment facilities (“WWTFs”) to accept leachate from the Landfill during what would be its active life. This is particularly concerning in the wake of recent difficulties and violations Casella’s North Country Environmental Services Landfill (“NCES”) has had with leachate disposal, culminating in Casella’s recent request to permanently maintain emergency operating hours for hauling an undetermined amount of leachate out of NCES. PFAS, including PFAS from landfill leachate, are also a key concern for the United States Environmental Protection Agency (“EPA”) as it develops a new General Permit for New Hampshire’s medium-sized WWTFs.

Failure to Produce Agreements

A lined landfill is required to have a leachate management plan. Env-Sw 806.05(b). One of the criteria for a leachate management plan is that “[n]o less than 2 locations for

leachate treatment or disposal shall be available *by written agreement* to manage the quantity of leachate generated by the facility *during its active life.*” Env-Sw 806.05(b)(3) (emphasis added).

The operating plan in GSL’s original Application identifies three permitted facilities for leachate disposal: Concord, NH; Franklin, NH; and Plattsburgh, NY. In its supplement dated August 23, 2024, GSL updated its list of potential facilities to include: Concord, NH; Franklin, NH; Allenstown, NH; Anson-Madison, ME; Plattsburgh, NY; and Passaic Valley, NJ. However, under Env-Sw 806.05(b)(3), it is not enough for GSL to merely *identify* facilities; GSL must produce *written agreements* with at least two of these facilities, and these agreements must cover the Landfill’s active life. GSL’s Application materials and supplements do not include copies of such written agreements for any of the listed facilities. Indeed, in its breakdown of compliance with the Solid Waste Rules, GSL merely says that “Section 4.1.3 of the Operating Plan *identifies* 3 facilities where leachate may be disposed.” (Emphasis added.) There is no mention of written agreements with these facilities having been secured, only that the facilities have been “identified.” Similarly, the August 23, 2024 supplement explains that “[t]he revision [to the Operating Plan] also updates *expected* leachate disposal facilities.” (Emphasis added.) Again, there is no discussion of written agreements, merely that the facilities are “expected.” Until GSL produces written agreements with two leachate treatment/disposal facilities, it has not satisfied Env-Sw 806.05(b)(3).

It is likely the case that GSL has not provided written agreements because such agreements do not exist. For example, GSL does not have a written agreement with the Franklin facility, which is part of the state-owned and Department-controlled Winnepesaukee River Basin Program (WRBP). On July 15, 2024, Ted Diers, Assistant Director, Water Division, confirmed via email that the WRBP has **not** issued a permit for acceptance of the Landfill’s leachate at the Franklin WWTF. *See* email, attached as **Exhibit A**¹ Mr. Diers also explained that any permit application or permit modification would be reviewed on a case-by-case basis under the WRBP permitting guidelines and rules in effect at the time, which means that there is no guarantee that GSL would receive a permit (i.e., written agreement) to transport leachate to the Franklin WWTF. This underscores why it is important for applicants to provide—and why Env-Sw 806.05(b)(3) requires that applicants provide—written agreements with leachate treatment/disposal facilities rather than merely identifying facilities that may or may not eventually enter into such agreements.

What is more, it is crucial that applicants have written agreements in place to ensure that leachate disposal is available for the entire active life of a proposed facility. As noted above, the written agreements with the facilities are meant to cover “the quantity of leachate generated by the facility *during its active life.*” Env-Sw 806.05(b)(3) (emphasis

¹ Mr. Diers did note the Franklin WWTF has issued permit #017-18 for acceptance of leachate from NCES.

added). In this case, there are serious questions as to whether the facilities GSL identified will be able to handle the anticipated quantity of leachate from the Landfill. Specifically, the Concord facility temporarily stopped accepting leachate for a weeks-long period in February 2024 and then reduced its daily maximum acceptance from ten to twelve trucks per day to two to four trucks per day (in an apparently unexpected to NCES effort to reduce total ammonia inputs at the facility). These types of situations exemplify why it is integral for GSL to have adequate written agreements in place to meet the leachate demands of the Proposal during its lifespan.

