

December 6, 2019

PFAS Task Force

Dr. Meredith Tipton, Chair

c/o ME Department of Environmental Protection

State House Station 17

Augusta, ME 04333-0017

Sent electronically ([pfastaskforce@maine.gov](mailto:pfastaskforce@maine.gov))

Dear Chairperson Tipton and Task Force members:

Following are the comments from biosolids management stakeholders regarding the final draft of the Task Force PFAS Report. We appreciate how challenging, and yes at times how frustrating, this process has been. The effort has been admirable given the complexity of the issue and the ongoing introduction of new scientific information related to PFAS compounds as they impact public health and the environment.

Further, we appreciate the civil and thoughtful discussion that the Task Force has been engaged in since the outset of this process, with the respectful treatment of all points of view, and the ability to agree to disagree without acrimony. Hopefully this level of civility will continue with the final deliberations and the implementation of the final recommendations.

From the perspective of the biosolids management stakeholder, our only disappointment is the inordinate focus on biosolids recycling/utilization in the final draft report. Ostensibly, attention was drawn to the practice due to the milk contamination at the Arundel farm, however, other farms running well-managed residuals utilization programs have not experienced similar problems with the milk or crops they produce. Given the small percentage of farms utilizing biosolids, because of the limited availability of these materials, and because of the geographically remote use of biosolids recycling, the risk of PFAS contamination and associated health and environmental impacts from this practice is negligible. With the limited resources available for addressing the global PFAS issue, we find it unfathomable that the State of Maine would want to commit a significant portion of those resources to such a small component of the current concern, especially when biosolids and residuals recycling has the environmental benefits of nutrient recycling, carbon sequestration and the reduction of greenhouse gas generation.

That being said, we would like to start with a short cautionary statement and a recommendation for an approach to implementation. We would just like to encourage deference to deliberate and scientifically supported actions, while limiting the influence of emotion and politics so that we may proffer recommendations that will be substantive and impactful. In that light, we would suggest that these recommendations be evaluated with the SMART goals process often used in business and engineering to facilitate the success of a project.

Is the recommendation:

**Specific** – does it identify a tangible, focused task?

**Measurable** – is there a metric to determine if this task, when completed, is successful?

**Achievable** – can this task be completed with the resources available or potentially available?

**Reasonable** – can this task be completed without extraordinary efforts?

**Time-bound** – is the time to completion easily defined and is it reasonable (not excessive) to affect the desired impact?

With all this in mind, we offer the following comments on the draft report:

## **1. Identifying and Reducing Sources of PFAS**

The Task Force recommends that the State of Maine require manufacturers to report the intentional use of all PFAS in manufacturing processes and in consumer products, and to require the use of safer alternatives when they are available. Legislation would be necessary to require this. **As written, this is too broad, and if implemented, would generate a deluge of reporting that would be impossible to effectively digest and draw conclusions from. Restricting the reporting to those compounds with identified health impacts might be more manageable and would facilitate the identification of safer alternatives.**

The Task Force supports the recommendations of the Firefighting Foam workgroup, included in Appendix D. This includes reporting discharges of Class B AFFF to the DEP and establishing a Class B AFFF take back and replacement program. **We would support this with the qualification that this references historical as well as future releases, both accidental and intentional.**

The Task Force recommends that State of Maine procurement guidelines should discourage the purchase of PFAS-containing products. **We feel this is too broad, as it**

would discourage the use of PFAS-containing products for which there are no known or perceived concerns.

## **2. Providing Safe Drinking Water**

The Task Force recommends that all public water systems should be required to test for PFAS and to notify their customers if PFAS are detected. This is similar to the approach taken by the State of California. **We support the required testing; however we disagree with the need for mandatory notification based solely on detection. No other regulated drinking water contaminant requires such notification, unless an MCL is violated. Notification would make sense, perhaps, even if the only 'standard' is a health advisory. Further, these compounds are chronic and not acute in their impacts to health, so there is no immediacy that would suggest that notification is necessary, especially in the absence of MCLs.**

Task Force members disagreed about the level at which customers should be notified; Maine DWP recommended 10 ppt while some other members recommended notification at any level of detection. Maine has not, to-date, taken this approach with any other contaminants. For all other drinking water contaminants, Maine public water systems are only required to provide notice if concentrations exceed a maximum contaminant level (MCL). Legislation would be required to establish a testing and notification requirement for PFAS. **We would recommend the status quo here.**

The Task Force also recommends that private drinking water should be tested for PFAS in areas where groundwater is likely to have been impacted by PFAS at unsafe levels, such as: 1) manufacturing locations that utilized PFAS chemistry; 2) unlined landfills; 3) areas where Class B AFFF has been discharged or stored; and 4) residuals land spreading sites. Some members recommended that the State should require PFAS testing of private wells at the time of real estate transfers. **We would support limited ongoing testing of potentially impacted private wells. We would, however, encourage more specificity in selecting sites to evaluate, and use preliminary testing to eliminate additional testing at sites where no impacts have been identified. With limited resources available, there should be a timeframe for sunseting these sampling and analysis efforts.**

