

MAINE STATE LEGISLATURE

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ACTIVITY SHEET

COMMITTEE ON: NATURAL RESOURCES

L.D. #: 229

TITLE: An Act to Abolish the
Maine Waste Management Agency.

HEARING DATE:

3-13-95 → 5-9-95

WORK SESSION DATES:

<u>3-27-95</u>	<u>5-10-95</u>
<u>4-12-95</u>	<u>5-12-95</u>
<u>4-27-95</u>	<u>5-23-95</u>
<u>4-28-95</u>	
<u>5-4-95</u>	
<u>5-8-95</u>	

REPORTED OUT DATE:

COMMITTEE REPORT:

A O.T.P.-Am. (11)
B OTP-Am (1)
C ONTP- (1)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 229

H.P. 181

House of Representatives, January 24, 1995

An Act to Abolish the Maine Waste Management Agency.

Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WHITCOMB of Waldo.
Cosponsored by Representatives: DEXTER of Kingfield, GOULD of Greenville, LIBBY of
Kennebunk, PERKINS of Penobscot, Senator: LORD of York.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 2 MRSA §6, sub-§4, as amended by PL 1991, c. 780, Pt. Y, §4, is further amended to read:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director of the Bureau of Parks and Recreation;

Director of Public Lands;

Director of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control;

Director, Bureau of Oil and Hazardous Materials Control;

Director, Bureau of Administration; and

~~Director, Office of Planning;~~

~~Director, Office of Waste Reduction and Recycling;~~

~~Director, Office of Siting and Disposal Operations; and~~

Executive Director, Board of Environmental Protection.

Sec. 2. 3 MRSA §927, sub-§9, ¶B, as repealed and replaced by PL 1991, c. 376, §11, is amended to read:

B. Independent agencies:

(1) Maine Conservation School;

(2) Office of State Historian;

(3) Maine Arts Commission;

(4) Maine State Museum Commission;

(5) Maine Historic Preservation Commission;

(6) Maine Health Care Finance Commission;

(7) Board of Occupational Therapy Practice;

- 2 (8) Board of Respiratory Care Practitioners;
4 (9) Radiologic Technology Board of Examiners;
6 (10) Maine Library Commission; and
8 ~~(11)--Maine-Waste-Management-Agency--and~~
10 (12) Maine Court Facilities Authority.

12 **Sec. 3. 5 MRSA §931, sub-§1, ¶K,** as amended by PL 1993, c.
14 349, §6, is further amended to read:

16 K. All major policy-influencing positions listed in
sections 932 to 953-A 952;

18 **Sec. 4. 5 MRSA §953-A,** as enacted by PL 1989, c. 585, Pt. A,
20 §4, is repealed.

22 **Sec. 5. 5 MRSA §12004-D, sub-§4,** as enacted by PL 1989, c.
585, Pt. A, §5, is repealed.

24 **Sec. 6. 5 MRSA §12004-I, sub-§22,** as repealed and replaced by
26 PL 1989, c. 585, Pt. A, §6, is repealed.

28 **Sec. 7. 32 MRSA §1866-A, sub-§2,** as amended by PL 1991, c.
819, §11, is further amended to read:

30 **2. Unclaimed deposits.** Except for initiators of deposit
32 under section 1863-A, subsection 1, each deposit initiator shall
pay to the Treasurer of State on or before the 20th day of March,
34 June, September and December an amount equal to 50% of the
unclaimed minimum deposits held by the deposit initiator. The
36 remaining unclaimed minimum deposits, any other unclaimed
deposits and any income earned on deposits become the property of
the distributor on the day payment is made to the Treasurer of
38 State. Deposit initiators under section 1863-A, subsection 1
shall retain all unclaimed deposits. Funds received by the
40 Treasurer of State under this subsection become the property of
the State and must be deposited in the ~~Maine--Solid--Waste~~
42 Management General Fund established in ~~Title-38,--section-2201.~~

44 **Sec. 8. 32 MRSA §1866-A, sub-§3,** as enacted by PL 1991, c.
46 591, Pt. R, §4 and affected by §18, is amended to read:

48 **3. Over-redemption of beverage container deposits.** When a
deposit initiator pays out more in refund values than it collects
in deposits during the course of a calendar year, the deposit
50 initiator may apply to the Treasurer of State for a reimbursement

2 from the Maine-Solid-Waste-Management General Fund equal to the
amount of over-redeemed minimum deposits. The Treasurer of State
4 shall reimburse documented claims of over-redeemed minimum
deposits.

6 **Sec. 9. 36 MRSA §4833, last ¶**, as amended by PL 1989, c. 927,
§5, is further amended to read:

8
10 The revenue derived from the fee imposed by this chapter
must be deposited in the Maine-Solid-Waste-Management General
Fund established under Title 38, chapter 24, which must reimburse
12 the General Fund for the administrative costs of the fee as
certified by the Bureau of Taxation.

14
16 **Sec. 10. 38 MRSA §343-D, sub-§1**, as amended by PL 1993, c.
500, §2 and affected by §5, is further amended to read:

18 **1. Appointment; composition.** The committee consists of 16
voting members.

20
22 A. The Governor shall appoint 2 representatives from the
business community, 2 elected or appointed municipal
24 officials who are not owners or representatives of owners of
small business stationary sources, and 2 representatives of
organized labor.

26
28 B. The President of the Senate shall appoint one member
from a public health organization, one member from an
environmental organization and one public member who is an
30 owner or represents an owner of a small business stationary
source.

32
34 C. The Speaker of the House of Representatives shall
appoint one member from a public health organization, one
member from an environmental organization and one public
36 member who is an owner or represents an owner of a small
business stationary source.

38
40 D. The commissioner shall appoint a designee to represent
the department.

42
44 E. The Senate Minority Leader and the House Minority Leader
shall each appoint one member who is an owner or represents
an owner of a small business stationary source.

46
48 F. The Director of the Bureau of Air Quality Control shall
appoint a designee to represent the bureau.

50 The Commissioner of Labor, and the Director of the Maine
Emergency Management Agency ~~and the Executive Director of the~~

2 ~~Maine Waste Management Agency~~ serve as ex officio members and do
not vote on committee matters.

4 As used in this subsection, unless the context otherwise
6 indicates, a "small business stationary source" means a source
that meets the eligibility requirements of 42 United States Code
Annotated, Section 7661f.

8 **Sec. 11. 38 MRSA §1302, 5th ¶**, as repealed and replaced by PL
10 1989, c. 585, Pt. E, §2, is repealed.

12 **Sec. 12. 38 MRSA §1303-C, sub-§1**, as enacted by PL 1989, c.
585, Pt. E, §4, is amended to read:

14 **1. Agency.** "Agency" means the ~~Maine--Waste--Management~~
16 ~~Agency Commissioner of Environmental Protection~~.

18 **Sec. 13. 38 MRSA §1303-C, sub-§7, ¶D**, as amended by PL 1991,
c. 220, §6, is repealed.

20 **Sec. 14. 38 MRSA §1303-C, sub-§35**, as enacted by PL 1989, c.
22 585, Pt. E, §4, is amended to read:

24 **35. State waste management and recycling plan.** "State
waste management and recycling plan" means the plan adopted by
26 the ~~agency~~ former Maine Waste Management Agency pursuant to
former chapter 24, subchapter II, and may also be referred to as
28 "state plan."

30 **Sec. 15. 38 MRSA §1310-N, sub-§3**, as repealed and replaced by
PL 1993, c. 680, Pt. A, §37, is amended to read:

32 **3. Public benefit determination.** The department shall
34 determine the public benefit of a proposed facility according to
the following provisions.

36 ~~A. Prior to the initial adoption of the state plan, the~~
38 ~~department shall find that a proposed facility provides a~~
~~substantial public benefit when the applicant demonstrates~~
40 ~~that the facility is designed, located and will be operated~~
~~so that it is consistent with and meets the needs identified~~
42 ~~in the capacity needs analysis under former section 1310-O.~~

44 **B.** Subsequent to the initial adoption of the state plan and
for those facilities not ~~subject to chapter 24, subchapter~~
46 IV listed under section 2163, the department shall employ a
rebuttable presumption of public benefit.

48 **C.** Subsequent to the adoption of the state plan and for
50 ~~these~~ all other solid waste disposal facilities ~~subject to~~

chapter--24,--subchapter--IV, the agency department shall determine whether or not the proposed facility meets the requirements of section 2157.

Sec. 16. 38 MRSA §1310-R, sub-§2, ¶B, as affected by PL 1989, c. 890, Pt. A §40 and amended by Pt. B, §246, is further amended to read:

B. The department shall require an applicant for a new or expanded solid waste disposal facility or for a license renewal submitting a complete application prior to the adoption of the state plan to demonstrate that the facility ~~further--the--purposes--of--section--2101--and~~ satisfies the regulations under section 1310-N.

Sec. 17. 38 MRSA §1310-R, sub-§3, ¶C, as affected by PL 1989, c. 890, Pt. A §40 and amended by Pt. B, §247, is further amended to read:

C. The department shall apply the provisions of section 1310-N, subsection 3, paragraph-A, to any application for a waste disposal facility receiving ash resulting from the combustion of municipal solid waste or from fuel derived from municipal solid waste when the application was accepted as complete by the commissioner prior to July 1, 1989, and is still pending before the department on or after the date of the initial adoption of the state plan under chapter 24.

Sec. 18. 38 MRSA §1310-R, sub-§4, as affected by PL 1989, c. 890, Pt. A §40 and amended by Pt. B, §248, is repealed.

Sec. 19. 38 MRSA §1310-U, first ¶, as repealed and replaced by PL 1989, c. 585, Pt. E, §33, is amended to read:

Municipalities are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility. ~~Except--as--provided--in--section--2173,--municipalities~~ Municipalities are further prohibited from enacting or applying ordinances that regulate solid waste disposal facilities owned by ~~the--agency--or~~ a regional association.

Sec. 20. 38 MRSA §1310-X, sub-§§1 to 3, as amended by PL 1993, c. 355, §52, are further amended to read:

1. New facilities. Notwithstanding Title 1, section 302, the department may not approve an application for a new

2 ~~commercial-solid-waste-disposal-or~~ biomedical waste disposal or
4 treatment facility after September 30, 1989, including any
applications pending before the department on or after September
30, 1989.

6 **2. Relicense or transfer of license.** The department may
8 relicense or approve a transfer of license for a commercial ~~solid~~
waste-disposal-or biomedical waste disposal or treatment facility
10 after September 30, 1989, if the facility had been previously
licensed by the department prior to October 6, 1989, and all
12 other provisions of law have been satisfied.

14 **3. Expansion of facilities.** The department may license an
expansion of a commercial ~~solid-waste-disposal-or~~ biomedical
16 waste disposal or treatment facility after September 30, 1989 if:

18 A. The department has previously licensed the facility
prior to October 6, 1989; and

20 B. The department determines that the proposed expansion is
contiguous with the existing facility and is located on
22 property owned by the licensee on September 30, 1989; and.

24 ~~C. For a commercial solid waste disposal facility and prior~~
to the adoption of the state plan and siting criteria under
26 chapter 24, the department determines that the proposed
expansion is consistent with the provisions of section
28 1310-R, subsection 3, paragraph A-1 or, after the adoption
of the state plan and siting criteria under chapter 24, the
30 agency determines that the provisions of section 2157 are
met.

32 **Sec. 21. 38 MRSA §1382, first ¶,** as amended by PL 1991, c. 517,
34 Pt. B, §2, is further amended to read:

36 Members of the board of trustees are appointed by the
Governor, subject to review by the joint standing committee of
38 the Legislature having jurisdiction over natural resources and to
confirmation by the Legislature. The board of trustees consists
40 of 8 7 members as follows: one member from the Department of
Environmental Protection; one member from the Department of
42 Agriculture, Food and Rural Resources; ~~one member from the Maine~~
Waste--Management--Agency; one member from an environmental
44 interest group; one member from the Maine Waste Water Control
Association; one member from the Maine Municipal Association; one
46 member representing users of sludge or residuals; and one member
representing generators of sludge and residuals.

48 **Sec. 22. 38 MRSA c. 24, first 2 lines** are repealed and the
50 following enacted in their place:

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CHAPTER 24

MAINE WASTE MANAGEMENT

Sec. 23. 38 MRSA c. 24, sub-cc. I and II, as amended, are repealed.

Sec. 24. 38 MRSA §2131, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. 25. 38 MRSA §2133, as amended by PL 1993, c. 298, §2, is repealed.

Sec. 26. 38 MRSA §2133-A is enacted to read:

§2133-A. Municipal recycling

The Department of Economic and Community Development may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling facilities and the purchase of recycling equipment. The Department of Economic and Community Development may establish requirements for local cost sharing of up to 25% of the total grant amount. The Department of Economic and Community Development shall give preference to recycling programs that require the participation of the waste generators served.

Sec. 27. 38 MRSA §§2134 and 2135, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

Sec. 28. 38 MRSA §2135-A, as enacted by PL 1991, c. 517, Pt. A, §3, is repealed.

Sec. 29. 38 MRSA §2136, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

Sec. 30. 38 MRSA §2139, as amended by PL 1989, c. 700, Pt. A, §170, is repealed.

Sec. 31. 38 MRSA §§2140, 2151 and 2152, as enacted by PL 1989, c. 585, Pt. A, §7, are repealed.

Sec. 32. 38 MRSA §2153, sub-§1, ¶A-1, as enacted by PL 1991, c. 794, §2, is repealed.

Sec. 33. 38 MRSA §2154, as amended by PL 1991, c. 794, §§3 and 4 and affected by §9, is repealed.

2 **Sec. 34. 38 MRSA §2155**, as enacted by PL 1989, c. 585, Pt. A,
§7, is repealed.

4 **Sec. 35. 38 MRSA §2156**, as amended by PL 1991, c. 794, §5, is
repealed.

6 **Sec. 36. 38 MRSA §2157**, as amended by PL 1993, c. 732, Pt. B,
8 §3, is further amended to read:

10 **§2157. Review of proposed waste facilities**

12 Subsequent to the adoption of the state plan, the Department
of Environmental Protection may not approve an application of a
14 new or expanded solid waste disposal facility requiring review
under this section until the ~~agency has approved the proposed~~
16 ~~facility under~~ requirements of this section are met. An
expansion of a commercial solid waste disposal facility or a
18 solid waste disposal facility owned by a municipality or a
regional association or a sanitary district created under chapter
20 11 or by special act of the Legislature is not subject to
subsection 1, paragraph C, subparagraph (2), if the facility was
22 licensed and in existence as of October 1, 1989, and at the time
of application for the expansion.

24 **1. Requirement.** After the adoption of the state plan, a
permit for a new or expanded solid waste disposal facility may
26 not be issued unless the applicant demonstrates to the agency
department that the proposed facility:

30 A. Meets capacity needs identified in the state plan in
addition to capacity that is under development by the ~~office~~
32 ~~under section 2156 or by any other~~ a party approved by the
~~office~~ department at the time of the application;

34 B. Is consistent with the state plan, except that this
paragraph does not apply to expansions of commercial solid
36 waste disposal facilities that accept only special waste for
landfilling; and
38

40 C. Meets the following requirements:

42 (1) The proposed facility is consistent with local,
regional or state waste collection, storage,
44 transportation, processing or disposal; and

46 (2) After the adoption of the siting criteria, the
proposed facility meets the criteria in section 2153.
48

2 Except as otherwise provided in this section, proceedings under
3 this subsection are subject to the provisions of Title 5, chapter
4 375, subchapter IV.

6 Proceedings under this section for the expansion of a commercial
7 solid waste disposal facility that accepts only special waste for
8 landfilling are not subject to the provisions of Title 5, chapter
375, subchapter IV.

10 In making the determination required under this section for the
11 expansion of a commercial solid waste disposal facility that
12 accepts only special waste for landfilling, the agency department
13 shall consider the written information submitted in support of
14 the application and any other written information the agency
15 department considers pertinent. In addition, the agency
16 department may hold a public meeting in the vicinity of the
17 proposed expansion to take public comments and shall consider
18 those comments in making the determination.

20 **Sec. 37. 38 MRSA §2158**, as amended by PL 1989, c. 890, Pt. A,
21 §40 and Pt. B, §290, is repealed.

22 **Sec. 38. 38 MRSA §§2159 to 2162**, as enacted by PL 1989, c.
23 585, Pt. A, §7, are repealed.

24 **Sec. 39. 38 MRSA §2164**, as amended by PL 1991, c. 808, §1, is
25 repealed.

26 **Sec. 40. 38 MRSA c. 24, sub-c. V**, as amended, is repealed.

27 **Sec. 41. 38 MRSA §§2181 to 2183**, as enacted by PL 1989, c.
28 585, Pt. A, §7, are repealed.

29 **Sec. 42. 38 MRSA c. 24, sub-c. VII, art. 1**, as enacted by PL 1989,
30 c. 585, Pt. A, §7, is repealed.

31 **Sec. 43. 38 MRSA §2201**, as amended by PL 1993, c. 410, Pt. C,
32 §8, is repealed.

33 **Sec. 44. 38 MRSA §2202, sub-§1**, as enacted by PL 1989, c. 585,
34 Pt. A, §7, is amended to read:

35 **1. Fees established.** The agency commissioner shall
36 establish procedures to charge fees specified in this article and
37 pursuant to the requirements of this article. All fees collected
38 by the agency--shall commissioner under this article must be
39 deposited into the Maine-Solid-Waste-Management General Fund.

40 **Sec. 45. 38 MRSA c. 24, sub-c. VII, art. 3**, as amended, is
41 repealed.

2 **Sec. 46. Transition provisions.** The following provisions apply
to the reassignment of the duties and responsibilities of the
4 former Maine Waste Management Agency.

6 1. Except as otherwise provided in this section, the
Commissioner of Environmental Protection shall assume all
8 remaining duties and responsibilities of the former Maine Waste
Management Agency, its offices and its executive director,
10 including administration of any rules adopted by that agency
relating to these remaining duties. By December 1, 1995, the
12 commissioner shall submit legislation to the Second Regular
Session of the 117th Legislature to revise all remaining
14 references to the Maine Waste Management Agency in the Maine
Revised Statutes to conform to the intent of this Act.

16 2. Unencumbered balances remaining in the Maine Waste
Management Fund on July 1, 1996 must be transferred to the
18 General Fund.

20 3. All rules and procedures in effect, in operation or
adopted on the effective date of this Act in or by the former
22 Maine Waste Management Agency or any of its administrative units
or officers remain in effect until rescinded, revised or amended
24 by the proper authority.

26 4. The Department of Administrative and Financial Services
shall serve as the fiscal agent for the former Maine Waste
28 Management Agency for the purpose of effecting the repeal of that
agency. The duties of the Department of Administrative and
30 Financial Services are limited to those required to close out the
agency and include functions such as processing payment vouchers,
32 preparing budget documents, preparing human resource documents,
preparing the final personnel payrolls and other related
34 administrative activities required. Essential records related to
the agency must be transferred to the Department of
36 Administrative and Financial Services to be maintained and stored
pursuant to standard procedure.

40 5. All personal property and equipment previously belonging
to or allocated for the use of the former Maine Waste Management
42 Agency must be transferred to the Department of Administrative
and Financial Services for storage, disposal or reassignment.

44 6. All existing forms, licenses, letterheads and similar
items bearing the name of or referring to the Maine Waste
46 Management Agency may be used by the Department of Economic and
Community Development and the Department of Environmental
48 Protection until existing supplies of those items are exhausted.

2 7. All real estate held by the former Maine Waste
3 Management Agency is transferred to the Department of
4 Administrative and Financial Services. The department shall
5 dispose of the property in accordance with its rules.

6 **Sec. 47. Report.** The Commissioner of Environmental Protection
7 shall submit by January 1, 1996 a plan and necessary legislation
8 to the joint standing committee of the Legislature having
9 jurisdiction over natural resource matters to provide effective
10 regulatory control over the importation and disposal of solid
11 waste from outside the State in order to protect public health
12 and safety and to conserve the limited waste disposal capacity
13 for the benefit of the people of the State.

14 **Sec. 48. Maine Revised Statutes amended; revision clause.**
15 Wherever in the Maine Revised Statutes the words "Maine Waste
16 Management Fund" appear or reference is made to those words, they
17 are amended to read and mean "General Fund," and the Revisor of
18 Statutes shall implement this revision when updating, publishing
19 or republishing the statutes.

22

24

STATEMENT OF FACT

25 This bill abolishes the Maine Waste Management Agency. It
26 transfers responsibility for recycling grants to the Department
of Economic and Community Development.

STATE OF MAINE
117TH LEGISLATURE

LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON NATURAL RESOURCES

Sen. Willis A. Lord, Senate Chair
Rep. Richard A. Gould, House Chair

PUBLIC HEARING: Monday, March 13, 1995, 1:30p.m., Room 120 State
Office Building

- (L.D. 447) Bill "An Act Regarding the Expansion of Certain Waste Disposal Facilities" (H.P.0326) (Presented by Representative GOULD of Greenville)
- (L.D. 566) Bill "An Act to Reestablish the 300-foot Setback for Siting of Solid Waste Disposal Areas" (H.P.0409) (Presented by Representative MERES of Norridgewock) Representative TREAT of Gardiner
- (L.D. 229) Bill "An Act to Abolish the Maine Waste Management Agency" (H.P.0181) (Presented by Representative WHITCOMB of Waldo)

CONTACT PERSON:

Lynne M. Hanley
State House Station 115
Augusta, ME 04333 287-4149

TESTIMONY SIGN IN SHEET

COMMITTEE ON NATURAL RESOURCES

L.D. # or CONFIRMATION: 229

DATE: March 13, 1995

NAME	TOWN/AFFILIATION	PROPONENT	OPPONENT
1. Rep W. T. ...	Sponsor	✓	
2. John Williams	MWMA	✓	
3. Mr. Lebracke		✓	
4. Ken Young	Me. Municipal Assoc.	✓	
5. Rep Sharon Trent			✓
6. Nancy O'Neal	Porter		✓
7. Eileen Johnson	Solid Waste Superintendent Lewiston	✓	
8. Fergus Lee	Environmental Engineer		
9. Ellery Keene	Vice President of P&A		
10. Joanne Toomey	Town Mgr. of Biddeford		✓
11. Kathleen Carren		✓	
12. Ron Slater	Franklin	✓	
13. BJ Jones	Gardiner Waste Mgr. Pittston Resident.		
14. John Diefenbacher Krall	ME. People's Alliance		✓
15. Richard Thompson	Lepan, ME.		
16. Evelyn DeFreez	Natural Resources Council of ME.	✓	✓

TESTIMONY SIGN IN SHEET

Continued

COMMITTEE ON NATURAL RESOURCES

L.D. # or CONFIRMATION: 229

DATE: March 13, 1995

NAME	TOWN/AFFILIATION	PROPONENT	OPPONENT
17 <i>Linda Smith Dyer</i>	<i>Weyer + Goodell</i>		✓
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TESTIMONY SIGN IN SHEET

COMMITTEE ON NATURAL RESOURCES

L.D. # or CONFIRMATION: 229

DATE: March 13, 1995

NAME	TOWN/AFFILIATION	PROPONENT	OPPONENT
1. NANCY ODEN	JONES BORO		✓
2. ETSWORTH A. LEONARD	REPORTER		
3. ELEANOR KERR	WINDSOR		✓
4. JOHN DIEFFENBACHER-KRALL	MPA		✓
5. RICHARD THOMPSON	LCLA Lebanon		✓
6. EUGENIE DE FILLIS			✓
7. LEE SWEETAGE			
8. AUGUST KEN		✓	
9. RON SLATS		✓	
10. B.S. JONES	Gardner/self		
11. KATHERINE GUERIN	Marketing Coop	✓	
12.			
13.			
14.			
15.			
16.			

REMARKS RE: L.D. 229
PRESENTED BY LINDA SMITH DYER
TO NATURAL RESOURCES COMMITTEE
March 13, 1995

I am before you today to propose an amendment to L.D. 229 to repeal the Unclaimed Beverage Container Deposit Law.

CURRENT LAW

Current law requires each deposit initiator to keep account of all deposits received and deposits reimbursed. On a quarterly basis, each deposit initiator is required to pay to the State one-half of the difference between deposits received and reimbursed. At the end of each year, the law requires the State to refund the amount of overredemption to a deposit initiator that has paid out more in reimbursements than it received as deposits. I have attached a copy of the statute as Exhibit A. Overredemption occurs frequently and I will address this issue later in these remarks.

PAYMENT OF UNREDEEMED BEVERAGE CONTAINER DEPOSITS
TO THE STATE IS NOT GOOD PUBLIC POLICY

Practically ever since there has been a deposit law, there were calls for the State to confiscate unredeemed deposits. Proponents said that beverage distributors were getting a "windfall", distributors countered that the increased cost of doing business under a mandated deposit law far exceeded any unredeemed deposits.

Legislation to confiscate unredeemed deposits was routinely introduced every two years and rejected. In 1985-86, the Business Legislation Committee studied the issue during the summer and a majority concluded that unredeemed deposits only partially offset the increased cost to distributors still doing business under a mandatory deposit system.

The unredeemed deposit law which was passed in 1991 (proposed by the Maine Waste Management Agency) had no public hearing. I firmly believe that had there been a fair airing of both sides of this issue the Legislature would have rejected it again. (Mandated deposit law costs to beverage distributors were even higher in 1991 than they were in 1985.)