In sum, GSL has failed to produce written agreements with at least two leachate treatment/disposal facilities, as mandated by Env-Sw 806.05(b)(3). GSL's mere identification of six "expected" facilities does not satisfy this requirement. Until GSL provides written agreements, the Department must deny the Application or else any approval will be unlawful.

Lessons Learned from NCES

The recent struggles NCES has had with leachate disposal bring into focus the need for the Landfill to meet every state requirement related to leachate disposal, including adequate written agreements with leachate treatment/disposal facilities that can meet the Landfill's leachate needs over the course of its active life. Without these assurances, the Landfill would undoubtedly encounter the same hurdles that have plagued NCES. For example, in an April 19, 2024 email, Samuel C. Nicolai, PE, Vice President of Engineering and Compliance at Casella, requested emergency classification for NCES, seeking approval to transport leachate 24/7 for a fourteen-day period. *See* email, attached as **Exhibit B**.

In requesting emergency classification, Mr. Nicolai discussed "unforeseen circumstances" including "[u]nforeseen reductions of disposal capacity (# of loads/day) from [NCES's] primary wastewater disposal outlets; [t]hese reductions are causing [NCES] to haul leachate much further distances. As a result, the current window of operational hours is not sufficient to keep up with leachate generation." *Id.* Similarly, in an email to Representative Judy Aron, Chair of the House Environment and Agriculture Committee, Director Wimsatt pointed to issues such as "limited hours for delivery at the WWTPs, greater hauling distances, and limited availability of trucks and drivers during those hours." *See* email, attached as **Exhibit C**. Notably, leading up to this emergency, NCES had historically been shipping its leachate to Concord and Franklin—two of the very same facilities identified in the Application. *See* phone call record, attached as **Exhibit D**.

This emergency episode in April of 2024 perhaps could have been explained away as a one-off situation caused by unforeseen circumstances, but NCES has since requested to maintain emergency conditions on a permanent basis via a Type II Modification to Solid

Waste Management Facility Permit (the “Type II Modification”). Originally, on June 21, 2024, NCES requested that it be permitted to update its operating plan to allow for 24/7 leachate hauling from the facility (outside of the typical operating hours of 6:00 a.m. to 6:00 p.m.). On July 26, 2024, NCES modified its request via a supplement to the Type II Modification, asking that it be permitted to update its operating plan to allow leachate hauling between 4:00 a.m. and 6:00 a.m.—still outside of normal operating hours—rather than on a 24/7 basis. Either way, NCES has been forced to request that conditions that would normally only be allowed in an emergency be made the new norm.

According to Casella, “[t]he requested change is necessary to allow for leachate trucks to be received at a wastewater treatment facility when they first open for the day, maximizing the truckloads that can be received at the facility” and “[t]he proposed change is necessary to successfully operate the facility [NCES].” If Casella is currently having trouble transporting leachate from NCES—to the point that it is requesting that NCES be granted permanent emergency status in order to “successfully operate”—it stands to reason that it will have the same, if not worse, issues with the Landfill. This is especially true when two of the leachate disposal/treatment facilities proposed for the Landfill (Concord and Franklin) are the same as those historically used by NCES—the very same facilities that clearly have been unable to meet NCES’s leachate demands and necessitated Casella requesting both temporary and permanent emergency status. In light of NCES’s ongoing leachate floundering, it would be patently unreasonable for the Department to approve the Application when the Application relies upon two of the same leachate disposal/treatment facilities as NCES, particularly when the Application fails the legal requirement to include written agreements with these facilities guaranteeing acceptance of the Landfill’s leachate throughout its active life (without the need for the Landfill to operate under emergency conditions like NCES).

In conclusion, the leachate disposal debacle at NCES should serve as a warning against the Department approving the Application—an application that depends on the same facilities unable to meet NCES’s needs under normal operating conditions (6:00 a.m. to 6:00 p.m.) and with which no written agreements have been provided.

