

**THE STATE OF NEW HAMPSHIRE
WASTE MANAGEMENT COUNCIL**

NOTICE OF APPEAL

**Denial of Type 1-A Permit Modification Application for Increase in Facility Capacity and
Change in Authorized Wastes (Permit No. DES-SW-87-037)
Denial of Waiver Application for Property Line Setbacks
Recycling Services, Inc., 43 Industrial Boulevard, Claremont, NH**

Conservation Law Foundation (“CLF”) submits this Notice of Appeal of the above-referenced denial of Type 1-A Permit Modification (Permit No. DES-SW-87-037) (“Denial”) issued by the Department of Environmental Services (“DES”) on May 22, 2025, to Recycling Services, Inc./Acuity Management Inc. (“Acuity”).

DES’s decision to deny the permit, while correct, is nevertheless unlawful and unreasonable because it is overly narrow in scope (limited to adverse traffic impacts) and omitted several important grounds for denial. Because DES made the right decision, but for incomplete reasons, this appeal raises and preserves the additional, critical, grounds for denial for when, or if, Acuity appeals the decision. If Acuity does not bring an appeal, CLF intends to withdraw this Notice of Appeal.

In support of this Notice of Appeal, CLF provides the following information in accordance with the requirements of Ec-Wst 203.

I. Appellant

Conservation Law Foundation, Inc.

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Organizational Headquarters:
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II. Appellant's Representative

Heidi H. Trimarco, Esq.
Staff Attorney
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III. Clear and Concise Statement of Facts and Law that Explains Why the Department Decision was Unlawful or Unreasonable

A. Concise Statement of Facts

Acuity is a Massachusetts-based corporation that currently operates a small recycling facility on a one-acre lot in Claremont. Acuity operates under a 1987 permit, DES-SW-87-037, that specifically prohibits the processing of demolition debris and limits the size and scope of operations at the site.

Acuity applied to DES for permission to significantly change operations at the site. Acuity proposed to process an entirely new and previously prohibited type of waste – construction and demolition debris (“C&D”) – at much greater volumes – up to approximately 130,000 tons of waste per year, with an average tonnage of 500 tons per day. Its proposed activity would have represented an increase of more than 2,500 times current facility operations.

For years, Acuity has sought to expand operations at the site in the face of fierce local opposition. The Claremont community has vociferously opposed Acuity's proposal to transform the small, 1980's-era, recycling operation into a large-scale C&D facility. In addition to public opposition, Acuity has repeatedly failed to obtain local approvals to expand operations at the site. In August and September 2022, the Claremont Zoning Board of Adjustment denied Acuity's application to convert the site into an expanded transfer station to process C&D materials. Acuity appealed that decision to Superior Court, where the matter is currently stayed. *See Acuity v. City of Claremont*, 220-2022-CV-00121, Superior Court, Sullivan County. The Claremont Conservation Commission opposes the project. In August 2024, the Claremont Planning Board voted unanimously to amend the city's zoning ordinance to prohibit the storage and transfer of

C&D debris. The Claremont City Council unanimously adopted the ordinance the following month. At a public hearing for this permit on March 6, 2024, attended by hundreds of people, more than sixty people spoke against the project, urging DES to deny the permit application.

B. Concise Statement of Law

DES's decision is unlawful and unreasonable because it fails to recognize several important grounds for denying the permit. In addition to DES's correct decision to deny the permit because of adverse traffic impacts, DES should have further denied the permit on the following grounds: 1) Acuity's application is an improper attempt to circumvent necessary local approvals, 2) Acuity is proposing an entirely new waste facility, not a permit modification, 3) the proposed C&D facility fails to satisfy statutory substantial public benefit requirements, and 4) the facility will create adverse environmental impacts that will threaten human health and the environment.