The cost of a mandated deposit law is now clearly documented by the Bureau of Alcoholic Beverages which expended approximately \$700,000 each year in FY 1992 and FY 1993 to comply with the deposit law. Compare that to the Bureau's unredeemed deposits as reported to Treasurer of \$60,248 in FY 1992 and \$153,237 in FY 1993. Costs of complying with the mandated deposit law for other beverage distributors are comparable. Consider that the Bureau's compliance cost for FY 1994 was 10.5¢ per container. At a cost of 10.5¢ per container the cost of compliance for Seltzer and Rydholm for FY 1994 would be \$9,168,572.70 compared to its total unredeemed deposits for the same period of \$314,686 and 50% of this amount or \$157,343 was paid over to the State. Even if Seltzer and Rydholm pays only 8¢ per container or 7¢, its costs are far greater than its unclaimed deposits.

Some may claim that the unredeemed deposit law has a minimal impact on a beverage company. Originally proponents said that it would be less than 1¢ per container and that has certainly turned out to be true. The beverages covered by the original deposit law, carbonated soft drinks and beer, are sold for the most part under exclusive territory agreements. That means that Seltzer and Rydholm or Farmington Coca Cola can only sell its Pepsi or Coke products in a specific geographic area. When Maine places a tax-- the unclaimed deposit law amounts to a tax no matter what it is called-- on the beverage industry, that tax affects 100% of the products sold by Seltzer and Rydholm and Farmington Coca Cola. That same tax will affect only the Maine portion of the sales of a beverage distributor that sells in all of New England or nationwide.

UNREDEEMED DEPOSIT REVENUE IS DECLINING

The value of unredeemed deposits, as a source of revenue, has diminished in each succeeding year since its enactment in 1991. The final report for calendar 1994 is not due until March 20, 1995, but based upon what is known at this time, 1994 will continue that trend.

Treasury compiles information on unredeemed deposits and uses the term "Reportable Total" which is one-half (1/2) of the difference between deposits received and deposits redeemed. I have attached a copy of the most recent quarterly report as Exhibit B. For a deposit initiator that has unredeemed deposits for the quarter, the Reportable Total is positive and for one that has over-redeemed for the quarter, the Reportable Total is negative. The grand total of these Reportable Total numbers for all deposit initiators indicates how much revenue the State will receive after allowance for credits for over redemption at the 50% level. (Reimbursement at the 50% level is not consistent with the law and I discuss that problem later.)

Comparing the Reportable Totals for 1993 and 1994, the trend of diminishing revenue is clear. If this trend continues for Fourth Quarter, then at 50% reimbursement of overredemption, gross State revenue will be about half of what it was for calendar 1993.

Reportable Total Per Treasurer's Reports By Calendar Year

Quarter	1993	1994
First	\$ 39,089	\$ (39,374)
Second	483,338	397,378
Third	(17,496)	(51,383)
Fourth	<u>(96,512)</u>	
	\$ 408,419	YTD TOTAL \$ 306,621

As stated earlier, reports for 4th quarter are due on March 20, 1995 and the information should be available shortly thereafter. The above numbers are taken from the most recently updated quarterly reports prepared by Treasury with one exception. For 3rd quarter, Treasury's Reportable Total is clearly in error because one entry of \$18,131 is listed as a positive number while it should be negative. Thus the Total on Treasury's report of -\$15,119 should be -\$51,383.

Let me also point out that this is the gross income to the Solid Waste Management Fund. Of the \$408,000 Reportable Total for 1993, \$10,000 is from Bureau of Alcoholic Beverages and Treasury receives about \$60,000 each year to collect, audit and disburse this money. So less than \$340,000 could be considered net revenue to the Solid Waste Management Fund for calendar 1993. This is far short of estimated revenues.

The other statistic which is relevant to consider is the amount actually Paid to State. This is not a good indicator of State revenue, because numerous distributors have credit balances owed to them which must be netted against amounts received. Nonetheless, the amount paid to the State also shows the decline in revenue.

Amount Paid to State and Credit Balance
Per Treasurer's Reports by Calendar Year

Paid To State Quarter	1993	1994	Credit Balance Year to Date
First	\$ 101,232	\$ 68,497	
Second	409,374	342,454	
Third	116,580	109,227	
Fourth	<u>116,331</u>		
	\$ 743,517	\$ 520,178	\$ 409,653

During the first three quarters of 1994, the amount of money paid to the State declined by \$100,000. Perhaps more importantly of the \$520,000 paid to the State, distributors have unpaid credits owed to them of nearly \$410,000. Consequently real net income to the State is approximately \$110,000 for three quarters and nearly \$60,000 is being spent each year to run this program.

For the corresponding first three quarters in 1993, \$627,186 had been paid to the State and the corresponding Credit Balance was between \$320,000 - 330,000. (I am unsure of the exact Credit Balance because of what appear to be errors in the report.) Suffice to say that for the first three quarters of 1994, net revenue to the State declined by about \$200,000 over the same period in 1993.

THE EXPECTED REVENUE STREAM NEVER EXISTED

Some legislators have been suprised to learn that unredeemed deposits is not the source of revenue that they had been told it would be.

I have attached to this letter a document prepared by MWMA in 1991 estimating unclaimed deposits as Exhibit C. I also attach, as Exhibit D, a document entitled "Bottle Bill Data" which was prepared by Treasury. As you can see the income to the State ("Balance" on Treasury's Document) was less than one-half of what had been estimated by MWMA. Exhibit D does not account for unreimbursed credits owed to deposit initiators.

It turns out that the total number of containers sold is nearly 100 million less than what the MWMA estimated. I have to admit that the number of containers sold is far less than what I had previously estimated as well. Also the redemption rate for Beer/Carbonated (the vast bulk of the containers) is higher than predicted.

The higher than expected redemption rate is attributable, at least in part, to fraudulent/misredemption that distributors are experiencing. Fraudulent redemptions has been escalating since 1991. It is impossible to quantify this problem precisely, but beverage distributors believe that it is costing the industry hundreds of thousands of dollars each year at a minimum. I have attached a newsclipping from the Portsmouth Herald about fraudulent redemption as Exhibit E. It describes containers being brought to Maine for redemption by New Hampshire trash haulers.

REIMBURSEMENTS ARE OWED TO DISTRIBUTORS

The final issue that needs to be discussed in considering confiscation of unclaimed deposits is the reimbursements which the State owes to distributors who redeem more containers than have been sold. Please see Exhibit A, 32 M.R.S.A. §1866-A, paragraph (3).

All of the information in this letter on net revenue to the State is based upon reimbursement for over-redemption at 50% of the total amount which the deposit initiator has paid out in refund values above what has been collected for a calendar year. This is what Treasury has been paying based upon rules that were written. Payment of only 50% of the amount over-redeemed seems to be clearly contradicted by the law which requires the Treasurer to pay the "amount of over-redeemed minimum deposits."

I wrote to Sam Shapiro about this issue in January and I received a response from him in which he denies that the State is obligated to pay at 100%.

I understand why Mr. Shapiro wishes to deny the State's obligation to pay 100% of the amount over-redeemed, because it will cost the Solid Waste Management Fund a substantial amount of money. However, I believe the law is clear and the early drafts of the law make it even clearer.

If 100% owed to deposit initiators for the previous years is paid rather than 50%, then the state owes over \$430,000 more to deposit initiators. It cannot yet be determined what reimbursement at 100% of overredemption would mean for 1994, but it appears fairly certain that the State will be required to pay out more as reimbursements for 1994 than it will have taken in. How much more the State will be liable for cannot be determined until the 4th quarter reports are filed on March 20th.

SUMMARY

1. Costs of operating under a mandated deposit law are far greater than any unredeemed deposits and these costs should

be weighed against the benefits of the State taking unredeemed deposits.

2. Even in the beginning, unredeemed deposits provided less than half of the revenue which had been projected. For calendar year 1994, net revenue to the Waste Management Fund will likely be between \$100,000-\$200,000 after deducting reimbursements at the 50% level, credit balances owed to distributors and the cost to administer the program.
3. Current law provides that deposit initiators are to be reimbursed 100% for over redemption. To date the State has only reimbursed at 50%. The Waste Management Fund has a potential liability of over \$400,000 for years prior to 1994. Reimbursement at 100% for 1994 will result in a net outflow of revenue from the Waste Management Fund for 1994.
4. The trend of declining and/or negative income for unclaimed deposits can be expected to continue.

32 § 1866**Note 2**

though statute requires sellers to remit 50% of unclaimed of deposits to state. *Maine Beer & Wine Wholesalers Ass'n v. State* (1993) Me., 619 A.2d 94.

PROFESSIONS AND OCCUPATIONS**Title 32****§ 1866-A. Abandoned and unclaimed deposits; reports and payments**

Deposits are presumed abandoned and are unclaimed deposits when retained by a manufacturer or distributor 60 days after being collected during any 3-month period ending the last day of March, June, September or December. Deposit initiators pursuant to section 1863-A must report deposit-related activity and disburse unclaimed deposits in accordance with the provisions of this section.

1. **Reports.** Each deposit initiator must report to the department on or before the 20th day of March, June, September and December the total amount of deposits paid to, refunds paid from and income earned on its deposit transaction account for the 3-month period ending the last day of March, June, September and December. Reports under this subsection must separate minimum deposits from other deposits collected and refunded.

2. **Unclaimed deposits.** Except for initiators of deposit under section 1863-A, subsection 1, each deposit initiator shall pay to the Treasurer of State on or before the 20th day of March, June, September and December an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator. The remaining unclaimed minimum deposits, any other unclaimed deposits and any income earned on deposits become the property of the distributor on the day payment is made to the Treasurer of State. Deposit initiators under section 1863-A, subsection 1 shall retain all unclaimed deposits. Funds received by the Treasurer of State under this subsection become the property of the State and must be deposited in the Maine Solid Waste Management Fund established in Title 38, section 2201.

3. **Over-redemption of beverage container deposits.** When a deposit initiator pays out more in refund values than it collects in deposits during the course of a calendar year, the deposit initiator may apply to the Treasurer of State for a reimbursement from the Maine Solid Waste Management Fund equal to the amount of over-redeemed minimum deposits. The Treasurer of State shall reimburse documented claims of over-redeemed minimum deposits.

1991, c. 591, § R-4; 1991, c. 819, §§ 10, 11.

Historical and Statutory Notes**Amendments**

1991 Amendment. Laws 1991, c. 819, § 10, in opening par., substituted reference to § 1863-A of this title for reference to § 1863 of this title.

Laws 1991, c. 819, § 11, in subsec. 2, added reference to the exception for initiators under § 1863-A, subsec. 1 and added provision authorizing deposit initiators under § 1863-A, subsec. 1, to retain all unclaimed deposits.

"The Maine Revised Statutes, Title 32, section 1866, subsection 7 and Title 32, section 1866-A as enacted in this Part take effect July 1, 1991, except that payments of unclaimed deposits pursuant to Title 32, section 1866-A, subsection 2 apply only to deposits collected on or after July 1, 1991 and reimbursements from the Treasurer of State pursuant to Title 32, section 1866-A, subsection 3 may only be made for over-redeemed deposits paid by distributors after July 1, 1991."

Effective Dates

1991 Act. Laws 1991, c. 591, § R-18, provided:

Derivation:

Laws 1991, c. 528, §§ R-4, RRR.
Former § 1866-A of this title.

Notes of Decisions**Remittance 1**

remit to state 50% of unclaimed deposit values.
Maine Beer & Wine Wholesalers Ass'n v. State (1993) Me., 619 A.2d 94.

1. Remittance

Principles of abandoned property law were not violated by statute requiring beverage sellers to

§ 1867. Redemption centers

1. **Establishment.** Local redemption centers may be established and operated by any person or municipality, agency or regional association as defined in Title 38, section 1310-C,

AS OF 3/10/95

MAINE STATE TREASURY
MAINE BOTTLE BILL
SUMMARY OF DEPOSIT INITIATOR ACTIVITY

QUARTER/YEAR : 3/1994

PAGE 1

# of REDEP	NAME	ID	DEPOSITS RECEIVED	DEPOSITS REDEMED	NET DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO STATE	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
146	ADIRONDACK BEVERAGES INC	8	\$103,412.40	\$151,681.10	-\$48,268.70	-\$24,134.35	-\$9,193.20		-\$33,327.55	
81	ALCOHOLIC BEVERAGES	10	\$290,672.29	\$237,273.15	\$53,399.14	\$26,699.57	-\$27,297.61		-\$598.04	
287	AMERICAN BEVERAGE CORP.	1	\$2,761.20	\$7,933.65	-\$5,172.45	-\$2,586.23	-\$40.03		-\$2,626.26	
0	AMERICAN DISCOUNT OUTLET	2	\$27.70	\$0.00	\$27.70	\$13.85		\$13.85		
4	ANES	204						\$7,751.55		
132	ARBOSTOCK BEVERAGE COMPA	4	\$16,168.90	\$665.80	\$15,503.10	\$7,751.55		\$7,751.55		
55	ASSOCIATED BUYERS, INC.	71	\$53,226.65	\$70,577.95	-\$17,351.30	-\$8,675.65	-\$6,393.08		-\$15,068.73	
115	ASSOCIATED GROCERS OF ME	5	\$2,533.85	\$1,400.30	\$1,133.55	\$566.78		\$566.78		
0	AUTOMATIC PROD OF AMERIC	70	\$4,644.00	\$5,360.15	-\$716.15	-\$358.08	-\$650.35		-\$1,008.43	
44	AXIS NATURAL FOOD	6	\$93.60		\$93.60	\$46.80		\$46.80		
22	BAR HARBOR BREWING COMPA	72	\$21.50	\$9.50	\$12.00	\$6.00	\$12.95		-\$6.95	
23	BEECH-NUT NUTRITION CORP	137	\$841.05	\$187.45	\$653.60	\$326.80		\$326.80		
109	BRIGGS, INC.	9	\$2,829.00	\$671.00	\$2,158.00	\$1,079.00		\$1,079.00		
2	C & S WHOLESALE GROCERS	11	\$192,505.05	\$210,536.50	-\$18,031.45	-\$9,015.72	-\$7,165.98		-\$16,181.70	
94	CARTER FEED	75	\$413.00	\$10.00	\$403.00	\$201.50		\$201.50		
98	CASWELL LIQUIDATION CTR	15	\$178.40	\$169.05	\$9.35	\$4.68	-\$12.48		-\$7.80	
99	CENTRAL DISTRIBUTORS	16	\$1,231.20	\$1,215.85	\$15.35	\$7.68		\$7.68		
0	CITRUS WORLD, INC.	240	\$206,693.25	\$204,998.20	\$1,695.05	\$847.53		\$847.53		
81	CLEMENT PAPPAS & COMPANY	17	\$12.00		\$12.00	\$6.00		\$6.00		
26	CLIFFORD FARMS LTD.	76	\$5,767.60	\$4,697.95	\$1,069.65	\$534.83	-\$1,380.13		-\$845.30	
0	CLIFFSTAR CORPORATION	117	\$643.10	\$171.00	\$472.10	\$236.05		\$239.05		
102	COCA COLA BOTTLING	18	\$137.25		\$137.25	\$68.63		\$68.63		
885	COCA COLA FOODS	19	\$1,325,322.00	\$1,352,136.00	-\$26,814.00	-\$13,407.00	-\$15,021.00		-\$28,428.00	
101	COLONIAL DISTRIBUTORS, I	20	\$2,097.05	\$18,572.45	-\$16,475.40	-\$8,237.70	-\$4,643.48		-\$12,881.18	
50	CORNUCOPIA	133	\$328,435.85	\$333,101.20	-\$4,665.35	-\$2,332.68			-\$2,332.68	
83	CRYSTAL SPRINGS	78	\$2,421.60	\$1,235.00	\$1,186.60	\$593.30		\$593.30		
93	CUMBERLAND & YORK DIST	22	\$120.00	\$100.00	\$20.00	\$10.00		\$10.00		
46	CUMBERLAND FARMS, INC.	79	\$268,310.35	\$251,315.50	\$16,994.85	\$8,497.43		\$8,497.43		
0	D & H DISCOUNT	23	\$8,368.40	\$3,863.35	\$4,505.05	\$2,252.52		\$2,252.52		
73	D & H DISCOUNTS	23	\$19.55		\$19.55	\$9.78		\$9.78		
17	DOWN EAST SUNPROUTS, IN	198	\$2.25	\$1.65	\$0.60	\$0.30		\$0.30		
55	DR PEPPER/7 UP CORPORATI	84	\$2,932.85	\$527.80	\$2,405.05	\$1,202.53		\$1,202.53		
41	EVERFRESH BEVERAGES	81	\$21,150.00	\$11,724.30	\$9,425.70	\$4,712.85		\$4,712.85		
			\$1,537.96	\$638.77	\$899.19	\$449.60	-\$2,669.16		-\$2,219.56	

NO OF REDEMP	NAME	ID	DEPOSITS RECEIVED	DEPOSITS REDEEMED	NET DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO STATE	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
0	P.W. WOOLWORTH	245	\$49.70		\$49.70	\$24.85		\$24.85		
60	FARE SHARE COOP	47	\$49.75	\$30.20	\$19.55	\$9.78		\$9.78		
108	FARMINGTON COCA-COLA	25	\$65,569.60	\$71,101.20	-\$5,531.60	-\$2,765.80	-\$1,117.20		-\$3,883.00	
97	FEDERAL DISTRIBUTORS, IN	26	\$393,422.50	\$384,612.55	\$8,809.95	\$4,404.97	-\$9,865.58		-\$5,460.61	
74	FOOD CITY, INC.	27	\$184.90	\$137.00	\$47.90	\$23.95			-\$127.58	
479	GARLICK FARMS, INC.	199	\$35.75	\$171.30	-\$135.55	-\$67.78			-\$67.78	
1332	GENERAL MILLS, INC.	205	\$612.00	\$8,153.05	-\$7,541.05	-\$3,770.52			-\$1,054.86	
92	GENERAL NUTRITION	187	\$179.40	\$165.60	\$13.80	\$6.90		\$6.90		
114	GERBER	82	\$4,275.75	\$4,900.55	-\$624.80	-\$312.40	-\$1,925.00		-\$2,237.40	
102	GLENROCK SPRING	229	\$1,375.70	\$1,405.00	-\$29.30	-\$14.65	-\$259.42		-\$274.07	
43	GOOD NEWS NATURAL MEAT, I	29	\$11.60	\$5.05	\$6.55	\$3.28				
0	GOOD SHEPHERD FOOD-BANK	30	\$814.90		\$814.90	\$408.45		\$3.28		
56	GRANTS DAIRY	31	\$10,474.40	\$5,917.30	\$4,557.10	\$2,278.55		\$408.45		
81	GREAT A & P TEA	32	\$434.65	\$355.75	\$78.90	\$39.45		\$2,278.55		
119	GREAT SPRING WATERS OF A	50	\$42,661.85	\$50,782.60	-\$8,120.75	-\$4,060.38		\$39.45		
67	H.P. BOOD, INC.	33	\$10,687.65	\$7,238.95	\$3,448.70	\$1,724.35		\$1,079.70	-\$4,060.38	
73	HANNAFORD BROTHERS	34	\$37,913.70	\$27,929.80	\$9,983.90	\$4,991.95	-\$644.65	\$4,991.95		
46	HARVEST TIME	35	\$24.25	\$11.25	\$13.00	\$6.50		\$6.50		
0	HICKORY FARMS	83	\$22.70	\$0.10	\$22.60	\$11.30		\$13.30		
196	JEZ BERT COMPANY.	224	\$5,522.40	\$10,843.20	-\$5,320.80	-\$2,660.40			-\$2,660.40	
105	JUICE BOWL PRODUCTS, INC	123	\$2,252.40	\$2,375.40	-\$123.00	-\$61.50			-\$61.50	
79	KNOUSE FOODS	124	\$2,150.75	\$1,714.50	\$436.25	\$218.13			-\$821.71	
91	MAINE DISTRIBUTORS	37	\$421,659.00	\$386,020.95	\$35,638.05	\$17,819.03	-\$1,039.84	\$17,819.03		
44	MAINE SPECIALTY FOOD	176	\$130.40	\$57.65	\$72.75	\$36.37		\$36.37		
32	MAINE'S BEST	222	\$83.65	\$27.00	\$56.65	\$28.33	-\$4.78	\$23.55		
0	MILLBROOK DISTRIBUTION S	38	\$25.00		\$25.00	\$12.50	-\$284.10		-\$271.60	
47	MIRR'S COUNTRY CUPEBOARD,	40	\$3.60	\$1.70	\$1.90	\$0.95				
0	N.C.C.	200	\$4,250.73		\$4,250.73	\$2,125.38		\$0.95		
98	NAPPI DISTRIBUTORS	41	\$359,562.00	\$353,348.00	\$6,214.00	\$3,107.00		\$2,125.38		
108	NATIONAL DISTRIBUTORS	42	\$551,957.70	\$598,656.21	-\$46,698.51	-\$23,349.25		\$3,107.00		
56	NATIONAL PAX CORPORATION	86	\$1,728.00	\$973.20	\$754.80	\$377.40	-\$44,960.68		-\$68,309.93	
38	NATURE'S CHOICE	195	\$15.60	\$6.00	\$9.60	\$4.80		\$377.40		
401	NATURE'S PANTRY	44	\$5.05	\$20.30	-\$15.25	-\$7.63		\$4.55		
20	NESTLE BEVERAGE COMPANY	45	\$36,002.50	\$7,460.70	\$28,541.80	\$14,270.90	-\$0.15	\$14,270.90	-\$7.78	
113	NORSEAST BEV/CANADA DRY	203	\$29,940.00	\$33,898.80	-\$3,958.80	-\$1,979.40			-\$1,979.70	
63	NORSEAST COOPERATIVES,	87	\$5,381.30	\$3,391.77	\$1,989.53	\$994.77		\$994.77		
33	OAKHURST DAIRY	88	\$9,169.05	\$3,089.75	\$6,079.30	\$3,039.65		\$3,039.65		
154	OCEAN SPRAY, INC.	46	\$27,262.40	\$42,162.95	-\$14,900.55	-\$7,450.28	-\$11,235.83		-\$18,686.11	

% of REDEMP	NAME	ID	DEPOSITS RECEIVED	DEPOSITS REDEEMED	NET DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO S T A T E	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
101	PEPSI COLA AROSTOCK	89	\$111,311.20	\$112,990.80	-\$1,679.60	-\$839.80	\$4,148.20	\$3,308.40		
94	PEPSI COLA METROPOLITAN	48	\$448,922.75	\$425,396.90	\$23,525.85	\$11,762.93		\$11,762.93		
106	PINE STATE TOBACCO	49	\$467,704.65	\$498,229.00	-\$30,524.35	-\$15,262.17	-\$28,806.73		-\$44,068.90	
114	POLAR CORPORATION	51	\$256,259.70	\$292,522.65	-\$36,262.95	\$18,131.48			-\$18,131.48	
319	PROCTOR & GAMBLE	52	\$26,947.90	\$86,075.40	-\$59,127.50	-\$29,563.75	-\$9,757.92		-\$39,321.67	
92	PUNG HILL WATER COMPANY	130	\$14.50	\$13.40	\$1.10	\$0.55		\$0.55		
28	RISEING TIDE COOP	188	\$6.65	\$1.90	\$4.75	\$2.38	-\$1.62		\$0.76	
99	SELTZER & RYDEBOLM, INC.	55	\$1,382,272.90	\$1,373,901.30	\$8,371.60	\$4,185.80		\$4,185.80		
115	SEAN'S SUPERMARKETS	56	\$20,101.95	\$23,260.30	-\$3,158.35	-\$1,579.18	-\$1,476.80		-\$3,055.98	
0	SHIELDS MEATS & PRODUCE.	57	\$82.80		\$82.80	\$41.40		\$41.40		
99	SOLMAN DISTRIBUTORS	58	\$155,794.36	\$154,796.10	\$998.26	\$499.14	-\$54,115.65		-\$53,616.52	
13	STORE/AMPSAND	109	\$3.60	\$0.50	\$3.10	\$1.55		\$1.55		
76	SUNBURST FRUIT JUICES, I	91	\$23,902.05	\$18,342.80	\$5,559.25	\$2,779.63		\$2,779.63		
91	SUNSWEST/SUN-DIAMOND GRW	59	\$2,771.40	\$2,527.90	\$243.50	\$121.75	-\$47.55	\$74.20		
54	SUNTORY WATER GROUP, INC	206	\$10,474.80	\$5,698.70	\$4,776.10	\$2,388.05	-\$5,980.80		-\$3,592.75	
95	SUPERVALU-PRESQUE ISLE	65	\$3,246.40	\$3,115.10	\$131.30	\$65.65		\$65.65		
94	VALLEY DISTRIBUTORS	61	\$283,130.65	\$267,411.80	\$15,718.85	\$7,859.43		\$7,859.43		
124	VERIFINE PRODUCTS	62	\$84,896.80	\$105,903.40	-\$21,006.60	-\$10,503.30	-\$5,679.98		-\$16,183.28	
0	VERMONT PURE SPRING WATE	128	\$104.40		\$104.40	\$52.20		\$52.20		
773	WELCH'S	63	\$627.00	\$4,848.00	-\$4,221.00	-\$2,110.50	-\$4,076.34		-\$6,186.84	
101	REPORT TOTALS - CASH		\$8,150,009.59	\$8,252,775.90	-\$102,766.31	-51,383 -\$102,766.31	-\$251,585.97	\$109,227.88	-\$409,653.25	\$0.00
	REPORT TOTALS - UNITS		163000191	165055518	-2055326	-302382				

MAINE WASTE MANAGEMENT AGENCY

AVAILABLE REVENUES FROM UNCLAIMED RETURNABLE CONTAINER DEPOSITS

Full year scenario for unclaimed deposits

Pre-expansion containers

Beer & carbonated beverages

530 million containers X 8% unreturned containers X \$.05
deposit = \$2.12 million unclaimed pre-expansion deposits.

Expansion containers

Spirits

8 million containers at \$.15 deposit and 15% unreturned
containers creates \$180,000 in unclaimed deposits currently
retained by the Bureau of Alcoholic Beverages.

