

**Act Number:** 09-112 Vetoed

**Bill Number:** 3

**Senate Pages:** 2460-2529

70

**House Pages:** 6836-6896

61

**Committee:** Environment: 981-1020, 1044-1071, 1074-1075, 1076-1080, 1088-1090, 1103-1109, 1116-1123, 1127-1154

121

**Page Total:**

252

**S - 584**

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2009**

**VOL. 52  
PART 8  
2344 - 2636**

tmj  
SENATE

117  
May 19, 2009

like to ask that the underlying bill be placed on  
Consent.

THE CHAIR:

Is there any objection? Seeing no objection, the  
item is placed on the Consent Calendar.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, if the  
Clerk might next move to call an item previously  
marked "passed temporarily." On Calendar page 30,  
Calendar 273, Senate Bill number three. We might call  
that as the next item.

THE CLERK:

Moving to Calendar page 30, Calendar 273, File  
Number 341, Senate Bill Number 3, AN ACT PROHIBITING  
THE ACQUISITION AND USE OF CERTAIN PARCELS OF LAND AS  
ASH RESIDUE DISPOSAL AREAS, Favorably Reported,  
Committee on Environment and Planning and Development.  
Clerk is in possession of Amendments.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Mr. President, I move acceptance of the Joint

tmj  
SENATE

118  
May 19, 2009

Committee's Favorable Report and passage of this bill,  
with permission to summarize.

THE CHAIR:

Senator McDonald, for what purpose do you rise?

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I have  
to recuse myself on this item under rule 15.

THE CHAIR:

So noted.

SENATOR MEYER:

Mr. President, I yield to the Majority Leader.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you, thank you, Senator Meyer for the  
yield. Just on behalf of Senator Gaffey, who will  
also be recusing under Rule 15 on this item.

THE CHAIR:

Can the General so note that? Senator Meyer, you  
may proceed.

SENATOR MEYER:

Thank you, Mr. President. Colleagues, this bill  
is in two parts. I'll be offering an Amendment in a

tmj  
SENATE

119  
May 19, 2009

minute. But the first part relates to a decision by CRRA to put a huge ash residue on an aquifer that serves to provide the drinking water for the town of Franklin. The location of this ash residue is made sensitive by putting it on this very significant aquifer and also, by the fact that the ash residue is being placed next to a recreational river. And so, what the first part of this bill does is to prohibit CRRA from doing that. And I will tell you that I spent some time with CRRA, trying to get them to look at alternatives and found no helpful, constructive, useful dialog with that Agency. So this is a very important part of the bill.

Would the Clerk kindly call LCO 6395?

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 6395, which will be designated Senate Amendment, Schedule "A" is offered by Senator Meyer of the 12th District, et al.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

tmj  
SENATE

120  
May 19, 2009

Thank you, Mr. President. I move the Amendment and ask leave to summarize.

THE CHAIR:

Questions on adoption of the Amendment? Senator Meyer.

SENATOR MEYER:

Colleagues, this first Amendment is a very short one. I mentioned to you that the bill would prohibit CRRA from using this particular parcel of property for an ash residue, a disposal area. After further reflection, the advocates of this bill decided that we want to have a prohibition cover not only CRRA, but also any other person or entity from placing this ash residue disposal area on this aquifer. And so the Amendment before us merely adds the words "or any other person or entity". And I move it and urge your adoption of this Amendment.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you, Mr. President. I have some questions through you, Mr. President, to the proponent of the Amendment and, especially, as regards the underlying

tmj  
SENATE

121  
May 19, 2009

bill, as well. I mean, a lot of my communities are part of the Connecticut Resource Recovery Authority territory and, you know, I can't help but when I drive to work here in Hartford or even past, going by that enormous ash land -- I guess it's land fill, on the east side of Route 91. And so I guess that the CRRA has used up all available space. If we're going to move forward with this bill as it's amended, is that going to delay such that my towns are going to be upset because there's going to be additional costs? Through you, Mr. President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Mr. President. In a discussion with CRRA, that organization confirmed the information that I've been given and that was that there is an existing ash residue disposal area in the town of Putnam, which has, I think, 17 years more to go. And so, we were really -- we wouldn't have done this bill if CRRA had agreed to use that existing ash residue disposal area, which, again, has an additional life of 17 years.

THE CHAIR:

tmj  
SENATE

122  
May 19, 2009

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. I appreciate that. Thank you, sir.

THE CHAIR:

On the Amendment, any other comment on the Amendment? Seeing no further comment on the Amendment, all those in favor, please signify by saying Aye.

SENATORS:

Aye.

THE CHAIR:

Opposed. The Amendment is adopted. Senator Meyer.

SENATOR MEYER:

A second and final Amendment, Mr. President, would the Clerk kindly call LCO 7361?

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 7361, which will be designated Senate Amendment Schedule "B", as offered by Senator Meyer of the 12th District, et al.

tmj  
SENATE

123  
May 19, 2009

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Mr. President, I move this Amendment and ask, respectfully, for permission to summarize it.

THE CHAIR:

The question is on the adoption of the Amendment.

Senator Meyer.

SENATOR MEYER:

Colleagues, this Amendment presents us with an additional environmental problem in a different part of Connecticut, in the city of Waterbury. The city of Waterbury has taken a large number of environmental hits. Indeed, under the concept of environmental justice, Waterbury has done much for the people of this State and for the people of that city.

And now, unfortunately for the city, there is a proposal to put in that city, in close proximity to schools and churches, a food-to-energy plant. And the belief is that that food-to-energy plant will be a very large facility that will encumber the city and present a real threat to the enjoyment of the schools, the college campus, the hospitals and the other

tmj  
SENATE

124  
May 19, 2009

organizations, including art centers that are in that city. And so, what this Amendment does is, prohibit the granting of a permit to permit the construction or operation of this plant in the city of Waterbury. And I ask, again, for your approval of this important Amendment.

THE CHAIR:

Thank you. Questions on the Amendment. Seeing no additional comment, all those in favor of the Amendment, please signify by saying Aye,

SENATORS:

Aye.

THE CHAIR:

Opposed? The Amendment is adopted. Senator Meyer.

SENATOR MEYER:

Mr. President, there are two distinguished Senators here in the Chamber whose districts are affected by this bill and each of them has said that she wants to briefly address the Chamber. And I would, respectfully, yield to Senator Prague first.

THE CHAIR:

Senator Prague, do you accept the yield?

tmj  
SENATE

125  
May 19, 2009

SENATOR PRAGUE:

I do, Mr. President. Thank you and, through you, to Senator Meyer, thank you very much for the yield.

