



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

January 19, 2022

The Honorable Karen Umberger
Chair, House Finance Committee
Legislative Office Building, Room 210-211
Concord, NH 03301

RE: HB 1300-FN-A, An Act Making an Appropriation to Fund the Ash Landfill in Newport

Dear Chair Umberger and Members of the Committee:

Thank you for the opportunity to testify on HB 1300-FN-A. This bill would appropriate \$500,000 to the New Hampshire Department of Environmental Services (NHDES) toward financial assurance for the NH/VT Ash Landfill in Newport. NHDES is not taking a position on this bill, but we offer the following background information for the Committee's consideration.

In New Hampshire, there are over 400 closed landfills that contain decades of waste with the potential to cause a variety of human health and environmental concerns, including explosion risk associated with landfill gas migration; drinking water, groundwater, and soil contamination; and other safety hazards. To protect against these risks, the New Hampshire Solid Waste Rules, Env-Sw 100-2100, require closed landfill permittees to conduct ongoing maintenance and monitoring and demonstrate that they have financial assurance to cover maintenance and monitoring for a rolling 30-year period. The financial assurance is to be held in reserve, to be used to conduct the work in the event that the permittee becomes insolvent.

The Economic Corporation of Newport (ECON) is the permittee for the NH/VT Ash Landfill, and their financial assurance mechanism is a trust fund held by Citizens Bank. While the trust fund originally contained sufficient balance to cover 30 years of maintenance and monitoring, a misunderstanding of the requirement that financial assurance cover a 30-year rolling period rather than a 30-year fixed period resulted in depletion of the trust fund, and it can no longer cover 30 years of costs.

For financial assurance, the cost of post-closure care is based on 30-year closure cost estimates that the permittee is responsible for updating and submitting to NHDES every three years. The most recent closure cost estimate on file for the NH/VT Ash Landfill is dated November 8, 2016 and estimates costs for a 15-year period. Without a recent 30-year closure cost estimate, it is not possible to determine whether adding the \$500,000 proposed by HB 1300-FN-A to ECON's trust fund would fulfill their financial assurance responsibility.

It is also important to note that NHDES is not a party to the trust fund agreement. The agreement is between ECON (the Grantor) and Citizens Bank (the Trustee). A copy of the agreement was submitted

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to NHDES as part of ECON's landfill permit application and is on file at NHDES. If HB-1300-FN-A appropriates \$500,000 to NHDES for ECON's financial assurance, a mechanism will be necessary for NHDES to transfer that money to ECON for deposit into their trust fund.

Information on file at NHDES indicates that the NH/VT Ash Landfill has been diligently maintained. For this landfill, like all other active and closed landfills in the state, adequate financial assurance is necessary to ensure that maintenance and monitoring will continue into the future without burdening future New Hampshire communities and taxpayers with the costs of maintenance and monitoring, or worse, the costs of mitigating the hazards that result from inadequate maintenance and monitoring.

Thank you again for the opportunity to comment on HB 1300-FN-A. Should you have further questions or need additional information, please feel free to contact either Sarah Yuhas Kirn, Assistant Director of the Waste Management Division at Sarah.L.YuhasKirn@des.nh.gov or (603) 271-4978 or Michael Wimsatt, Director of the Waste Management Division at Michael.J.Wimsatt@des.nh.gov or (603) 271-1997.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Scott", with a long horizontal flourish extending to the right.

Robert R. Scott
Commissioner

ec: Sponsors of HB 1300-FN-A: Representative Rollins, Senator Ward