Wine

6 million containers X 15% unreturned containers X \$.15
deposit = \$135,000 unclaimed wine deposits

Non-carbonated beverages (juice)

100 million containers X 25% unreturned containers X \$.05
deposit = \$1.25 million unclaimed non-carbonated beverage
deposits

TOTAL UNCLAIMED DEPOSITS

FISCAL YEAR 1992 (9 months)

\$2,763,750

FISCAL YEAR 1993

\$3,685,000

50% UNCLAIMED DEPOSITS

FISCAL YEAR 1992 (9 months)

\$1,381,875

FISCAL YEAR 1993

\$1,842,500

Received from Treasury
2/9/95 LSD

EXHIBIT D

BOTTLE BILL DATA

FISCAL YEAR = JULY 1 THROUGH JUNE 30

AS OF 2-3-95

FISCAL YEAR	INCOME	PAYMENTS	BALANCE
1992	\$ 620,253.29	\$ 6,608.08	\$ 613,645.21
1993	\$ 893,992.76	\$ 131,357.20	\$ 762,635.56
1994	\$ 738,032.08	\$ 230,153.62	\$ 507,878.46
1995	\$ 495,962.01	\$ 66,253.49	\$ 429,708.52 *
TOTALS	\$2,748,240.14	\$ 434,372.39	\$2,313,867.75

* Note that Current Credit Balances are not accounted for in this number, but will be paid out at the end of the year.

LSD

Maine's bottle bill has some unredeeming qualities

By Alice Giordano
Herald Correspondent

YORK — Law labeling requirements under Maine's bottle bill has made it an easy and lucrative practice to redeem bottles and cans sold in states that don't have a bottle bill according to redemption center owners.

The illicit practice can be so profitable that entire redemption rings have infiltrated the market. According to Roxanne Warden, manager of the redemption center at Anthony's Food Shop in York, the frequently received calls from out-of-state can collectors.

"It's not uncommon for some guy to call from Connecticut and say I

have \$200 worth of empties, will you take them," she said.

While some reportedly come from as far away as New Jersey — one of 40 states that does not have a bottle bill — most redemption business owners charge, come from Maine's neighboring state of New Hampshire.

Dawn Tully, owner of the Bottle Shop in Wells, said commercial trash haulers in the Granite state are among the most organized in illegal redemptions.

"They put a separate bin in their trucks just for this," she said.

While the organized bottle and can collectors are cashing in on illegal returns, redemption centers and beverage companies are thrashing for a solution.

Last year, illicit redemptions cost the Miller Brewing Company, \$975,000.

At Maine is a change in Maine's bottle bill that allows the five-cent deposit to be pre-stamped on a beverage's label.

Originally, refund stickers were affixed to beverages after shipment. Now, only wine is stickered for refund in the state.

The measure essentially cuts off screening out bottles pre-stamped for refund because many national distributors of beverages use the same labeling on all their bottles and cans.

Shapelle, the top seller of juice drinks, she said, poses the biggest problem because Maine is the only

state with a bottle bill that includes "leeches."

"You can't tell a Snapple bottle from New Hampshire and one from Maine apart," contended Tully.

Some companies including Snapple have recently begun coding their containers to track the bogus returns, but the companies said Warden have refused to disclose the codes to redemption centers — leaving them literally holding the bag.

Companies pick up their returnables, but after doing what redemption businesses call silent accounting, sends a reimbursement check for only some of the cans and bottles.

Another problem is small com-

panies that won't pick up their returned empties, especially mom-and-pop distributors of bottled water said Tully.

Beverage makers that discount distribution in Maine also desert their returnables.

Tully said she was left with the unenviable task of explaining to area restaurants why they were stuck with cans of Sacramento Tomato Juice, used in Bloody Marys, after the company pulled out of Maine.

Warden says to also watch out for specialty beverages like Expedition a soda sold only at Ames Department stores.

"The beverage is also only re-

turnable at the retail chain.

While redemption centers, which make eight cents on every can they return to its manufacturer, may seem to be the only ones losing money, consumers will soon be left holding the bag.

Redemption centers throughout the state are beginning to circulate a list of companies refusing to pick up their returnables.

When a customer brings a bottle distributed by a company on the list, Tully said redemption centers have no choice but to refuse them.

"I take them for recycle, but if I can't get my money, I can't give any out either," she said.

Proposed Amendment to L.D. 229, "An Act To Abolish the Maine Waste Management Agency."

The purpose of this amendment is to delete all of Sections 7 and 8 of the bill and replace with the following:

Sec. __. 32 M.R.S.A. §1863-B, as enacted by PL 1991, c. 819, §3, is repealed.

Sec. __. 32 M.R.S.A. §1866, Sub-§7 as amended by PL 1991, c. 819, §9, is repealed.

Sec. __. 32 M.R.S.A. §1866-A, as amended by PL 1991, c. 819, §§10, 11, is repealed.

Sec. __. 32 M.R.S.A. §1869, sub-§3, as amended by PL 1991, c. 591, Pt. R, Sec. 5, is repealed.

Sec. __. 32 M.R.S.A. §1871, 2nd ¶, as enacted by PL 1991, c. 591, Pt. R, Sec. 6, is repealed.

Sec. __. Reports and reimbursements.

1. Notwithstanding the reporting requirements under the Maine Revised Statutes, Title 32, section 1866-A, subsection 1, each deposit initiator shall submit a final report on or before June 20, 1995 and need not submit a report for September, 1995.

2. Notwithstanding Title 32 section 1866-A, subsection 2, each deposit initiator shall submit a final payment to the Treasurer of State on or before June 20, 1995 in an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator for the 3-month period ending on the last day of March, 1995.

3. The Treasurer of State shall reimburse to a deposit initiator any documented claims of over-redeemed minimum deposits during the course of the previous calendar year.

4. The Treasurer of State shall reimburse to a deposit initiator an amount equal to any documented claims of over-redeemed minimum deposits as reported on or before June 20, 1995.

Sec. __. Retroactivity. Section __ of this Act applies retroactively to June 20, 1995.

Further amend the bill by renumbering the sections of the bill to read consecutively.

STATEMENT OF FACT

This amendment repeals the laws relating to unclaimed beverage container deposits. The amendment also establishes transition language necessary for distributors of beverage containers to make final payments to and reimbursement requests from the State's Solid Waste Management Fund.

Amendment prepared by:

Dyer and Goodall
on behalf of
Maine Soft Drink Association



March 21, 1995

Senator Willis A. Lord, Senate Chair
Representative Richard A. Gould, House Chair
Natural Resource Committee
120 State Office Building
Augusta, ME 04333

RE: LD 229, "An Act To Abolish the Maine Waste Management Agency"

Dear Senator Lord, Representative Gould and the Natural Resource Committee:

We are writing on behalf of a "Tire Coalition" Champion International Corporation has been instrumental in forming, with concerns on LD 229. As you may remember at your association/lobbyist introduction, our group came to your committee and presented ourselves and our issues. As we stated, our coalition is made up of many "tire-interested" parties, including tire processors, tire-derived fuel users, the Maine Department of Environmental Protection, the Maine Department of Transportation, the Maine Waste Management Agency and the University of Maine (civil engineering).

We have been working for many months discussing problems and solutions with existing and future tire issues in this state. As a group, we have developed an action plan which we will be pursuing through legislation as well as regulation.

While our coalition does not support or oppose LD 229, we are concerned with the possible elimination of the tire disposal fee and/or the proposal to dedicate those fees to the general fund. It is our hope that the tire disposal fee can eventually be dedicated for the disposal of tires.

We understand that this bill will be worked by your committee over several work sessions, and we look forward to participating with you. If our coalition can provide you any information, please don't hesitate to call us.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrea Maker', with a long horizontal flourish extending to the right.

Andrea C. Maker
Director of Public Affairs

A handwritten signature in black ink, appearing to read 'Michele A. Fossett', with a long horizontal flourish extending to the right.

Michele A. Fossett
Lobbyist

March 13, 1995

Comments to the Energy and Natural Resources Committee relating to LD 229 which dismantles the Maine Waste Management Agency

By Elery Keene

Executive Director Kennebec Valley Council of Governments
Vice Chairman Municipal Review Committee for PERC which is the committee that represents the 90 charter municipalities that dispose of solid waste by contract with the Penobscot Energy Recovery company at Orrington, Maine.

The Maine Waste Management agency was born a result of a study committee that spent many hours trying to resolve conflicting and competing interests relating to solid waste disposal in Maine. Many other people spent a lot of hours trying to come up with a balanced way for Maine to handle solid waste.

Things have changed since that time. Much has been accomplished. Some things remain to be done.

It is hard to think that we can make the sweeping changes proposed in LD 229 without another process that is just as exhaustive in allowing competing interests and needs to be heard and allow for proper deliberation on a state of Maine strategy for disposal of solid waste.

We, residents, businesses, industries NEED a place to put our solid waste. It has to go somewhere.

Municipalities have been given a responsibility to provide for disposal of solid waste generate by homes and businesses in their communities. For most towns solid waste disposal has become one of the most expensive items on the annual town warrant. Twenty years ago it was an incidental expense. Solid waste disposal is a significant cost to businesses, through direct payments for the services as well as through property taxes.

The state of Maine needs to take a major share of the responsibility for finding low cost, environmentally sound ways to dispose of solid waste. The state must lead. This was the role of the Maine Waste Management agency.

Who will provide state leadership after the proposed change?

Municipalities using PERC and other energy recovery plants to dispose of garbage need to know that there is a place to put the ash and "front end process residue" that is not burned and must be landfilled.

Currently, state law does not allow the private sector to develop new landfill sites in Maine. Many people don't want the private sector to do own landfills because they fear landfills and don't

want waste brought into Maine from out of state, which is something the private sector does.

The Maine Waste Management Agency has been working to develop a new state owned landfill at Carpenter Ridge in Penobscot County to fulfill the need for disposal of these and other special wastes generated in Maine.

It was the plan that the existing private landfills would be phased out. The state, operating a landfill would not receive out of state waste for disposal.

Who will carry on the state role of providing a place to put special waste generated in Maine? Do we want to change our policy and let out of state waste be brought in to Maine to landfilled?

Waterville Winslow has established a very successful recycling program using a curbside collection program. We have achieved a 60% to 70% participation rate, which is very high.. This could not have happened without the grant from Maine Waste Management that paid for the two collection vehicles. This service is now being extended to include Fairfield. The processing center also processes recyclables from Augusta. The processing center was also assisted with a grant from Maine Waste Management agency.

The Maine Cooperative Marketing program was established through leadership and dollars to help Maine municipalities get better prices for recycle material. It has worked. The net cost per ton for Waterville Winslow has been reduced from \$90 per ton to \$20 per ton partly because of the success of this program. The state funding for this program needs to continue.

Municipal Review Committee

PO Box 2579 • Bangor, Maine 04402-2579 • (207)942-6389 • Fax: (207)942-3548

Memorandum

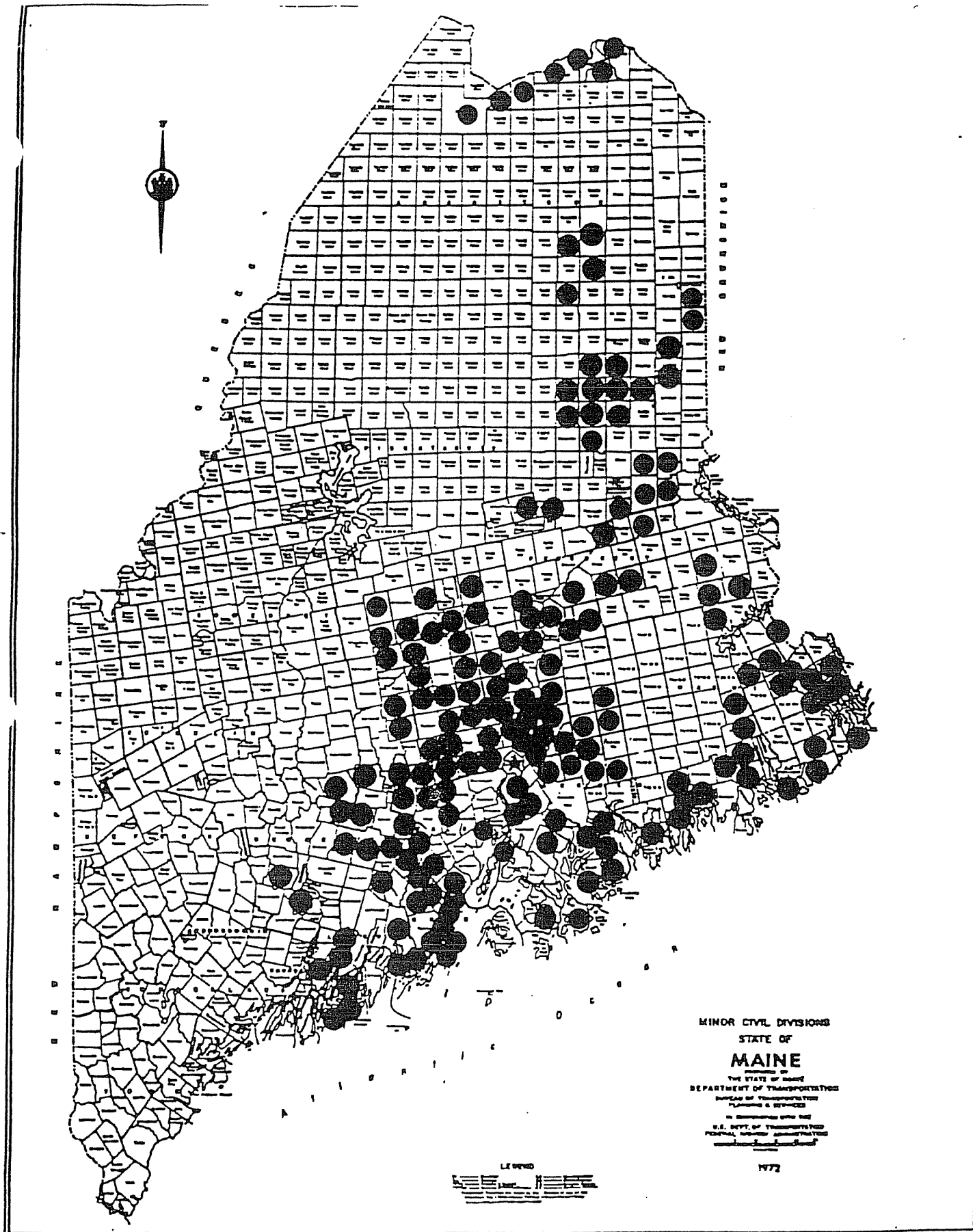
To: Natural Resources Committee
From: Municipal Review Committee
Date: March 13, 1995
Subject: L.D. 229 & L.D. 447

Please find enclosed a materials associated with our testimony being provided today.

If you have any questions, please feel free to contact Greg Louder at (207)942-6389 or Thomas Brown at (207)947-0111.

ENCLOSURES:

1. Location Map
2. Municipal Review Committee Resolution
3. Written Testimony
4. Municipal Review Committee Annual Report



Municipal Review Committee

PO Box 2579 • Bangor, Maine 04402-2579 • (207)942-6389 • Fax: (207)942-3548

re: L.D. 447 and L.D.229

Resolution:

to recognize the need for and to support efforts to pursue the attainment of additional disposal capacity for Front End Process Residue and Incinerator Ash generated as by-products of the waste -to-energy process at the Penobscot Energy Recovery Company plant in Orrington, Maine.

Whereas, the Municipal Review Committee Incorporated, acting through its Board of Directors, serves as a representative of some 90 Charter Municipalities in the administration of legally binding Put-or-Pay waste disposal agreements with the privately owned waste-to-energy solid waste incineration facility known as the Penobscot Energy Recovery Company (PERC);

Whereas, an additional 60 communities also have similar long-term contracts with PERC whose tonnage, when combined with that of the Charter Municipalities, totals 200,000 tons of the 248,000 tons processed at PERC in 1994;

Whereas, the processing of waste at PERC requires the support of ash and front end process residue disposal facilities to handle the that waste which totals some 64,000 tons generated by the charter and long term contract municipalities;

Whereas, state law requires each municipality to provide for disposal facilities for solid waste emanating from normal commercial and residential sources within the municipality;

Whereas, Known disposal options for PERC generated Front End Process Residue are only available until October of 1995;

Whereas, failure to find a cost effective disposal solution for front end process residue will cost Charter Municipalities an additional \$1,000,000 per year;

Whereas, the State and municipal governments have a joint duty to the taxpayers to provide cost effective means of waste management in general, and in particular the state through the Maine Waste Management Agency has assumed the duty of providing future ash capacity to be potentially utilized by the State's waste-to-energy facilities totalling a public investment of \$350,000,000;

Whereas, the existing disposal capacity for PERC generated ash is finite with about seven years of life remaining with the current disposal option;

Whereas, the Charter Municipalities enjoy a cost effective private/public relationship with the PERC facility, that facility represents a \$100,000,000 investment, and a cost effective means of ash and front end process residue disposal are a critical variable in maintaining the overall cost

effectiveness of the PERC facility;

Whereas, we are familiar with the scope and content of L.D. 229, an Act to Abolish the Maine Waste Management Agency and L.D. 447, an Act Regarding Expansion of Certain Waste Disposal Facilities now pending;

Whereas, proximity to the PERC plant is a critical variable in determining the overall cost effectiveness of a given disposal option; and

Whereas, the Maine Waste Management Agency maintains an overall state waste management plan and is actively pursuing the development solid waste disposal capacity;

Now, Therefore, in consideration of the foregoing, the Municipal Review Committee, Inc. Board of Directors resolves to inform the legislature of the needs of our member communities, of our residents, and of our businesses and to explicitly state that this Board:

1. supports the passage of L.D. 447
2. views as being crucial, in the event that L.D. 229, the act to abolish the Maine Waste Management Agency, is passed in some form that this Legislature clearly reassign that agency's duties and functions to another appropriate entity to perform all necessary tasks and meet all objectives in a timely fashion.
3. requests that this Legislature make certain that the present efforts to site the so-called Carpenter Ridge Special Waste Landfill in Penobscot County, upon which several million dollars have been spent to date, continue to be adequately funded and pursued to completion of the permitting process by an agency that has an advocacy role which is consistent with the Governor's "Maine is on the move" attitude.
4. believes the baseline criteria for considerations for any and all proposed construction or expansion of solid waste facilities are cost effectiveness and environmental soundness, but is currently neutral on ownership status.
5. is willing to assist the Legislature in conjunction with public service agencies such as the Kennebec Valley Council of Governments and the Eastern Maine Development Corporation in examining the needs of and the cost to the public for

the availability of solid waste technical assistance services currently administered
by the Maine Waste Management Agency.

This resolution was adopted by a vote of the Municipal Review Committee Inc. Board of
Directors on March 9, 1995.

_____/s/
Gerald Kempen, President

_____/s/
Elery Keene, Vice President

_____/s/
Robert Farrar, Treasurer

_____Abstained
Marie Baker

_____/s/
Larry Folsom

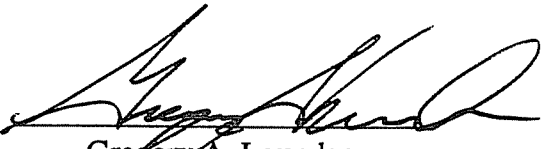
_____/s/
Joshua Day

_____/s/
John Giroux

_____/s/
Dennis Cox

_____/s/
Lyle Dever

Attest, True Copy


Gregory A. Louder
Clerk Municipal Review Committee, Inc.

LAW OFFICES

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BRENT A. SINGER
MICHAEL A. HODGINS

ABRAHAM M. RUDMAN
(1896-1970)
ALBERT H. WINCHELL, JR.
(1924-1992)

April 28, 1995

Ms. Deborah Friedman
Office of Policy and Legal Analysis
State House Station 13 Room 101
Augusta, Maine 04333

RE: Amendments to LD 229

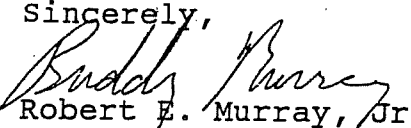
Dear Deborah:

As we discussed after the last work session regarding LD 229, Sawyer Environmental Services believes there is another policy issue the Committee should be made aware of with regard to the current status of LD 229. The latest version of the amendments to LD 229, in Section 30, repeals 38 M.R.S.A. § 2132(3). This section of the statute currently provides recycling credits to municipalities for the beneficial use of certain wastes which are used as a fuel source in industrial boilers. This same statutory provision has already been amended earlier this session by adding tires to the type of waste which can be credited as a beneficial use. (1995 P.L.ch.23)

Sawyer Environmental Services believes that to the extent the law continues to maintain a state recycling goal, and to the extent Section 31 of the latest proposed amendments to LD 229 still require municipalities to "demonstrate reasonable progress towards the goal", we believe it is worth maintaining the beneficial use provisions which now appear in Section 2132(3). I believe one of the concerns the agency had with regard to this section was a lack of sufficient resources to make the determination whether there are reasonably available markets in the state for recycling these types of waste. If this is the only concern, we would suggest that the language in the statute requiring the agency to make that determination simply be removed. This would still allow municipalities to take credit for this type of use, while not burdening the agency or its successor.

If you have any questions regarding this issue, I would be happy to address it with you.

Sincerely,


Robert E. Murray, Jr.
REM/cjb

Written Testimony
LD 229
March 13, 1995

My name is John der Kinderen. I live in Arundel, York County, Maine. Please accept this written statement as part of the record of testimony on LD 299, "An Act to Abolish the Maine Waste Management Agency".

As a leader of the grassroots opposition to the siting of a special waste landfill in the Arundel/Biddeford area, I am very familiar with the Maine Waste Management's facility siting operations. Three years ago, when a potential site was proposed for our area, we found much to criticize in the Agency's approach to and implementation of the site selection process. Our stand received strong local support then, and remains fresh in the minds of local residents.

However, our arguments were with the process more so than with the Agency itself. This is why I was interested in looking more closely at the legislation proposed in LD 229. Having read a copy of the proposed bill several times, I can attest to the fact that its full and true impact is difficult to determine. The numerous cross references make it almost impossible to follow. I will therefore express my concerns, begging pardon for obvious oversights, legal misinterpretations, or unrecognized linkages. As I express these views, I assure you that I speak for many in my community including those who worked with us on our site 9 opposition movement as well as those who did not.

My first comment concerns the work of the Maine Waste Management Agency. Aside from the landfill siting function, it served many useful and necessary roles. Having served on Arundel's Solid Waste Committee, I know first hand the support our town has received in terms of grants for our recycling facility. This, coupled with the pressure to close our landfill, and the State recycling goal has made our recycling center a priority. I am proud to say that it is a model facility and doing very well. It simply would not have happened without MWMA programs. I am convinced that what happened here in Arundel happened in many communities throughout the state. And I am convinced that Maine's leadership in recycling, which is now producing revenue and jobs, would not have happened without MWMA's leadership and support.

In addition to the "carrot and stick" approach to encouraging local recycling, MWMA also had another invaluable function. It is one that is probably not recognized except by those directly involved with local solid waste issues. MWMA produced large amounts of information on markets, transportation, pricing, and packaging of solid wastes. These were and are invaluable for small centers like our own which work very hard at producing a high quality, cost effective product. In addition, MWMA also supported cooperative efforts between communities in order to minimize overhead costs. All in all, these services made our entrepreneurial efforts the successes they are today.

Written Testimony
LD 229
March 13, 1995

LD 229 proposes to replace MWMA with the Department of Economic and Community Development to administer the recycling grants. All other duties and responsibilities will be assumed by the Commissioner of Environmental Protection. What this means to me is that a department which certainly does not have its full focus on environmental issues, much less waste management issues, will now have responsibility for judging the merits of recycling grant proposals and funding them. With all due respect, I do not believe the Department of Economic and Community Development has the capacity to do this function justice unless its staffing is substantially increased with people who have very specific expertise in this field.

The proposal to leave all of the other functions with the Commissioner of Environmental Protection appears to mean that those functions will cease to exist. If it does not, then the question "Will they reside with the Department of Environmental Protection?" must be seriously considered. I see a problem if this is intended to be the case. DEP's primary function is permitting, not solid waste planning and the encouragement of recycling. It is a well known fact that DEP is currently understaffed and under funded to carry out its present functions in an expeditious manner. Therefore, if DEP is expected to carry out former MWMA functions in addition to its current work load, it would require substantial investments in staff and expertise.

That leaves me with the question "Are we considering abandoning the good progress we have made these last several years?" If not, it seems to me that there would be no overall savings on staff and overhead. If the answer is "yes" then we need to ask the question "Why?".

In the end, these issues usually come down to money. And I was not surprised to find that this one is no different. As you know, MWMA supports all of its programs and staff from the fees it collects. Its operation does not impact the state budget directly. However, if its functions are moved to the proposed departmental locations, they would impact the budget by requiring additional staffing. That is assuming, of course, that there is a commitment to continue the work currently done by MWMA. To think that this work could be effectively done under the current departmental budgets without increase, is pure nonsense.

Although I do not recall the actual figures from when I reviewed them three years ago, I do know that the disposal fees and unclaimed deposit money comprises a significant revenue stream. I found it interesting to note that the proposed legislation does not extinguish these fees. Instead they will flow to the General Fund. The revenue stream, now dedicated to the sole purpose of managing Maine's waste solid issues, will no longer be dedicated. This revenue, sooner or later, will be used to offset other taxes or support totally unrelated programs. The overall effect will be that Maine will cease to pursue the

Written Testimony
LD 229
March 13, 1995

aggressively proactive solid waste policies of the past several years and we will throw our gains on the scrap heap of political shortsightedness.