I want to talk about the underlying bill and CRRA's plan to go into the little town of Franklin. Franklin is a very rural, agricultural town of 1200 voters and maybe, 2500 people. The aquifer that CRRA is planning to put their land fill is the main aquifer to the town of Franklin, and everybody in Franklin, as well. The Shetucket River -- CRRA is planning to put this landfill, which extends over to the banks of the Shetucket River -- is the source of drinking water for the town of Sprague. Besides that, CRRA has not gotten a permit indicating need from DEP. When I spoke to Gina McCarthy, before she left -- I hope she'll be back, to tell you the truth. But in our conversation, she said that they would have a very big hill to climb and a tough job proving that they have need to get this certificate showing need, this permit, because of the landfill in Putnam. They currently have a contract with the landfill in Putnam. And the man who is taking the ash from Hartford to Putnam is a man from Willimantic who I know very well.

tmj  
SENATE

126  
May 19, 2009

When I called him and said "Tom, would it be cheaper for you to take that ash from Hartford to Franklin than it is you taking that ash to Putnam?", he said "Not significantly." So the issue of cost is rather questionable, to tell you the truth. When I spoke to the people at Wheelabrator, who run the Putnam landfill, they said that they had not yet been asked to sit down and work out a contract for an extended use beyond the three years that CRRA currently has to dump that ash in Putnam. So, ladies and gentlemen, the people in Franklin had a referendum. There's 1200 voters. 500 came out to absolutely oppose CRRA going into Franklin. 97 came out to not oppose. That, overwhelmingly, the people in Franklin don't want this ash landfill in their small, rural, agricultural community.

There would be some 60 trucks a day going over Route 32. If any of you know Route 32 from the extension at the end of 2 over to where they're proposing to put this dump, Route 32 is a very narrow two lane road. That's 120 trucks, 60 filled with ash, going to the landfill, and 60 empty trucks going back. That, in itself, is another problem for the town.

tmj  
SENATE

127  
May 19, 2009

And then, I went out to the piece of property that CRRA is planning to use as an ash landfill with our assistant state historical preservation area, part of Culture and Tourism, David Bahlman. Anyhow, we went out there. It was amazing to see some of the historical places on this piece of property. We went to the Windham Fish and game Club across the river, had to climb up this steep bank and we came to this cemetery, this little cemetery and to this foundation of an old farmhouse right next to it. The foundation, brick by brick, is still there and the cemetery has these stones, you know, with names written on them of family members. And David Bahlman, from the Historic Preservation Agency said "They can't touch this." There are many things on that property that date way, way, way back. That piece of land is no place for an ash landfill. They will totally destroy what needs to be preserved and what needs to be protected. If there were not 17 years left out at Putnam, and besides the 17 years, there's another 400 acres that Wheelabrator has out there that can be expanded if they need more room. And this property is out, like, in an isolated place. There are no houses around. It's strictly

tmj  
SENATE

128  
May 19, 2009

open land. It's a perfect place, if you need to have a landfill, to have one. It won't bother anybody. It won't be in anybody's way. And logically speaking, it just does not make sense to put that landfill in the town of Franklin.

So I'm asking this body to support this bill, Senate Bill 3. It is -- once you destroy property, it's gone forever. And that piece of property in Franklin has got to stay the way it is; to supply the water that the people in Franklin use for drinking, to protect the Shetucket River that's not only a sport river, but the source of drinking water for Sprague, and to protect the organic farming and other agricultural businesses that take place in Franklin. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Senator Hartley.

SEANTOR HARTLEY:

Good afternoon, Mr. President. It's a delight to see you there, sir.

I rise in support of this bill and I would like to speak, particularly, to Senate Amendment "B". But before I do, Mr. President, I first of all, want to

tmj  
SENATE

129  
May 19, 2009

recognize the leadership and work of our Senate Chair of the Environment Committee, who, certainly, has distinguished himself on environmental issues. And with regard to this particular situation, I just want to thank him for his keen eye and his incredibly quick sense to recognize an issue which we actually just passed legislation speaking to last year. And that was the issue of environmental justice. And I also would like to recognize Senator Prague, who, of course, has a long and distinguished record on all things environmental, which the actual underlying bill speaks to.

Mr. President, if I might, for a moment, just engage in and give a history, which brings us, quite frankly, to this discussion and this Amendment. I believe it was in the seventies when this body decided that the siting of facilities for hazardous waste and electricity and so forth, would be done by a body which we now refer to as the Siting Council. And they were empowered, and appropriately so, to do those siting on a statewide basis. And let me fast forward to, I do believe, it was 2007, when this legislature realized that we needed to definitively recognize the

tmj  
SENATE

130  
May 19, 2009

fact that the fossil fuels of the past were the wrong way to go and we, indeed, needed to embark and embrace the technology. And we adopted legislation which we commonly refer to as 2020, which was establishing, for the State of Connecticut, the goal of attaining 20 percent renewable energy by the year 2020, a very laudable and important goal environmentally and in many other respects. And then it was just last year, I believe, late April-May of 2008 when we recognized that this conversation needed further qualification with respect to communities that, in many instances, were being disproportionately affected by the siting of such facilities. And certainly negatively impacted in many respects; the quality of health, their overall communities.

And so, it is today's Amendment, that is, Senate "B", which speaks to that issue, which was adopted just last year in 2008, which we commonly know as Environmental Justice. As the Chairman of the Environment Committee so appropriately explained, it speaks to a particular siting which would be located in a community that is highly populated, densely populated. There is a corridor, which, of course, is

tmj  
SENATE

131  
May 19, 2009

environmental, because that is the legacy of the city of Waterbury. We were, at one time, the brass city of the world. And so we do have the vestiges of those manufacturing sites. However, we also are a city and we are very densely populated and this is in the heart of the city.

And the infrastructure around, let me tell you, how dense and populated this is. We have seven schools, two magnet schools, a university campus, two hospitals, an entertainment center -- a 2500 seat entertainment center. So it is -- that would lead you to believe that it is a very densely populated area with that kind of infrastructure existing in the immediate area. And just last week, actually, the city of Waterbury invested almost a quarter of a million dollars to initiate a housing project that would be just a block away, because the housing stock is, clearly, in need of gentrification and the city is embarking on that.

In addition to that, this is a part of town that not only is densely populated, but is one of the poorest, if not the poorest in the city of Waterbury. And it is largely a Hispanic community. And it is one

tmj  
SENATE

132  
May 19, 2009

that we have been working very rigorously to try to shore up. And very recently, we had sited in this community, and this is within a sixteenth of a mile of what we're talking about, an 18 million gallon liquid gas storage tank. And then, of course, last year, we had sited in this very same block, same census track, but same block, a 96 megawatt power plant, which is scheduled to open up this June, actually, in just several weeks.

So, as I say to you, Mr. President, this is not a case of NIMBY -- we all understand what that is, Not-In-My-Backyard. This is not a conversation about Not-In-My-Backyard, because it is in our backyard. It's not just in our backyard once, it's in our backyard twice. But what this is, is a conversation about environmental justice. Because the question then becomes when is enough, enough? And I do believe that we never intended for any one community to disproportionately absorb the lion's share of these kinds of facilities. And I do believe after adopting last year, the environmental justice legislation, we recognize the importance of identifying those communities and helping them in the process.

tmj  
SENATE

133  
May 19, 2009

Senate Amendment "B" does just that and I ask Mr. President and the Members of the Chamber to support this, in view of the fact that three major plants within a sixteenth of a mile of each other is enough. We've done our share, Thank you, Mr. President, I appreciate it.

THE CHAIR:

Thank you, Senator Hartley. Senator Guglielmo.