New General Permit

Currently, the EPA is developing a new General Permit to replace the existing Individual National Pollutant Discharge Elimination System (“NPDES”) Permits for twenty-one medium-sized WWTFs in New Hampshire. According to the 2024 Draft of the New Hampshire Medium Wastewater Treatment Facility General Permit (the “Draft General Permit”) and its accompanying Fact Sheet, permittees would be required to monitor for PFAS. Specifically, “the Draft General Permit requires that the Facility conduct quarterly influent, effluent and sludge sampling for PFAS chemicals and annual sampling of certain industrial users.” Fact Sheet at 37. The annual sampling of industrial discharges includes landfill leachate. Draft General Permit at 23, 29. EPA in instituting this

monitoring and reporting requirement to, in part, inform future permitting decisions, including potentially developing water-quality based effluent limits. Fact Sheet at 38.

EPA has clearly homed in on PFAS, especially as it pertains to landfill leachate, and its attention to the harmful chemicals will only increase as it considers whether and to what extent to impose effluent limits. Given EPA's focus on PFAS, it is especially important for the Department to ensure that any future landfills, including the Proposal, can adequately and safely manage their PFAS-containing leachate. Given the outstanding leachate disposal issues at NCES and the lack of written agreements in the Application, the Department cannot conclude that the Proposal is ready for approval.

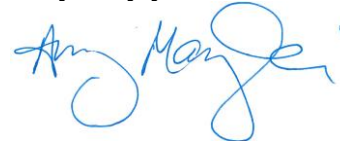
Conclusion

The Application does not adequately address leachate disposal, with GSL failing to produce written agreements, which likely do not exist, with at least two WWTFs, as required by Env-Sw 806.05(b)(3). It is crucial that GSL provide evidence of sufficient written agreements with WWTFs to cover the Landfill's entire active life, because as shown by the mounting leachate disposal problems at NCES that have led to temporary and permanent emergency requests, leachate issues can compound if they are not adequately addressed from the start. What is more, PFAS, including PFAS from landfill leachate, have become a primary concern for the EPA, making it especially important that the Department not place leachate disposal on the backburner when evaluating landfills.

For these reasons, the Alliance respectfully requests that the Department deny the Application because the Applicant has not provided the legal requirements for the Department to take any action otherwise.

Thank you for your attention to the concerns of the North Country Alliance for Balanced Change on this matter.

Very truly yours,



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Enclosures

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From: [Diers, Ted](#)
To: [Timothy Kopczynski](#)
Cc: [McMillin, Sharon](#)
Subject: RE: Granite State Landfill Leachate Disposal
Date: Monday, July 15, 2024 5:03:14 PM
Attachments: [image001.png](#)

Mr. Kopczynski,

I apologize for the long wait for a response. This got lost in the shuffle.

You asked a couple of questions regarding leachate disposal at WRBP. Here are the responses –

1. Is there a written agreement with GSL (or its parent company, Casella) for WRBP to accept leachate at its Franklin wastewater treatment facility from GSL's proposed landfill in Dalton.

Response: The WRBP has not issued a permit for acceptance of Dalton (GSL) landfill leachate. *However, the WRBP Franklin WWTF has issued permit #017-18 for acceptance of leachate from the Casella Waste Systems, Inc. dba North Country Environmental Services (NCES) landfill.*

2. If not, would WRBP enter into such an agreement to accept leachate at the Franklin facility?

Response: The WRBP Franklin WWTF has an EPA-approved wastewater pretreatment program and, therefore, is not subject to New Hampshire's indirect discharge request (IDR) process but rather issues its own individual permits. The WRBP would review any new permit application or permit modification under the existing WRBP permitting guidelines and rules at that time.