1. Acuity's application is an improper attempt to circumvent necessary local approvals.

Acuity's permit application is an improper attempt to circumvent the required local approval process. The Claremont ZBA twice denied Acuity's application to convert the facility to a C&D facility, and the City amended its ordinance to explicitly prohibit C&D facilities. Despite Acuity's failure to obtain local approvals and the pendency of an appeal in Superior Court, Acuity nevertheless applied to DES for a permit. Acuity cannot circumvent the local approval process through a state solid waste permit. RSA 149-M:9, VII; *North Country Environmental Services, Inc. v. Town of Bethlehem*, 150 N.H. 606 (2004). Moreover, Acuity's existing 1987 permit requires the facility to obtain and meet all applicable local approvals and conditions. DES erred in failing to determine that Acuity cannot advance this project without obtaining local approvals.

2. Acuity is proposing an entirely new waste facility, not a permit modification.

Acuity's proposal is too great of a change from existing and permitted operations to be considered a permit modification – it should instead be considered an application for an entirely new waste facility. Under the Solid Waste Rules, a Type-1-A modification generally applies to “an amendment to the terms and conditions of a permit.” Env-Sw 315.02(a). Here, Acuity

proposes to greatly expand the scale of operations and transition to an entirely new type of facility. Critically, Acuity's 1987 permit explicitly *prohibited* the processing of demolition debris and limited the size of the operations at the site. The Claremont ZBA denied Acuity's proposal, determining that the proposal would change the facility from a recycling center to a C&D transfer station – an entirely different type of operation. Acuity's proposal – to change operations to process a currently prohibited waste stream, at an enormously greater scale – is not a permit modification, but rather a departure from the current permit entirely. DES erred by considering Acuity's application as a request for a permit modification.

3. The proposed C&D facility fails to satisfy statutory substantial public benefit requirements.

The proposed facility will not provide a substantial public benefit, a statutory requirement. RSA 149-M:11. Facilities “must be designed and operated in a manner which will protect the public health and the state’s natural environment.” RSA 149-M:11, I(c). A facility must provide a substantial public benefit by satisfying three criteria: (1) there must be a short- and long-term capacity need for the facility, (2) it must assist the state in achieving the state’s solid waste hierarchy and goals, and (3) it must help advance the goals of the state solid waste management plan. RSA 149-M:11, III(a)-(c). The applicant must make a positive demonstration that each public benefit criteria has been met. RSA 149-M:11, VIII.

Additionally, as part of the public benefit determination, NHDES must also consider the “concerns of the citizens and governing bodies of the host municipality, county, and district and other affected persons.” RSA 149-M:11, IV (a).

Because DES failed to determine that the facility will not provide a substantial public benefit, and because DES did not give sufficient weight to the concerns of the citizens and governing bodies of the host community, DES’s decision is unlawful and unreasonable.

The proposed facility fails to provide a substantial public benefit because there is no capacity need for the facility.

The proposed facility will not address a capacity need, as required by RSA 149-M:11, III(a), and the Permit Application fails to include any calculations related to capacity need. New Hampshire does not need another transfer station. Acuity intends to use the facility to transfer

waste for ultimate disposal in New Hampshire and outside the state, and is required to both quantify the waste it will transfer and demonstrate that it will not create a net importation of waste. Specifically, Acuity must demonstrate that: “the total quantity of waste transferred by the facility on an annual basis to New Hampshire landfills and New Hampshire incinerators shall not exceed the total quantity of waste received by the facility from New Hampshire generators, figured in tons.” Env-Sw 405.04.

The Permit Application does not provide the requisite capacity calculations. Acuity does not provide quantifiable waste projections for the transfer or storage of waste. The Permit Application does not state the amount of tonnage that will be imported into the state, the amount that will be received by the facility from in-state sources, the amount that will be recycled, the amount that will be sent out of state, or the amount that will ultimately end up in New Hampshire landfills. Acuity’s single paragraph dedicated to capacity need fails to provide any specifics. There is no demonstration that the facility will address any waste capacity need in New Hampshire, or that the facility will not import more waste than it exports, and the facility will not provide a substantial public benefit.

The proposed facility fails to provide a substantial public benefit because the facility will not assist the state in achieving the state’s waste hierarchy, waste goals, and the goals of the state solid waste management plan.