SENATOR GUGLIELMO:

Thank you, Mr. President. If I may, a question to Senator Prague, since she has visited this site.

THE CHAIR:

Please proceed.

SENATOR GUGLIELMO:

Senator, I had a call from a constituent -- and I don't know if you can answer these questions or not, but he indicated that his concern was that this whole property was going to be clear cut right down to the river. Is that -- is his understanding correct? Do you know that?

SENATOR PRAGUE:

Through you, Mr. President. I'm not exactly sure how CRRA is going to deal with that property, but they

tmj  
SENATE

134  
May 19, 2009

would have to clear cut it in order to flatten it so -- they have to build a road from 32, an access road, down to where they're going to -- God forbid -- put that landfill. That's what their plan is.

THE CHAIR:

Senator Guglielmo.

SENATOR GUGLIELMO:

Thank you, Mr. President. Through you, just a couple more questions. Do we know if the foundation in the cemetery will be disturbed by the project or will they be left intact? Do we have an answer from CRRA on that?

THE CHAIR:

Senator Prague.

SENATOR PRAGUE:

Through you, Mr. President. There will be archaeologists who are going to go through there to find out other pieces of history that have to be preserved. I went farther than just that foundation in the cemetery. I went over to the other side where there was the old town road bed. You know, when they used to use horses and wagons and the road bed was still there. And there were some foundations of the

tmj  
SENATE

135  
May 19, 2009

homes that were built alongside the road. There is tremendous history there. You know, I didn't get a chance to walk the full property. What I saw was absolutely something that I would like to have my grandchildren and your grandchildren to be able to see and enjoy and realize what life was like many years ago.

THE CHAIR:

Senator Guglielmo.

SENATOR GUGLIELMO:

Yes, thank you. Thank you, Senator Prague for her answers. I appreciate the amount of work she put into this. My same constituent also had some concerns about the fishing back there, because the State had put up some fish ladders there a few years back and there was concern about that as well. So I just wanted to ask those questions and bring that up.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

SENATOR PRAGUE:

Mr. President, through you, to Senator Guglielmo. That river is a sportsman's dream. The State does

tmj  
SENATE

136  
May 19, 2009

stock it. They use it for recreational purposes and for fisherman, you know, are hysterical, thinking that that river might be contaminated. So, thank you.

THE CHAIR:

Thank you, Senator. Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, through you, a question to the Chairman of the Environment Committee who brought up the bill.

THE CHAIR:

Please proceed. Senator Meyer.

SENATOR DEBICELLA:

Thank you, Mr. President. Through you, in looking at the fiscal note for this, the underlying bill referring to the ash residue disposal area in Franklin. This says that, whereas Franklin would have a revenue gain, that there would be a cost caused by the significant various municipalities saying that the alternative to the ash residue landfill being sited in Franklin would be transporting waste at a significant cost. Through you, Mr. President, do we have an estimate of what the cost impact would be to the other 115 communities in CRRA of shipping this out-of-state?

tmj  
SENATE

137  
May 19, 2009

Through you, Mr. President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. Through you to Senator Debicella. Senator, I don't think that necessarily, we can jump to the conclusion that this ash residue is going to be shipped out-of-state. There is, as I mentioned before, an existing ash residue deposit area in the town of Putnam, which has got 17 years more life. So I'm presuming that further ash residue is not going to be shipped out-of-state, but it's going to stay right here and just go a ways down the road to the town of Putnam and its very large, still developing site.

With respect to the cost, frankly, I don't understand the OFA note because, actually, the town of Franklin, according to the note, would get some revenue gain from the ash residue being able to -- under the law, they'd be able to get \$5 per ton of ash that they receive. So, if this is going to another municipality, I would think it would get that \$5 per ton of ash. So, I'm not sure I understand this OFA

tmj  
SENATE

138  
May 19, 2009

note.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And Mr. President, that is -- I think Senator Meyer brings up the other point. There actually is a corrected fiscal note on this as well, that indicates that the town of Franklin wouldn't actually gain 1.5 million, it would lose 1.5 million because it would not receive the \$5 per ton of ash that it would otherwise be scheduled to get if CRRA went forward with this. So, Mr. President, it seems to me, that there is an issue with this fiscal note, in that, Senator Meyers telling me that it can go to Putnam, which would probably cost a lot less than it going out-of-state. The non-partisan OFA has said that this is going to shipped out-of-state at significant cost. And as representing other towns in the CRRA district, if this bill is to represent a significant cost increase to my towns, I want to fully understand that. And, Senator Hartley mentioned the Environmental Justice Act last year, which had some very similar provisions. I was a co-sponsor of that

tmj  
SENATE

139  
May 19, 2009

bill. Senator Meyers a tremendous leader on that bill. That bill needed to be referred to the Appropriations Committee in order to fully analyze its fiscal impact. And Mr. President, before I vote on this, I want to fully understand what the fiscal impact of this is going to be. And as it does, Mr. President, have a fiscal impact on the municipalities, Proof A of the Joint Rules says that bills or resolutions carrying or requiring appropriations creating or enlarging a state mandate to local government, if favorably reported by the Committee, need to be referred over to the Committee on Appropriations. So, Mr. President, I would ask the Senator, the Chairman and the Majority Leader, if that's all right, I would proposal a referral to the Appropriations Committee under the Joint Rules.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Mr. President, to Senator Debicella. Senator, I presented this to the Screening Committee, of course, and the Screening Committee said that it does not have to go to any further Committees. And

tmj  
SENATE

140  
May 19, 2009

so, I'd be reluctant, particularly this late in the session to be sending it to more Committees, for fear that it might die in Committee. Something that would be very unfortunate for the town of Franklin and for the city of Waterbury. I might also say, trying to alleviate your concerns, and looking again, at the fiscal note, this is a very , very loose fiscal note. Because it actually says that, maybe, the cost would come by having to use privately owned landfills for this ash residue. We've got a public ash fill in Putnam and I don't -- I think OFA was stretching it a bit. I don't know the relationships between OFA and CRRA, but I --

(Laughter.)

SENATOR MEYER:

-- did get suspicious when I saw this rather strange fiscal note. So I think we're going to go with this today and then send it down to the House. Thank you for your interest.

THE CHAIR:

Thank you, Mr. President and, Mr. President, I

tmj  
SENATE

141  
May 19, 2009

fully appreciate the lateness of the session, but as I consider my own vote on this, I understand the proponent's desire not to have this ash landfill in Franklin. It sounds, from an environmental standpoint, to be the right thing to do. However, if this is going to result in a five dollar increase in tipping fees to the towns in my district or if it's going to increase it a five cent increase in tipping fees, I want to understand that before voting on this. And I think Senator Meyer's correct. The fiscal note on this is a little confusing. And I personally, want to get more information on the cost of this before voting on it. The precedents here, including the bill that we co-sponsored last year on Environmental Justice, went to the Appropriations committee. So I would encourage us, Mr. President, today to refer this over to the Appropriations Committee to actually air out these issues.