The proposed legislation shifts the responsibility of administering the recycling grants to the Department of Economic and Community Development. This department is dependent upon the legislature for funding as opposed to receiving dedicated revenues. As a result, the recycling grants and associated programs will eventually die as there is increasing political competition for this new "tax free" revenue source.

The final issue, which concerns me most of all, is the apparent opening of Maine to the flow of out of state wastes. It is my understanding that the state solid waste plan in combination with the supervision of the Maine Waste Management Agency was the only legal way to exclude the flow of most foreign wastes into Maine. It appears that the abolishment of the Agency would provide a low cost disposal opportunity to neighboring states which currently think nothing of sending wastes all the way to the midwest.

Allowing private landfill operators to operate freely in this very lucrative market will bring more problems, more quickly than any of us can imagine. It is big money which will drive the rapid and permanent destruction of pristine open spaces and clean water which we value so dearly. Allowing the siting and operation of private landfills will earn big money for out of state corporations, and will bring long term problems and minimal benefit for Maine. These problems, in fact, will eventually cost the State of Maine much more than any short term revenues will benefit.

It is this final problem, opening our doors to out of state dumping which is the greatest threat. Even though it may be argued that we have very strict regulations for landfill construction and operation, let's be realistic. We can not enforce them. DEP does not have the capacity and the State of Maine does not have the money to compete with the likes of the international corporations which now control the waste markets. It would be utterly foolish to think that it is in the best interest of the people of Maine to accept out of state wastes. We will quickly be buried in problems over which we have no control.

All of this risk is proposed by LD 299. What is the gain?

- Will the proposal reduce taxes? No. It will only shift a revenue source.
- Will the proposal increase efficiency? No. It will require additional staffing elsewhere which will probably be less focused and therefore less efficient.
- Will it eliminate needless programs? No. The recycling programs have been some of the most successful in the nation, and totally self supporting.

Written Testimony
LD 229
March 13, 1995

- Will it increase Maine jobs or encourage economic development? Minimally. Private landfill operators might have a negligible impact on the job market. Most of the profits will flow out of state.
- Will it serve to preserve the beauty and character of Maine? No. New landfills will be a blight on the natural environment we cherish. And they will pose costly problems far into the future.
- Will it help Maine deal effectively with its own waste issues? No. It will, in fact, add to the difficult problem by opening the door to out of state wastes.
- Will it increase, or even maintain the incentives for Maine people to recycle? No. Why should Maine people recycle merely to increase capacity for out of state extravagance?
- Would it provide a back door revenue stream? Yes!

In the end, I can see only one reason that this legislation might be proposed. It is to gain control over a very substantial revenue source and divert it into programs normally supported by regular taxation. It can then be made to appear that the tax burden to the citizens of Maine has been substantially reduced when in fact it has simply been hidden. This is central control at its worst and we ought not fall for it!

John der Kinderen
RR #4 Box 133
Biddeford, ME 04005

**RESOLUTION OF THE
MAINE RESOURCE RECOVERY ASSOCIATION
COOPERATIVE MARKETING COMMITTEE**

WHEREAS, the State of Maine has determined that proper solid waste management includes a well balanced waste hierarchy, and

WHEREAS, the Maine Waste Management Agency was created to draft a state wide Waste Management Plan, as well as to provide funding and technical expertise to municipalities to assist them in achieving the goals of the Plan, and

WHEREAS, under the guidance of the Agency, the State of Maine is now ranked fourth in the nation for recycling progress, and

WHEREAS, the Maine Resource Recovery Association Cooperative Marketing Committee is comprised of municipal recycling programs and works closely with the Agency in fostering the State-wide goals in the Plan, and

WHEREAS, the Co-Op feels that there is still a need in the State of Maine for both technical support to local recycling programs and a continual monitoring or recycling progress.

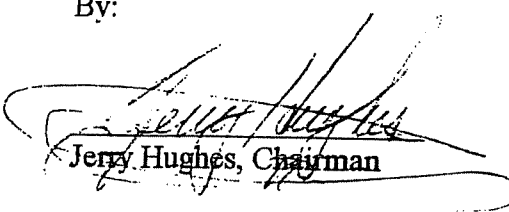
Now, THEREFORE, let it be RESOLVED, by the Maine Resource Recovery Association's Cooperative Marketing Committee, that the Maine State Legislature be encouraged to adopt LD 229, as amended, into law, and

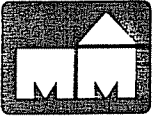
Be it further RESOLVED by the Co-Op that the Maine State Legislature be encouraged to ensure that LD 229 include provisions for the transfer of necessary staff from the Agency to the Office of State Planning, said staff to consist of six positions that will continue the technical support of local recycling programs and business recycling efforts, as well as the continued planning and monitoring of recycling progress in the State of Maine, and

Be if further RESOLVED by the Committee that the Maine State Legislature be encouraged to appropriate the necessary funding for the positions as previously described.

Unanimously approved by the Maine Resource Recovery Association's Cooperative Marketing Committee, serving the communities as attached, on March 23, 1995 in Augusta, Maine.

By:


Jerry Hughes, Chairman



Maine Municipal Association

60 COMMUNITY DRIVE
AUGUSTA, MAINE 04330-9486
(207) 623-8428

March 30, 1995

Sen. Willis A. Lord, Chair
Rep. Richard A. Gould, Chair
Members of the Joint Standing Committee
on Natural Resources
State House Station 115
Augusta, ME 04333

Re: LD 229 – AN ACT to Abolish the Maine Waste Management Agency

Dear Senator Lord, Representative Gould, and Members of the Committee:

MMA is concerned that certain aspects of the operations of the Maine Waste Management Agency continue beyond whatever decision the Legislature may make about abolishing the Agency. These functions are:

1. The continuation of the ban on new commercial solid waste disposal facilities;
2. That the state have sufficient resources to proceed with an application for and obtain a permit for the development of the Carpenter Ridge site;
3. That the DEP have sufficient staff in the Solid Waste Bureau to service the needs of municipalities with regard to licensing and the closure and remediation of unlicensed landfills; and
4. That the state have sufficient resources to provide both technical assistance and grants to municipalities to assist with municipal recycling efforts.

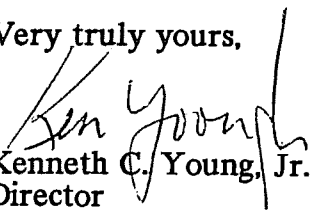
We are concerned that the resources proposed by the Agency to be devoted to recycling, technical assistance and grants to municipalities, are not adequate. My understanding is that the \$438,000 proposed for FY 96 and the \$435,000 proposed for FY 97, would fund six positions, three of which would be devoted to recycling and technical assistance. This would leave about \$50,000 a year for grants to municipalities to support recycling. I think the Committee should examine the budget for the recycling program to be certain that there are sufficient numbers of staff and money for grants to sustain the momentum for recycling to which the Agency has contributed so successfully.

Joint Standing Committee on Natural Resources
March 30, 1995
Page Two

Our preference is that the recycling program be lodged in the State Planning Office. We understand that the DECD is not interested in taking up the program and that the Committee is not interested in sending the program to DEP. Because of its extensive experience in dealing with municipalities and municipal issues, the State Planning Office seems a logical choice from our perspective.

I look forward to continuing to work with the Committee on this issue.

Very truly yours,



Kenneth C. Young, Jr.
Director
State and Federal Relations

KCY/tm

March 13, 1995

M E M O R A N D U M

TO: Natural Resources Committee

FR: Rep. Sharon Treat, Esq. 

RE: LEGAL ISSUES ASSOCIATED WITH LD 229, "AN ACT TO ABOLISH THE MAINE WASTE MANAGEMENT AGENCY" AND POLICY OPTIONS AVAILABLE TO THE STATE IN LIMITING, REGULATING OR CONTROLLING WASTE GENERATED OUT-OF-STATE.

I. OVERVIEW OF CASE LAW CONCERNING STATE REGULATION OR
LIMITATION OF DISPOSAL OF OUT-OF-STATE WASTE.

A. WHAT STATES CANNOT DO.

Recent U.S. Supreme Court decisions make clear that there are few options open to states that wish to differentially regulate, control or limit the processing or disposal of waste generated out of state. In addition, the Supreme Court has limited the controls that a state may place on waste generated within its boundaries. Most of the approaches to state regulation that have been overturned by the U.S. Supreme Court have been invalidated on the ground that they raise barriers to the free flow of interstate commerce. Waste is considered an item of interstate commerce.

There are valid policy reasons for state regulation of out-of-state waste, since environmentally sound waste disposal sites are in limited supply, waste disposal has environmental and other costs which are borne by the state hosting the disposal facility, and these costs may be avoided by the out-of-state waste generators. Nevertheless, it would not be an overstatement to characterize recent Supreme Court decisions as hostile to almost any state measure which seeks to regulate, tax or restrict disposal of out-of-state waste in a manner different from its regulation of waste generated within the state.

Thus, state policies that have been invalidated by the Supreme Court include:

- (1) Outright bans on disposal of out-of-state waste in private waste disposal facilities. City of Philadelphia v. New Jersey, 437 U.S. 617, 98 S.Ct.2531 (1978);

(2) Outright bans on disposal of out-of-county waste in private waste disposal facilities. Fort Gratiot Sanitary Landfill, Inc., v. Michigan Dept. of Natural Resources, 112 S.Ct. 2019 (1992);

(3) Differential fees on disposal, handling, or transportation of waste generated out-of-state, whether or not these fees are based on the actual costs of disposal and regulation which would not otherwise be paid by the generators of the waste, but instead paid by state taxpayers who do not benefit from the waste disposal. Oregon Waste Systems v. Oregon Dept. of Environmental Quality, 114 S.Ct.1345 (1994), Chemical Waste Management Inc. v. Hunt, 112 S.Ct.2009 (1992). For Maine law, see American Trucking Associations Inc. v. Secretary of State, 595 A.2d 1014 (Me.1991)

(4) Flow control regulations which direct locally generated waste to particular facilities within a municipality, district or state. C & A Carbone Inc. v. Clarkstown, 114 S.Ct.1977 (1994). For Maine law, see Tri-State Rubbish Inc. v. Gray, 632 A.2d 134 (Me.1993).

B. WHAT STATES CAN DO.

There are two mechanisms for direct and indirect regulation of out-of-state waste which appear to be acceptable based on Supreme Court decisions and dicta, and lower federal court decisions. These mechanisms are:

(1) **Capacity regulation.** States may be permitted to limit landfill/waste disposal capacity development based on a state's own needs, resulting in sizing disposal capacity so that it is mostly available for in-state generators, indirectly limiting disposal of out-of-state waste. This approach could include limiting the amount of waste disposed of on a yearly or other basis; and

(2) **Market participation.** When a state participates in the "market" by operating its own facility, it may establish the rules for that facility, including regulating pricing, types of waste, and origin of waste accepted for disposal. This exception to the Commerce Clause is called the "market participant" doctrine.

Although neither of these approaches has been squarely presented to the Supreme Court for review, both have been mentioned by that court as potentially acceptable options in decisions invalidating other policies. In addition, there is a fairly large body of case law in the lower courts which has fleshed out these options and upheld state policies which fit into one or both of these two exceptions.

CAPACITY REGULATION. For example, the capacity regulation approach has been mentioned as a less discriminatory alternative that states could use instead of the facially discriminatory pricing, taxes, or bans. Thus, in finding the differential tax on

out-of-state hazardous waste invalid, the Supreme Court in Chemical Waste Management Inc. v. Hunt, 112 S.Ct.at 2015, stated:

Ultimately, the State's concern focuses on the volume of the waste entering the Emelle facility. Less discriminatory alternatives, however, are available to alleviate this concern, not the least of which are a generally applicable per-ton additional fee on *all* hazardous waste disposed of within Alabama, or a per-mile tax on *all* vehicles transporting hazardous waste across Alabama roads, or an even-handed cap on the total tonnage landfilled at Emelle. [citations omitted; underlining added]

This approach has also been recommended in lower federal court decisions. For example, in Diamond Waste Inc. v. Monroe County, 33 ERC 2001 (11th Cir.1991) a federal appeals court overturned an ordinance banning disposal of waste generated outside the county (including out-of-state waste), based in part on its conclusion that the county "could have achieved its objectives as well with a lesser impact on interstate activities," 33 ERC at 2003 (internal quotes omitted). The court suggested that the following options would be constitutionally permissible: (1) setting reasonable daily tonnage limits on imported waste and granting permission to dump on a "first come first serve" basis; (2) auctioning dumping rights for fixed amounts of out-of-state waste; (3) establishing dumping rights for out-of-state waste through a lottery system. 33 ERC at 2003 and n.12.

MARKET PARTICIPATION. There are several Supreme Court decisions which establish the "market participant" exception to the Commerce Clause. In short, this doctrine holds:

When a government entity enters the market place in a capacity analogous to that of private market participants and makes decisions analogous to those made by private market participants, its decisions are not subject to dormant Commerce Clause scrutiny. Thus, "[t]he Commerce Clause does not prohibit all state action designed to give its residents an advantage in the marketplace, but only action of that description *in connection with the State's regulation of interstate commerce.*"

Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, (3d Cir. 1995) (slip op. February 16, 1995), quoting Oregon Waste Systems, 114 S.Ct at 1345.

Although the Supreme Court hasn't directly applied this doctrine to solid waste management, it has left open the possibility that this approach may be permissible. See, City of Philadelphia v. New Jersey, 437 U.S. at 627 n.6, and most recently Oregon Waste Systems, 114 S.Ct. at 1354 n.9. Chief Justice

Rehnquist, who has frequently dissented in the series of Supreme Court cases invalidating state regulation of out-of-state waste, details in his rather impassioned dissent in Oregon Waste Systems how the market participant doctrine should allow facilities owned by government entities to treat out-of-state waste differently than in-state waste. In his dissent to C & A Carbone Inc. v. Clarkstown, Rehnquist further opines that the monopolistic nature of a state-run landfill should not be a factor in any Commerce Clause analysis.

Federal and state courts in several jurisdictions have relied on the market participant doctrine to uphold differential treatment of out-of-state waste by government-owned facilities. Although not directly applying the doctrine to the case at hand, the Third Circuit Court of Appeals in the recent decision Atlantic Coast Demolition & Recycling provides an excellent overview of the Supreme Court decisions on the market participant doctrine.

The market participant doctrine was relied on to uphold a higher disposal fee and volume controls on out-of-state waste at a county-owned landfill (Swin Resource Systems, Inc. v. Lycoming County, 883 F.2d 245, 250 (3d Cir. 1989), cert. den. 493 U.S. 1077 (1990); to uphold a ban on disposal of waste generated outside a solid waste district at a city-owned landfill (Evergreen Waste v. Metropolitan Service District, 643 F.Supp.127, 131 (D.Or.1986), aff'd on different grounds, 820 F.2d 1482 (9th Cir.1987); and, to uphold a prohibition against disposal of out-of-state waste at a state owned landfill, where the State had a monopoly on landfill services (Lefrancois v. State of Rhode Island, 669 F.Supp.1204, 1208 (D.R.I.1987), Shayne Bros., Inc. v. District of Columbia, 592 F.Supp. 1128, 1133 (D.D.C.1984) (city-owned landfill with monopoly), County Commissioners of Charles County v. Stevens, 473 A.2d 12, 18 (Md.1984) (county-owned landfill with monopoly).

II. HOW DOES MAINE'S CURRENT SOLID WASTE MANAGEMENT SYSTEM WORK, AND DOES IT INCLUDE EITHER OF THE PERMISSABLE APPROACHES TO REGULATING OUT-OF-STATE WASTE?

Maine's comprehensive solid waste management law, adopted in 1988, incorporates both of these mechanisms, and thus already includes the only state statutory provisions which have any likelihood of meeting the Constitutional requirements as set forth by the U.S. Supreme Court.

The State **REGULATES CAPACITY** by requiring new and expanded disposal facilities to meet a "public benefit" test. To establish public benefit, facilities must show that they have reduced and recycled waste to the "maximum practical extent," and that they are providing disposal capacity consistent with the needs identified in the State Plan, which is developed by the Waste Management Agency (subject to public hearing and rulemaking). Applicants that fail to establish need for capacity will be denied

a permit for that amount of capacity the Agency determines to be unnecessary. In this way, disposal facility expansion or development is limited to only that amount of capacity the state needs to serve its residences and businesses.

Although the State does not directly limit out-of-state waste disposal, it does attempt to limit capacity to meet State needs only. In general, this approach has limited out-of-state waste disposal, at least in landfills. Most of the waste imported into Maine is burned in the incinerators (PERC and MERC), which were licensed before the capacity needs and public benefit requirements were enacted. As a result, these facilities provide more capacity than required by Maine generators.

The State also has authority to site and operate its own landfill, which would qualify it for the **MARKET PARTICIPANT** exception. Regional associations of municipalities which run their own landfill or incinerator (such as RWS) also qualify as market participants. Although the law prohibits new commercial waste disposal facilities, two commercial landfills have been grandfathered, and there are also two commercial incinerators in the state. In addition, generators of special waste, such as paper companies, are allowed to develop their own waste disposal facilities. Up to 15% of the capacity of these private special waste facilities may be accepted from other sources (towns, businesses, even out-of-state generators). Nothing in the law prohibits either publicly-owned, private or commercial waste disposal facilities from accepting out-of-state waste.

The State has identified a landfill site which it may use for special waste (including incinerator ash) disposal at some future time. However, based on the capacity needs identified in the State Plan and the current and potential future capacity at the two commercial landfills, the State is holding off on landfill development at this time, viewing the site as a "safety net" for the future.

III. HOW WOULD LD 229 CHANGE MAINE'S SOLID WASTE MANAGEMENT SYSTEM, AND WOULD THESE CHANGES WEAKEN THE STATE'S ABILITY TO REGULATE OR LIMIT OUT-OF-STATE WASTE?

LD 229 makes several changes in Maine law, which alone or in combination, could weaken the State's ability to regulate or limit the disposal of out-of-state waste. First, LD 229 eliminates the opportunity for the State to develop its own waste disposal facility. This would foreclose the opportunity for the State to avail itself of the "market participant" doctrine, which would allow it to set higher prices or limit out-of-state waste. If the "market participant" doctrine is upheld by the Supreme Court, the State could determine on a case-by-case basis or through an outright ban that it would not accept out-of-state waste for disposal.

Second, LD 229 eliminates the continuing data collection functions of the Waste Management Agency and any requirement to adopt updated State Plans. This has several implications. Any decision to deny licenses for new or expanded capacity is far more supportable if based on good data and capacity needs projections as adopted in the State Plan. Lack of the State Plan will make any decision to deny capacity more easily overturned in Court. This would also undermine any decision by the State, if the provision for a State-owned facility continues, to deny access to out-of-state waste.

Third, LD 229 eliminates the ban on commercial waste disposal facilities. This change, combined with the elimination of the data collection and State Plan functions, could result in commercial facilities being developed in order to dispose of out-of-state waste, rather than being sized and located only to address Maine capacity needs. There would be little ability to deny applications for additional capacity under this scenario, and no ability to limit disposal of out-of-state waste at these facilities once they were developed.

Although there is no guarantee the Supreme Court will uphold the market participant doctrine in the waste management area, if it does, this is a more effective way of regulating out-of-state waste than the capacity needs approach. The two approaches applied in combination --which is what Maine does-- are the most effective option currently available.*

IV. WHAT CHANGES TO LD 229 WOULD STRENGTHEN ITS REGULATION OF OUT-OF-STATE WASTE?

The only way to insure that the State continues to have the market participant option would be to allow the State to develop a

* There is some disagreement among the courts that have applied the market participant doctrine as to whether it may be exercised in combination with a government monopoly over waste disposal. Although several courts have upheld government bans on out-of-state waste, even where the government had a monopoly on waste disposal facilities, in most of these cases private landfills were also allowed (although for practical reasons unlikely to be developed).

There is language in some of these cases indicating that a statutory monopoly may preclude a State or other government entity from taking advantage of the market participant doctrine. All of this is dicta, including Justice Rehnquist's alternative view in C & A Carbone Inc. v. Clarkstown stating that the fact of a monopoly is irrelevant to any Commerce Clause analysis. In any event, although Maine bans new commercial disposal facilities, even if the State developed its own landfill, there would not be a monopoly situation. This is because MSW may be disposed of at regional public landfills as well as commercial and regional public incinerators, and special waste may be disposed of at private generator-owned landfills (which may accept up to 15% of waste from other sources, including out-of-state generators), the grandfathered commercial landfills, as well as the State landfill, if it is ever developed.

disposal facility. Although the most effective legal control over out-of-state waste combines the commercial waste disposal facility ban with the State landfill provision, it would be possible to allow both State and commercial waste disposal facilities and maintain the market participant control in a limited way.

In order to continue to have any State control over out-of-state waste disposal, any removal of the ban on commercial waste disposal facilities would have to be combined with an air-tight public benefit and capacity needs determination, based on reliable data and capacity needs projections. The current draft of LD 229, which eliminates data collection and the ability of the State to update the State Plan, and is unclear about the mechanism for determining public benefit, simply won't work.

cc. Elizabeth Butler, Esq., Office of the Governor
John Williams, Waste Management Agency
Lucinda White, Assistant Attorney General



HOUSE OF REPRESENTATIVES

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**Testimony of Rep. Sharon Treat
in Opposition to LD 229,
"An Act to Abolish the Maine Waste Management Agency"**

**Before the Natural Resources Committee
March 13, 1995**

"Maine on the Move": Back to the Future

The sponsors of this bill appear to be well-intentioned: they are trying to save taxpayers' money and cut down on unnecessary bureaucracy. These are goals we can all applaud. Unfortunately, this bill has far-reaching consequences which will return Maine to the "dark ages" of waste management policy.

Who will be hurt by this bill?

- ■ Maine businesses. Right now, waste disposal capacity is developed based on Maine business and residential needs, not the needs of other states and the wishes of large waste disposal corporations. This will change. LD 229 also eliminates technical assistance and the cost-saving "WasteCap" business waste reduction program -- while still requiring businesses to recycle.
- ■ Maine workers. Recycling accounts for over 2,000 jobs in the State of Maine, and it is a fast-growing sector of the economy. These jobs pay at or above average (annual average salary for recycling manufacturing jobs is \$20,813, and for all recycling jobs \$18,476, compared to average annual pay of \$19,820 for all Maine employment sectors and \$11,463 for retail sales). This bill gets rid of policy that encourages recycling, and eliminates grants that buy recycling equipment.
- ■ Maine paper mills. This bill will also worsen the current shortfall of affordable raw materials needed by Maine's recycled paper mills -- exacerbating the financial problems facing these mills. The cost of raw materials, and the

District 91 Gardiner and part of Randolph

shortage of Maine-produced recycled paper, helped undermine the financial health of Statler Tissue. Maine government should do more, not less, to help these companies by identifying sources of raw materials and working with FAME to target recycling equipment grants to businesses and towns that cooperate with each other.

- ■ Maine's environment. Current law discourages unnecessary landfill development and prefers waste reduction, reuse and recycling. LD 229 turns this policy on its head, returning to the *laissez-faire* days of ten years ago when landfilling and incineration, which have the most harmful environmental consequences, were common. This bill also reduces controls over out-of-state waste disposal (see legal memorandum), and will hurt recycling efforts. Incinerators planned and sited before the current law was enacted are now importing large quantities of out-of-state waste because we simply don't need the capacity.

Right now, Maine has the forth-best overall recycling rate in the country-- because of our laws which encourage recycling, the local grants program, and the excellent technical assistance provided by the Waste Management Agency. Don't expect this 30% rate to improve much if LD 229 is enacted.

- ■ Maine taxpayers. LD 229 takes user fees and bottle float money paid by Maine taxpayers and spends it on the general fund, instead of technical assistance and grants to towns to pay for recycling equipment. This is dishonest, to say the least. In addition, if unnecessary landfills are built, it is Maine taxpayers, not out-of-state waste generators, who will pick up the tab for the costs of landfill closure, monitoring, and environmental cleanup if needed.

- ■ Maine municipalities. LD 229 takes away local authority to monitor waste disposal facilities for environmental violations, and to hire their own technical experts to review proposals to build these facilities. It also takes money away from towns by eliminating the recycling grants program, and may result in higher solid waste disposal costs.