## **3. Protecting our Food Supply**

Foods may contain PFAS in unsafe quantities due to contact with PFAS-containing materials (such as packaging or processing equipment), due to vegetative uptake into produce, due to livestock consumption of PFAS-containing feed, or due to other

environmental exposures. Regulation of contaminants in food is controlled almost exclusively by the U.S. Food and Drug Administration. (See Recommendation #6 for further discussion of federal actions.) **The literature on crop uptake of PFAS is not conclusive at the point in time and is certainly of only limited relevance to the type of agriculture in Maine wherein biosolids are used. The contamination of feed at the one farm in Arundel has not been fully evaluated and not completely understood and appears anomalous when compared to other farms utilizing biosolids in their feed production programs. There appears to be no recommendation herein to support or refute.**

The Task Force recommends that the State protect foods produced in Maine from PFAS adulteration through restrictions on PFAS uses, restrictions on the agronomic utilization and land application of PFAS-containing residuals, and through the investigation and remediation of PFAS contamination. **We don't support the inference that biosolids and residuals land application has contributed to food adulteration, especially in situations where a well-managed and state regulated and monitored use program has been implemented**

#### **4. Responsible Waste Management**

The State of Maine must take actions to prevent PFAS from entering Maine's environment, food supply, and drinking water. The Task Force supports legislation to amend Maine's Uncontrolled Sites law to include pollutants and contaminants, which would give the State authority to require the removal and treatment of PFAS when they are a danger to public health. **We would support this recommendation with one qualification, more firmly emphasizing that this would apply only to those PFAS compounds that have been conclusively identified as risks to public health.**

The Task Force recommends that DEP require regular testing of residuals for PFAS prior to land spreading or commercial distribution in Maine. The Task Force also recommends expanding existing requirements to include septage that is agronomically utilized or land applied. The Task Force supports legislation that would authorize the Board of Environmental Protection to update DEP's screening levels for individual PFAS and other constituents through routine technical rulemaking so those levels can be kept up to date. **We currently do not support this recommendation, at least not in perpetuity, as we currently disagree with the screening levels from Chapter 418 Beneficial Use of Solids Waste being applied to Agronomic Beneficial Use. The current situation at the Arundel farm suggests a different pathway than**

contamination of groundwater and third-party evaluations (Stone Environmental) have found the current screening levels to be overly conservative by a factor of 2 to 3 times. Until further evaluations of the screening levels are complete, ongoing testing may be a waste of resources. Finally, we would be hesitant to support authorizing the Board of Environmental Protection to consider updating screening levels as routine technical rulemaking. As we have seen with the current situation, there is nothing routine about this and a more open and higher level review would be warranted.

The Task Force also recommends the State continue efforts to sample for PFAS in prioritized locations, analyze sampling results for patterns, and refine models of PFAS fate and transport. **We fully support this recommendation.**

Maine DEP should investigate the availability of treatment and disposal technologies that minimize the potential for environmental PFAS contamination. Preference should be given to technologies with the demonstrated capacity to safely destroy PFAS. Additionally, the State of Maine should promote the development of infrastructure, on the scale necessary to meet the needs of the State, to manage PFAS-contaminated wastes safely and in a cost-effective manner. **This may be one of those recommendations that would fall outside the realm of a SMART goal. It is very open-ended and suggests that PFAS destruction is the only acceptable endpoint. While a noble thought, it ignores the fact that this is not a consideration for other chemical contaminants (arsenic, dioxin, mercury, etc.). Furthermore, there is no acknowledgement of the impact on energy consumption necessitated by this management option. When applied to biosolids and residuals, it fails to take into account the benefits of nutrient recycling, carbon sequestration, and reduced greenhouse gas emissions. While in concept we believe alternative management options need to be explored, we do not believe it rises to the level of a priority recommendation. If this is determined to be a priority recommendation, it must be tied to comprehensive cost-benefit analyses for all proposed management options.**

## **5. Public Education**

Maine citizens, physicians, government officials and other professionals must have access to information regarding PFAS to guide their own decision making. The Task Force recommends that the State develop educational materials at the appropriate literacy level for their intended audience, to be provided through a variety of forums

such as webpages, training events, and fairs. Those audiences should include healthcare providers, farmers, drinking water and wastewater utility customers, fire fighters and students. **We support this recommendation as long as the content is factual and science-based and is absent of speculation and rhetoric about what is unknown. There should be a clear distinction between educating and unnecessarily alarming people.**

## **6. Demand for Federal Action**

**As mentioned in our last Task Force meeting, this should be tempered to suggest strong, urgent requests rather than demands. Further, these requests should focus on PFAS compounds of concern and not all forms, as this dilutes the request and undermines the Federal government's ability to respond.**