You know, we have been meeting Appropriations every week. There's not been a single bill that's died there. We're moving things along. And so, to fully understand these things, I would highly encourage us to refer this over to the committee on

tmj  
SENATE

142  
May 19, 2009

Appropriations.

THE CHAIR:

Senator, is that a motion?

SENATOR DEBICELLA:

So moved.

THE CHAIR:

All right. Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President. I would oppose the motion and ask for a roll call on the motion to refer.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. First, Mr. President, let me state that, as I know my friend, Senator Prague knows, I voted for this bill in the Environment Committee. I will vote for the bill again in the Circle and support the Amendment. I have great concern, though, about our process in following the rules. As I understand our rules, there's a mandatory referral to the Appropriations Committee for bills that have a fiscal impact. This bill clearly has a

tmj  
SENATE

143  
May 19, 2009

fiscal impact. And therefore, I think the precedent that we would be establishing by voting against the motion is a bad one. I share Senator Meyer's frustration over some of the fiscal notes. I'll repeat that. I share his frustration, but it's not for a lack of effort and good work on the people of OFA. It's that some of these issues are difficult to understand.

But we can't be about looking at a fiscal note that says there's a fiscal impact and say we're not going to refer it under our rules because we think the fiscal note is wrong. Because the minority party understands that that is a tool that the majority uses whenever they want to. And that later in this session, perhaps even later today, the very same majority party, in fact, maybe even Senator Meyer may oppose Amendments that we offer, based on what fiscal notes say. So we then get into our process and the consistency with which our rules are applied by the majority. And I would hope that the majority would understand that that is a violation of the institution. - This is a good bill that I will vote for when it gets back here. And I have no doubt that the

tmj  
SENATE

144  
May 19, 2009

Appropriations Committee can meet tomorrow at 9:30 or 10:00 o'clock prior to convening of the House and the Senate. We can immediately transmit it there or refer it there or whatever we want to.

There are committees that met outside of this Senate Circle in the hall. Meetings that I find as offensive as anything we do around here. Committee votes where people, lobbyists, stand shoulder to shoulder with Members of the Senate and the House as they're about to vote, but we do that because we want to get business done quickly. We can get this bill referred appropriately under our rules. It will get back here. I'm sure if the Majority and Senator Prague, Senator Hartley and others -- and there are Republicans who support this as well who will urge our colleagues on the Appropriations Committee to vote for it. But please, if our rules require a mandatory referral for bills that have a fiscal note, and this bill has a fiscal impact, let's follow those rules and not get into a situation where we inconsistently apply the rules, simply because it is the will of the Majority to do so. Thank you, Mr. President.

THE CHAIR:

tmj  
SENATE

145  
May 19, 2009

Thank you, Senator McKinney. Senator Meyer.

SENATOR MEYER:

This is obviously going to be decision by the Majority Leader, but, in brief response to Senator McKinney's comment, my understanding of our rule is that a bill should go to the Appropriations Committee if there's an effect upon our state finance. The fiscal note here, while it's a bit ambiguous, one part of it is very, very clear. And that is that there is no effect under the fiscal note on our state. The effect would be on only any of the towns that are affected. And my understanding of our rules is that, if we're talking about a financial effect on towns, and not the State of Connecticut, we don't require it to go to the Appropriations Committee. Again, I think this is a decision for the Majority Leader, but, on the face of the fiscal note, I don't see any need to send to Appropriations because there is no effect on the State of Connecticut.

THE CHAIR:

Thank you, Senator. Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President. I would just like to

tmj  
SENATE

146  
May 19, 2009

comment on the \$1.5 million dollar cost, quote, unquote, to the town of Franklin. First of all, they don't have that money. Secondly, the people in town voted against it, so they don't want that money. There are some things that money cannot buy. And to the people of Franklin, that prospect of getting 1.5 million dollars a year is not worth what it would cost them in the loss of their land and the loss of their way of life and in the loss of their agricultural farming environment. Thank you.

THE CHAIR:

Thank you, Senator. Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. For the second time on the motion to refer, under our Joint Rules, and just in contradiction to the comments by Senator Meyer, if we are creating or enlarging a state mandate to local governments, it is a referral to the Appropriations Committee. So maybe, the Senator's understanding was something different. But under our rules, a state mandate on our municipalities is a referral to the Committee on Appropriations. Thank you.

THE CHAIR:

tmj  
SENATE

147  
May 19, 2009

Thank you. Senator Looney.

SENATOR LOONEY:

Yes, thank you, Mr. President. In opposition to the motion to refer, the fiscal note that we have does refer, of course, to the revenue loss to the town of Franklin and the dispersal of costs to various member municipalities of CRRA, in that sense. But, under our rules, that, if the Office of Fiscal Analysis does interpret a bill as having a specific municipal mandate, that is in fact, referenced in the fiscal note. And it's not referenced in this fiscal note. So, clearly, there is not a specific cost attributed to individual municipalities, other than the general cost of the dispersal of this disposal issue to some municipalities other than Franklin, if that facility is not to be located in Franklin. So I think that the fiscal note lacks the degree of specificity that would mandate a referral, as we refer specific mandates. And, granted, arguably, this could be, clearly, a discretionary referral, but I believe it is not a mandatory referral and would oppose the motion to refer for that reason.

THE CHAIR:

tmj  
SENATE

148  
May 19, 2009

Thank you, Senator. If there's no other comment, the question will be on a motion to refer to Appropriations. A "yes" vote will uphold the motion and send it over to Appropriations. A "no" vote will deny the motion and permit action today. I'll ask the Clerk to announce the roll call and the machine will be opened.

THE CLERK:

A roll call has been ordered in the Senate. Will all Senators please return to the Chamber? Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber?

THE CHAIR:

Senator McDonald. Senator McDonald. I don't think you're supposed to be here. That's a lesson for all of you.

(Laughter.)

THE CHAIR:

Have all the Senators voted? Have all the Senators voted? We will close the vote and ask the tally to be read. Mr. Clerk.

tmj  
SENATE

149  
May 19, 2009

THE CLERK:

Motion is on adoption -- motion to refer:

Total Number Voting	32
Those voting Yea	11
Those voting Nay	21
Those absent and not voting	4

THE CHAIR:

Thank you, Mr. Clerk. The motion fails. Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. Unless anybody has any further comments? Yes, there are further comments by one of our colleagues.

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

Thank you, Mr. President. I rise for the purpose of introducing an Amendment.

THE CHAIR:

Please proceed.

SENATOR McLAUGHLIN:

If the Clerk would please call LCO number 7112 and allow me to summarize.

tmj  
SENATE

150  
May 19, 2009

THE CLERK:

LCO 7112, which will be designated Senate  
Amendment, Schedule "C", is offered by Senator  
McLachlan of the 24th District.

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

Thank you, Mr. President. The purpose of this  
Amendment --

THE CHAIR:

Senator, you need to move adoption.

SENATOR McLAUGHLIN:

Thank you. I move adoption of this Amendment,  
Mr. President.

THE CHAIR:

Thank you, Senator, you may proceed.

SENATOR McLAUGHLIN:

Thank you, Mr. President. The purpose of this  
Amendment is to call and shed light on the process  
that currently exists for the siting of cellular  
towers in the State of Connecticut.