Who benefits from this bill? The beneficiaries of this bill are:

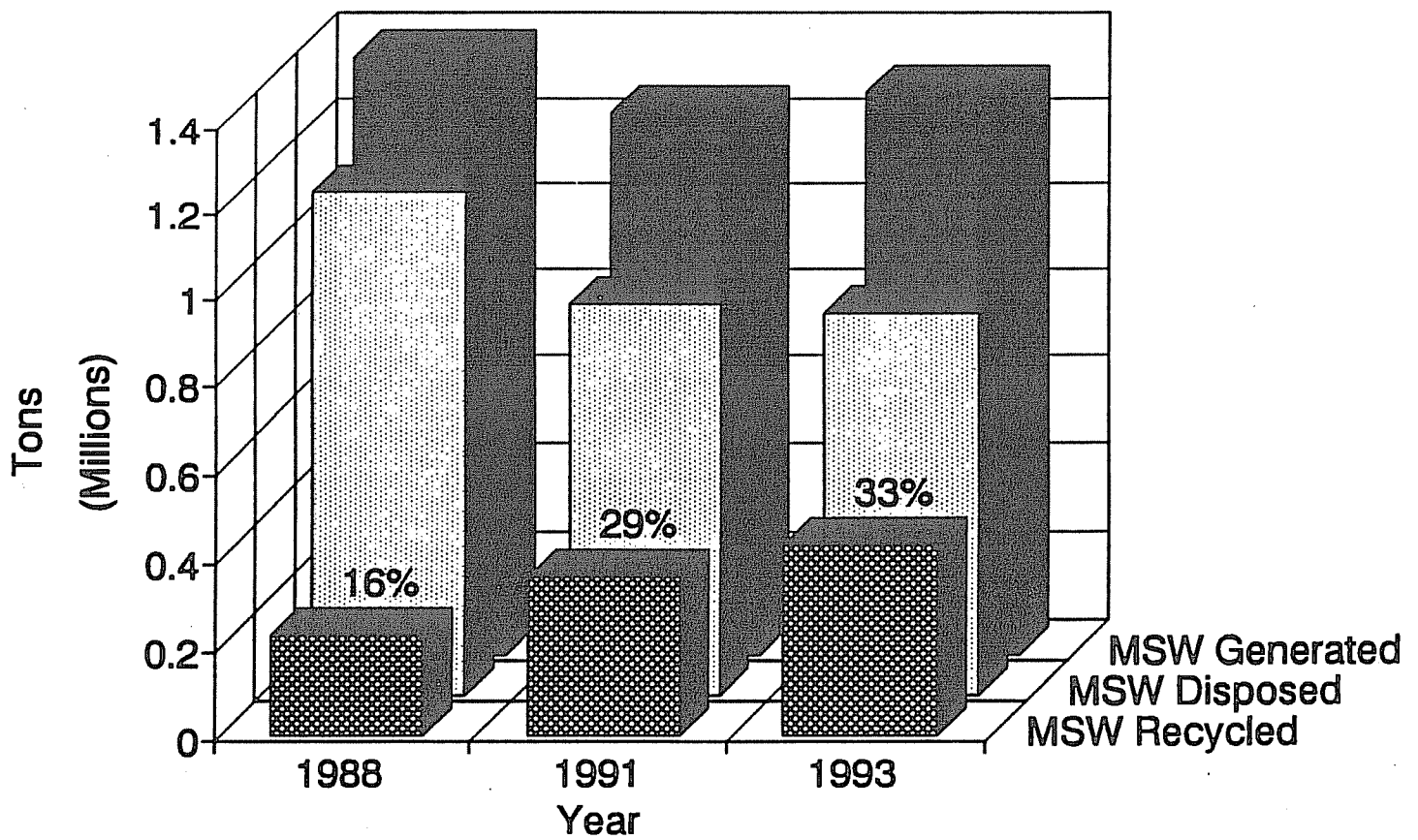
- (1) companies seeking to develop and operate new landfills in Maine that will accept mostly out-of-state waste. Most of these companies are large multinationals not based in this state;
- (2) other more populous states that have a shortage of land or politically acceptable sites for landfills;
- (3) a few landowners who plan to make big bucks by selling their property for future landfill developments.

Is it possible to reduce costs and bureaucracy without resulting in all of the above consequences?

Yes. The Waste Management Agency could be streamlined and located within another department or office of State government, at a minimum saving the costs of the Executive Director position. But eliminating the office and its functions, as well as the local recycling grants program, is pennywise and pound foolish. The planning and data collection functions are needed if we are to address the out-of-state waste issue (see legal memorandum), and the technical assistance has saved money in avoided costs of waste disposal and pollution clean-up.

Figure 1.

MSW Recycling & Disposal in Maine 1988 - 1993



Maine Waste Management Agency, 1994.



Natural Resources Council of Maine • 1959-1994 •

**Testimony of the Natural Resources Council of Maine
in opposition to LD 229:
"An Act to Abolish the Maine Waste Management Agency"
Public Hearing: March 13, 1995
at the Natural Resources Committee**

The Natural Resources Council of Maine opposes LD 229, An Act to Abolish the Maine Waste Management Agency. You will find as you investigate this bill that it proposes many drastic measures:

- The solid waste management hierarchy is gone;
- Comprehensive waste management planning is gone;
- Funding for recycling grants to towns is gone;
- Recycling market development is gone;
- Local control over any new waste disposal facilities is greatly reduced;
- Ban on commercial disposal facilities is lifted.

These are functions of the Agency that were developed for a reason. Back in the late '80's, as some of you will remember, there was a tidal wave of solid waste bills--and no coordinated oversight of solid waste management. Recycling was sporadic, and the state was faced with many applications for the siting of new commercial landfills. Towns like Porter, Lebanon and Norridgewock, were faced with new facility applications or proposals for major expansions--and for far more capacity than would be needed simply to handle the needs of Maine citizens.

The Maine Waste Management Agency was created to provide coordinated oversight. The solid waste problems of this state require many different roles for the state: environmental protection, recycling assistance to towns and the private sector, planning, siting, regional efforts. We believe that the Agency has carried out its role well. While we may have all had differences of position on various aspects of solid waste management in the last few years, Sherry Huber and her staff have made the Agency work in many ways. What do we have now to show for their work?

- A healthy town recycling program that works better and is more far-reaching than it could have been without the Agency's role. Grants and technical assistance have been available to towns; the recycling industry has been supported. Markets have been developed for recycled goods. This bill repeals this program.
- A solid waste hierarchy that provides a framework for state policy on solid waste management. It states that waste reduction and recycling are preferable to burning and burying waste. (You have our testimony from a previous bill, LD 382, which points

out the environmental advantages of recycling over incineration). This bill repeals this hierarchy.

- A successful and popular program to assist business to voluntarily reduce their generation of solid waste and save money doing it.
- Leadership in the northeast in reducing wasteful packaging, limiting the content of toxic materials and packaging, and building better recycling markets.
- With the state directly responsible for development of needed disposal capacity, we have some control over out-of-state waste. We also guarantee towns and their citizens a role in the siting and operation of any new state-owned landfill proposed for their town.

We expect that repealing the ban on new commercial landfills and incinerators will result in a series of proposals for new commercial disposal facilities based largely on opportunities to import out-of-state waste. At the same time, we believe that eliminating the host community benefits package breaks the compact that the Legislature made with the citizens to engage them more directly in solid waste management decisions.

The demise of the Agency is being debated in many venues, including the Administration's biennial budget. However you decide on the Agency's fate, there are critical functions that we believe must be preserved in state government--and those functions must be staffed and funded adequately:

- * Preserve the town recycling programs;
- * Preserve the solid waste hierarchy, and an integrated approach to waste management;
- * Be vigilant about preserving the public participation provisions currently available to towns.

A word about funding. In this bill, the fees on special wastes and some goods that are difficult to recycle, and the unclaimed bottle deposits are not repealed; these revenues are maintained, but are re-routed from the Agency and moved to the General Fund. If we are to continue managing Maine's solid waste, the crucial functions of the Agency must be reassigned to other state departments. These fees are paid by Maine citizens who believe in recycling and believe that's why they are paying extra for a refrigerator or a bottle of soda. It is disingenuous to then take that money and send it to the General Fund--and it is really just another budget gimmick. In addition, the departments who should pick up the functions of the Agency will need support for staff and materials.

In closing, we are opposed to this bill, and opposed to the dissolution of the Agency. Regardless of your final decision on the continued existence of the Agency, the needs and pressures that led the Legislature to establish this agency are still valid and real. We ask you to maintain your commitment to the critical functions we've discussed here.



Natural Resources Council of Maine • 1959-1994 •

RECYCLING VERSUS INCINERATION: POLLUTION AND ENERGY COSTS

Testimony presented by the Natural Resources Council of Maine
on LD 382, "An Act to Credit Incineration as Recycling"
February 27, 1995

In 1993 Maine recycled 33% (380,000 tons) of all of its solid waste, placing it in the top five states in the country for overall recycling rate (MSWMA, 1995). By material category, Maine's 1993 recycling rates were: paper- 38.8% (184,670 tons), metal- 84.1% (107,540 tons), glass- 73.4% (39,272 tons), and plastic- 8.3% (6,515 tons).

1. RECYCLING SAVES ENERGY AND CONSERVES NATURAL RESOURCES

Recycling an existing item from any class of recyclable material (such as a glass jar or a paper cup or an aluminum can or a newspaper) saves far more energy than you can generate by incinerating that item, because of the large amounts of energy required to manufacture a new item from virgin (as opposed to recycled) materials.

- For a given ton of municipal solid waste, recent studies estimate that on average recycling saves **three to five times** the energy of incineration, **despite** the energy generated by incineration (Franklin Associates, 1994; Sound Resource Management Group, 1994).

- Energy savings for recycling as opposed to virgin manufacture for aluminum, plastics, paper, and glass are **177.3, 77.3, 11.4, and 2.3 million Btus/ton of recycled material**, respectively (Franklin Associates, 1994).

- By decreasing the demand for virgin materials, recycling promotes the wise use of limited natural resources. By definition, recycling maintains the characteristics of the original material and decreases the demand for virgin material; incineration destroys the original material.

2. RECYCLING PREVENTS POLLUTION

Recycling reduces pollutant emissions in at least two ways: preventing airborne incinerator emissions and preventing airborne emissions and water discharges from virgin manufacturing (as opposed to reprocessing recycled materials).

• Studies using a "life cycle analysis" approach have consistently shown that incineration (combustion plus virgin manufacturing) results in significantly more air and water pollution than recycling (processing plus secondary manufacturing) (Tellus Institute, 1992; Franklin Associates, 1994).

• Incinerators produce significant amounts of metals, including mercury, which end up as air emissions or landfilled as fly and bottom ash. A recent EPA assessment identified municipal waste incinerators as one of the top two sources of mercury nationally (EPA, 1995). Air emissions data from Maine's municipal solid waste incinerators confirm that mercury is being emitted from Maine incinerators. All Maine lakes currently have consumption advisories for mercury.

• MSW incinerators have also been cited by the EPA as one of the top two emission sources of dioxins. Air emissions data from Maine's municipal solid waste incinerators also confirm that dioxin is being emitted from Maine incinerators (EPA, 1994).

3. RECYCLING KEEPS NON-COMBUSTIBLE MATERIALS OUT OF INCINERATORS.

Glass and metals, which make up 40% of what Maine currently recycles, are unsuitable for incineration. Glass and metal create physical problems for incinerator machinery and decrease combustion efficiency, as well as contributing to toxic emissions.

• Two-thirds of Maine's incineration is at refuse-derived fuel facilities, which attempt to physically remove (and landfill) all glass and metal before combustion.

• The remaining one-third of Maine's incineration is at mass burn facilities, which likewise are striving to minimize or eliminate glass and metal from the waste stream before it reaches them.

References

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Maine People's Alliance

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TESTIMONY OF THE MAINE PEOPLE'S ALLIANCE IN OPPOSITION TO LD 229, "AN ACT TO ABOLISH THE MAINE WASTE MANAGEMENT AGENCY"

My name is John Dieffenbacher-Krall and I am a staff organizer for the Maine People's Alliance (MPA), a nonprofit citizen action organization with 14,000 dues paying members. MPA is strongly opposed to the abolition of the Maine Waste Management Agency and the elimination of many important solid waste management data collection, educational, and planning functions now performed by the agency. MPA urges the Natural Resources Committee to reject LD 229 in its present form and not return Maine to the solid waste crisis era of the late 1980's.

What would be lost if the Maine Waste Management Agency Were Eliminated?

New members to the Natural Resources Committee may question why the 114th Maine Legislature created the Maine Waste Management Agency and enacted Public Law 585 which was over 100 pages long. Public Law 585 was the culmination of years of citizen input and advocacy, and to the credit of the Maine Legislature, thoughtful legislative response. Today you will hear from some of the grassroots citizens who advocate for their communities and rational solid waste policy with no compensation. Some of these individuals, along with MPA, have worked on the issue of solid waste management for more than a decade. For the Maine People's Alliance's 14,000 members, "An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation" was enacted for several extremely important reasons.

PROTECTING THE STATE'S DRINKING WATER

There are more than 50,000 drilled wells in Maine¹. Forty-seven large municipal water supply systems are served by groundwater². Replacing polluted wells can be extremely expensive. The Town of Pittsfield has 2 public wells. One has already been abandoned due to migration of landfill leachate. The projected total cost to replace Pittsfield's water supply may exceed \$1,500,000³. Public Law 585 seeks to shift the state's reliance from landfills, everyone of which will eventually leak, to sustainable, long-term solid waste management practices which emphasize reduction, reuse, recycling, and composting.

SUPPORTING VALUE ADDED MAINE BASED INDUSTRIES

Public Law 585's emphasis on recycling has reduced the state's reliance on land burial of solid waste and created valuable supplies of raw materials for the state's paper industry. MPA believes the decision by Bowater to build its \$65 million de-inking plant in East Millinocket and Stone and Webster's decision to construct a brand new plant in Auburn would not have happened without Maine's commitment to recycling. Recycling creates far more jobs than disposal operations such as landfills or incinerators. Every piece of paper burned or buried can be viewed as a lost opportunity to add value and support higher paying jobs.

PROVIDING PROPERTY TAX RELIEF

As local municipal landfills have closed and Maine incinerator tipping fees have exceeded initially rosy projections, towns have found the amount of money they need to allocate to solid waste management and disposal rapidly increasing. While some town officials have resisted efforts to shift from disposal to recycling and composting, strong market prices can potentially enable municipalities to not only reduce their solid waste budgets but actually profit. MPA fears the elimination of the Maine Waste Management Agency will slow the municipal transition from disposal to recycling and the potential fiscal savings such a change can yield for local property taxpayers.

INITIAL REASONS FOR CREATING THE MAINE WASTE MANAGEMENT AGENCY REMAIN

MPA believes the many reasons for creating a single agency dedicated to solid waste management and planning have not changed. Historically, state environmental regulatory agencies have done a poor job of promoting reduction, reuse, recycling, and composting. Typically, the staff have engineering backgrounds. Their professional training and orientation is geared to building and constructing things. Yet, as a society, we need to increase our understanding of the value of much of the materials that we throw away. The state's emphasis must be on recapturing as much material as possible from the waste stream to limit the amount of disposal. Building disposal facilities such as landfills or incinerators are not a permanent solution. Maine solid waste management policy should emulate nature which recycles all materials. As elementary school students, we learned about the water cycle and perhaps in high school the carbon and nitrogen cycles. We cannot continue to mine valuable natural resources, use them once, and then convert them to a form that makes them difficult or impossible to use again. Dissolving the Maine Waste Management Agency and scattering a few of its remaining functions between the DEP and Department of Economic and Community Development will not achieve the type of societal transformation that we need.

SOME OF THE MOST IMPORTANT SOLID WASTE MANAGEMENT FUNCTIONS THAT WILL BE LOST IF LD 229 IS PASSED IN ITS CURRENT FORM

1. The Waste Management and Recycling Plan.
2. Retention of the 50% recycling goal with no technical assistance available to municipalities.
3. Section 27 of the bill would eliminate the agency's valuable market development and assistance functions.
4. Retain a mandate on Maine businesses with 15 or more employees to recycle office paper without any technical assistance from the state.
5. Section 30 would eliminate all public education efforts which everyone acquainted with recycling knows is crucial to its success.
6. LD 229 will leave the siting criteria of §2153 in place. However, as time passes, this section will become less and less relevant as the 1993 Waste Management and Recycling Plan becomes increasingly out of date.
7. LD 229 eliminates one of the most important preventive measures that the state could take

to prevent toxic contamination of incinerator ash, landfills and sewage sludge - keeping household

hazardous waste out of the waste stream. Section 39 wipes out the agency's requirement to establish a household hazardous waste program by July 1 of this year.

8. In the rush to save money in the short-term, the drafter of LD 229 failed to consider how some of the progressive elements contained in section 40 that currently apply to a state constructed facility could be applied to private facilities. Elements that merit application to private facilities include local inspection and enforcement, the property value off-set, and the water supply monitoring and protection.

9. LD 229 breaks faith with Maine voters by keeping several fees in place while abolishing their dedication to the Solid Waste Management Fund. MPA fears depositing these fees in the General Fund will lead to their expenditure on other purposes besides solid waste management.

10. Section 20 would eliminate the prohibition against the construction of new commercial landfills.

In total, LD 229 represents a giant step backward for the state of Maine. Many people have had negative experiences with the Maine Waste Management Agency. However, for the most part, this agency has been largely successful. Until we have achieved the maximum amount of reduction, reuse, recycling, and composting possible, which MPA estimates represents 85% to 90% of the waste stream, we urge the legislature to keep the Maine Waste Management Agency.

ENDNOTES

1. Emery & Garrett Groundwater, Inc., The Costs of No Wellhead Protection in Maine: A Study of the Cost of Cure vs. Prevention, November 1, 1993, p. 5.

2. Ibid., p. ii.

3. Ibid., p. iii.

FAX**Date** 04/27/95**Number of pages including cover sheet****TO:** Maine Legislature
Natural Resource
Committee**Phone****Fax Phone** 207 287-1308**FROM:** Joan Saxe
81 Spar Cove Rd.
Freeport, ME 04032**Phone** 207/865-3648**Fax Phone** 207/865-3648**CC:****REMARKS:** ☒ Urgent ☐ For your review ☐ Reply ASAP ☐ Please Comment

RE: LD 229 An Act to Abolish the Maine Waste Management Agency

I am writing to the committee today because I am very concerned about the loss of the Waste Management Agency and the fees which help support dedicated position in the DEP.

While I do not support eliminating the agency at all, I realize momentum is moving rapidly in that direction and probably can't be stopped.

I support keeping the fees which have relatively little impact on the public in the long run while continuing to dedicate funds for DEP positions. At the very least, I urge the committee to support the governors funding proposal.



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

State House Station 13, Augusta, Maine 04333

Telephone (207) 287-1670

Telecopier (207) 287-1275

To: Members of the Joint Standing Committee on Natural Resources
From: Deborah Friedman, Legislative Analyst
Date: Monday, March 13, 1995
RE: LD 229, An Act to Abolish the
Maine Waste Management Agency

LD 229, An Act to Abolish the Maine Waste Management Agency
Section - by -Section Summary

<u>LD Sec. #</u>	<u>MRSA Title, Section</u>	<u>Summary</u>
1	2 §6	Eliminates MWMA Executive Director position
2	3 §927	Eliminates 3 MWMA Office Director positions (Office of Planning, Office of Waste Reduction and Recycling, and Office of Siting and Disposal Operations)
3	5 §931	Eliminates provisions listing the 3 office directors as members of the unclassified service under civil service law (Director position is not separately listed, so no amendment is necessary)
4	5 §953-A	Same as section 3
5	5 §12004-D	Eliminates reference to Facility Siting Board compensation (\$100 per day plus expenses)
6	5 §12004-I	Eliminates reference to Waste Management Advisory Council compensation (legislative per diem)

- | | | |
|----|------------|--|
| 7 | 32 §1866-A | Requires deposit of the State's share of unclaimed bottle deposits in the General Fund instead of the Maine Waste Management Fund
(The state's share is 50% of the unclaimed deposits) |
| 8 | 32 §1866-A | Requires the General Fund to reimburse bottle bill deposit initiators when they pay out more in bottle redemptions than they take in in deposits over the period of a calendar year (over-redemption)
(Currently, over-redemptions are reimbursed by the Solid Waste Management Fund.) |
| 9 | 36 §4833 | Requires deposit of the recycling assistance fee in the General Fund rather than the Solid Waste Management Fund
(A recycling assistance fee of \$5 is collected on the purchase of a new major appliance, major furniture, bathtub or mattress, and a fee of \$1 is collected on the purchase of a new tire or lead-acid battery.) |
| 10 | 38 §343-D | Removes the Executive Director of MWMA as an ex officio, non-voting member of the Pollution Prevention Advisory Committee within DEP |
| 11 | 38 §1302 | Repeals the portion of the declaration of state policy regarding waste management that proclaims the need for state action and the preference for public solid waste management planning and implementation on a regional and state level |
| 12 | 38 §1303-C | Changes the definition of "agency" in DEP Solid Waste law to provide that MWMA functions that are not repealed entirely are to be performed by the Commissioner of Environmental Protection rather than the Maine Waste Management Agency |
| 13 | 38 §1303-C | Deletes reference to MWMA-owned facilities in the definition of "commercial waste facility" in DEP Solid Waste law.
(MWMA-owned facilities are excluded from the definition of commercial waste facility) |

- 14 38 §1303-C Amends the definition of "State Waste Management and Recycling Plan", to refer to the plan developed by the former MWMA under former chapter 24
 (Current law requires the MWMA to adopt a plan by March 1, 1990 and to revise it every 2 years; Under LD 229, no additional planning of solid waste management would be required)
- 15 38 §1310-N Amends the portion of law governing DEP's licensing of proposed solid waste disposal facilities. The law requires DEP to find that a disposal facility "provides a substantial public benefit." Current law requires the MWMA to determine whether the development or expansion of a facility will provide a substantial benefit (based on whether it meets a capacity need identified in the state plan and is consistent with the state plan and is consistent with local, regional or state waste collection, storage, transportation, processing or disposal and is consistent with siting criteria developed by the Facilities Siting Board of MWMA). LD 229 provides that DEP will determine whether the development or expansion provides a substantial benefit, based on the same criteria as MWMA would have used.
 (Technical Note: page 4, line 43, "not" should be stricken; check process)
- 16 - 18 38 §1310-R Amend transition provisions for licensing of certain solid waste facilities prior to adoption of the state plan
 (Technical note: can §1310-R be repealed altogether?)
- 19 38 §1310-U Current law says the following about municipal authority over solid waste disposal facilities:

 • a municipality may not enact an ordinance governing hydrogeological criteria for siting or designing a disposal facility or engineering criteria related to waste handling and disposal areas that are more strict than the standards set forth in Title 38, chapter 13 or DEP rules under that chapter;

• a municipality may enact reasonable ordinances governing solid waste facilities on issues such as noise, setbacks from existing facilities, and groundwater protection provided they are not more strict than those contained in Title 38, chapter 13, or in the Site Law or NRPA and related rules

• a municipality in which a facility owned by the MWMA is located may adopt an ordinance under which the municipality would issue a local permit with the same conditions as the state permit (and additional provisions on issues not addressed by the state permit provided they are not unreasonably restrictive). The municipality may enforce the permit.

LD 229 deletes reference to the third provision, allowing municipal authority over MWMA-owned facilities.

(Technical note: By removing reference to that section only for MWMA-owned facilities, however, LD 229 leaves language prohibiting regulation of facilities owned by a regional association. Was this the intended effect?)

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| 20 | 38 §1310-X | Ends the ban on new commercial solid waste disposal facilities, but continues the ban on biomedical waste disposal or treatment facilities
(Technical note: On page 6, line 14, the word "commercial" should be stricken) |
| 21 | 38 §1382 | Removes the MWMA as a member of the Sludge and Residuals Utilization Research Foundation Board of Trustees |
| 22 | 38 c.24 | Changes the title of Title 38, chapter 24 from "Maine Waste Management Agency" to "Maine Waste Management" |

23

38 c.24,
Subc. I, II

Repeals Title 38, chapter 24, subchapter I, which:

- set forth the waste management hierarchy (reduce, reuse, recycle, compost, process, land disposal);
- formed the MWMA and set forth its powers and duties

Repeals subchapter II, which:

- created the Office of Planning;
- required the Office to adopt and revise a state solid waste management, reduction and recycling plan, which included projections of disposal demand, capacity, and capacity needs
- required municipalities to report their progress toward implementing the solid waste management hierarchy

24

38 §2131

Repeals the law creating the Office of Waste Reduction and Recycling within MWMA

25

38 §2133

Repeals the law requiring the Office of Waste Reduction and Recycling to develop a technical and financial support system for municipal recycling programs, including capital investment recycling grants and planning and design of recycling programs

26

38 §2133-A

Authorizes the Department of Economic and Community Development to make grants to municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling facilities and purchase of equipment

27

38 §2134,
§2135

Repeals law requiring the Office of Waste Reduction and Recycling to develop a market development and assistance strategy for recycling and to provide special assistance in the handling of tires, white goods, stumps and demolition debris

- 28 38 §2135-A Repeals the law directing the Office of Waste Reduction and Recycling to develop a waste tire management program to reduce stockpiles and promote recycling through financial assistance, if funds are available
- 29 38 §2136 Repeals the law allowing the Office to subsidize transportation of scrap metal to recycling facilities
- 30 38 §2139 Repeals the law requiring the Office to educate the public to promote waste reduction and recycling
- 31 38 §2140 Repeals the law requiring the Office to make efforts to adopt uniform state laws when practicable and to enter into interstate compacts to improve management, recycling and reduction of solid waste
- 38 §2151 Repeals the law creating the Office of Siting and Disposal Operations
- 38 §2152 Repeals the law creating the Facility Siting Board
- 32 38 §2153 Repeals a paragraph prohibiting the placement of an agency-owned disposal facility for special waste within a 5-mile radius of an existing commercial special waste disposal or incineration facility
- 33 38 §2154 Repeals the section setting forth a process for siting a MWMA-owned facility, as needed to meet projected capacity needs
- 34 38 §2155 Repeals the section requiring notice to municipality for siting of a MWMA facility
- 35 38 §2156 Repeals the section requiring MWMA to develop facilities to meet the capacity needs identified in the state plan
- 36 38 §2157 Amends the section setting forth standards for approval of a new or expanded solid waste disposal facility. Under current law, MWMA makes the determination based on capacity needs, consistency with the state plan and consistency with local, regional and state waste collection, storage transportation processing and disposal,

and the siting criteria set forth in section 2153 (proximity to transportation system, reasonable price, capacity or size related to demand, preliminary environmental standards, existing uses of abutting land)

- | | | |
|----|------------------|--|
| 37 | 38 §2158 | Repeals the limits on approval of a new or expanded commercial solid waste disposal facility |
| 38 | 38 §2159 - §2162 | Repeals law authorizing MWMA to hold real and personal property and to exercise the right of eminent domain

Repeals the section allowing MWMA to assist regional associations in planning for solid waste facilities |
| 39 | 38 §2164 | Repeals the law requiring the MWMA to develop and implement a statewide system of household hazardous waste collection and disposal |
| 40 | 38 c. 24 sub c V | Repeals the chapter setting forth the rights of communities that would host an agency-owned waste disposal facility, including: establishment of a citizen advisory committee to review proposals, hold public meetings to solicit opinions, suggest alternative conditions and plans, serve as liaison; opportunities for dispute resolution processes and funding; ability to enact ordinances to regulate MWMA-owned facilities within the municipality, with some limitations; a right to all information received by the MWMA and DEP relating to the facility; a right to inspect the facility; a right to reimbursement of lost property value for private property owners as a result of location of the facility; payments in lieu of property taxes; and MWMA-paid water monitoring for persons who own contiguous land. |

- 41 38 §2181-
 §2183 Repeals the provisions of law allowing municipalities, regional associations or the State to indemnify in relation to ownership of the facility, providing that nothing in the law impairs existing contacts or increases liability that it limited by the tort claims act
- 42 38 sub-c VII
 Article 1 Repeals the provisions setting forth fees to be charged by agency-owned facilities
- 43 38 §2201 Repeals the law establishing the Maine Solid Waste Management Fund
- 44 38 §2202 Amends the law regarding procedures for collecting fees on special waste, and surcharges for municipalities that fail to meet recycling goals and surcharges for landfilled waste
- 45 38 sub c VII
 Article 3 Repeals the article allowing MWMA to provide for financing of eligible waste facility projects, including issuing revenue obligation bonds.
- 46 Transition provisions

673lnrg

SUMMARY OF LD 229 (May 23 amendment)

1. Position and Agency Cuts

Removes statutory references to MWMA and MWMA positions

2. State Planning Office Assumption of MWMA Duties

- Implement rules regarding plastics labelling and approve use of alternative plastic coding labels;
- Oversee toxics in packaging laws
- Serve on Pollution Prevention Advisory Committee, and Sludge and Residuals Utilization Fund Board of Directors
- Prepare and revise the state solid waste management and recycling plan
- Collect and analyze municipal solid waste management reports and recycling rates
- Provide technical and financial assistance to municipalities in managing solid waste
- Award grants for household hazardous waste collection programs
- Make grants for public recycling and composting facilities and purchase of equipment
- Make demonstration grants to public entities and organizations to pilot waste reduction, recycling, composting programs
- Implement a market development and marketing assistance program, include brokering services, information clearinghouse and assistance
- Assess status of state recycling programs
- Certify investment tax credits (until June 30, 1995)
- Provide public education to support recycling
- Site, own and operate such state solid waste disposal facilities as are needed

3. Bottle Over-redemption

Clarifies that the State reimburses 50% of over-redemption of bottles.