The facility will not advance the state’s waste hierarchy under RSA 149-M:2, the state’s waste goals under RSA 149-M:3, or the goals of the state’s solid waste management plan, as required by RSA 149-M:11, III(b) and (c). For each of these goals, Acuity improperly relies on generic and unsubstantiated claims that the facility will provide recycling services, failing to affirmatively demonstrate that these public benefit criteria will be met by the facility. *See* RSA 149-M:11, VIII.

Moreover, it is not feasible for Acuity to successfully and safely process large amounts of C&D waste for recycling on the very small site. Acuity’s bare bones application fails to explain how it could successfully scale up operations at the site by multiple orders of magnitude while actually recycling an unspecified amount of waste. Because C&D waste is expected to contain harmful materials, it must be separated carefully and in a controlled manner, with sufficient space for inspection, identification of harmful materials, and safe separation and containment of

various types of materials. Because the facility will not produce safe, meaningful, or quantifiable recycling, and it will not provide a substantial public benefit.

The proposed facility fails to provide a public benefit, as demonstrated by the opposition of the community and local governing bodies.

As part of the public benefit determination, DES must consider the “concerns of the citizens and governing bodies of the host municipality, county, and district and other affected persons.” RSA 149-M:11, IV (a). Here, the concerns of the local community have been expressed clearly and consistently: there is no public benefit to the proposal.

As described above, the Claremont community has been strongly opposed to this proposal for years. The City Council, Planning Board, Zoning Board, and Conservation Commission have all taken steps to oppose the proposed C&D facility, and hundreds of community members have expressed their opposition through Op-Eds, testimony, and attendance at the March 6 public hearing. DES should have given sufficient weight to the public opposition, as required by statute, and determined that the facility will not provide a substantial public benefit.

4. The facility will create adverse environmental impacts that will threaten human health and the environment.

Throughout the permit process, DES received information showing that the proposed facility will have adverse impacts on human health and the environment. At the March 6 public hearing, DES received substantial testimony documenting the risks the facility will pose to human health and the natural environment, and the record contains extensive references to the threat the proposed facility poses to human health and the environment.

The record includes, but is not limited to, the following evidence of threats to health and the environment. Processing harmful C&D waste will endanger the health of people living nearby and threaten environmental resources, including soils, wetlands, Meadow Brook, and groundwater. The facility will generate air pollution and unpleasant and unhealthy noise, dust, and odors. By processing building materials containing lead, the facility threatens to undermine Claremont’s multi-year campaign to remove lead hazards from the community, endangering the local population. The proposal includes plans to spray water on the waste to control for dust, but

no plan to control leachate or runoff, which will lead to harmful contaminants flowing directly into the environment. As already determined by DES, the facility would have unacceptable adverse traffic impacts. DES erred by failing to deny the permit based on the threat the facility will pose to health and the environment.

IV. Standing

CLF has members who own property and/or reside in close proximity to the facility. These members are directly and adversely impacted by existing operations at the site, and will be directly and adversely affected by the permit at issue in this appeal. CLF members have actively participated in the permit process. One such member owns and resides on property directly behind the site, with only the railroad tracks separating the two properties. She can see, hear, and smell current operations at the site from her home, and already experiences negative impacts from the facility that would be increased many times over if the operations are allowed to expand. During times of heavy rains, debris from the facility washes onto her property. She has expressed her concerns and opposition to the permit to DES. Other CLF members similarly live in close proximity to the site, can see and hear site operations from their homes, already experience traffic impacts that will be significantly worsened if the permit is granted, and are greatly concerned that the permit, if granted, would result in contaminants being released into their home and yard. CLF members are particularly concerned, for example, that the facility would contaminate the home-grown berries and vegetables that they grow, consume, and feed to their children. Another CLF member owns several properties in close proximity to the site, which he rents out to tenants, leases for commercial enterprises, and uses for community events. He has been actively engaged in opposing the proposed facility. If the permit is granted, the new waste facility will directly and negatively impact his, and others', property values and use of their properties.

V. Copy of the Department Decision Being Appealed

Please see attached.

