

Spencer Withdraws Support For LD 401; Cites Regulatory Capture

Dear Chairs Carson and Tucker and Members of the Environment and Natural Resources Committee,

In early April 2019 I was one of dozens of citizens to testify in favor of LD 401. This Bill was presented as a concept draft, designed by citizens from across Maine, and sponsored by Rep. Tipping with cosponsors being Sens. Gratwick and Bellows. At the Public Hearing in front of ENR, Paula Clark said "The Department supports the goals of LD 401." The primary elements of the Bill were adopting common sense definitions of Maine Waste and Recycled Waste as it pertains to State owned landfills, such as JRL in Old Town.

In 2019 the DEP had their own Bill, LD 112. A watered-down version of this passed with its principle achievement being clarification of what "Bypassed Waste" means. We all supported this element, as it was part of our LD 401. LD 401 was tabled and revived this session in 2020. Several of the Bill's authors, myself and Hillary Lister, sat down with DEP managers and listened to their plans to forge a compromise with ReEnergy and Casella. We assumed that since it was our Bill that we would be allowed to propose parts to be included in the legislation.

We attended both work sessions, offering comments and volunteering to answer questions. When the Feb. 5th session started, language amendments crafted by DEP in conjunction with ReEnergy and Casella were presented and Chair Tucker proposed it as Ought to Pass. Then, the Chairs asked Rep. Tipping, whose Bill it was, to speak. He presented amendment language proposed by the citizens whose Bill it was in the first place. Neither set of amendments was given time to be analyzed by the Members or citizenry, and Tipping's amendments were completely ignored.

This is disrespectful of citizens' efforts as well as our sponsors in the legislature. Although the DEP's expressed goals in their 5 year Maine Materials Management Plan to do something to address fill rates at JRL and non-Maine waste, between the ENR Committee and DEP there has been infinitesimal progress (the current LD 401) to satisfy the concerns of both DEP and BEP. Instead of crafting a true compromise, DEP and ENR basically let ReEnergy and Casella hold their Committee hostage and might just as well have written the Bill themselves. This is a textbook example of Regulatory Capture, right here in Maine, and not a badge of honor, to say the least.

Therefore, please correct the record to show my testimony is NOT in Favor of LD 401, but instead Neither For Nor Against. Perhaps I could have supported it on the grounds that it might make minimal progress in curbing waste imports that violate both our Waste Hierarchy and the agreed terms when the State took over the JRL. But when I read the whole text, there is basically an "escape clause" so that if ReEnergy cannot achieve the pitifully low actual recycling rates in LD 401 that they can come whining again and be given dispensation. This, a company that was subsidized with over \$6 million of taxpayer's dollars.

We citizens never get to know what is really happening behind the façade of Government. It is my understanding that the Lewiston legislative delegation, in part or parcel, could have leadership torpedo any Bill that had any sort of negative consequences for ReEnergy. All jobs are important and all jobs are honorable if done well. However, it seems that trash-sorting jobs where most are furnished by Temporary Employment businesses should not be allowed to stop a State from protecting its environment and fulfilling its promises to the citizenry as a whole.

If you actually cared enough about citizen involvement to include us and allow us a tiny fraction of some Beverage lobbyist's time to address you then perhaps you might have a better understanding of ReEnergy's history. They have not been doing the same business practices "for decades" but only bought the Lewiston facility from Casella in 2012 or 2013. The current absurd definition of Maine Waste was adopted in 2007; nobody recalls a notice of Public Hearing on that Bill. This was a blatant and successful attempt to circumvent Maine statute's edict that only Maine Waste can go in a State of Maine landfill. When our agricultural exporters say "Maine Lobster" or "Maine Potatoes" there is no asterisk saying "If it was processed in Maine and includes 15% of 50% Lobster or Potatoes" it is Maine, but that is how our Maine Waste rules work.

Congratulations to ReEnergy and Casella: the shiny-shoed lobbyists have carried the day again. But this is nothing to be proud of. They controlled you and they will own our resources. If there is anyway to stop Maine from continuing along its pathway to being the Dumping Grounds for New England, it is clearly not through the ENR Committee. I have respectfully engaged on these topics since 2003 and this is certainly a low point.

You seemed in an awful rush to work through this Bill. Perhaps you are focused on seemingly more important issues, like fixing our crumbling infrastructure, patching up the safety net for less capable citizens, growing our sustainable economy and preparing for the changes due to Climate Change. Waste importation also gives a pathway for invasive species such as the Emerald Ash Borer and Asian Long-Horned Beetle to travel here from Massachusetts, yet firewood from there is banned. The greenhouse gas emissions from JRL and transporting of hundreds of thousands of tons of trash from out of State are a substantial percentage of our overall carbon burden. However, if the same approach is adopted toward solving these problems as led to this LD 401 getting out of your Committee, our chances of success are slim.

I do not mean to criticize any of you or DEP staff personally, but collectively you are just not getting it done.

Sincerely yours,

Ed Spencer

Old Town

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