Thank you,
Ted

Ted Diers, Assistant Director, Water Division
NH Department of Environmental Services
PO Box 95
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Work Phone – 603-271-2951
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Theodore.e.diers@des.nh.gov
www.des.nh.gov

From: [Mills, Austin](#)
To: [Samuel Nicolai](#); [Colby, Jaime](#); [Daun, Mary](#)
Cc: [Kevin Roy](#); [Joe Gay](#)
Subject: RE: Request for Emergency Classification
Date: Monday, April 22, 2024 11:33:00 AM

Samuel,

Thank you for contacting us about an emergency situation requiring leachate hauling operations to occur between the hours of 6:00PM to 6:00AM in addition to normal operational times of 6:00AM to 6:00PM, for a period of 14 days beginning April 19, 2024. As I understand from our conversation on April 22, 2024, you have identified a leachate disposal capacity restraint caused by a disposal limit notification from one of North Country Environmental Services' (NCES) disposal facilities with which written agreements are maintained. This disposal limitation and lack of available capacity has caused the leachate storage system at NCES to reach capacity. I understand that the facility is currently limiting further inflows to the storage tank system through pump cycle management.

I also understand through our conversation that NCES has recently entered into a written agreement with the Manchester NH Wastewater Treatment Facility (WWTF) to allow for up to 150,000 gallons of leachate disposal capacity over a two-week period. You stated during our conversation that NCES is pursuing additional written agreements with other WWTFs to provide adequate disposal capacity in order to manage the quantity of leachate generated during the active life of the landfill.

After our discussion and your statements in the initial email, it is clear that NCES has determined that a non-routine operational emergency exists that requires leachate hauling operations to occur outside normal operating hours. NCES has identified that this operation will continue through May 3, 2024. Env-Sw 1105.08(a) allows for operation outside the hours of 6:00AM to 6:00PM during emergency circumstances. Such actions are allowed under Env-Sw 1105.08(a).

Pursuant to Env-Sw 806.05(b)(1), routine facility operations, including operations during the 25-year storm event, must not result in more than one foot of hydraulic head on the liner system(s). If this event has resulted in more than one foot of hydraulic head on the liner systems, NCES must report an incident to NHDES pursuant to Env-Sw 1005.09, including a verbal notification.

If necessary, once the facility resumes normal operation on May 4, 2024, the Facility Operating Plan / Leachate Management Plan will need to be updated to contain no less than two locations for leachate treatment or disposal which are available to NCES by written agreement to manage the quantity of leachate generated by the facility during its active life.

Please let me know if you have any questions.

Austin Mills

Solid Waste Management Bureau
NH Dept. of Environmental Services
29 Hazen Drive / P.O. Box 95
Concord, NH 03302-0095

Phone: (603) 271-2927

From: Samuel Nicolai <Samuel.Nicolai@casella.com>

Sent: Friday, April 19, 2024 5:04 PM

To: Colby, Jaime <Jaime.M.Colby@des.nh.gov>; Daun, Mary <Mary.F.Daun@des.nh.gov>; Mills, Austin <Austin.S.Mills@des.nh.gov>

Cc: Kevin Roy <Kevin.Roy@casella.com>; Joe Gay <John.Gay@casella.com>

Subject: Request for Emergency Classification

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

Jamie,

Consistent with Env-Sw 1105.08(a), NCES is requesting emergency classification for operational hours to move leachate from the facility. We are requesting approval to load and transport leachate on a 24-hour basis, seven days per week, for a 14-day period. We anticipate that we can return to normal hours at the end of the 14-day period. These alternative hours will not impact facility safety, access control, or create nuisances in accordance with Env-Sw 1105.08(b)(1)b.

Our request for emergency classification is based specifically on the following unforeseen circumstances:

- Unforeseen reductions of disposal capacity (# of loads/day) from our primary wastewater disposal outlets; These reductions are causing us to haul leachate much further distances. As a result, the current window of operational hours is not sufficient to keep up with leachate generation;
- Greater than six inches of rain and 36 inches of snow in the last 30 days, which exceed our planning even for normal wet spring months;

Unfortunately, the timing of these unforeseen events has occurred during the period where the facility has a significant portion of the active cell open to precipitation. NCES is taking additional steps to permit additional wastewater disposal outlets going forward. However, without this approval for additional hours of leachate hauling, the facility risks the potential of noncompliance.

Please let us know if you have any questions or require additional information.

Samuel C. Nicolai, PE

Vice President of Engineering & Compliance

Casella Waste Systems, Inc.