WHEREFORE, Conservation Law Foundation respectfully requests that the Council:

- A. Accept this appeal;
- B. Conduct a hearing on the appeal;
- C. Rule that the permit that is the subject of this appeal should be denied for the reasons stated in DES's Denial and for the additional grounds stated in this Notice of Appeal; and
- D. Grant such further relief as it deems just and reasonable.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

By its attorneys,



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Certificate of Service

I hereby certify that on this 23rd day of June 2025, this Notice of Appeal has been served in accordance with Ec-Wst 201.03 and Ec-Wst 203.01(d), with names specified in the cover letter attached to this Notice of Appeal. Pursuant to Ec-Wst 201.01(a), this Notice of Appeal is being filed electronically to appeals@des.nh.gov, with a copy being hand delivered to the Waste Management Council, Attention: Appeals Clerk, 1 Granite Place South, Concord, New Hampshire.



Heidi H. Trimarco



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



VIA EMAIL ONLY

May 22, 2025

David Schiebel, President
Recycling Services, Inc.
38 Industrial Blvd
Claremont, NH 03743
Email: dave@arnh.net

SUBJECT: Recycling Services, Inc., 43 Industrial Boulevard, Claremont, NH
Permit No. DES-SW-87-037

Denial of Type I-A Permit Modification Application for Increase in Facility Capacity and Change in Authorized Wastes

Application for Type I-A Permit Modification, received September 20, 2023 and assigned Application No. 2023-65811

Denial of Waiver Application for Property Line Setbacks

Application for Waiver, received March 15, 2024 and attached to Application No. 2023-65811

Dear David Schiebel:

The New Hampshire Department of Environmental Services, Waste Management Division (NHDES) has completed its review of the above-referenced application by which Recycling Services, Inc. (Applicant) seeks approval to increase facility capacity and add construction and demolition debris to its authorized wastes for its existing facility at 43 Industrial Blvd in Claremont, NH (Facility). In addition, the Applicant seeks a waiver to property line setbacks. Based on the reasons provided below, the applications are **denied**.

Background

On September 20, 2023, Recycling Services, Inc. submitted an application to modify the Facility's permit. The Applicant requested an increase in facility capacity from 50 tons per day¹ to 2,750 tons per week averaged quarterly. The Applicant also requested approval to accept construction and demolition debris, in addition to the newsprint, aluminum, corrugated paper items, industrial iron, glass, metal cans, automotive batteries, and tires already permitted.²

¹ Recycling Services, Inc. *Application for Permit for Solid Waste Facility*. Dated May 13, 1987. Received May 14, 1987. Assigned WMD Log #186-87.

² Condition (6) of Permit No. DES-SW-87-037, issued December 22, 1987.

In response to NHDES' requests for information, the application was amended multiple times. On March 15, 2024, the Applicant submitted an application for waiver of certain solid waste rules. On September 24, 2024, NHDES determined that the applications were complete. NHDES held a public hearing in Claremont, NH on March 6, 2025.

Complete Application

The following documents constitute the complete applications:

- Nobis Group. *Application for Type I-A Modification to Solid Waste Management Facility Permit*. Dated August 16, 2023. Received August 17, 2023. Assigned WMD Log No. 2023-65811-01.
- Nobis Group. *Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Notices of Filing and Signed Certified Mail Receipts*. Dated September 19, 2023. Received September 20, 2023. Assigned WMD Log No. 2023-65811-02.
- Nobis Group. *Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Response to Incomplete Application Letter and Application for Waiver*. Dated March 15, 2024. Received March 15, 2024. Assigned WMD Log No. 2023-65811-03.
- Nobis Group. *Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Signed Certified Mail Receipts*. Dated March 26, 2024. Received April 16, 2024. Assigned WMD Log No. 2023-65811-04.
- Nobis Group. *Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Abutter Notices of Filing - Certified Mail Receipts*. Dated June 11, 2024. Received June 11, 2024. Assigned WMD Log No. 2023-65811-05.
- Nobis Group. *Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Abutter Notices of Filing - Signed Certified Mail Receipts*. Dated June 30, 2024. Received July 1, 2024. Assigned WMD Log No. 2023-65811-06.
- Nobis Group. *Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Waste Stream Calculations & Truck Queuing Plan*. Dated July 26, 2024. Received July 26, 2024. Assigned WMD Log No. 2023-65811-07.

