



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Landfill Permitting: Conservation Law Foundation Complaint Alleging New Hampshire Failure to Establish/Update Solid Waste Plan

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The Conservation Law Foundation ("CLF") filed a February 14th Complaint for Declaratory Judgment, A Writ of Mandamus, and Injunctive Relief ("Complaint") against the New Hampshire Department of Environmental Services ("NHDES") alleging:

- Failure to comply with certain mandatory, non-discretionary duties that are essential to the management of solid waste in New Hampshire.

The alleged failure is stated to include:

- The duty to establish and update a solid waste plan for the state
- The duty to rely on that solid waste plan in determining whether to grant permits for proposed waste disposal facilities

NHDES is stated to be the state agency responsible for the management of regulation of solid waste in the state. This responsibility is stated to include:

- Developing and updating a state solid waste plan
- Reviewing and rendering decisions on permit applications for new and expanded waste facilities
- Regulating waste facilities and practices associated with the collection, processing, treatment, recycling, re-use and disposal of solid waste in New Hampshire

The Complaint provides CLF's overview of the relevant statutes and regulations addressing:

- New Hampshire's Solid Waste Goals, Hierarchy, and State Plan Requirement
- Permit Review and Decision-making for Waste Facilities

The organization contends that absent a valid updated state solid waste plan, that NHDES cannot lawfully or reasonably render a substantial-public-benefit determination. As a result, it argues that the agency cannot lawfully and reasonably issue permits for new or expanded solid waste facilities.

The Complaint seeks:

- A Declaratory Judgment that NHDES is violating statutory and solid waste planning and regulatory requirements
- A Writ of Mandamus ordering NHDES to achieve compliance with the statutory solid waste plan requirement

- An Order enjoining NHDES from reviewing, and issuing decisions on, permit applications for new or expanding waste facilities
- Prohibition of any further review and decision-making required for permits NHDES has already granted

This relief is sought until the state has a legally valid solid waste plan.

A copy of the Complaint can be downloaded [here](#).