

April 3, 2019 LD 401 Comments for ENR Committee

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

Sadly, I cannot be with you today to undertake discussion of the serious matters addressed in LD 401. This legislation arose from discussions of citizens throughout Maine who have had concerns about Maine's solid waste policies for over a decade and a half. When we had distilled our thoughts into a Draft, we were very relieved to find that many of our proposed solutions dovetail with concerns expressed in DEP's 2019 Maine Materials Management Plan (MMMP), which occurs at 5 year intervals.

Central to LD 401 and the MMMP is the need to better control inputs to our State-owned Juniper Ridge Landfill (JRL) in Old Town, as well as incentivizing movement of wastes further up the Maine Waste Hierarchy and away from landfilling as a preferred option. Perhaps DEP states this best (MMMP Page 9):

"The significant increases in amounts of CDD being landfilled, and recent applications to expand JRL and allow increasing quantities of unprocessed MSW as acceptable waste have highlighted the need for revisiting the provisions that allowed processed out-of-state waste into the state-owned landfill and greater statutory specificity as to the appropriate use of state landfill capacity."

This can be achieved in large part by directing DEP to adapt common-sense definitions of Maine Generated Waste and Recycle/Recycled materials. Interestingly, the current definition of Maine waste was put into statute in 2007, 3 years after the State took ownership of the mill landfill that became JRL. We know that landmark 1989 waste legislation mandated that future landfills should be publicly owned and banned the deposit of out of state wastes into such landfills. 2007's absurd definition usurped the commonly held interpretation of Maine people to that point: Maine Waste means materials discarded by Maine people within Maine's borders. LD 401 would thus be a return to commonly held definitions.

In the MMMP (page 9) it states:

"Processing facilities are required by Maine law...to recycle at least 50% of the CDD they accept, are allowed to count "...reuse of waste as shaping, grading, or alternative daily cover materials at landfills; aggregate material in construction; and boiler fuel substitutes" toward this 50% recycling rate minimum. These two provisions, coupled with a ban on the disposal of CDD in Massachusetts, have resulted in large quantities of out-of-state CDD being processed by facilities in Maine, with the fines being used as "shaping, grading or alternative daily cover materials" and residual CDD allowed into JRL as "in-state" waste."

LD 401 would provide that any materials left in a landfill in Maine could not be described as "recycled material". Hopefully this would help restore Public trust in waste labeling. This would allow us to concentrate on enhancing efforts to remove other materials from the waste stream by reduction at the source, reuse of materials before entering the waste collection apparatus, and composting. I have heard a lot of people remark "Why should I recycle if it just makes more space for Massachusetts' crap?"

Casella will surely counter supporters' views with the same arguments they have given to the ENRC to date: "Without CDD materials we are unable to properly manage JRL." DEP has concluded that this is not the case and that there are plenty of other non-virgin materials to assist in construction of JRL. Interestingly, at the time the State entered the Operating Services Agreement with Casella, almost none of these CDD components would have been allowed into JRL because they originated beyond Maine's

borders. The current CDD waste stream was opened up by OSA Amendment in 2006, which was done without notification of DEP, the Legislature, or local officials including the Juniper Ridge Landfill Advisory Committee (JRLAC).

The second fallacy Casella expounds is what they told you last Wednesday: There is more MSW generated in Maine than there is capacity to dispose of it at current waste to energy (WTE) plants and other facilities higher on the Hierarchy ladder. This was a central argument for them during appeals to BEP last fall, and was soundly rejected by DEP as a false argument.

I urge you to carefully examine the provisions of LD 401. Please remember the words of ecoMaine's Kevin Roche to you last Wednesday: "There is a waste crisis of large proportion in southern New England, and if we do nothing to tighten existing Maine statute and practices we will be filled with waste from away, thus making it harder to deal with our own Waste." We need better definitions, tracking of all waste inputs and disposals, (including landfill leachate), and statewide protections for communities adversely effected by waste disposal and handling facilities. Without these efforts, the quality of life in Maine is threatened and our reputation as a refuge from the afflictions of overpopulation elsewhere are at risk.

I look forward to listening to your discussions both today and Friday, when I will make every effort to be there.

Respectfully yours,

Ed Spencer

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