Reasons for Denial of Permit Application

Env-Sw 305.03(b), *Denial of a Requested Approval*, identifies the conditions that require denial of an application. Relevant to the subject permit application are Env-Sw 305.03(b)(1), which states that NHDES shall deny an application if "the proposed activity does not meet the applicable requirements of RSA 149-M and the solid waste rules."

Env-Sw 1004.02(b)

NH Administrative Rule Env-Sw 1004.02(b) requires a facility to "be designed to prevent entering and exiting vehicles from obstructing the safe flow of traffic on any public road leading to or from [the] facility." The proposed Facility design will obstruct the safe flow of traffic on the public road, Industrial Blvd, multiple times per waste haul truck.

According to information provided in the application, Facility operations would generally proceed as follows. Trucks carrying waste would drive east on Industrial Blvd and turn left into the property at 38 Industrial Blvd, which is also a permitted solid waste facility. At the scale, a worker would weigh the trucks. After that, trucks would exit 38 Industrial Blvd, cross the street, and enter the property at 43 Industrial Blvd, which is the site of the subject application. Trucks would queue until Facility workers direct them to the tipping floor to unload.

After unloading, the trucks would leave 43 Industrial Blvd, cross the street again, and return to 38 Industrial Blvd to be weighed a second time. Then, the trucks would exit 38 Industrial Blvd by turning right and heading west on Industrial Blvd to leave the area. If trucks were unable to queue at 43 Industrial Blvd, they would queue at 38 Industrial Blvd instead.

At 43 Industrial Blvd, workers would sort the tipped waste to remove recyclable materials. Recyclable materials would be stored at 43 Industrial Blvd for later transport by truck to recycling facilities. Workers would load non-recyclable waste into rail cars for later transport to disposal facilities.

As proposed, a single truck would need to enter and exit 38 Industrial Blvd twice each, which will include crossing Industrial Blvd twice. As shown in the application on Sheet T-1, Truck Queueing Plan, dated August 2023,³ a 40 cubic yard roll-off truck is about 35 feet long and the travel way of Industrial Blvd is about 22 feet wide. Each crossing of Industrial Blvd by a single truck carrying a 40 cubic yard roll-off container will completely obstruct the public road. If the Facility were to operate at its requested average capacity per 8-hour workday, about 48 trucks could be received per day.⁴ This equal about 96 complete road obstructions by crossing trucks per day. Trucks delivering waste to 38 Industrial Blvd, trucks transporting recyclable materials away from 43 Industrial Blvd, and Facility workers will also need to use these entrances and exits, resulting in additional road obstructions.

In addition, a typical roll-off truck requires a turning radius between about 42 and 52 feet.⁵ Assuming that trucks do not cross into oncoming traffic, the available turning radius from Industrial Blvd directly into the Facility is up to about 30 feet. The available turning radii into and

³ See application supplement dated July 26, 2024, and assigned WMD Log No. 2023-65811-07.

⁴ Based on application supplement (20 min avg/truck) dated July 26, 2024, and assigned WMD Log No. 2023-65811-07.

⁵ Rolloff dimensions and therefore design needs vary. Design vehicles in the *AASHTO Green Book* representative of a rolloff include the single-unit trucks SU-30 and SU-40, which require a turning radius between about 42 and 52 feet, respectively. See Table 2-5a. American Association of State Highway and Transportation Officials. (2018). *A policy on geometric design of highways and streets* (7th ed.) [Green Book].

out of 38 Industrial Blvd are similar. Therefore, crossing into oncoming traffic up to an additional 96 times will be necessary to operate the Facility at the proposed design capacity.