We, in the city of Danbury, experienced a cell  
tower application that was pending for a good long

tmj  
SENATE

151  
May 19, 2009

time. And in this application, we had a situation where a bankrupt church was approached by a cell tower developer and requested a lease agreement to site a cell tower on the property. That church agreed to do so. That lease agreement sat on the shelf for several years, as I understand. At which time, the church subsequently went out of business and sold their property. The new owner of the property, another church, inherited this agreement with the cell tower developer.

Now, the developer of the cell tower renewed and filed application with the Siting Council, and promptly there was a great deal of opposition to this, both from the neighborhood and the administration of the city of Danbury.

What we discovered, in this process, was that the General Assembly had removed all local power from local land use boards to providing any serious, valid input into the siting process for cell towers. In fact, this application is for 140 foot cell tower in a residential neighborhood, in close proximity to Candlewood Lake. In less than a four-mile radius of this cell tower, there are no less than 15 other

tmj  
SENATE

152  
May 19, 2009

communications towers, one of which is 500 feet tall.

This Amendment would require, when there is local opposition, by way of the administration of a municipality in their land use boards, that the Siting Council be required to have a super-majority in their affirmative vote, by way of an appeal of the application. And so therefore, the Siting Council, which consists of nine members would require seven "yes" votes. This is very similar -- this requirement is very similar to what we use elsewhere in land use here in the State of Connecticut. When a Planning Commission, separate from a Zoning Commission has a negative report on an application for land use and requires a super-majority of the other land use board to consider and approve that application.

And so it seems logical that in the siting of cell towers, when there maybe some significant opposition, that we should also consider the requirement of the Siting Council to have a super-majority in their affirmative vote.

Now, for clarification, this particular case, and there have been many that have been opposed in the same neighborhood. Another application in close

tmj  
SENATE

153  
May 19, 2009

proximity to Candlewood Lake was struck down under the old rules by the local land use board, again, because it was in close proximity to the lake, and in the middle of a residential neighborhood.

The City of Danbury Administration, at the request of the neighbors of this cell tower application, expended incredible amounts of energy, finances, political capital to oppose the application. And the reason why the Administration was determined to do that was, it was felt that the applicant of this cell tower had not done due diligence in what we feel is their responsibility and did not do due diligence in finding alternatives to this incredibly intrusive proposal in the middle of a residential neighborhood. And so during the proceedings of this process, the City of Danbury requested, in the process, requested in the public hearing process, in the deliberations that occurred during the application review process by the Siting Council, the City of Danbury requested the Siting Council to require the applicant to more fully examine other opportunities that would not have such a detrimental effect on a residential neighborhood.

Now, unfortunately, the experience was that the

tmj  
SENATE

154  
May 19, 2009

applicant dismissed, somewhat out of hand, the request of the municipality and argued to the Siting Council that they had, in fact, done their due diligence. But here's an example of how poorly the applicant handled this situation. The applicant looked at 11 sites, potential sites in the vicinity in which they wanted to increase their cell tower service, cellular service. Ten of the property owners declined. Ten out of eleven declined because they were responsible property owners that understood that a 140-foot tower in the middle of a residential neighborhood was totally inappropriate. And so what they found was a bankrupt church to buy their deal.

So the City of Danbury suggested to the Siting Council, in the deliberation process, that the applicant should go back and look harder for additional sites. In those deliberations, they explained that while they had, in fact, looked in an awful lot of places and we -- this is the place that we could find for the 140-foot cell tower. The City of Danbury then took it upon themselves to hire two engineers who specialize in cellular radio communications to assist the city in locating

tmj  
SENATE

155  
May 19, 2009

alternatives to the placement of a 140-foot cell tower in a residential neighborhood. And I can report to you that, at great expense, the engineers did, in fact, locate alternative sites. And they are sites that the property owners were willing to entertain hosting a cellular facility. In neither case, were the alternatives going to be 140-foot towers in residential neighborhoods. They were, in both cases, co-locating, being very creative in the science of radio communications, finding alternatives that allowed new antennas to be installed that were employing stealth technology and installed in such a way that neighbors would be either unaware of their presence or because of the tremendous buffers from natural vegetation would not be an intrusion on neighborhoods.

So these proposals were presented to the Siting Council and rejected by the applicant as scientifically unworkable, inappropriate and problematic. Now, the experience was very frustrating because the City of Danbury had two very well respected electrical engineers who focus on radio telecommunications towers. And the applicant, in the

tmj  
SENATE

156  
May 19, 2009

deliberations, said, basically, these engineers don't know what they're talking about. And the sense of the whole deliberations was that the Siting Council accepted that rebuttal from the applicant and, essentially, dismissed the alternate proposals.

Now I give you a very lengthy explanation here to let you know that this, although some would say is a very typical, not-in-my-backyard objection, I believe one of my colleagues was talking about the importance of the Siting Council just a few minutes ago and I agree, the Siting Council is an important body of state government. But I also agree and urge this body to consider this Amendment because the Siting Council is a partner in state government but Siting Council is a partner in our state and that means that being a partner means that you should, in fact, seriously consider local rule. And local rule, in this case, said "No, we reject your proposal, Mr. And Mrs. Cellular Tower Developer. We reject your proposal, but we're not going to just say "not in my backyard. We're going to provide you, at our expense, great expense, great energy, alternate proposals for your consideration." And that, in and of itself,

tmj  
SENATE

157  
May 19, 2009

should not be necessary, but that's what happened in Danbury. So the alternate proposals are providing an out for the developer and for the Siting Council to acquiesce, if you will, to the local objection, but still meet the guidelines of the federal regulations that require all governments to do what they can to help increase cellular communications in this country. So we did all that. The City of Danbury did what they could. They did their part.

And the frustration then becomes, we apparently had, in Danbury, the City of Danbury had apparently successfully convinced three out of the nine members of the Siting Council that this may not be a good application, and that is my point with this Amendment today.

I ask for this body to consider this Amendment, requiring a super-majority, in that seven members of the Siting Council must overrule an objection of local land use boards when they object to a particular location of a cellular tower.

Now, I might add that I assume that the members of the Siting Council will think long and hard before they vote to overrule local rule, local decisions.

tmj  
SENATE

158  
May 19, 2009

However, in a case like I've just described to you, it is my belief, that when the Siting Council sees local government participating in the application process, participating in finding alternatives, participating in helping neighbors of a potential new cellular tower, that the Siting Council then may seriously consider going along with local objection.

So in this particular application, the vote was six to three. Six in favor, three nay. And in this particular application, of which my Amendment will not affect, can't help this particular approval. What would happen is, because the vote was six to three, it would be defeated. And that's what I'm asking this body to say. Let us use this same kind of land use rules that are very common here in the State of Connecticut. That when one land use board, one arm of government disagrees with another, let it be by majority -- super-majority vote.

I thank you for allowing me this time, Mr. President and would welcome any comments or questions.

THE CHAIR:

Thank you, Senator. Senator Meyer.

