

Joint Committee on Environment and Natural Resources
TESTIMONY NEITHER FOR OR AGAINST
LD 2135 Resolve, to Investigate and Address Municipal Solid Waste Disposal
Services Issues
(EMERGENCY)
Public Hearing
Jacquelyn Elliott | January 24, 2024

Honorable Senator Brenner, Chair; Honorable Representative Gramlich, Chair; and Honorable Committee Members:

Thank you for the opportunity to provide testimony **NEITHER FOR OR AGAINST LD 2135**. **My testimony includes additions I believe would improve the outcomes of this legislation.** My name is Jacquelyn Elliott and I live in Waterboro. I am a longtime environmental health and justice advocate for waste policy that is sustainable; protects public health and preserves the environment and resources; empowers communities in decision making; and upholds justice for those who bear the greatest impacts of policy choices. **Ultimately, policy is about people and how they get to live their lives.**

Representative Dill has introduced LD 2135 as an emergency resolution. The harsh truth is **we are not going to divert or recycle our way out of this predicament of materials management. We should use this as an occasion to move beyond responding to the converging crises to develop a practicable plan with resources for implementation. LD 2135 is an instance where we should ask the question: what information will assist to build viability and justice into materials management policy and outcomes?** This resolution provides an opportunity to examine what we are doing and discover where improvements can be made.

We all have rights to clean air, clean water, and safe places to live, work and play. That fact must frame the conversation. Our thinking should be outlined with forecaring and shared values in the context of what we know, coupled with the admission there is a lot we do not know. We need policy that builds the spaces to learn, adjust, and incorporate what we discover into decisions justly and equitably.

Maine's materials management hierarchy establishes priorities: reduce, reuse, recycle, compost, processing for beneficial use, waste-to-energy incineration, and landfilling. **At the top of the hierarchy should be the word RETHINK.** We need to **shift our choices.** We must **consume less** that requires disposal. Waste should be considered a verb acknowledging that nothing is waste until we waste it. **Waste is a choice. We can make different choices.**

Public Benefit Determination (PBD) must strive for equity of benefits and burdens. **Those who already bear disproportionately harmful impacts from past and present choices**

must be at the decision table. Existing and future cumulative¹ impacts must be considered and initiate from **assumed harm when known toxics are implicated. Planning and policy must modify our approach to front-end management and move away from back-end attempts to mitigate harmful consequences.** We cannot deny our current methods are mostly untenable.

Maine leads in many areas of materials management. Our newly strengthened bottle bill has been one of the most successful in the nation. Our Extended Producer Responsibility legislation and implementation of rules is being carefully developed and provides a model for neighboring New Hampshire as they contemplate legislation.

We have had to respond to the nightmare of per- and polyfluorinated substances and polyfluoroalkyl substances (PFAS) contaminating our water, farmlands, and our bodies. Pollution that is likely the result of land application of sludge for use as fertilizer promoted under the guidance of the Department of Environmental Protection (DEP). We have banned further land spreading of sludge and its use in soil amending products sold in the state.

We are investigating ways to remediate the contamination and confronting the reality that if such technologies are available and effective, the cost is in most instances, prohibitive. Maine is taking steps to protect citizens from further exposure to the dangers from consumer products which contain needlessly and intentionally added PFAS chemicals. All of this provides a **poignant lesson in precaution and prevention.**

We are exploring ways to redeem valuable food resources and remove them from the waste stream for beneficial use. Efforts that would conserve landfill capacity and reduce emissions of methane and other greenhouse gases. **We need to strengthen all of these initiatives and add to them.**

LD 2135 could begin an essential process to understand the contributions of policies that so frequently have us in a crisis mode. **One of the foremost components of the emergencies in materials management is the near-monopolization by private entities that dominates what happens around waste handling in the state.**

An honest conversation about values and policy will concede that in Maine, **infrastructure, collection, transportation, and processing of waste are primarily controlled² by two mega, for-profit companies. Wasted resources are a commodity that grow share-holder profits³ and provide incentives to create and import more waste. Disposal capacity at Juniper Ridge Landfill (JRL) has been squandered. JRL was set aside by statute for disposal of waste**

