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Chairman Draper, Members of the Board,

It may be an appropriate time as any to reign in the disposal of out-of-state waste in Maine's publicly-owned landfills. We encourage the BEP to reconsider the definition of Maine generated waste.

The video (click on image above) we are submitting is Part 1 of a series on the subject, to be screened throughout the state. It provides documentary evidence to support such reconsideration. We strongly encourage you review it.

Please accept the enclosed video transcript:

"Maine had a law that there can't be a new commercial landfill. The whole purpose of that law was to create a legal way of keeping out of state waste out of Maine. So it came up with this idea. The state as an owner can be a market participant and say, it won't accept materials from out of state, but it never took the time. It never was interested enough in keeping it out to make that stipulation.

We have a situation of information imbalance and all people are not empowered equally to have access to the same sorts of information. How are these imbalances working to the disadvantage of our public process?

That is a state owned landfill, and that is supposed to be space for the state of Maine's trash. And because of a couple of loopholes in the way definitions are written, it is essentially filling that up with out of state waste.

At this point, you have a private waste industry that is dependent on public subsidies to be operating. It has also become dependent on the imports of out of state waste. Very large volumes, growing volumes of out of state waste.

The applicant (Casella Waste Systems) will not accept solid waste generated from out of state sources in the West Old Town Landfill (2004). What it says is the state owns this landfill and it's not letting out of state waste in. What it doesn't say is there's a whole category of waste that comes from out of state that it doesn't categorize as out of state. Casella figured out: the state can buy it, it can rent it out to Casella for 30 years and Casella can bring in out of state waste if the state allows them to. See? So in essence, it's just, we're going let it in by another name.

The classification of out-of-state waste as Maine generated waste snuck in gradually between 1999 and the present day through rule-making and legislation and the numbers of lobbyists for the waste industry will usually far out-number the number of legislators who are considering these issues in committees. Out of state waste can become in-state waste through a so-called recycling facility or through incineration.

So a truck comes from Massachusetts to a so-called recycling facility. They pull off some metals that they can get extra money for. If they pull one two by four out of 80,000 pounds of waste, the remaining 79,975 pounds is now Maine waste and able to be legally land-filled here in Maine.

Now, the incineration side of this was in part how this loophole made its way into state law, but a good number of the facilities that were accepting this construction waste byproduct for fuel are no longer in operation because the subsidies that were created in the late seventies ended up running out. Now, the so-called recycling facilities, specifically re energy out of Lewiston, are still taking in as much or more construction and demolition debris as before the biomass burners shut down and they need somewhere for it to go

Over 90% of the inputs to ReEnergy come from out of state. And 93% of what leaves ReEnergy comes to Juniper Ridge.

ReEnergy, which is operating on a site that was formerly operated by Casella, once the biomass facilities were no longer buying the large amounts of construction and demolition debris fuel chips from them, all of a sudden they started pushing to legislators that they need increasing amounts of construction and demolition debris and other bulky wastes to cover the landfill at the end of each day, because they are now taking in more sludge. So at the end of the day, you have the landfill with all these exposed smelly materials. And in order to stabilize the landfill from these wet materials, they need more of these other hard, bulky materials. So-called alternative daily cover. And their argument is if they don't use that, then they would have to use Virgin soil, so they're somehow saving the environment, they're recycling by doing this. But their biggest profit is from land-filling since they receive tipping fees for every ton of waste that is disposed in the landfill. So it's to their economic benefit to increase the amount of waste coming into those landfills. Other landfills have much smaller surface area exposed on the landfill, so it's not as much of a challenge to cover the whole area at the end of the day. As it is now, if you have 6 to 10 acres exposed every day, you have to cover those 6 to 10 acres with construction and demolition debris. So it requires an increasingly large volume of this. And the only way that material can legally go into the state owned landfill is as Maine generated waste. So they depend on this loophole to continue a very profitable waste operation.

Well, you know, if it walks like a duck and quacks like a duck, it's a duck. This is a commercial landfill. The state is just providing cover for a new commercial landfill.

That pile, the level part on top, I estimate it's 900 feet long. Anytime it rains, like if we get a thunderstorm this afternoon that drops an inch of rain, that's going to be an inch of rain over 8 or 10 acres of exposed ground and all that is going to perk and filter down through all the chemicals, all the poisons, all the contaminants and end up in the bottom and that's called leachate. And that leachate is going to be hauled by truck out of here down to the old town mill. They put it into their treatment center designed for mill waste, not for leachate. And it's going to make some corrections for pH possibly. And it's going to be aerated to reduce the amount of BOD's present in it. And then it's basically going to be released into the Penobscot river untreated.

Most of the wastewater treatment plants where landfill leachate is being discharged are older industrial wastewater discharge sites that were only designed for certain materials, either paper mill waste, tannery waste, or what would be expected in a general municipal wastewater sewage. Either way, though, this is waste that's again, not being allowed for disposal in surrounding state's landfills and Maine is getting a concentration of it. None of these were designed for landfill leachate by any means. And again, unless there is a self reported violation, the state is not expending resources to second guess the industry that is effectively self-monitoring and self-regulating at this point.

So now that this facility is operational again (Nine Dragons Paper Old Town Mill), we'd like to put out a temperature recorder just downstream of the outfall. So we can kind of keep an eye on what the change in temperature is due to the discharge that comes out of this facility.

The way the permit right now for the Nine Dragons facility, which receives the leachate from the Juniper Ridge landfill, the way that is written, there are very few toxic pollutants that they have to monitor on a frequent basis. Once a quarter, they have to do what's called wet testing. So they collect a sample that then gets separated into different concentrations and they expose aquatic life.

And at different concentrations, they're looking to see whether there is acute or chronic toxicity at different dilutions, essentially that are looking to see whether it kills them or not. But that's not telling you what's killing them per se, it's just one way of looking at all of the things that are found in that effluent. And then, in addition to that, they have to take one sample per year. It's basically what's called a priority pollutant scan, so there's a whole list of chemicals that they have to test for, but you have to be looking for those specific chemicals.

And the big concern we have is the material that's going into the landfill is a very complex mixture that comes from all over the place. It doesn't come just from Maine. It comes from other States. And that one day that you've collected that sample, is that representative of what's going on all the time? You're putting all your eggs in that basket of that one sample a year or the one sample a quarter that you're going to get a hit on that pollutant at a high enough level that will then cause DEP to say, "You have reasonable potential to be exceeding the health criteria. And therefore we are going to put that into your permit in the future." So it's not a permit limit until it becomes a permit limit. And to have one test a year be the thing that's going to tell you whether or not certain toxic contaminants are found in there and what the levels are of them is disturbing. I think it's inadequate.

We are part of that water. That water is a part of us. We were born and raised in a place where we respected the water. We were taught to swim here. We were taught to fish here. That was our livelihood. Now I don't even dare to stick my foot in there because I don't know what's in the water.

The Penobscot was running as clean as it had for over a century. It's the largest river system in the state of Maine and not to mention home to the Penobscot Nation. And it's just a shameful, the disrespect shown by our own state government.

The state has never spoken about the state's interests and hopefully I'll live long enough to see when the state's interest is, they realize this pile of supposedly safe, secure landfill, is a very valuable asset for the people of Maine and it should be reserved and preserved for the citizens of Maine.

So, what we're trying to do is restore a common sense definition of what Maine waste is. It's very convoluted now. And what we're going to say is any Maine waste has to be waste that was discarded for the first time within the boundaries of Maine. That's what we want."

Cheers,

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