SENATOR MEYER:

tmj  
SENATE

159  
May 19, 2009

Thank you, Mr. President. Briefly, I urge the Circle to reject the Amendment for several reasons. First of all, it really relates to an energy issue more than it does an environmental issue. Secondly, under current law, at least in my Senate district, local towns do have some authority with respect to the location of cell towers, and by mandating it in the form that this Amendment does, we raise a real constitutional question as to Interference With Commerce clause. And finally, by regulating appeals to the Siting Council, we're obviously going to be incurring some new costs that are not taken into account, and we're also incurring involvement of the Siting Council in situations where the Siting Council, in the past, in my experience, has rejected local positions. And has looked at a bigger interest than the local interest. So for all those reasons, I ask that this Amendment be defeated and ask that it be done by roll call. Thank you.

THE CHAIR:

A roll call has been requested. Senator  
Debicella.

SENATOR DEBICELLA:

tmj  
SENATE

160  
May 19, 2009

Thank you, Mr. President. Mr. President, I stand to support this Amendment because I disagree with Senator Meyer. This actually represents the finest of our constitutional history, mainly that of checks and balances. And much as we have a federal system on the national and state level, so do we have a dual system between our state and our municipalities. Whereas the state is the sovereign and we have dual sovereignty on the federalism level, what Senator McLachlan has done here, is he has replicated that so that we maintain the principal of local control while putting in a check and a balance to that to prevent overly-NIMBY situations.

So, I think we can agree on those two underlying principles with this bill. First, that every town should have the right to decide for itself where those cell towers should go. That those people on the local zoning authority are best equipped to actually figure out where in town that should be. Much like the underlying bill says that the folks in Franklin have a better idea about where that ash should go relative to where CRRRA proposed it. It's the exact same concept of local authority that this Amendment that Senator

tmj  
SENATE

161  
May 19, 2009

McLachlan has created places in the hands of our towns.

But he doesn't make it absolute, he doesn't say that the towns get the final say. There's an appeals process that allows the Siting Council by super-majority to overrule a municipality. Because there will be instances where municipalities do act in a NIMBY fashion. They say "not in my backyard" and we do need cell towers in this state. So this bill, this Amendment, Mr. President, creates the right level of checks and balances to enable local control while maintaining that we have a strong cell phone network in the State of Connecticut. I applaud Senator McLachlan for the thoughtfulness that he's put into this Amendment and encourage its adoption. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, through you to Senator McLachlan. Senator McLachlan, my understanding is the purpose of your Amendment, as you so suggest, is to try to get some local control back

tmj  
SENATE

162  
May 19, 2009

to the area which is going to be inflicted, if you would, with the cell towers. Is that correct, through you, Mr. President?

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

That's correct, Senator. In fact, by allowing local land use boards to have an official say in the proceedings, not the ultimate say, because we understand that the federal regulations are encouraging the expansion of cellular communications, but to have a say in the matter that must be appealed by majority -- super-majority.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. And through you, Mr. President, it's also my understanding, for instance, I think, in local zoning regulations, are you aware, on a zone change, if a certain number of folks who are affected by the zone change sign a petition, that at a Planning and Zoning Committee, that zone change requires a super-majority to be

tmj  
SENATE

163  
May 19, 2009

approved, if more than 51 percent of the folks who are adversely affected by that zone change sign a petition in opposition of that zone change? Are you aware of such a statute? Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

I am aware that there are requirements that require a super-majority. The vote of a land use board in the State of Connecticut whenever there is opposition of another agency. And that is the foundation of this Amendment, is that we're asking for a super-majority only in the appeal process of the Siting Council's decision. Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Through you, again, Mr. President. The idea is that the Siting Council would, therefore, appreciate the concerns that the local jurisdiction has with respect to the siting, perhaps would take a more of a examination of either

tmj  
SENATE

164  
May 19, 2009

that location or other locations which the cell tower could go in. Is that the ultimate purpose of this Amendment? Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

Thank you, Mr. President. Yes, Senator. I believe that this provides an opportunity for the local municipality to raise a responsible objection, not a NIMBY objection, to the Siting Council in that if they should have a valid objection to this -- and, in the case of the City of Danbury, where they took the next steps and actually provided alternative ideas, alternative proposals, then the Siting Council should defer to the local municipality for their responsible objection. Through you, Mr. President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Mr. President, through you. It's my understanding that at some point in time, perhaps as long ago as six or seven years ago, the jurisdiction for placing these cell towers was entirely -- or I

tmj  
SENATE

165  
May 19, 2009

should say began with the local step and then made its way through the Siting Council. Is that an accurate statement? Through you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

Thank you, Mr. President. That is, in fact, true, Senator Fasano. And in fact, in the same neighborhood in which this application was approved, about a mile away, again, in a residential neighborhood overlooking Candlewood Lake, there was a proposal for a cellular tower that was rejected by the local Planning Commission and that deal and application went away. But the rules have changed by this General Assembly that now pulls all of that local authority out from under local municipalities. And, in a way, I agree with some of the concept of that reasoning of this General Assembly by creating the Siting Council. But the purpose of this Amendment is to just ask the Siting Council to go an extra step whenever there is a unified, responsible objection to an application. Through you, Mr. President.

THE CHAIR:

tmj  
SENATE

166  
May 19, 2009

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. I thank the good  
Senator for his answers to the questions  
(inaudible)

SENATOR McLAUGHLIN:

And, Mr. President, the Siting Council does have  
a very difficult position because it's never a popular  
place to be when you have to sit there and decide  
power lines and cell towers and certainly, many of us,  
especially those of us in the town of Wallingford,  
have been subjected to many of the rulings of the  
Siting Council which perhaps at times people thought  
were unfair. to the folks who lived in the town or  
municipality most affected by the power lines. Now  
there -- I know we're talking cell towers but the  
analogy can be so drawn. In places like Milford,  
Wallingford, Bethany, Woodbridge, many of us have been  
afflicted by the Siting Councils sort of turning a  
blind eye and saying we can do what we want to do  
because we just simply can. And when neighbors came  
out and complained and treetops disappeared and the  
widening of right of ways were enlarged, nobody seemed

tmj  
SENATE

167  
May 19, 2009

to care much about the local input. Now, from time to time the Siting Council would sit down and minor changes were made along the route where there was movement further away from the Jewish Community Center out in Woodbridge or a little further away from the lake in a certain area of Wallingford. Nevertheless, those small changes did not satisfy the local concerns.

It was Judge Covello, I believe, the federal judge in 2000, who ruled from the bench in the federal court that no longer would cell towers have local rule, that no longer will the federal government allow local jurisdictions to interfere with wireless communications. And Judge Covello when he came out with that ruling was very strong (inaudible) if I recall correctly. And said that municipalities stood in the way of the growth of cell towers. That was a federal issue and therefore, you can give suggestions but beyond that, you have no rights. I know when we take rights away from our municipalities, they come crying to us that that's not right. When the federal governments takes rights away from the states, we cry, that's not right. The municipalities say that the

tmj  
SENATE

168  
May 19, 2009

federal government is inhibiting our right to control our jurisdiction and that's not right. So, the compromise is, if in fact, the jurisdiction is not pleased or believes this isn't the best place for the cell tower or perhaps, conditions for the cell tower to exist; buffer areas, a driveway for maintenance that is not paved, maybe it's in stone, whatever those issues may be, bringing those issues to the Siting Council's attention requiring them to do them with the super-majority allows the Siting Council to step back and say "We recognize that there is a problem here. Let's see if we can use some Solomon method and come to a resolution so that we can vote on this."