The proposed operation would cause a total of up to about 192 obstructions of traffic in the road each operating day. For each of the 48 trucks, an obstruction would occur when turning into 38 Industrial Blvd, when crossing the street to 43 industrial Blvd, when returning to 38 Industrial Blvd, and when leaving 38 Industrial Blvd. An additional unquantified number of obstructions would also be caused by the increase in trucks transporting recyclable materials away from 43 Industrial Blvd. The proposed operation would require public road usage of a nature and at a frequency that will obstruct the safe flow of traffic on Industrial Blvd contrary to Env-Sw 1004.02(b).

Env-Sw 1003.01

Env-Sw 1003.01 requires a facility or practice to "not interfere with the proper operation or closure of any other facility." As shown on Sheet T-1, Truck Queueing Plan, the Facility does not have enough truck queueing space to operate at the proposed capacity. In addition, and as detailed above, turning radii needs will require larger waste haul trucks entering the Facility to obstruct traffic on Industrial Blvd. As such, the Applicant proposes to rely on space provided by 38 Industrial Blvd for up to about 42 trucks per day to queue and/or travel to the Facility. Trucks traveling through or queueing at 38 Industrial Blvd would impact the operations at 38 Industrial Blvd. This interference would cause the Facility to be in violation of Env-Sw 1003.01. Further, the influx of trucks at 38 Industrial Blvd would compromise that solid waste facility's ability to comply with Env-Sw 1005.03(b), which requires facility operations to "be conducted in a manner as to accommodate on-site traffic flow in a safe and efficient manner."

NHDES has determined that the permit application does not meet the requirements of Env-Sw 1004.02(b) and Env-Sw 1003.01 based on the application provided. Therefore, the permit application is denied in accordance with Env-Sw 305.03(b)(1).

Reasons for Denial of Waiver Request

Env-Sw 202.05, Decision on the Application, requires NHDES to make a decision on an application for waiver in accordance with Env-Sw 305. Env-Sw 305.03(b), Denial of a Requested Approval, identifies the conditions that necessitate denial of an application. Relevant to the subject application is Env-Sw 305.03(b)(1), which states that NHDES shall deny an application if "the proposed activity does not meet the applicable requirements of RSA 149-M and the solid waste rules." Env-Sw 202.04 specifies the criteria a request for waiver must meet to be granted.

Env-Sw 202.04(a)(1)b. requires that an exemption from complying with the rule will "[n]ot result in an impact on abutting properties that is more significant than that which would result from complying with the rule," and Env-Sw 202.04(a)(1)c. requires that an exemption from complying with the rule will "[b]e in keeping with the intent and purpose of the rule being waived." The Applicant requested a waiver of Env-Sw 403.02(b), which requires a facility "be sited no less than

50 feet from any property line [...]” The Facility is currently allowed to operate under its existing permit within 50 feet of the property line; however, the Applicant proposes to increase the daily tonnage of the facility by a factor of 10 and build new Facility infrastructure, specifically including Track B, within the existing property line setback, which is already less than 50 feet. Due to the proposed change within the existing property line setback, the Applicant was required to seek a waiver of Env-Sw 403.02(b). The Facility, as proposed, cannot meet the 50-foot setback requirement on both the northern and southern property lines as seen on Sheet C-1, Overview Plan, dated August 2023 and revised March 8, 2024.⁶

The purpose and intent of the setback requirement is, in part, to minimize adverse impacts to surrounding areas. To ensure a waiver request, if approved, would meet the criteria for waiver in Env-Sw 202.04, an applicant is required to propose an alternative procedure, method or activity to be substituted for complying with the rule pursuant to Env-Sw 202.03(a)(5). The Applicant’s proposed alternative is to replace the existing building with a new one that occupies “essentially the same footprint as the existing building.”⁷ The Applicant does not acknowledge new Track B, but notes that the abutting properties to the north and south are owned by itself and a railroad company, respectively. The Applicant identifies that the new building will incorporate “improvements for better management of existing and expanded Facility operations,” and asserts that the proposal “will not result in an adverse effect to the environment or natural resources of the state, public health, or to public safety.” The Applicant also identifies that the rail line will be “incorporated into Facility operations, making the setback [to the south] unnecessary.” The Applicant asserts that strict compliance with the rule will result “in no buildable area on the property.”