4. Solid Waste Management Investment Tax Credit

Ends eligibility for the investment tax credit with equipment purchased before July 1, 1995.

5. Public Benefit Determination; Licensing of SWDF's

Moves the public benefit determination to the Commissioner of Environmental Protection

Except for facilities currently exempt from the MWMA public benefit determination process, requires applicants for solid waste disposal facilities to apply to the commissioner of DEP for a public benefit determination before applying to the department for a license under section 1310-N. Application for public benefit determination does not trigger the notice requirements or assistance fee payments.

Provides that a facility may meet public benefit by filling immediate, short-term or long-term capacity needs of the State

6. Host Community Benefits

Requires applicants for solid waste disposal facility license to work with the host municipality to determine host community benefits, either through meeting the requirements of a municipal ordinance, negotiating in good faith to form an agreement, or complying with an existing or revised host community benefit.

The host community benefit agreement must, if appropriate, include a provision for financial support for personnel or other means to provide technical assistance to the municipality in interpreting data and advising on technical issues.

The amendment also allows the Commissioner of DEP to award host communities additional assistance grants up to \$50,000 when the size, location or other features of the proposed facility warrant additional expenditures. It is anticipated that this would occur only when a facility proposes multiple phases or cells in a single application.

7. Licensure of Commercial Facility

Clarifies that a facility may not be relicensed or allowed to expand as a commercial solid waste disposal facility unless the facility had been licensed as a commercial solid waste disposal facility prior to October 6, 1989.

8. Tire Abatement

Establishes a dedicated fund to pay the costs of tire abatement at uncontrolled tire stockpiles.

9. Recycling Goal

Extends the deadline for meeting the state recycling goal of 50% of municipal solid waste from January 1, 1994 to January 1, 1998, and includes composting in the 50% calculation.

Provides that municipalities are not required to meet a 50% recycling goal, and deletes provisions imposing a surcharge on municipalities that do not meet the 50% goal.

10. U of M System Recycling

Repeals the provision requiring each campus of the University of Maine system to report its recycling program, and instead requires each campus to do a self-assessment of recycling efforts and to develop new programs if funds are available.

11. Business Recycling Assistance

Repeals the business technical and financial assistance program for recycling, which the MCCI is taking over.

12. Fee on imported waste

Amends provisions imposing an administrative fee on imported waste to allow for the maximum fee allowed by federal law.

13. Collection of Fees

Requires the Department of Environmental Protection to collect waste fees previously collected by the MWMA

14. State Planning Office Powers

Clarifies the powers of the SPO to perform the duties transferred to it by the bill.

15. Bonding Power

Grants power previously granted to MWMA to FAME to issue revenue obligation bonds.

16. Task Force on Public and Private Waste Facility Development

Requires the State Planning Office to convene a Task Force, including legislators, to examine state policy regarding operation of the state's waste management site at Carpenter Rdega and to examine state policy regarding the ban on commercial solid waste disposal facilities.

17. Funding, Positions

Deallocates positions from MWMA, transfers positions to SPO to perform some of MWMA's functions, provides funding for the tire program and for payment of the \$500,000 due to Lincoln Pulp and Paper if the state receives a license to operate the facility. Also provides for transfer of DEP positions to the Solid Waste Management Fund.

REVISED GOVERNOR'S PROPOSAL: SOLID WASTE MANAGEMENT FUND

BUDGETED REVENUES	FY96	FY97	FY98/FY99
Special Waste Fee	\$700,000	\$800,000	\$1,000,000
Recycling Assistance Fees:			
Tires	\$750,000	\$750,000	\$750,000
Batteries	\$250,000	\$250,000	\$250,000
Appliances	\$382,500	\$0	\$0
Furniture	\$680,000	\$340,000	\$0
Bathtubs	\$25,500	\$0	\$0
Mattresses	\$204,000	\$102,000	\$0
Unclaimed bottle deposits	\$400,000	\$400,000	\$400,000
Interest	\$15,000	\$15,000	\$15,000
Total Revenues-SWMF	\$3,407,000	\$2,657,000	\$2,415,000
BUDGETED EXPENDITURES			
SPO/DEC-MWMA Transfer	\$438,542	\$434,707	\$435,000
Treasury-Bottle Red.	\$68,468	\$70,313	\$70,000
Taxation-SWMF/ITC Adm.	\$41,532	\$39,687	\$35,000
Recycling Tax Credits	\$500,000	\$450,000	\$400,000
DEP-Currently in SWMF	\$959,850	\$959,850	\$960,000
Total, Currently in SWMF	\$2,008,392	\$1,954,557	\$1,900,000
DEP Solid Waste Positions	\$512,142	\$512,455	\$515,000
Currently in Gen Fund			
Lincoln P+P Contract	\$500,000	0	0
Total, New to SWMF	\$1,012,142	\$512,455	\$515,000
Total Expenditures-SWMF	\$3,020,534	\$2,467,012	\$2,415,000
Balance, SWMF	\$386,466	\$189,988	\$0

NOTES:

Fees Eliminated:

Appliances, Bathtubs	1/1/96
Furniture, Mattresses	1/1/97

March 24, 1995

MUNICIPAL REVIEW COMMITTEE, INC.

PO Box 2579, Bangor, Maine 04402-2579
(207) 942-6389
Fax: (207) 942-3548

March 3, 1995

Re: Annual Report to 90 Member Communities of
Municipal Review Committee, Inc.

Dear Member Communities:

I am reporting to you in my capacity as President of the Municipal Review Committee, Inc. ("MRC") regarding the 1994 activities of MRC and its forecast for 1995. It is important that the membership continue to have a clear understanding of the role of the MRC and how it goes about meeting the needs of its members in overseeing the safe and effective disposal of 248,000 tons (1994) of solid waste in general and the operations of the \$100,000,000 waste to energy plant in Orrington owned by the Penobscot Energy Recovery Company ("PERC").

The MRC Board must be on top of developments apart from PERC such as the dismantling of the State's Waste Management Agency.

Due to turnover on the governing bodies of the communities, it is essential that the 90 member communities be reminded of how and why the MRC came to be. Further, it is critical that the continued effectiveness of the MRC Board not be taken for granted.

As many of you are aware, the MRC Board of Directors consists of nine members elected at large. The past several months have been active, including:

1. PERC operations have been steady and profitable which should result in a performance credit distribution back to the charter member communities only (See item 3). It reports that even with increased recycling, the BTU content per ton has not eroded, because a lot of non-combustible waste is being recycled.
2. PERC is recycling 8,000 tons of ferrous metal (1994) at a favorable price to a customer located by MRC's consultant, Commonwealth Resources. PERC communities receive recycling credit for state reporting purposes.
3. PERC owners have begun to recapture enough of their investment that the plant is generating "distributable profits" in which the Charter Municipalities will receive 50% annually. The rebate (called "performance credit" in

the Charter Municipality contracts with PERC) will be modest for 1994; the present estimate equates to \$2.50 per ton of guaranteed waste. Rebates are projected to be substantial for 1995 operations assuming no significant erosion in tonnage delivered to PERC (1994 = 248,000 tons).

4. The number of communities (both long term and short term) contracting with PERC continues to increase and now exceeds 160 as landfills close and other options prove to be limited in Northern and Eastern Maine.
5. Ash disposal capacity at Sawyer Environmental Recovery Facility (SERF) for the next several years is certain, although more Front End Process Residue disposal capacity needs to be developed.
6. The tipping fee at PERC continues to be below projections with \$45.25 per ton estimated for 1995 (before anticipated 1996 rebate).
7. Environmentally, the test results of the PERC plant and the attendant analyses by Commonwealth Resource are very favorable.
8. The decision of the communities to spend an additional \$7 per ton dedicated to a Capital Maintenance Reserve Account (a/k/a CMRA) as part of a constant technical and mechanical upgrade has enhanced both environmental and economic performance. A prime example is that in 1994 the ash loadout system was upgraded by the expenditure of \$1,700,000. PERC contributed \$900,000 and the \$800,000 came from CMRA. The payback period will be less than three years and SERF will be able to dispose of the ash more economically and also generate far less leachate from its landfill (transported to municipal sewage treatment plants).
9. PERC and SERF continue to work well in tandem. On occasion the MRC Board has taken the initiative to interface between them to facilitate necessary discussions and contract adjustments between them. Both private companies continue to serve very difficult community needs.
10. The MRC continues to have zero employees. It contracts with three providers for staffing:
 - a. Eastern Maine Development Corporation (EMDC) in Bangor for administration (Charles "Chuck"

Roundy is President of EMDC and Greg Lounder is a staff solid waste planner and Clerk of the MRC).

- b. Eaton, Peabody, Bradford & Veague, P.A. as legal counsel (Thomas M. Brown is the lead attorney).
- c. Commonwealth Resources Management as environmental, engineering and financial consultants (George Aronson is the primary representative).

Fees and reimbursement of expenses to these three providers account for the majority of the MRC membership fee.

EMDC and Eaton, Peabody have been involved in representing the PERC communities since 1983 and Mr. Aronson has been on board since 1989.

The costs of conducting the MRC's affairs have averaged 15¢ per ton over the past three years. It is expected dues will need to be increased in 1996, by which time the Charter Municipalities should be in line for a meaningful rebate.

- 11. Attached is a listing of the Charter Municipalities and their respective 1994 tonnages delivered, contrasted with their guaranteed annual tonnages, as well as other classifications of tonnages delivered (from non-charter municipalities). Only Charter Municipalities have the following benefits:

- a. performance credit rebates;
- b. options to extend their contracts through the year 2018;
- c. right to increase plant capacity share on appropriate notice;
- d. option in 2003 to purchase the plant (using a joint municipal entity with or without a private partner).

Our region has developed a comprehensive management system for solid waste that is suitable for PERC's processing system (defined under the contracts as being "Acceptable Waste") in a manner that is environmentally sound, fiscally attractive and mechanically

innovative such that recycling is both compatible and enhanced. This has been accomplished in tandem with private enterprise with only modest overhead and without creating a substantial public authority.

There are storm clouds on the horizon. The solid waste system which serves 31 member towns in Greater Portland is under considerable financial stress. The public enterprise which operates this system is Regional Waste Systems ("RWS"). It has \$102,000,000 of debt and owns and operates a mass burn, waste to energy facility. In order to receive sufficient waste to meet its power production commitments to CMP and its financial commitments to its lenders, the member towns enacted flow control ordinances which directed all haulers to take waste to the plant.

In May 1994, the U.S. Supreme Court overturned the flow control ordinance in a sweeping fashion such that some haulers are pursuing the spot market.

PERC's debt has been paid down to approximately \$60 million and will be fully paid by 2003. As debt service goes down, distributable profits will increase.

The short of it is that if enough waste is not delivered, then facilities throughout the country can be placed in jeopardy. Lenders relied on the efficacy of municipal ordinances that directed the flow of waste to facilities being financed. Hence, the term, "flow control ordinances".

It was noted in the court decisions that Congress could, in essence, delegate that authority to the states and the political subdivisions by express legislation.

The nation now has a new Congress and a new lobbying effort is underway on a bill that has already been submitted which is named the Community Solvency Act of 1995, being H.R. 24. The corresponding bill in the Senate is S.398, which bill has been co-sponsored by Senator Cohen and Senator Snowe.

As far as the over 200 communities that go to the RWS, MMWAC and PERC plants are concerned, the passage of this legislation is a must. The communities in Maine and elsewhere are increasingly faced with a monopoly situation that is evolving. The trend is that Waste Management Services, a subsidiary of WMX, Inc., and Browning and Ferris Industries (BFI) are in the virtual process of acquiring all of their meaningful competition. Presently, these two corporations have tremendous resources which are ever growing. WMX, Inc.'s gross revenues in 1993 were approximately \$9,100,000,000. BFI's revenues for the same period were approximately \$3,500,000,000; in 1994 BFI acquired the nation's

fourth largest solid waste corporation.

In such circumstances, the wisdom of Maine communities having the option to buy the PERC plant increasingly obvious. But flow control and other techniques will have to be employed.

Historically, the legislative and lobbying needs of eastern and mid-coast Maine have been carried by Penobscot Valley Refuse Disposal District (PVRDD) which is a sanitary waste district. Unlike the MRC, it is not subject to constraints as to seeking to influence legislation. PVRDD has engaged Thomas M. Brown of the Eaton, Peabody firm to lobby at the federal level in the manner indicated above.

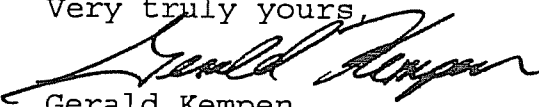
It is expected that Maine's two senators will co-sponsor the compromise bill that passed the House in October by refiling it in the Senate in a form virtually identical.

With regard to obtaining the passage of flow control legislation and other concerns which we must address from time to time, I look back to the fall of 1989 when confronted with PERC's financial problems. The credo was taken from a book entitled, All I need to Know I Learned in Kindergarten, namely, hold hands and stick together!

The MRC Board will continue to report to you through its detailed minutes which also continue to serve as a newsletter to the member communities. I invite and encourage each community to attend our meetings periodically. Usually, they are held at EMDC's offices with ample parking or, on occasion, at Eaton Peabody's Bangor offices in Fleet Center.

Please call either myself (866-2556) or Greg Louder at Eastern Maine Development Corporation (942-6389) if you have any questions or suggestions.

Very truly yours,


Gerald Kempen

001961\95\1\99

CONTRACTS 3/1/95

<u>TOWN</u>	<u>FIRST LINE</u>	<u>SEC LINE</u>	<u>ZIP</u>	<u>POP</u>	<u>GAT</u>	<u>TYPE</u>
Albion	P O Box 287	Albion	04910	1763	600	Charter
Alton	RR#1 Box 428B	Old Town	04468	771	260	Charter
Atkinson	RR#3 Box 118A1	Dover-Foxcroft	04426	332	144	Charter
Baileyville	27 Broadway St	Woodland	04694	4000	1500	Charter
Bangor	73 Harlow St	Bangor	04401	33181	27000	Charter
Bar Harbor	P O Box 337	Bar Harbor	04609	4443	4600	Charter
Blue Hill	P O Box 412	Blue Hill	04614	1941	2000	Charter
Boothbay Reg.	P O Box 105	Boothbay	04537	5000	4500	Charter
Bradley	P O Box 502	Bradley	04411	1136	425	Charter
Brewer	80 N. Main St	Brewer	04412	9021	9000	Charter
Brownville	P O Box 659	Brownville	04414	1506	640	Charter
Bucksport	P O Drawer X	Bucksport	04416	4825	2750	Charter
Burnham	RR#1 Box 760	Burnham	04922	961	500	Charter
Camden	Elm St	Camden	04843	5060	5400	Charter
Carmel	P O Box 114	Carmel	04419	1906	700	Charter
China	RR#1 Box 970	South China	04358	3713	1000	Charter
Clifton	RR#1 Box 9	E. Eddington	04428	607	300	Charter
Clinton	P O Box 219	Clinton	04927	3332	2000	Charter
Corinna	P O Box L	Corinna	04928	1947	1729	Charter
Cushing	P O Box 10	Cushing	04563	988	444	Charter
Dedham	P O Box 760	Dedham	04429	1229	400	Charter
Dexter	P O Box 373	Dexter	04930	4419	3600	Charter
Dover-Foxcroft	34 East Main ST	Dover-Foxcroft	04426	4657	2000	Charter
Eddington	P O Box 99	E. Eddington	04428	1947	960	Charter
Enfield	P O Box 28	Enfield	04433	1476	700	Charter
Exeter	P O Box 59	Exeter	04435	937	250	Charter
Fairfield	P O Box 149	Fairfield	04937	6718	3000	Charter
Friendship		Friendship	04547	1099	492	Charter
Glenburn	RR#1 Box 1375	Bangor	04401	3198	1300	Charter
Greenbush	P O Box 210	Olamon	04467	1309	375	Charter
Guilford	P O Box 355	Guilford	04443	1710	1400	Charter
Hampden	106 Main Rd South	Hampden	04444	5974	3200	Charter
Hancock	P O Box 68	Hancock	04640	1757	1014	Charter
Hermon	RR#3 Box 1206	Bangor	04401	3756	1965	Charter
Holden	P O Box 490	E Holden	04429	2952	1050	Charter
Lee		Lee	04455	832	352	Charter
Levant	P O Box 220	Levant	04456	1627	679	Charter
Lucerne	P O Box 233	E. Holden	04429	400	175	Charter
Mariaville	RR#4	Ellsworth	04605	270	106	Charter
Mattawamkeag	P O Box 260	Mattawamkeag	04459	830	400	Charter
Milford	P O Box 336	Milford	04461	2884	1100	Charter
Millinocket	P O Box 959	Millinocket	04462	6956	3750	Charter
Milo	P O Box 219	Milo	04463	2600	1320	Charter
Mt. Desert	Sea Street	Northeast Harbor	04662	1899	1800	Charter
Newburgh	P O Box 257	Hampden	04444	1317	500	Charter
Old Town	51 N. Brunswick St	Old Town	04468	8317	5000	Charter
Orland	P O Box 67	Orland	04472	1805	750	Charter
Orono	P O Box 130	Orono	04473	10573	5100	Charter
Otis	RR#4 Box 167AA	Ellsworth	04605	355	210	Charter
Owls Head	P O Box 128	Owls Head	04854	1574	780	Charter

CONTRACTS 3/1/95

<u>TOWN</u>	<u>FIRST LINE</u>	<u>SEC LINE</u>	<u>ZIP</u>	<u>POP</u>	<u>GAT</u>	<u>TYPE</u>
Palmyra	P O Box 6	Palmyra	04965	1867	500	Charter
Parkman	RR#1 Box 1813	Guilford	04443	790	168	Charter
Plymouth	P O Box 130	Plymouth	04969	1152	360	Charter
Rockland	P O Box 546	Rockland	04841	7972	5100	Charter
St. Albans	P O Box 100	St. Albans	04971	1724	474	Charter
Searsport	P O Box 499	Searsport	04974	2603	1500	Charter
South Thomaston	P O Box 147	So. Thomaston	04858	1227	600	Charter
Southwest Harbor	P O Box 745	Southwest Harbor	04679	1952	2000	Charter
Stetson	P O Box 85	Stetson	04488	847	220	Charter
Stonington	P O Box 9	Stonington	04681	1252	604	Charter
Surry	P O Box 147	Surry	04684	1004	1000	Charter
Thomaston	P O Box 299	Thomaston	04861	3306	1560	Charter
Thorndike	P O Box 10	Thorndike	04986	702	200	Charter
Tremont	P O Box 65	Bernard	04612	1324	1000	Charter
Trenton	RR#1 Oak Pt. Road	Ellsworth	04605	1060	600	Charter
Troy	RR#1 Box 110B	Troy	04917	802	250	Charter
Union River Dist	Box 4240	Amherst	04605	715	300	Charter
Unity	P O Box 416	Unity	04985	1817	702	Charter
Vassalboro	P O Box 187	Vassalboro	04962	3679	1250	Charter
Veazie	1084 Main St	Veazie	04401	1633	800	Charter
Verona	P O Box 1940	Bucksport	04416	515	275	Charter
Waldoboro	P O Box J	Waldoboro	04572	4601	3000	Charter
Waterville	1 Common Street	Waterville	04901	17173	21000	Charter
West Gardner	RR#3 Box 1500	Gardiner	04345	2531	1005	Charter
Winslow	16 Benton Ave	Winslow	04901	7997	3850	Charter
Winthrop	57 Main Street	Winthrop	04364	5968	3200	Charter
Abbot	P O Box 120	Abbot	04406	677	190	LongTerm
Aroostook Valley	P O Box 267	Ashland	04732	2100	790	LongTerm
Bowerbank	RR#2	Dover-Foxcroft	04426	72	25	LongTerm
Bridgewater	P O Box 215	Bridgewater	04735	647	150	LongTerm
Brooks	P O Box 5	Brooks	04921	900	300	LongTerm
Burlington/Lowell	P O Box 70	Burlington	04417	627	200	LongTerm
Castine	P O Box 204	Castine	04204	1161	260	LongTerm
Central Penobscot	P O Box 309	E. Corinth	04427	4467	1100	LongTerm
Cherryfield	RR #1 Box 3	Cherryfield	04622	1183	300	LongTerm
Dixmont	RR #1 Box 170	Dixmont	04932	1007	400	LongTerm
Edinburg	P O Box 372	Howland	04448	107	38	LongTerm
Etna	P O Box G	Etna	04434	977	350	LongTerm
Freedom	Academy Hill Rd	Freedom	04941	593	194	LongTerm
Gouldsboro	P O Box 68	Prospect Harbor	04607	1986	800	LongTerm
Harrington	P O Box 142	Harrington	04643	893	300	LongTerm
Howland	P O Box 445	Howland*	04448	1435	580	LongTerm
Hudson	RR #1 Box 3	Hudson	04449	1048	150	LongTerm
Jackson	RR #1	Brooks	04921	415	130	LongTerm
Kenduskeag	P O Box 308	Kenduskeag	04450	1234	380	LongTerm
Knox	RR #2	Brooks	04921	681	150	LongTerm
LaGrange		LaGrange	04429	557	180	LongTerm
Lamoine	RR #2 Box 53	Ellsworth	04605	1311	350	LongTerm
Lincoln	75 Main St	Lincoln	04457	5250	3000	LongTerm
Marion Users	P O Box 297	Machias	04654	8300	5400	LongTerm

CONTRACTS 3/1/95

<u>TOWN</u>	<u>FIRST LINE</u>	<u>SEC LINE</u>	<u>ZIP</u>	<u>POP</u>	<u>GAT</u>	<u>TYPE</u>
Mars Hill	RR #1 Box 13	Mars Hill	04758	1760	500	LongTerm
Maxfield	RR #1 Box 128	LaGrange	04453	86	24	LongTerm
Medford	P O Box 14	LaGrange	14453	194	50	LongTerm
Milbridge	P O Box 66	Milbridge	04658	1305	625	LongTerm
Monson	P O Boc308	Monson	04464	744	160	LongTerm
Monticello	P O Box 99	Monticello	04760	872	240	LongTerm
Montville	RR #1 Box 1520	Freedom	04941	877	260	LongTerm
NARIF	P O Box 146	Frenchville	04745	11328	8000	LongTerm
Northern Katahdin	RR #1 Box 56	Island Falls	04747	4161	1500	LongTerm,
Oakfield	P O Box 10	Oakfield	04763	846	260	LongTerm
Passadumkeag	P O Box 9	Passadumkeag	04475	428	160	LongTerm
Penobscot County	97 Hammond St	Bangor	04401	2256	700	LongTerm
Piscataquis County	51 East Main St	Dover-Foxcroft	04426	700	200	LongTerm
Pleasant River	P O Box 222	Addison	04606	2281	690	LongTerm
Reed Plant Group	P O Box 10	Wytotpitlock	04497	600	324	LongTerm
St. Francis	P O Box 98	St. Francis	04774	957	275	LongTerm
Sangerville	P O Box 188	Sangerville	04479	1398	500	LongTerm
Searsmont	P O Box 56	Searsmont	04973	938	270	LongTerm
Sebec	RR #2	Dover-Foxcroft	04426	554	180	LongTerm
Sherman	P O Box 96	Sherman Mills	04776	1027	480	LongTerm
Springfield	P O Box 13	Springfield	04487	900	400	LongTerm
Steuben	RR #1 Box 26	Steuben	04680	1084	380	LongTerm
Swans Island		Swans Island	04685	348	200	LongTerm
TriCounty	P O Box 96	Union	04062	5327	1800	LongTerm
Wiscasset	P O Box 328	Wiscasset	04578	4573	3400	LongTerm