¹ Tulve, Nicolle S.; Geller, Andrew M.; Hagerhey, Scot; Julius, Susan H.; Lavoie, Emma T.; Mazuer, Sarah L. et al, January 10, 2024, *Challenges and opportunities for research supporting cumulative impact assessments at the United States environmental protection agency's office of research and development:* [https://www.thelancet.com/journals/lanam/article/PIIS2667-193X\(23\)00240-5/fulltext](https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(23)00240-5/fulltext)

² Townsend, Ralph. E.; Ackerman, Francis, December 31, 2002, *An Analysis of Competition in Collection and Disposal of solid Waste in Maine:* https://www.maine.gov/ag/dynld/documents/Solid_Waste_Report.pdf

³ April 27, 2023, VermontBiz, *Casella Waste announces 1Q 2023 results, revenues up over 12%:* <https://vermontbiz.com/news/2023/april/27/casella-waste-announces-1q-2023-results-revenues-over-12>

generated within Maine's borders. Under the existing system, the relationship of the State as owner and regulator of the landfill is rife with built-in conflict. New England Waste Services of Maine, LLC, a subsidiary of Casella Waste Systems as contracted operator, **is at cross purposes to the State's best interests** and has positioned JRL as the **disposal destination**⁴ for imported waste forcing the purported need for **premature expansion**. The State has **failed Maine citizens** because it has not utilized its **right as owner**⁵ and **market participant**, to **preserve JRL's disposal capacity**.

The public record catalogues the **public's rejected attempts to be effectively involved in decisions around JRL's operations**. Damaging **impacts**⁶ for JRL's neighbors have not been adequately addressed. At the **core** of the dismissal of the public's rights, is the **Operating Services Agreement (OSA) between the Bureau of General Services and Casella**. It should be noted that Casella⁷ **has a substantial record of infractions across the region**.

LD 2135 calls for the Department of Environmental Protection, the Department of Administrative and Financial Services, and the Bureau of General Services to meet with solid waste management facility owners, operators, and municipal and quasi-municipal officials to investigate options. However, the proposed legislation **neglects to involve those most impacted** by JRL's operations. Maine now **requires**⁸ that Environmental Justice considerations be included in agency policy decisions.

- LD 2135 should be amended to include impacted members of the public and representation from the Penobscot Indian Nation in the conversations. Inclusion must provide opportunity for influence.
- A thorough assessment of JRL's OSA and an evaluation of Casella's performance as operator should be conducted.
- Renewal of the OSA should be prohibited until these appraisals can be accomplished and considered. *Please note: There are ten years remaining on the current OSA.*

⁴ January 2024, Maine Materials Management Plan, pp. 15, 16:

<https://www.maine.gov/tools/whatsnew/attach.php?id=12222463&an=1>

⁵ Maine Office of Policy and Legal Analyses, *Final Report of the Joint Standing Committee on Natural Resources Interim Study of Solid Waste Issues, 2010*:

https://digitalmaine.com/cgi/viewcontent.cgi?article=1043&context=opla_docs

⁶ Loftus, Sawyer, March 1, 2023, Bangor Daily News, *It was going to revolutionize trash disposal. Instead, Maine is landfilling more than ever:*

<https://www.bangordailynews.com/2023/03/01/maine-focus/hampden-trash-plant-delayed-recycling-goals-joam40zk0w/>

⁷ January 3, 2024, Manzelli, Amy, BCM Environmental & Land Law, PLLC, letter to Michael Wimsatt, Director, Waste Management Division, NH Department of Environmental Services:

<https://drive.google.com/file/d/1OK9kZnX3ojz5tG45R1YmPnKRY0HVc57M/view?usp=sharing>

⁸ April 18, 2022, 130th Maine Legislature, *An Act To Protect the Health and Welfare of Maine communities and Reduce Harmful Solid Waste:*

<https://legislature.maine.gov/bills/getPDF.asp?paper=SP0523&item=7&snum=130>

- **No license for expansion at JRL should be issued until operations at JRL can be structured with regulation that preserves disposal capacity for Maine-generated waste and the obligations of Environmental Justice for the PBD can be met.**

In recent hearings before this Committee, there has been indication that **DEP** is challenged in meeting their obligations due to the **lack of staffing and resources**. That **must be addressed** if solutions are to be found that extract us from the pattern of responding to crises to a place of demonstrable management.

I ask the Committee to bring forth legislation that will assist Maine to move forward with materials management that protects public health and the environment, conserves valuable resources, and respects the rights of all citizens. Thank you for considering my comments.

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