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**Further Comments to the Maine Board of Environmental Protection
Concerning Statements Made at the September 17th, 2020 Hearing
September 25, 2020**

Chairman Draper and Members of the Board,

At the BEP hearing on September 17, I heard the argument that stakeholders were fully involved in the making of LD 401 and were in the loop throughout the passage of this bill into law.

Members of Don't Waste ME: myself, Ed Spencer, Hillary Lister and others were in the process at the beginning; in fact we were responsible for the original language of the bill. But we did not see or hear about the amended version of the bill until the day of the ENR work session and had no time to review the new language before it came up before the committee, was briefly discussed, and passed on out of committee.

When we did have time to review the language, after the fact, it was a not a bill that we could support. We wrote our bill trying to remedy a defect in state policy. The amended bill that appeared at the last minute before the ENR has no evident long range principles in regard to state solid waste policy; rather it appears to be a bill written by lobbyists to protect a particular interest, one company, ReEnergy, giving them an

exception that applies to no one else *(see Committee Amendment to H.P. 310, L.D. 40. Page 4 lines 16-23): for other recycling facilities “At least 50% of the waste...” but for one facility with a very specific characterization: “at least 15% of such debris...” through January 1, 2022 and then “at least 20% of such debris” through January 1, 2022.

Baby steps.

With language allowing easy excuses to opt out of complying to these minimal requirements (see lines 24-35): “the department may grant a waiver of the applicable provisions....if the facility is able to demonstrate that compliance with the applicable provisions ...would result in an unreasonable adverse impact on the facility.”

We were entirely cut out of the process when the bill was amended, and from that point onward. Which seems an odd way to treat a stakeholder if you want a bill that includes diverse interests.

We heard nothing further about the bill; I later learned that it was enacted on the last day of the legislative session with no debate, a day when members of the public were banned from the statehouse because of concerns about Covid.

So I would like to set the record straight about stakeholders being involved with the passage of this bill. We were stakeholders; the original bill was ours; we were cut out of the process.

LD 401 in its amended form does little to address this loophole in the statutory state solid waste hierarchy. The remedy is the rule change that is before the BEP.

*COMMITTEE AMENDMENT “ ” to H.P. 310, L.D. 401

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At least 50% of the waste that a solid waste processing facility characterizes as
14 recycled under this subparagraph must have been reused or recycled by the
15 facility through methods other than placement of the waste in a solid waste
16 landfill, except that a solid waste processing facility that was in operation during
17 calendar year 2018, that accepts exclusively construction and demolition debris
18 and that accepted more than 200,000 tons of such debris in calendar year 2018
19 shall:
20 (a) Reuse or recycle at least 15% of such debris through methods other than
21 placement in a solid waste landfill by January 1, 2022; and
22 (b) Reuse or recycle at least 20% of such debris through methods other than
23 placement in a solid waste landfill by January 1, 2023.
24 A solid waste processing facility that was in operation during calendar year 2018,
25 that accepts exclusively construction and demolition debris and that accepted

26 more than 200,000 tons of such debris in calendar year
2018 may request and the
27 department may grant a waiver of the applicable provisions
of this subparagraph
28 for a specified period of time if the facility is able to
demonstrate that compliance
29 with the applicable provisions of this subparagraph would
result in an
30 unreasonable adverse impact on the facility. The
demonstration may include
31 results of a 3rd-party audit of the facility. In determining
whether to grant such a
32 waiver request, the department may consider trends in
local, regional, national
33 and international markets; the availability and cost of
technologies and services;
34 transportation and handling logistics; and overall costs that
may be associated
35 with various waste handling methods.