Green

PROPOSED BUDGET--NATURAL RESOURCES COMMITTEE PROPOSAL

BUDGETED REVENUES	FY96	FY97
ITC Balance	\$88,000	\$0
Special Waste Fee	\$700,000	\$800,000
Recycling Assistance Fees:		
Tires	\$750,000	\$750,000
Batteries	\$250,000	\$250,000
Appliances	\$382,500	\$0
Furniture	\$680,000	\$340,000
Bathtubs	\$25,500	\$0
Mattresses	\$204,000	\$102,000
Unclaimed bottle deposits	\$0	\$0
Interest	\$0	\$0
Total Revenues-SWMF	\$3,080,000	\$2,242,000

BUDGETED EXPENDITURES

SPO/DEC-MWMA Transfer (6 of 16 Positions)	\$438,542	\$434,707
Treasury-Bottle Red.	\$35,000	\$0
Taxation-SWMF/ITC Adm.	\$41,532	\$30,000
Recycling Tax Credits	\$400,000	\$350,000
DEP Positions-13 SWMF	\$734,058	\$734,058
DEP Positions-9 Currently GF	\$512,142	\$512,455
Tire Stockpile Cleanup	\$418,726	\$180,780
Lincoln Pulp and Paper	\$500,000	\$0
Total Expenditures-SWMF	\$3,080,000	\$2,242,000
Balance	\$0	\$0

NOTES:

Fees Eliminated:

Appliances, Bathtubs	1/1/96
Furniture, Mattresses	1/1/97
Bottle Float	1/1/96

Total Positions Eliminated: 10 MWMA, 2 Treasury,
6 DEP

May 8, 1995

HIGHLIGHTS OF AGENCY LEGISLATION

~~March 13, 1995~~

May 2, 1995

ELIMINATION OF THE WASTE MANAGEMENT AGENCY

- Eliminates agency, executive director and three office director positions
- Eliminates the agency's advisory board: Waste Management Advisory Council
- Replaces agency as member of P2 Advisory Committee and Sludge and Residuals Utilization Foundation with State Planning Office

PLANNING FUNCTIONS

- Transfers responsibilities for developing a state waste management and recycling plan to the State Planning Office
- Transfers responsibilities for collecting and analyzing municipal solid waste management annual reports and recycling rates to the State Planning Office
- Transfers authority for approving proposals for new or expanded solid waste disposal facilities based on need and consistency with state plan to the ~~State Planning Office~~

DEP

RECYCLING SERVICES

- Revises state recycling goal to 50% by January 1, 1998
- Clarifies that municipalities are not required to meet the state recycling goal
- Eliminates \$1.50 penalty for towns not making reasonable progress
- Transfers responsibilities to the State Planning Office for recycling services including
 - market development assistance
 - municipal technical assistance
 - municipal financial assistance
 - business technical assistance
 - coordination of state government and university recycling programs
 - participation in regional and national initiatives
 - education

SITING/DEVELOPMENT RELATED FUNCTIONS

- Transfers siting criteria responsibilities to State Planning Office
- Transfers responsibility for Carpenter Ridge to the State Planning Office

TRANSFERS CERTAIN FUNCTIONS TO DEPT. OF ENVIRONMENTAL PROTECTION

- Amends DEP's public benefit test to ~~require SPO's~~ *Dept. determines for exempt facilities; Commission for others*
- Transfers responsibility for collection of special waste fees to DEP

~~UNDEDICATES SOLID WASTE MANAGEMENT FUND~~

- ~~Undedicates unclaimed bottle deposits; these funds now go to the General Fund~~
- Limits reimbursements of over-redemptions to 50%, consistent with unclaimed deposits
- ~~Undedicates recycling assistance fees; these funds now go to the General Fund~~
- Ends eligibility for recycling investment tax credits on June 30, 1995
- ~~Undedicates the special waste fees; these funds now go to General Fund~~
- ~~Eliminates the Solid Waste Management Fund as a dedicated account~~

STATUS OF COMMERCIAL WASTE DISPOSAL FACILITIES

- Retains ban on new commercial solid waste disposal facilities
- Retains requirement that new or expanded solid waste disposal facilities must be approved as consistent with the state plan and/or need for disposal capacity; this approval authority will go to the ~~State Planning Office~~

DEP

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2466 is enacted to read:

§2466. Tire Emergency Readiness Fund

1. Fund established. The Tire Emergency Readiness Fund is established to receive revenues as provided in Title 36, section 4833.

2. Use of the fund. The fund must be used to reimburse a municipality for the approved costs incurred in fighting fires at a tire disposal site in that municipality.

3. Approval of costs. A municipality seeking reimbursement under this section shall submit to the Commissioner of Public Safety an itemized list of costs of fighting fires at tire disposal sites in the municipality. The commissioner shall determine which costs are reasonably attributable to fighting fires at tire disposal sites and approve the reimbursement of those costs from the fund. If the money in the fund is not sufficient to reimburse all approved costs, the commissioner shall prorate the reimbursement. Municipal costs may be approved under this section for public or private tire disposal sites.

Sec. 2. 36 MRSA §4833, 3rd ¶, as amended by PL 1989, c. 927, §5, is further amended to read:

The revenue derived from the fee imposed by this chapter must be deposited in the Maine Solid Waste Management Fund established under Title 38, chapter 24, which must reimburse the General Fund for its proportionate share of the administrative costs of the fee as certified by the Bureau of Taxation, except that 20% of the revenue collected from the fee imposed by this chapter on the sale of tires must be deposited in the Tire Emergency Readiness Fund established by Title 25, section 2466, which must reimburse the General Fund for its proportionate share of the administrative costs of the fee as certified by the Bureau of Taxation.

STATEMENT OF FACT

This bill provides that 20% of the recycling assistance fee collected on tires must be paid to the Tire Emergency Readiness Fund to be used by the Commissioner of Public Safety to reimburse municipalities for the approved cost of fighting fires at tire disposal sites.

PART B

Sec. B-1. 5 MRSA § 3305, sub-§1, ¶¶ L and M are enacted to read:

L. Coordinate the development of solid waste management policy including:

(1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;

(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature every two years; and

(3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities; and

M. Own, design, develop, operate or contract with private parties to operate a solid waste disposal facility, as provided in Title 38, chapter 24, subchapter IV.

Sec. B-2. 5 MRSA §3305-A is enacted to read:

§3305-A. Authority to own and operate solid waste disposal facility

The office has all necessary power and authority to own, design, develop and operate a solid waste disposal facility or facilities as provided in Title 38, chapter 24, subchapter IV, including :

1. Title to property. Authority to take and hold title to such facility;

2. Contracts. Authority to assume any and all rights and obligations under existing agreements related to such a facility and to enter into contracts and agreements on behalf of the state as the office may consider necessary or appropriate in connection with the facility; and

3. Rules. Authority to adopt and amend rules in accordance with the Maine Administrative Procedures Act, Title 5, chapter 375, subchapter II.

Sec. B-3. Reports. If the state receives a state license prior to January 1, 1995 to operate a solid waste disposal facility at the Carpenter Ridge Site, the State Planning Office

shall submit a report to the Joint Standing Committee on Natural Resources by March 1, 1995 setting forth any plans the Office has developed for operation of the facility, including recommendations as to how the facility would be operated, what changes in state law would be advisable to allow for operation of the facility, the timing of possible operations, and any other issues the Office considers appropriate.

The State Planning Office shall also submit to the Joint Standing Committee on Natural Resources a report on the importation of out-of-state waste into Maine, recent Congressional action on legislation relating to state authority to regulate the importation of waste, and any other related issues.

PART C

Sec. C-1. Allocations. The following funds are allocated from the Maine Solid Waste Management Fund to carry out the purposes of this Act:

EXECUTIVE

Planning Office

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	\$282,203	\$273,572
All Other	<u>656,339</u>	<u>161,135</u>

Provides for the transfer of one Development Program Manager and one Planner II from the Office of Waste Reduction and Recycling; one Planner II and one Clerk Typist III from the Office of Siting and Disposal Operations; and one Senior Planner and one Planner II from the Office of Planning to the State Planning Office. Also provides All Other Funds for technical assistance to municipalities and in fiscal year 1995-96 for a contract payment of \$500,000 to Lincoln Pulp & Paper..

TOTAL	\$938,542	\$434,707
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C.24-

Sub C. - 1 **MAINE WASTE MANAGEMENT AGENCY
GOALS AND ESTABLISHMENT**

§ 2101. Solid waste management hierarchy

1. **Priorities.** It is the policy of the State to plan for and implement an integrated approach to solid waste management, which shall be based on the following order of priority:

- A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
- B. Reuse of waste;
- C. Recycling of waste;
- D. Composting of biodegradable waste;
- E. Waste processing which reduces the volume of waste needing land disposal, including incineration; and
- F. Land disposal of waste.

§ 2102. Establishment of the Maine Waste Management Agency

1. **Establishment of agency.** The Maine Waste Management Agency, referred to in this chapter as the "agency," is created as an agency in the executive branch of the State. The agency is an instrumentality of the State and a body corporate and politic. The exercise by the agency of the powers conferred on it under this chapter and the implementation of its purpose and duties are essential governmental functions.

2. **Organization and function of the agency.** The Maine Waste Management Agency shall be comprised of 3 offices: the Office of Planning, the Office of Siting and Disposal Operations and the Office of Waste Reduction and Recycling.

3. **Executive director.** The Governor shall appoint the Executive Director of the Maine Waste Management Agency, referred to in this chapter as the "executive director," subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature. The executive director shall serve at the pleasure of the Governor. The salary of the executive director is established under Title 2, section 6, subsection 2. The executive director is the chief executive officer of the agency.

§ 2103. Powers and duties of the agency

1. **General powers.** In order to accomplish the purposes of this chapter and in addition to any other powers conveyed by this chapter, the agency may exercise the following powers:

- A. Promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, all rules necessary to carry out its responsibilities under this chapter, including procedural rules;
- B. Acquire, hold and dispose of personal property;
- C. Acquire, hold and dispose in the name of the agency by purchase, lease or otherwise, real property and interests in real property determined necessary or desirable for its purposes and use of the property;

MWMA

D. Establish and collect fees, assessments and other charges and expend money received as provided in this chapter;

E. Employ such assistants, agents, economists, engineering, architectural and construction experts and inspectors, and such other employees as it deems necessary or desirable to carry out its purposes;

F. Obtain any information and conduct investigations useful or convenient for carrying out any of its purposes, powers or duties;

G. Enter, with the permission of the owner or subject to Title 4, section 180 and during normal working hours, upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it determines necessary for the purpose of this chapter;

H. Enter any property at reasonable hours, and enter any building with the consent of the property owner, occupant, or agent or, if consent is not given, under a warrant issued pursuant to Title 4, section 179, to inspect the property or structure, to take samples and to conduct tests, as appropriate, to determine compliance with any provision of the laws administered by the agency or the terms or conditions of any order, regulation, license, permit, approval or decision of the agency;

I. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States;

J. Take all other lawful actions necessary and incidental to these powers in carrying out the requirements of this chapter;

K. Direct solid wastes from one public or private waste facility to another facility when an emergency is determined to exist by rule or by the Governor. The agency shall negotiate to provide to the receiving facility fair compensation for the disposal or processing of waste at that facility during the period of emergency. The agency shall consult with the department in the exercise of this power;

L. Control solid waste collection, transportation or delivery to a specific facility owned by the agency when the purpose and effect of this action is to gain management control over solid waste;

M. Make agreements pertaining to the purchase, sale and use of products, including recyclable materials, and the generation, transmission and sale of energy in connection with the purposes of the agency;

N. Enter into contracts, including, but not limited to, the power to:

(1) Contract with architects, engineers, financial and legal consultants and other experts for services;

(2) Contract with persons, firms, corporations, limited partnerships, partnerships, associations, authorities and agencies for the operation of waste facilities and for services relating to the recycling and disposal of solid waste;

(3) Contract for the handling of solid waste on the basis of guaranteed amounts, whether delivered for disposal and accepted

for disposal or not, with payments based on the guaranteed amounts, whether actually disposed of or not. The payments may be variable and may be determined by formulas expressed in those contracts;

(4) Contract with another state agency, the United States or any subdivision or agency thereof for services; and

(5) Contract with any municipality for the services of that municipality or its facilities; and

O. Use a negotiated or competitive bid process or any other process which may be advantageous to the agency.

2. Duties. The agency shall undertake the following duties:

A. Develop and adopt the state waste management and recycling plan pursuant to the provisions of this chapter;

B. Assist in regional and municipal waste recycling and waste reduction programs and provide technical assistance to regional associations, municipalities, state agencies and private entities to assist their implementation of this chapter;

C. Promote and emphasize recycling and waste reduction in the State;

D. Develop generic siting criteria and select sites for use by the agency;

E. Review applications for new or expanded solid waste disposal facilities for consistency with state siting criteria and recommendations and the state plan;

F. Enter into contracts for services to plan, design, construct and operate waste facilities;

G. Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs pertaining to waste management and recycling;

H. Institute, in a court of competent jurisdiction, proceedings against any person to compel compliance with the provisions of this chapter, any regulation promulgated pursuant thereto, or any order of the agency;

I. Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out its duties under this chapter;

J. Work with other state agencies, regional associations, municipalities, regional planning agencies and other community, private sector and environmental organizations to manage the State's solid waste; and

K. Solicit public comment from all regions of the State.

§ 2104. Waste Management Advisory Council

There is established the Waste Management Advisory Council, referred to as the "council" in this section, to assist the agency in developing the state plan and in facility siting and evaluation activities.

1. Membership; terms. The Governor shall appoint 12 members as follows:

A. Three members from the general public;

B. Two members from each of the following:

(1) Municipal governments;

(2) Statewide and local environmental organizations;

(3) The recycling industry; and

(4) The waste disposal industry; and

C. One member representing industrial waste generators.

The Commissioner of Environmental Protection shall serve as an ex officio member. All members, except the commissioner, shall be appointed for staggered terms of 3 years. A vacancy shall be filled by the Governor for the unexpired portion of the term. The council shall annually elect a chair from its membership.

2. Compensation. Members shall be compensated according to Title 5, section 12004-I, subsection 22.

3. Quorum; actions. A quorum shall be a majority of the members of the council. An affirmative vote of the majority of the members present at a meeting shall be required for any action. No action may be considered unless a quorum is present.

4. Meetings. The council shall meet at least 4 times per year and at any time upon the call of the chair or upon written request to the chair by 4 of the members.

5. Annual report. The council shall report annually to the Governor and to the Legislature on the status of the State's planning and facility siting effort.

6. Staff support. The agency shall provide the council with all necessary staff support.

§ 2105. Payment in lieu of taxes

The agency shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility not paid to that municipality during the previous calendar year due to the statutory property tax exemption provided in this section. In the case of an unorganized territory, the agency shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the agency disagrees with the amount determined to be due in lieu of taxes under this subsection, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

§ 2106. Annual audit

Each year an audit shall be made of the accounts of the agency. For this purpose, authorized agents of a certified public accounting firm appointed by the agency shall have access to all necessary papers, books and records. Upon the completion of each audit, a copy shall be sent to the Governor and the Legislature.

§ 2107. Staff employees; conflict of interest

1. Agency staff. The executive director may hire, on a temporary or permanent basis, such staff as necessary, including financial experts.

AGENDA FOR REVIEW OF LD 229
May 4, 1995

- Funding Issues
- Review of "Highlights of Agency Legislation"
 - Any committee questions on major issues?
- Remaining Issues in Draft Amendment
 - Tires (Beneficial use of tires? LD 1159, Tire Emergency Readiness Fund)
 - State Planning Office powers, reports regarding development of state site (esp. bonding authority)
 - Public Benefit determination (State sites required? review process for generator-owned and other sites)
 - Purchase of non-commercial facilities by commercial entities?
 - State Plan (Adopt by rule?)

(This is John Williams)
Proposed
as of 4-3-95

Office of the Executive Director

Executive Director (R90) -- supervises the overall agency activities, sets policy for solid waste management, oversees the agency's programs.

Business Manager (R24) -- supervises the agency's administrative functions including budget development, financial tracking and management; capital equipment maintenance; special waste fee collection; and supervises support staff.

Administrative Assistant (R20) -- manages the agency's personnel functions; prepares payroll; codes and enters expenditure information; tracks employee benefits; serves as the Executive Director's secretary; and provides some support for the planning office.

Office of Planning

Office Director (R88) -- directs the office; oversees the Agency's planning and policy development activities, research and analysis of recycling and disposal alternatives, state and federal legislative affairs, and state recycling market development initiatives. Serves as state representative to the Northeast Recycling Council; associate to the Source Reduction Task Force, CONEG; member of the DEP's Pollution Prevention Advisory Council; member of the Sludge and Residuals Research Foundation; associate member of the Maine Quality Management Council and the TQM Coordinator for the agency; and agency's legislative liaison for the Governor's Office. Oversees the agency's public relations and financial management.

Transferred
Senior Planner (R25) -- responsible for the municipal annual reporting process, the solid waste management data base, updating and revising the state's waste management and recycling plan, preparing annual report on municipal recycling progress; developing alternative methodologies for solid and special waste data; research and analysis on waste management issues.

Planner II (R22) -- responsible for data collection and management on municipal and special waste; agency representative to the CONEG Toxics Clearinghouse; administer the toxics in packaging and battery management programs; composting analysis and recommendations for future management; liaison with the state's GIS; and updating and revising the plan.

Clerk Typist III (R13) -- provides clerical support to the office of planning, maintains rule-making process, manages correspondence with the Governor's Office, maintains legislative files, manages agency mailings, provides clerical support to the Facility Siting Board and Waste Management Advisory Council, provides general clerical support for the entire agency.

municipal disposal efforts; reviews refuse disposal district formation; oversees municipal technical assistance programs for bulky waste management and municipal solid waste disposal.

✓ Planner II -- provides staff support in the implementation of siting criteria, review of refuse district formation, the state approval process for new or expanded disposal facilities, manages the permit application process for Carpenter Ridge.

Transfer Planner II -- provides technical assistance to municipalities and businesses in managing "hard-to-manage" waste such as construction and demolition debris, hazardous materials and furniture, white goods; produces Waste Line, a newsletter for towns; develops and delivers workshops and informational materials on hard-to-manage materials; administers a EPA funded pilot on household hazardous waste management in the Lewiston area; and administers assistance to the Buildings Materials Exchange.

Transfer Clerk Typist III (R13) -- provides general reception services; general secretarial support for the entire agency; log in services for annual report and grant applications; and mail duties.

✓ = eliminated

AS OF 04/03/95

MAINE STATE TREASURY
MAINE BOTTLE BILL
SUMMARY OF DEPOSIT INITIATOR ACTIVITY

QUARTER/YEAR : 4/1994

(Missing 210 reports)

PAGE 1

% of REDEMP	NAME	PROD CODE	D E P O S I T S COLLECTED	D E P O S I T S REDEEMED	N E T DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO S T A T E	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
0	A.P.A	J	\$285.60		\$285.60	\$142.80		\$142.80		
132	ADIRONDACK BEVERAGES	S	\$84,780.55	\$112,082.90	-\$27,302.35	-\$13,651.18	-\$33,327.55		-\$46,978.73	
596	AMERICAN BEVERAGE CORP.	J	\$864.00	\$5,156.15	-\$4,292.15	-\$2,146.08	-\$2,626.26		-\$4,772.34	
0	AMERICAN DISCOUNT OUTLET	O	\$9.55		\$9.55	\$4.78		\$4.78		
180	AMES DEPARTMENT STORES	S	\$6,889.55	\$12,421.50	-\$5,531.95	-\$2,765.98			-\$2,765.98	
132	AROSTOOK BEVERAGES	B	\$44,490.95	\$58,752.90	-\$14,261.95	-\$7,130.98	-\$15,068.73		-\$22,199.71	
6	ASSOCIATED BUYERS	H	\$1,347.35	\$91.00	\$1,256.35	\$628.18		\$628.18		
108	BAR HARBOR BREWING CO.	B	\$366.60	\$398.70	-\$32.10	-\$16.05			-\$16.05	
51	BARTLETT WINERY	L	\$654.30	\$338.55	\$315.75	\$157.88		\$157.88		
15	BEECH-NUT NUTRITION CORP	J	\$2,829.00	\$431.40	\$2,397.60	\$1,198.80		\$1,198.80		
47	BETTER LIVING CENTER	H	\$69.40	\$32.65	\$36.65	\$18.38		\$18.38		
126	BRIGGS INC.	S	\$114,963.75	\$145,514.50	-\$30,550.75	-\$15,275.38	-\$16,181.70		-\$31,457.08	
84	BUREAU ALCOHOLIC BEVERAG	L	\$283,162.58	\$237,907.81	\$45,254.77	\$22,627.39	-\$598.04	\$22,029.35		
5	C & S WHOLESALE GROCER	O	\$327.10	\$16.60	\$310.50	\$155.25		\$155.25		
331	CARTER FEED COMPANY/BOB'	O	\$36.70	\$121.55	-\$84.85	-\$42.43			-\$42.43	
97	CENTRAL DISTRIBUTORS	B	\$153,403.45	\$149,192.95	\$4,210.50	\$2,105.25		\$2,105.25		
0	CITRUS WORLD, INC.	J	\$6.30		\$6.30	\$3.15		\$3.15		
85	CLEMENT PAPPAS & CO.	J	\$5,930.90	\$5,062.62	\$868.28	\$434.14	-\$845.30		-\$411.16	
145	CLIFFSTAR CORPORATION	O	\$425.25	\$617.60	-\$192.35	-\$96.18			-\$96.18	
110	COCA COLA BOTTLING OF NE	S	\$943,394.00	\$1,038,834.00	-\$95,440.00	-\$47,720.00	-\$28,428.00		-\$76,148.00	
210	COCA COLA FOODS	J	\$2,431.61	\$5,112.14	-\$2,680.53	-\$1,340.27	-\$12,881.18		-\$14,221.45	
100	COLONIAL DISTRIBUTORS	B	\$246,820.10	\$248,583.90	-\$1,763.80	-\$881.90	-\$2,332.68		-\$3,214.58	
50	CORNUCOPTA	H	\$1,101.00	\$561.50	\$539.50	\$269.75		\$269.75		
96	CRYSTAL SPRINGS WATER	O	\$230.00	\$222.50	\$7.50	\$3.75		\$3.75		
110	CUMBERLAND & YORK DIST.	B	\$182,932.00	\$201,707.35	-\$18,775.35	-\$9,387.68			-\$9,387.68	
78	CUMBERLAND FARMS	S	\$5,420.35	\$4,255.45	\$1,164.90	\$582.45		\$582.45		
121	CV FINER FOODS	S	\$1,147.40	\$1,392.60	-\$245.20	-\$122.60	-\$216.60			
0	D & H DISCOUNTS	O	\$7.75		\$7.75	\$3.88			-\$339.30	
35	DOWN EAST SUNSPROUTS	J	\$1,789.25	\$627.65	\$1,161.60	\$580.80		\$3.88		
162	DR. PEPPER/ 7 UP-CORP	S	\$12,216.00	\$19,798.38	-\$7,582.38	-\$3,791.19		\$580.80		
107	FARMINGTON COCA-COLA	S	\$48,445.60	\$52,193.15	-\$3,747.55	-\$1,873.78	-\$3,883.00		-\$3,791.19	
94	FEDERAL DISTRIBUTORS	B	\$296,393.60	\$278,703.70	\$17,689.90	\$8,844.94	-\$5,460.61		-\$5,756.78	
161	FOOD CITY	O	\$83.40	\$134.80	-\$51.40	-\$25.70	-\$103.63	\$3,384.33		-\$129.23