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From: Wimsatt, Mike <michael.j.wimsatt@des.nh.gov>
Sent: Wednesday, June 12, 2024 4:14 PM
To: Judy Aron <Judy.Aron@leg.state.nh.us>
Cc: Scott, Robert <Robert.R.Scott@des.nh.gov>
Subject: RE: NCES Leachate Hauling Emergency Issues

Caution! This message was sent from outside your organization.

Dear Representative Aron,

I am writing in response to your email dated May 27, requesting that NHDES respond to questions posed to you in an email from Jon Swan regarding management and disposal of leachate generated at the NCES Landfill in Bethlehem (NCES). As I indicated in my initial response to you on May 28, I am writing now to provide a more detailed response.

As you know, leachate is generated at all landfills as a result of precipitation that migrates through the waste mass, is collected via engineered drainage systems constructed on the landfill liners, and is pumped to temporary storage tanks. At some landfills in NH, the leachate is direct-piped to a nearby wastewater treatment plant for treatment and discharge. At others, including the NCES facility, the leachate is pumped off to tanker trucks (typically 8000-gallon capacity) and transported via highway to wastewater plants for treatment and discharge. For larger landfills, such as the NCES Landfill, leachate generation volumes require several daily pickups by tanker trucks.

NHDES rules and permits for landfills require that each facility have at least two wastewater treatment plants (WWTP) identified to receive, treat, and discharge their leachate. NCES has typically utilized the Winnepesaukee River Basin Plant in Franklin and the Concord WWTP for management of their leachate. NHDES rules and facility permits require that leachate hauling activities be conducted within the facility's operating hours.

During the first quarter of this calendar year (Jan – Mar 2024), landfill facilities across the state experienced much higher than usual precipitation. In the case of NCES, the facility reported that precipitation included an average amount of snowfall and total precipitation that was double the normal values. In addition, NCES completed construction and received approval for operation of a new phase of the landfill. Typically, when new phases are constructed and begin operation, leachate flows can significantly increase due to a large area being subjected to precipitation without the presence of waste to slow down the migration of the water to the leachate collection system.

The combination of higher-than-normal precipitation and construction/operation of a new phase of the landfill without significant diversion of rainfall to the stormwater management system contributed to higher leachate generation during the first few months of this year at NCES. Simultaneously, the Concord WWTP, which routinely receives leachate from NCES, temporarily stopped accepting leachate for a few weeks in February 2024. Then, reportedly in an effort to reduce total ammonia inputs at its facility, it reduced its daily maximum acceptance from 10-12 trucks to 2-4 trucks/day. Consequently, NCES contracted with three additional facilities, the Allenstown WWTP, the Manchester WWTP; and the Anson/Madison WWTP in Maine for treatment of its leachate. Currently, NCES is using some combination of these facilities to manage its leachate.

In mid-April, NCES contacted NHDES to notify us that it was dealing with a leachate hauling emergency* and seeking permission to haul leachate from the facility outside its normal working hours of 6 am to 6 pm. The combination of having an unusually high amount of leachate, limited hours

for delivery at the WWTPs, greater hauling distances, and limited availability of trucks and drivers during those hours necessitated a brief period (approx. 2 weeks) of expanded hauling hours from the Bethlehem facility in order to move sufficient amounts of leachate. (Note that the facility has approximately 200,000 gallons of on-site storage capacity.)

* Note: NCES can obtain permission to expand its hours of leachate hauling through a permit modification, but has not yet done so. Accordingly, it is only allowed to operate outside those hours in *emergency* situations. The stated emergency in this case was an inability to move enough leachate each day to stay within its on-site storage capacity. Following the two-week period during which it was authorized to haul leachate for extended hours, it has returned to routine operations and a 6 am to 6 pm hauling schedule. As we understand the current situation, that routine schedule, coupled with the expanded list of receiving facilities, allows for adequate leachate loading and off-site transport.