The Maine PFAS Task Force demands that federal government agencies take prompt action to reduce harmful exposures of citizens to PFAS due to the widespread nature of PFAS uses and potential exposures. These actions should include:

### a) Source reduction

The federal government should require manufacturers to reduce and eliminate the use of PFAS chemistry in non-essential applications, with particular focus on those uses with the highest potential for human exposure. Manufacturers (domestic and foreign) of consumer products should be required to report their use of PFAS compounds in products sold in the United States. **We would support this, essentially with respect to non-essential uses and the focus on the compounds with the highest potential for exposure and health risks.**

The Federal Aviation Administration and the Department of Defense should identify effective foams that do not contain PFAS and should eliminate requirements for firefighting foams to contain PFAS. **We would support this but would caution that there may be PFAS-based alternatives that may be acceptable.**

OSHA and NIOSH should adopt exposure limits for workers exposed to PFAS. These limits should also apply to firefighters and other emergency personnel supporting emergency response activities. **We would support this.**

The U.S. EPA should add PFAS to the hazardous substance list under CERCLA authority. **We would support this only if there were an exemption for water and wastewater utilities.**

b) Drinking Water

The U.S. EPA should establish a Maximum Contaminant Level for PFAS in drinking water, which should also apply to bottled water. **We would support this.**

c) Food supply

The U.S. FDA should establish PFAS adulteration levels for foods in order to minimize dietary exposures to all PFAS. **We would support this but would caution about the use of the word 'all'.**

The U.S. Department of Agriculture should establish additional sources of funding support for farmers impacted by PFAS contamination, similar to the Farm Service Agency's Dairy Indemnity Payment Program. **We are not sure if this is a widespread, significant need, but would be supportive on a case-by-case basis.**

d) Waste Management

ATSDR should finalize toxicity values for PFAS commonly found in environmental samples. The U.S. EPA should then update Regional Screening Levels to include additional screening level guidelines. The U.S. EPA should also certify additional laboratory methods to measure PFAS in various media (groundwater, wastewater, soils and other solids, ambient air). **We consider this to be one of the more relevant issues regarding data collection and evaluation. Although there has been significant improvement in consistency, and perhaps accuracy as well, there needs to be better validation of those data, such as what comes with an EPA-accepted or EPA-approved test method.**

## **7. Funding for State Actions**

**Funding is a complicated, yet important concern. Our only comment here is that the focus be on the identification of new funding. The wastewater industry and, by extension, the biosolids management industry, is seriously under-funded for routine infrastructure upkeep and replacement. Anything that would divert existing funding from these construction programs would be unacceptable. Clearly if an improvement project could address both current needs and PFAS**

**management needs, then that would be ideal. Unfortunately, that scenario is unlikely. The cost of this type of infrastructure project would be significant, not easily passed along to utility ratepayers, especially for the smaller utilities.**

The State of Maine is expending significant funds to investigate and control PFAS exposures for Maine citizens, and substantial additional funding will be needed to continue this work. Municipalities, drinking water and wastewater utility districts, farmers, businesses, property owners and other Maine citizens are also bearing direct and indirect costs from PFAS contamination.

#### State funding

The Task Force recommends that funding from appropriate State of Maine accounts should be utilized, to the extent it is available, to fund sampling and treatment of drinking water supplies, and to fund the investigation of PFAS contamination that threatens Maine's citizens. State of Maine agencies must also be adequately staffed to conduct the work necessary to implement any and all of the Task Force's recommendations, which will cost many millions of dollars in the coming years.

#### Bond Initiative

The Task Force recommends that the State of Maine introduce a bond initiative to raise money for the State's costs for PFAS sampling, remediation, and drinking water treatment.

#### Damage Claims

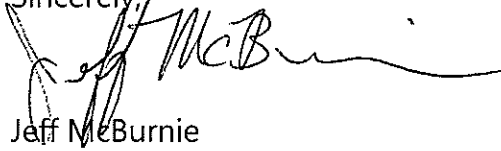
Many municipalities and states across the country are engaged in litigation against companies that manufactured PFOA and PFOS products, including claims for financial compensation. The Task Force recommends that the State of Maine fully consider available legal avenues to apply the costs of PFAS contamination in Maine to appropriate responsible parties who knowingly supplied products that are harmful to human health and the environment.

Regardless of the outcome of these deliberations, we would strongly encourage focusing on those needs or actions that have the most immediate importance; i.e. they directly remove a threat to public health and/or the environmental. Equally important is that the recommendations are reasonably achievable. Trying to be all things to all people only dilutes the effort and the final outcome. Without boundaries, we may wind

up achieving nothing. We have confidence that the final recommendations will embrace achieving the maximum benefit within the constraints of the State's limited resources.

Thank you for the opportunity to comment. We look forward to the release of the final report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff McBurnie". The signature is fluid and cursive, with a long horizontal flourish at the end.

Jeff McBurnie

Casella Organics

Biosolids Management Professionals Stakeholder Representative