% of REDEMP	NAME	PROD CODE	D E P O S I T S COLLECTED	D E P O S I T S REDEEMED	N E T DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO S T A T E	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
506	GARELICK FARMS	J	\$23.30	\$118.10	-\$94.80	-\$47.40	-\$67.78		-\$115.18	
1904	GENERAL MILLS	J	\$384.00	\$7,314.10	-\$6,930.10	-\$3,465.05	-\$4,825.38		-\$8,290.43	
61	GENERAL NUTRITION-AUBURN	H	\$3.00	\$1.85	\$1.15	\$0.58			\$0.58	
101	GERBER PRODUCTS	J	\$2,771.55	\$2,817.55	-\$46.00	-\$23.00	-\$2,237.40		-\$2,260.40	
105	GLEN ROCK SPRING	W	\$1,305.70	\$1,380.65	-\$74.95	-\$37.48	-\$274.07		-\$311.55	
0	GOOD NEWS NATURAL MARKET	H	\$81.00		\$81.00	\$40.50		\$40.50		
0	GOOD SHEPHERD FOOD BANK	O	\$967.15		\$967.15	\$488.08		\$488.08		
59	GRANT'S DAIRY	J	\$6,384.80	\$3,828.20	\$2,556.60	\$1,478.30		\$1,278.30		
78	GREAT A & P TEA	J	\$169.70	\$132.45	\$37.25	\$18.63		\$18.63		
144	GREAT SPRINGS/POLAND SPR	O	\$18,568.20	\$27,058.35	-\$8,390.15	-\$4,195.07	-\$4,060.38		-\$8,255.45	
81	H.P. HOOD	J	\$6,376.50	\$5,175.60	\$1,200.90	\$600.45		\$600.45		
74	HANNAFORD BROS.	J	\$33,896.25	\$25,331.10	\$8,565.15	\$4,282.58		\$4,282.58		
205	JEL SERT COMPANY	S	\$2,742.10	\$5,630.40	-\$2,888.30	-\$1,444.15	-\$2,660.40		-\$4,104.55	
144	KNOUSE FOODS	J	\$1,238.15	\$1,783.50	-\$545.35	-\$272.68	-\$821.71		-\$1,094.39	
98	MAINE DISTRIBUTORS	B	\$301,769.75	\$298,669.25	\$3,100.50	\$1,550.26		\$1,550.26		
76	MAINE SPECIALTY FOOD	O	\$106.20	\$81.60	\$24.60	\$12.30		\$12.30		
0	MILLBROOK DISTRIBUTORS	O	\$1.20		\$1.20	\$0.60	-\$271.60		-\$271.00	
18	MYER'S COUNTRY CUPBOARD	H	\$10.20	\$1.90	\$8.30	\$4.15		\$4.15		
0	N.C.C.	J	\$1,893.10		\$1,893.10	\$946.55		\$946.55		
98	NAPFI DISTRIBUTORS	B	\$271,974.00	\$267,896.00	\$4,078.00	\$2,039.00	-\$9,477.00		-\$6,438.00	
112	NATIONAL DISTRIBUTORS	B	\$360,461.46	\$404,928.98	-\$44,467.52	-\$22,233.76	-\$68,309.93		-\$90,543.70	
51	NATIONAL PAX CORPORATION	S	\$1,036.80	\$537.60	\$499.20	\$249.60		\$249.60		
25	NATURE'S CHOICE	H	\$9.60	\$2.40	\$7.20	\$3.60		\$3.60		
26	NATURE'S PANTRY	H	\$4.90	\$1.30	\$3.60	\$1.80				
69	NORTHEAST CO-OP	H	\$3,278.80	\$2,286.75	\$992.05	\$496.03	-\$7.78		-\$5.98	
65	OAKHURST DAIRY	J	\$3,443.50	\$2,249.65	\$1,193.85	\$596.93		\$496.03		
171	OCEAN SPRAY	J	\$11,075.90	\$19,028.45	-\$7,952.55	-\$3,976.28	-\$18,686.11		\$596.93	
26	OXFORD HILLS/FARE SHARE	H	\$40.80	\$10.80	\$30.00	\$15.00		\$15.00	-\$22,662.39	
0	PENNY WISE MARKET	H	\$6.00		\$6.00	\$3.00		\$3.00		
98	PEPSI COLA METROPOLITAN	S	\$339,433.65	\$332,736.90	\$6,696.75	\$3,348.38		\$3,348.38		
111	PINE STATE TOBACCO	B	\$341,474.10	\$379,945.85	-\$38,471.75	-\$19,235.87	-\$44,068.90		-\$63,304.77	
110	POLAR CORP.	S	\$192,987.10	\$212,551.95	-\$19,564.85	-\$9,782.43	-\$18,131.48		-\$27,913.91	
125	PUNG HILL WATER COMPANY	O	\$15.80	\$19.75	-\$3.95	-\$1.98			-\$1.98	
91	SELTZER & RYDHOIM	S	\$1,119,027.00	\$1,028,136.90	\$90,890.10	\$45,445.05		\$45,445.05		
108	SEAW'S SUPERMARKETS	J	\$15,903.20	\$17,220.80	-\$1,317.60	-\$658.80		\$19.53	-\$3,714.78	
0	SHIELD'S MEATS	O	\$39.05		\$39.05	\$19.53	-\$3,055.98			
97	SOLMAN DISTRIBUTORS	B	\$131,441.39	\$128,213.89	\$3,227.50	\$1,613.75		\$19.53	-\$52,002.77	
25	STORE/AMPSAND	H	\$1.20	\$0.30	\$0.90	\$0.45		\$0.45		

% of REDEMP	NAME	PROD CODE	DEPOSITS COLLECTED	DEPOSITS REDEEMED	NET DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO STATE	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
35	SICOW MILLS	H	\$422.40	\$151.85	\$270.55	\$135.28		\$135.28		
116	SUNSWEET GROWERS	J	\$1,897.80	\$2,203.90	-\$306.10	-\$153.05			-\$153.05	
46	SUNTORY WATER GROUP	J	\$4,376.40	\$2,055.90	\$2,320.50	\$1,160.25	-\$10,725.41		-\$9,565.16	
71	SUPERVALU-PRESQUE ISLE	S	\$4,248.20	\$3,024.20	\$1,224.00	\$612.00		\$612.00		
	TREE TOP	J		\$5.25	-\$5.25	-\$2.63	-\$139.66			
23	VERMONT PURE SPRINGS	O	\$217.80	\$52.20	\$165.60	\$82.80		\$82.80	-\$142.29	
129	VERIFINE PRODUCTS	J	\$76,495.10	\$98,895.85	-\$22,400.75	-\$11,200.37	-\$16,183.28		-\$27,383.65	
102	REPORT TOTALS - CASH		\$5,701,358.74	\$5,861,748.52	-\$160,389.88	-\$79,990.38	-\$378,574.05	\$91,498.23	-\$550,262.67	\$0.00
	REPORT TOTALS - UNITS		114027174	117234970	-3207797	-1599807				

164,705.95 ← 1993 credits
 385,556.72 CARRIED OVER TO 1994
 NOT ENTITLED TO A REIMBURSEMENT

1994 REIMBURSEMENT REQUESTS NOW IN (REQUESTS END APRIL 20TH, 95')

\$148,872.01 ← (THIS TOTAL REPRESENTS 1994, 50% OF TOTAL OVER-REDEMPTIONS)
 (50% IS THE TREASURY REGULATION'S RULE)

**RESOLUTION OF THE
MAINE RESOURCE RECOVERY ASSOCIATION
COOPERATIVE MARKETING COMMITTEE**

WHEREAS, the State of Maine has determined that proper solid waste management includes a well balanced waste hierarchy, and

WHEREAS, the Maine Waste Management Agency was created to draft a state wide Waste Management Plan, as well as to provide funding and technical expertise to municipalities to assist them in achieving the goals of the Plan, and

WHEREAS, under the guidance of the Agency, the State of Maine is now ranked fourth in the nation for recycling progress, and

WHEREAS, the Maine Resource Recovery Association Cooperative Marketing Committee is comprised of municipal recycling programs and works closely with the Agency in fostering the State-wide goals in the Plan, and

WHEREAS, the Co-Op feels that there is still a need in the State of Maine for both technical support to local recycling programs and a continual monitoring or recycling progress.

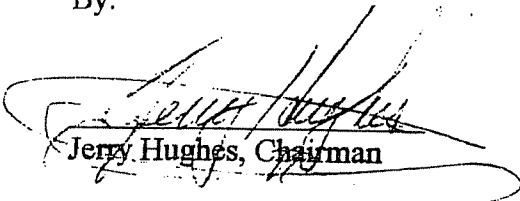
Now, THEREFORE, let it be RESOLVED, by the Maine Resource Recovery Association's Cooperative Marketing Committee, that the Maine State Legislature be encouraged to adopt LD 229, as amended, into law, and

Be it further RESOLVED by the Co-Op that the Maine State Legislature be encouraged to ensure that LD 229 include provisions for the transfer of necessary staff from the Agency to the Office of State Planning, said staff to consist of six positions that will continue the technical support of local recycling programs and business recycling efforts, as well as the continued planning and monitoring of recycling progress in the State of Maine, and

Be if further RESOLVED by the Committee that the Maine State Legislature be encouraged to appropriate the necessary funding for the positions as previously described.

Unanimously approved by the Maine Resource Recovery Association's Cooperative Marketing Committee, serving the communities as attached, on March 23, 1995 in Augusta, Maine.

By:


Jerry Hughes, Chairman

MAINE RESOURCE RECOVERY ASSOCIATION MARKETING COOPERATIVE

PO Box 1838 9 Central St Suite 309

Bangor, ME 04402-1838

(207) 942-6772

Member

Towns Served

***As reported to the Cooperative**

Arundel

Arundel

Augusta

**Augusta
Chelsea
Farmingdale
Hallowell
Gardiner
Manchester
Pittston
Randolph**

Bangor

**Bangor
Frankfort
Glenburn
Hudson
Kenduskeag
Levant
Orono
Orrington
Pleasant River (Addison)
Searsport
Steuben
Stonington
Swanville
Winterport**

Bar Harbor

Bar Harbor

Belfast

**Belfast
Northport**

Buxton

Buxton

Coastal Recycling

**Cherryfield
Columbia
Franklin
Gouldsboro
Hancock
Harrington
Lamoine
Milbridge
Sorrento
Sullivan
Winter Harbor
Deblois**

Eliot

Eliot

Ellsworth

**Ellsworth
Township #8
Winter Harbor Naval Security Group**

Fryeburg

**Fryeburg
Chatham, NH**

Howland

**Howland
Enfield
Edinburg
LaGrange
Medford
Maxfield
Passadumkeag
Seboeis
Winn
Burlington
Lee
Lowell
Mattawamkeag
Springfield**

Jay

**Jay
Fayette
Mt Vernon
Livermore Falls
Vienna**

Kennebec Valley Regional Waste Corp

**Anson
Bingham
Moscow
Starks
Concord
Pleasant Ridge Plantation
Caratunk
Forks
West Forks
Solon
Madison**

Kennebunk

**Kennebunk
Kennebunkport**

Lewiston

**Lewiston
Greene
Leeds
Turner
Litchfield**

Lisbon

Lisbon, Lisbon Falls, Lisbon Center

Midcoast Solid Waste Corp

**Camden
Rockport
Lincolnville
Hope
Monhegan
Searsmont
Vinalhaven
NorthHaven
Islesboro
Thomaston
South Thomaston
Owls Head**

Mid Maine Solid Waste Assn

**Corinna
Dexter
Exeter
Ripley
St Albans**

Millinocket

**Millinocket
Medway
Woodville
Mattawamkeag
Burlington**

Northern Katahdin Valley Waste District

**Amity
Crystal
Dyer Brook
Hammond
Hersey
Island Falls
Merrill
Moro Plantation
Mount Chase
New Limerick
Patten**

Newport

Newport

Northern Oxford County Regional Solid Waste

**Byron
Dixfield
Mexico
Peru
Roxbury
Rumford**

Oakfield

Oakfield

Old Town

**Old Town
University of Maine
Alton
Milford
Bradley
Indian Island**

Oxford

Oxford

Saco

**Saco
Old Orchard Beach
Alfred
Dayton**

Sandy River Recycling Assn

**Carrabassett Valley
Carthage
Chesterville
Eustis
Farmington
Industry
Kingfield
New Portland
New Vineyard
Rangeley
Strong
Temple
Weld
Wilton
Coplin Plantation
Dallas Plantation
Rangeley Plantation
Sandy River Plantation
New Sharon
Mercer**

Sherman

**Sherman
Stacyville
Benedicta
Silver Ridge**

Tri-Community Recycling

**Caribou
Fort Fairfield
Limestone
Woodland
Blaine
Hamlin
Stockholm
Westfield
Connor
Westmanland
Easton
New Sweden
Mars Hill**

Topsham

Topsham

Waterville-Winslow Solid Waste Corp

**Waterville
Winslow
Fairfield**

Wiscasset Solid Waste Transfer & Recycling

**Wiscasset
Westport
Woolwich
Alna**

Maine Resource Recovery Association-Marketing Cooperative
9 Central Street, Suite 309
PO Box 1838
Bangor, Maine 04402-1838
(207) 942-6772/Fax (207) 942-4017

FAX TRANSMITTAL SHEET

Date: March 28, 1995

TO:

Name: Denise Lord

Company: Maine Waste Management Agency

Fax Number: (207) 287-5425

FROM:

Name: Kathy Guerin

REGARDING: Resolution from Coop

Number of sheets including transmittal sheet: 8

COMMENTS:

Rich Roedner from Saco put the Resolution together for us. We are sending it on to Natural Resources and Appropriations.

There are 180 towns under the Coop now. Phone calls will start being made by members to their reps.

How are things shaping up in the work sessions?

K

TESTIMONY OF THOMAS M. BROWN BEFORE THE
COMMITTEE ON NATURAL RESOURCES
MARCH 13, 1995
STATE HOUSE-AUGUSTA, MAINE
IN SUPPORT OF THE PASSAGE OF
L.D. 447 SPONSORED BY REPRESENTATIVE GOULD

Senator Lord, Representative Gould and Members of the Committee:

My name is Thomas M. Brown. I am an attorney for the Municipal Review Committee, Inc. and a member of the Eaton, Peabody law firm in its Bangor office. The Committee, or MRC as it is often called, is a non-profit corporation with a membership of 90 communities headquartered in Bangor. Charter members range from Millinocket to Baileyville to Mount Desert to the Rockport-Rockland area to the Boothbay Region to Greater Waterville to Guilford, Dover and Dexter to Greater Bangor -- 165,000 tons of solid waste was delivered to the Penobscot Energy Recovery Company (PERC) by MRC communities in 1994.

Coat-tailing our membership are more than 60 other communities with an additional 40,000 tons of trash annually who also have long term contracts with PERC.

In a very real sense, the MRC has a \$100,000,000 mission in the form of a public and private investment in the PERC plant in Orrington. This investment is the result of a truly fine collaboration among many MRC communities, Sawyer Environmental Resources Facilities (SERF) and PERC owners during the mid-1980's. These three entities, meaning the non-profit MRC, PERC, and SERF have accomplished much -- but ancillary facilities to support the PERC plant must still come on line as existing landfill capacities to receive its ash and its front end process residue (FEPR) are exhausted.

Permit me to back up to the inception of this very creative collaboration so that you will know how much has been accomplished, how it has been accomplished, why it was accomplished and what we, as various regions and as a state, must continue to accomplish in order to avoid putting critical infrastructure at risk.

In the early 1980's, the handwriting on economic and environmental walls was clear -- without cost effective and environmentally sound management and disposal of solid waste, Maine's economy eventually would be savaged and the natural environment would suffer greatly, as well.

In our region, the City of Brewer, through the leadership of Rene Perry, its then City Manager, brought many of the communities in the Penobscot watershed together. These communities pooled several hundred thousand dollars. These sums were supplemented by grants from the DEP. They hired a Connecticut engineering firm, Eastern Maine Development Corporation and the Eaton, Peabody law

firm -- and they spent that money wisely on engineering studies, demographic studies and assessments of various alternative waste management approaches -- all to the end of attaining the greatest public good for the greatest number of communities.

This effort resulted in a decision that for the largely rural area under consideration a 20-25 megawatt waste to energy plant was necessary. It also was desirable that the facility have a capacity to process annually upwards of 275,000 tons of the types of solid waste which are suitable for combustion in a manner that would enhance recycling and reuse efforts, as well as preserve existing landfill capacity.

The next decision that was made by the 20 participating communities was that private enterprise should design, build, own and operate the facility as well as site the facility.

Therefore, the engineers, the lawyers and the staff of EMDC developed a Request for Proposals. In tandem, one of my partners and I drafted legislation that became the Maine Refuse Disposal District Enabling Act in order to permit communities to form appropriate legal entities for all types of facilities for the management of solid waste.

The next phase included the selection of Penobscot Energy Recovery Company (PERC). Over a period of several months a standard form of contract was negotiated which was to have a term of 30 years in order to afford communities a long-term solution with a predictable cost for the management of a large portion of each community's solid waste.

The core communities proceeded to form their refuse disposal district known as Penobscot Valley Refuse Disposal District while PERC went about securing \$86,000,000 in tax free financing with the help of FAME.

In order to obtain financing, PERC had to demonstrate to its lenders that it would be able to obtain an adequate power sales contract with a power company. Further, PERC had to demonstrate that it had enough tonnage under contract at a price that would support PERC's financial projections.

The tonnage capacity for PERC was presold in two ways. The initial District members signed contracts, each guaranteeing to deliver to PERC a specified amount of tonnage annually and SERF contracted for a large block of tonnage that it allocated among an additional 50 communities. These contracts are commonly referred to as "put or pay agreements", for if a community does not put their guaranteed annual tonnage, it still is obligated to pay the tipping fee for the guaranteed amount of tonnage.

SERF also agreed to provide two other essential functions. It contracted with PERC to see to the disposal of PERC's ash and to the disposal of glass and grit, as well as other non-combustibles that are not suited either for recycling or combustion.

I have outlined for you the evolution of the \$100,000,000 PERC plant, why it ticks and what makes it tick.

The facility has been constantly in operation in Orrington since February 1988. I happen to live in Hampden across the Penobscot River from the plant and use the stack as my windsock. I have often said that what comes out of the stack is not a problem. A very real problem for the economy of Maine would be visited upon us only if nothing comes out of that stack.

As many of you are at least somewhat aware, a giant blip appeared on the proverbial screen in August 1989. PERC announced that revenues from power sales were significantly less than had been projected and further that costs of operating the processing lines were far greater than the original projections. PERC documented its losses to date and presented updated projections based upon actual operating history, as well as convincingly explained that the owners were not going to pour more millions of dollars down a hole.

To all appearances, the project was headed into a straight liquidation under Chapter 7 of the Bankruptcy Code without even stopping at Chapter 11 for an attempt at financial rehabilitation under the protection of the Bankruptcy Court.

At this juncture, the only communities who were organized into a trading or negotiating group was the now 30 member District. However, ninety communities were being served by the plant in 1989, one-half of them being so-called SERF communities.

The towns coalesced around the District and SERF. I borrowed what became the overruling philosophy for the vast majority of the 90 communities from the book entitled All I Need to Know I Learned in Kindergarten, namely, that the communities needed to "hold hands and stick together".

The District and SERF promptly organized and underwrote a 9 member negotiating team consisting largely of municipal officials selected from District communities, SERF communities and previously non-aligned communities served by PERC. This negotiating committee came to be known as the Committee to Analyze PERC or "CAP".

CAP engaged my firm, staff from EMDC and a consulting firm to assist in fact finding and negotiations. In addition, SERF volunteered its attorney to assist CAP.

At the request of CAP, most communities agreed to an interim fee of \$40 per ton which was more than a 100% increase in the average contractual tipping fee. This approach stabilized the plant for the next 18 months as most communities followed the lead of CAP. CAP proceeded to evaluate the plant technology, debt load, environmental performance, efficiencies and the like.

The goal of CAP became one of establishing an equitable arrangement between the private owners and area communities at a stable cost to area communities. The plant essentially was a good plant in need of significant modifications which could be made over time. Those modifications could (and were) financed through a \$4,000,000 contribution by the designer and builder of the plant, additional capital contribution by the owners and increased tipping fees from the communities.

As negotiations progressed, a strong municipal monitoring role evolved in order to assure the financial health and environmental soundness of the plant. This role continues in the form of oversight by the successor to CAP. The MRC is this successor. It is now a permanent fixture which works both to assure that the terms of the renegotiated solid waste arrangement are fulfilled by all parties and to assure that there are ancillary facilities and services in place in order for PERC to serve the 160+ communities sending waste to PERC every day.

The communities served by PERC and SERF encompass more than 25% of the population of this State. You may then add all of the trash and other solid waste generated by our tourists.

The Board of Directors of the MRC have passed a Resolution by a vote of 8 to 0 with one abstention. The abstaining member is the Town Manager of Hampden. Hampden is the host community for SERF's special waste landfill including the ash capacity for PERC.

This Resolution which I deliver to you today supports the passage of LD 447. However, the MRC Board realizes that the passage of LD 447 does not assure the development of additional ash capacity or of additional FEPR capacity by SERF. It is necessary that SERF have an opportunity to explore, test and otherwise investigate an expansion of its existing facility.

Not only is the State stalled in its obligation to locate, replacement ash disposal capacity, but known disposal options for cost effective disposal of FEPR in Maine are only available into October of this year. Then, life will become very expensive -- we get to ship 35,000 tons of FEPR out of state for an additional \$1,000,000 expense to the communities each year at a minimum. Such is money that can be put to better use by the communities.

The MRC Resolution also addresses LD 229 and the need for this state to continue its efforts to site the so-called Carpenter Ridge Special Waste Landfill in Penobscot County.

At the hearing on that LD, the Vice Chairman of the MRC Board, Elery Keene, will testify as to the concerns expressed in the Resolution.

Maine has 4 waste to energy plants representing an investment of \$350,000,000. Each must be supported by ancillary facilities. They are a very critical part of this State's infrastructure and of this State's well being -- just as are roads, bridges, airports, water, sewer and the University system.

I respectfully suggest that the Legislature heed the advice of the MRC communities and their partners and pass LD 447.

One final note of caution: PLEASE do not assume that by lifting the general prohibition against the development of new commercial landfills by private enterprise, you would successfully address the problem -- you will not! We tried that in 1989 at a place in Washington County known as Township 30. The three private developers who were encouraged to do so by the PERC communities spent \$800,000 apiece and failed. PERC, SERF and a third partner were burned badly.

This episode made it eminently clear that state government is the only realistic answer over the long haul for siting landfills. The State can always hire private enterprise to build and operate them.

I submit 16 copies of the Resolution and my prepared testimony, as well as materials pertaining to MRC membership and the MRC President's Annual Report to the membership.

PERC, SERF and the MRC Board invite you to tour our facilities in Orrington and Hampden.

For years, I have been concerned that the residents of Maine, including legislators, know too little of the portion of their State which lies North and East of their hometowns. But, now that you have recently returned from your bus tours, I feel more at ease in this respect.

The MRC Board would like to be involved in the work sessions. Thank you.

W01961\95\g\11

% of REDEMP	NAME	PROD CODE	D E P O S I T S COLLECTED	D E P O S I T S REDEEMED	N E T DIFFERENCE	REPORTABLE TOTAL	PRIOR CR/DB BALANCE	PAID TO STATE	REMAINING CR/DB BALANCE	CREDIT REIMBURSED
35	STOW MILLS	H	\$422.40	\$151.85	\$270.55	\$135.28		\$135.28		
116	SUNSWET GROWERS	J	\$1,897.80	\$2,203.90	-\$306.10	-\$153.05			-\$153.05	
46	SUNTORY WATER GROUP	J	\$4,376.40	\$2,055.90	\$2,320.50	\$1,160.25	-\$10,725.41		-\$9,565.16	
71	SUPERVALU-PRESQUE ISLE	S	\$4,248.20	\$3,024.20	\$1,224.00	\$612.00		\$612.00		
	TREE TOP	J		\$5.25	-\$5.25	-\$2.63				
23	VERMONT PURE SPRINGS	O	\$217.80	\$52.20	\$165.60	\$82.80	-\$139.66	\$82.80	-\$142.29	
129	VERYFINE PRODUCTS	J	\$76,495.10	\$98,895.85	-\$22,400.75	-\$11,200.37	-\$16,183.28		-\$27,383.65	
102	REPORT TOTALS - CASH		\$5,701,358.74	\$5,861,748.52	-\$160,389.88	-\$79,990.38	-\$378,574.05	\$91,498.23	-\$550,262.67	\$0.00
	REPORT TOTALS - UNITS		114027174	117234970	-3207797	-1599807				

164,705.95 ← 1993 credits
 CARRIED OVER
 TO 1994 &
 NOT ENTITLED
 TO A
 REIMBURSEMENT

1994 REIMBURSEMENT REQUESTS NOW IN (REQUESTS END APRIL 20TH 1995)

\$148,872.01 ← (THIS TOTAL REPRESENTS 1994, 50% OF TOTAL OVER-REDEMPTIONS)
 (50% IS THE TREASURY REGULATION'S RULE)

THE CSG/ERC
LEGISLATIVE CLEAN AIR POLICY COMMITTEE
January, 1995 New York, NY

The Legislative Clean Air Policy Committee was created in January, 1995 under the auspices of the Council of State Governments/Eastern Regional Conference (CSG/ERC). The Policy Committee will be composed of state legislators in member states of the Ozone Transport Commission who have an interest in, or are concerned about, the direction of air quality policy in the region and the status of Clean Air Act implementation. The Policy Committee will be staffed by the CSG/ERC in New York. The mission of the Legislative Clean Air Policy Committee will be to develop and coordinate policy positions among state legislators on Clean Air Act implementation issues. This will include establishing and maintaining paths of communication among all stakeholders interested in clean air in the northeast. The Policy Committee will achieve this mission by:

- Establishing a dialogue among state legislators, the EPA and the Ozone Transport Commission.

In order for the various provisions of the Clean Air Act (CAA) to be implemented in a timely and consistent fashion, state legislators must work closely with state regulators and the federal EPA to pass appropriate authorizing legislation. It is crucial that regular communication is established to ensure the distribution of up-to-date information to regional legislators.

- Developing and coordinating positions on CAA implementation issues that impact the region.

Policy Committee members will meet periodically to discuss the status of the Clean Air Act and will make consensus recommendations on current implementation issues. These recommendations will be based on the most current scientific, technological and economic information and will take into account a wide diversity of opinions and viewpoints.

- Ensuring the legislative perspective in EPA's clean air decision-making process.

One concern among state legislators throughout the region is that the valuable perspective of state legislators has been absent during the debates regarding air quality in the region. The Policy Committee will seek to correct this oversight by having a representative from the Working Group attend relevant meetings of the EPA, the Ozone Transport Commission and NESCAUM. The Policy Committee will also distribute meeting notices to interested legislators, and will comment verbally and in writing on critical air quality decisions that may impact the region.

- Serving as a forum for information exchange on state legislation, programs and policies.

The Policy Committee will also provide a forum for legislators, staff and other state officials to share information regarding air quality policies and programs. These will include innovative programs, cost effective policies and best practices.

The Legislative Clean Air Policy Committee will be organized and coordinated by the CSG/ERC. For more information, contact Russell Paule-Riggs at 212-912-0128.

THE CSG/ERC
LEGISLATIVE CLEAN AIR POLICY COMMITTEE

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