With respect to the questions regarding shipment of leachate from Casella's New England Waste Services Landfill in Coventry, Vermont, wastewater treatment plants may elect to accept wastewaters from out-of-state. The Concord WWTP is an example of such a facility. NHDES also notes that NCES' 2024 first quarterly operations report indicates that Vermont registered tanker trucks were used frequently to haul leachate from NCES to various wastewater treatment plants.

Pursuant to its authority under RSA 149-M, NHDES continues to evaluate the compliance status of NCES with respect to its permit and applicable rules.

In a broader context, NHDES has identified a series of issues impacting leachate generation, control, management, and disposal at all of NH's landfills. They include:

- a. Increased frequency and intensity of storm events, and overall higher annual precipitation;
- b. Performance of intermediate cover with respect to intercepting and diverting precipitation to stormwater collection systems v. entering the waste mass and contributing to leachate generation;
- c. General operational practices; and
- d. Design and construction of leachate management and stormwater management systems.

NHDES plans to address these issues with several efforts in the coming months. The proposed rules in Chapter Env-Sw 800 specify increased leachate storage capacity and increased design flow standards for both leachate management and stormwater management, acknowledging increased precipitation and intensity/frequency of storm events. They also strengthen the requirements and schedules for intermediate cover installation. The agency is also placing a focus on compliance assurance efforts relative to operational practices that influence leachate and stormwater management.

Thank you for your interest and attention to solid waste management issues in New Hampshire. I look forward to speaking with you again soon about this topic.

Sincerely yours,
Mike Wimsatt

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

6/30/24, 7:17 AM

(11,596 unread) - saveforestlake@yahoo.com - Yahoo Mail

EXHIBIT C

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STATE OF NEW HAMPSHIRE

INTRA-DEPARTMENT COMMUNICATION



TO: File

FROM: Austin Mills, SWMB, NHDES

SUBJECT: Phone Call with Samuel Nicolai of Caselle RE: Leachate Hauling Emergency Circumstance April 19, 2024 Occurring at NCES, NHDES Permit # DES-SW-SP-03-002

DATE: April 22, 2024

At 9:43 AM, Samuel Nicolai from Casella returned my phone call. I had left a voice message asking him to call me back so that I could gather more information about the situation. He said that they had an unforeseen leachate disposal capacity reduction. I asked Samuel which facilities they had historically shipped to, and he said Concord and Frankin. I asked clarifying questions and identified the facilities as Concord NH Wastewater Treatment Facility and the Winnepesaukee River Basin Program, located in Franklin NH.

Samuel said that he had heard from the Concord WWTF that NHDES had issued a notice relative to ammonia level reductions and that Concord would only be able to accept 2 deliveries per day from NCES, down from 10-12. He also said that that Concord had also allowed Casella's Coventry Landfill to retain a 2 delivery per day capacity. He said that they had internally allocated the capacity from Coventry to NCES to allow for 4 total deliveries per day.

Samuel said that Franklin (Winnepesaukee River Basin Program) currently accepts 3 deliveries per day. I asked if anyone had contacted them to see if there was additional capacity that could be used there. Samuel said he thinks that Kevin Roy of NCES may have contacted them but will reach out to confirm.

Samuel then spoke about what they had done to rectify the situation. He said that they had entered into a written agreement with the Manchester NH WWTF to accept 150k gallons of leachate over a two-week period. He said they were also in talks with the Allenstown NH WWTF and Anson Madison WWTF in Maine, though he did not know at what point in the process either facility was with an agreement.

He said that their current disposal capacity was 7 truckloads at approximately 8000 gallons each. He said that this is inadequate and that they are currently at capacity in the leachate storage tanks and are managing leachate into these tanks by pump cycling to prevent overflow. I asked what the actual limitation was, and Samuel said that it is the opening hours of the

File

Phone Call with Samuel Nicolai of Caselle RE: Leachate Hauling Emergency Circumstance April 19, 2024 occurring at NCES, NHDES

Permit # DES-SW-SP-03-002

NCES Stage 6, 581 Trudeau Rd

4/22/2024

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current WWTFs and the number of trucks and drivers to be able to deliver during those hours.

I told him that I would speak to the engineering section at Solid Waste and get back to him shortly with any other questions.

ASM