And when you say two-thirds, just like we do in this Chamber, there's a super-majority in this Chamber, we all know that. But when it comes to two-thirds vote, I think the issue gets looks a little bit different. It's viewed a little bit more with "Let's see if we can come to a resolution." And I think that's what this bill does. It says "We understand that you are the ultimate, supreme power, you Siting Council, but we have concerns and we have issues. And

tmj  
SENATE

169  
May 19, 2009

we're just a small local area, but, at least, pay attention, at least make a conscious, affirmative vote when you make this vote that you're holding our interest in the same interest as you would that the federal court seem so important." Hold them in the same, weigh them together. The least impact is the best.

And the two-thirds calls your attention to the Calendar. There's something special about this that didn't exist in the last case. That's really all this asks to do. It doesn't stop, doesn't prohibit, doesn't trump federal law. It just says "Let's take a closer look." That's reasonable.

Now, many of you weren't subjected to the Siting Council's decisions for the power lines that helped the southwest corridor of Connecticut and in my view, will eventually help most of New York, at the sacrifice of my town, Wallingford, that has the most power lines than any other town in the state. And we came here looking for help and we were turned away. And I understand the issues of power. I also understand -- I don't understand, I should say, why we had to bear the burden in Wallingford without any

tmj  
SENATE

170  
May 19, 2009

renumeration back to Wallingford. But we took it on the chin.

With this particular issue, we can make a small difference. We can ask the Siting Council to pay attention because all of us, no matter where you -- what jurisdiction you have, will have these cell tower issues in your area. And the Siting Council does do a good job, this is not to bash them. But they don't know the local issues because they're not from our towns. This gives our local jurisdiction the right, the privilege to have a hearing, to bring those concerns up and to let it know by asking for this two-thirds vote.

Mr. President, this seems reasonable to me. It is not defying federal law, it is only acting in the best interest of our constituents in each one of our jurisdictions. And therefore, Mr. President, I look forward to this Amendment being adopted. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Further comment on Amendment "C"? Senator Boucher.

SENATOR BOUCHER:

tmj  
SENATE

171  
May 19, 2009

Thank you, Mr. President. Mr. President, I rise to support both the underlying bill and certainly, this Amendment, which I believe is an excellent one and addresses a concern that so many of us have experienced and has been articulated so well. A lot of the legal issues and so forth have been brought forward.

But I want to put a little bit of a local experience on this issue because over the many years of being on local boards in the House and here, this issue has come up time and time and time again. And in fact, an incident in my own town led to the resignation of a previous Siting Council chairman who had held that seat for over 30 years and then was later replaced with some, I would say, very fine leadership as well.

In that incident, in our town, showed how a body could become unbalanced over a period of many years. It may have been functioning very well at its beginning. And also to point out the fact that not only is the Siting Council responsible for addressing the issue of NIBMY-ism, it was also created in response to negotiating and mediating local concerns

tmj  
SENATE

172  
May 19, 2009

and state concerns as well, and concerns about spreading the infrastructure in a good way, in an appropriate manner across the state of Connecticut.

We must all have experienced very volatile Siting Council situations in our towns. We had three that come to mind that were particularly difficult in our town. And one of which, actually, as I said, led to the change in leadership and shows that, with time, a body can become unbalanced when a preponderance of the individuals serving on a board may represent just one special interest group, rather than being diverse and representing all of the interests that should come and be around the issue of where something is sited. And over a period of many, many years, it became apparent that not only was the Siting Council no longer balanced and advocating a certain position, but that those public hearings that are required to be had in each of our communities no longer functioned as they should. They should be functioning as a way to bring input, local feedback by the elected bodies of the town, of the leadership of the town, but individuals and neighbors and individuals directly impacted by those.

tmj  
SENATE

173  
May 19, 2009

And in one particular situation, one particular evening where over five to six hundred people actually attended one of these Siting Council meetings in our town -- and I'm talking about a town that is very small by comparison to our big cities, towns that have between 14,000 and 18,000 individuals, and when you have any meeting, let alone a Siting meeting, where you have 500 people in the audience, that's a substantial response to a particular issue. And that very evening, sitting at the back of the audience, listening to what was going on, the then-chairman of that committee basically caused such an uproar by his statement saying that no matter what the feedback was going to be had that evening, the decision, in his mind, had already been made. And this is what it was. And of course, that and actually in many cases, shutting down the remarks of many of an individual that was testifying to the point where there was a general outcry by the crowd so that our local police department had to be brought in and try to quell the coming riot that we saw that was starting to develop.

That was an amazing evening. It brought to life how out of touch, possibly, an organization or a

tmj  
SENATE

174  
May 19, 2009

council could become over many, many years. As I said, that was particularly extreme. It led to a dramatic change in leadership, practically overnight, over a period of some time there, on that issue.

But it calls to light how important an Amendment like this is to the democratic process, to the ability for a body, such as a Siting Council, to be balanced and to be responsible in their deliberations and to consider the very people that come to testify.

Otherwise, why have public hearings at all? We lose credibility with the public when they feel that they come and their comments are on deaf ears, they have no impact in the process. And we encourage them to come and be heard.

We had a further incident after that period of time of a cell tower that was being proposed in a neighborhood that was very highly developed, but had a farm silo located in the back of a very lovely home. And the individual that wanted to move forward with the possibility of having that cell tower there thought that possibly the income from this would be a very good thing for the community. It would allow the community to have some things being donated to them

tmj  
SENATE

175  
May 19, 2009

that they would have had to pay for themselves and it would be a good community benefit. Unfortunately, that cell tower was going to be located in the silo was adjacent, within a few feet, of very tiny homes where some residents, some teachers in our community were living there and they felt very threatened.

We had another case where not only did the current occupant of the home have a cell tower in their midst they wanted additional services to be placed on that but no, there was a suggestion that, instead, it was going to be put not that far way, but in a neighborhood where there was a family of seven children immediately underneath that tower. It just brought to life the fact that local input is very important and should be a part of the process. And I think this Amendment would speak to that and would be very, very beneficial.

Again, speaking to the checks and balances of the process, making this such a good initiative and why we should probably move forward with this particular Amendment.

We all may have situations like this in our own communities that make it difficult for us in elected

tmj  
SENATE

176  
May 19, 2009

office to be able to weigh and balance what the needs are when there's so much emotion that revolves around the issue.

It also brings to life how important a Siting Council really is. But it has to function well. And it has to have credibility. And I think this Amendment would give it that and for that reason, I would hope that our colleagues might consider it given how important this bill is and the underlying bill is.

Thank you, Mr. Chairman, I appreciate the opportunity to make those points and again, I encourage my colleagues to think carefully about this Amendment and vote in favor of it. Thank you.