NHDES acknowledges that the Applicant’s proposed alternative of managing waste inside an improved building will assist in mitigating impacts to abutting properties; however, the proposal does not acknowledge waste storage outside the building, including on new rail spur Track B. NHDES cannot assume that the Applicant will always own the property north of Industrial Blvd, and cannot neglect potential impacts to Industrial Blvd, which is adjacent to the northern property line. Further, the Applicant asserts that it has an “operational agreement” with the railroad for transportation of materials, and that new rail spurs required for operation of the expanded facility will meet railroad proximity requirements. NHDES cannot assume this operational agreement will always be in effect and cannot assume that “meeting railroad proximity requirements” is adequate to address nuisance conditions that can be posed by waste collection, storage and transportation, including potential odors, vectors, and litter. Given that Facility operations and waste storage activities will occur within the required 50-foot setback, the impact on abutting properties would

⁶ See application supplement dated March 15, 2024 and assigned WMD Log No. 2023-65811-03.

⁷ Nobis Group. Supplemental Submittal to Application for Type I-A Modification to Solid Waste Management Facility Permit, Response to Incomplete Application Letter and Application for Waiver. Dated March 15, 2024. Received March 15, 2024. Assigned WMD Log No. 2023-65811-03. PDF page 18.

be more significant than that which would result from complying with the rule and is not in keeping with the intent and purpose of the rule requested for waiver.

Further, referencing Env-Sw 202.04(a)(2)a. and b., complying with the setback requirement will not result in an adverse effect on the environment, public health and safety; and will not result in a circumvention of the goals and objectives of the state's solid waste management program, as specified in RSA 149-M:1 - 3 and the state solid waste management plan. Referencing Env-Sw 202.04(a)(2)c., complying with the setback requirement will also provide a benefit to the public by mitigating impacts to surrounding areas.

NHDES has determined that the application for waiver does not meet the criteria for waiver in Env-Sw 202.04(a)(1)b. and Env-Sw 202.04(a)(1)c. and does not meet Env-Sw 202.04(a)(2)a. through c. based on the application provided. Therefore, the application for waiver is denied in accordance with Env-Sw 202.05 and Env-Sw 305.03(b)(1).

In accordance with RSA 149-M, RSA 21-O:14 and Ec-Wst 200, any person aggrieved by these decisions can file an appeal directly with the NH Waste Management Council (Council) **within 30 days** of the date of these decisions. The appeals must set forth fully **every ground** upon which it is claimed that the decisions complained of are unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council. Information about the Council, including Council rules, is available on the [Council's website](#). For appeal-related issues, contact the Council Appeals Clerk at 603-271-3650.

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

Sincerely,



Michael J. Wimsatt, P.G., Director

Waste Management Division

Tel.: (603) 271-1997

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Waste
Management
Division

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Management Division
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cc: Dale Girard, Mayor, City of Claremont, email: dgirard@council.claremontnh.com
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Conservation
Law Foundation

For a thriving New England

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VIA EMAIL
and HAND DELIVERY

June 23, 2025

Waste Management Council
Attn: Appeals Clerk
c/o NH Department of Justice
1 Granite Place South
Concord, NH 03301

RE: Denial of Type 1-A Permit Modification Application for Increase in Facility Capacity and Change in Authorized Wastes (Permit No. DES-SW-87-037), Recycling Services, Inc., 43 Industrial Boulevard, Claremont, NH

Dear Appeals Clerk:

Pursuant to Ec-WST 201.01, enclosed please find for filing Conservation Law Foundation's Notice of Appeal pertaining to the above-referenced matter.

An original and one copy will on this day be hand delivered to "Waste Management Council, Attention: Appeals Clerk" at the NH Department of Justice, 1 Granite Place South, Concord, NH.

Sincerely,

Heidi H. Trimarco, Esq.
Staff Attorney
Conservation Law Foundation

cc (via email):

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