THE CHAIR:

Thank you, Senator. Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I actually spent some time earlier today questioning whether or not I would support this Amendment. The Siting Council, which has been established and the process for allowing a Siting Council to site important things like cell towers and power lines to avoid our towns from engaging in the NIMBY and not

tmj  
SENATE

177  
May 19, 2009

allowing those things to happen, is an important one. I also question whether I would support it because -- to be perfectly candid, the current Chairman of the Siting Council happens to be one of my best friends. He's a former State Representative, he's the current probate judge in the town of Fairfield and I would daresay that most people who've gone before the Siting Council, under his chairmanship, would say that the Siting Council is well served and the people of the State of Connecticut are well served by his leadership.

But at the same time, in past years, I have quarreled with the Siting Council and past Chairmen, who have believed that it was their task to permit all applications, to site all cell towers, regardless of where they were or what the local opposition was. And I've always thought that was a little bit farther than what the intent of the Siting Council was.

And I actually came to the conclusion that I would support this Amendment because it actually is a good balance. It allows our local municipalities the first shot at reviewing the siting of a cell tower. But, ultimately leaves the decision with the Siting

tmj  
SENATE

178  
May 19, 2009

Council, which is where we all believe the ultimate decision should be.

I reached that conclusion because in several of the towns I represent -- one instance, for example, in the town of Easton, Connecticut, one cell company struck a deal with a local landowner to put a cell tower in his backyard and it was something that was, financially, very lucrative to one homeowner. But it was also very damaging to neighbors. The neighbor, less than 50 feet from where this cell tower would be, would clearly have their property values diminished while one homeowner was being significantly enriched for reaching a contract with a cell phone provider. And what struck me was that the application before the Siting Council really didn't take into consideration local issues like wetlands and rights of way, didn't take into issue safety of the neighboring home. But, also, more importantly, didn't take into issue, were there more appropriate places within the municipality where a cell tower could be located. And that's where I think the municipal input is most important. That's where I think our town boards, whether they be Planning and Zoning or whatever board it is in a

tmj  
SENATE

179  
May 19, 2009

certain town or city can work with cell providers, for example, and find out where the best location would be. What locations would provide the coverage that we all need and expect and want, especially for our emergency services personnel? Yet, would still be done in a way that would be the least disruptive to a town or city, disruptive to the environment, disruptive to homeowners, disruptive to business owners and the like.

And so I think that the Amendment Senator McLachlan has offered strikes that balance. It says at first instance, we want to hear what our towns and cities have to say. We need local input. It's very important to the siting of these towers. There are many instances where towns and cities have worked cooperatively in siting cell towers. Some get put in church steeples or the like. Others get hidden in buildings. Others are put on the top of commercial buildings and there are no objections. If there are instances where the path of least resistance, perhaps, leads a private company to seek to have a cell tower sited in a neighborhood or near a wetland that, quite frankly, is not the most appropriate. That's where we

tmj  
SENATE

180  
May 19, 2009

need input from our towns and cities. Yet, at the same time, we strike the balance to leave the ultimate decision with the Siting Council.

Most of the Siting Council decisions in my understanding -- and it's only anecdotal, but I believe most of them are overwhelmingly unanimous decisions. And so the requirement here of a super-majority would be consistent with most Siting Council decisions, in that, they are decisions that are overwhelmingly supported by the Members of the Council and the decisions that tend to be controversial with split votes, tend to be things that get worked on prior to an ultimate decision.

So I've come to the conclusion that this is a good Amendment. It's a good middle ground between allowing the Siting Council to have its final say but allowing our towns and cities to have input at the beginning of the process as well. And I intend to vote for it on that basis. Thank you.

THE CHAIR:

Thank you, Senator. Questions on Amendment "C"?  
Is there further comment? Senator Frantz.

SENATOR FRANTZ:

tmj  
SENATE

181  
May 19, 2009

Thank you, Mr. President. I believe I am in favor of this, this is a fairly recently created Amendment and I've had a chance to think about it for a couple of hours now. Without the benefit of a public hearing, it's very difficult to understand what the experiences are behind the initiative to offer this Amendment, what the data is, so on and so forth. I think that there is a complimentary aspect of the way these different site decisions are made, having the local authorities, Planning and Zoning, and, in the case of our town, have the chance to weigh in, make a decision and then if there's any controversy over that and there is jurisdiction, for the Siting Council to step in and make that decision. And I will say this: that no council, agency, commission or whatever the case might be is any better than the people on that particular council, agency or commission.

And I understand, based on Senator McKinney's remarks, based on my personal experiences, the Siting Council's exceptionally well endowed these days with good thinkers, good minds who are devoted to the whole process of making these siting decisions. So if,

tmj  
SENATE

182  
May 19, 2009

through you, Mr. President, I could ask one simple question of the proponent of the Amendment, I'd like to do so.

THE CHAIR:

Senator McLachlan. Senator Frantz, proceed.

SENATOR FRANTZ:

Thank you. Through you, Mr. President, Senator McLachlan, do we have any data -- Senator McKinney earlier referred to some of his experiences with the Siting Council, where, in fact, there was a majority or unanimous opinion expressed every time or close to every time on most of the issues that he was familiar with. Do we have any idea how often that happens? In other words, is there a split vote many times?

THE CHAIR:

Senator McLachlan.

SENATOR McLAUGHLIN:

Through you, Mr. President. I do not have definitive data on that. I believe that I would agree with Senator McKinney's observation about the Siting Council, that their votes tend to be unanimous in a big way, so I can't give you a definitive report on that.

tmj  
SENATE

183  
May 19, 2009

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you, through you, Mr. President. Thank you for the answer there. I think we can probably conjecture that the answer is yes, in most cases. It's a fairly unanimous, if not unanimous, situation with the Council. And making that assumption, I'll make a final comment and that is that the Siting Council does have a tremendous amount of power. They know that and they serve a very, very important role in solving some of the issues having to do with NIMBY issues and the like. Planning and Zoning and other local land use boards have a tremendous amount of say, and have a hugely important role as well. If they do tend to work in concert, you wouldn't necessarily need a majority -- super-majority vote to get a decision out of the Siting Council. However, because of the extraordinary amount of power, and because of the great minds, presumably, involved with the Siting Council, currently at this point, I know things can change over the course of time, I think I will be in favor of this Amendment, going to the super-majority

tmj  
SENATE

184  
May 19, 2009

threshold to make a decision, because of the excellent leadership on that Council. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator. Any further comment on Amendment "C"?

Roll call has been requested on Amendment "C". If there's no further comment, I'll ask that the Clerk announce the roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber? Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber?

THE CHAIR:

Have all Senators voted? Have all Senators voted? Mr. Clerk, please close the machine, if you will announce the tally.

THE CLERK:

Motion is on adoption of Senate Amendment, Schedule "C".

' Total Number Voting

32

tmj  
SENATE

185  
May 19, 2009

Those voting Yea	8
Those voting Nay	24
Those absent and not voting	4

THE CHAIR:

The Amendment fails. Senator Meyer.

SENATOR MEYER:

Mr. President, if there's no further comments on the underlying bill, and there's no objection, I would ask that it be placed on the Consent Calendar. I'm sorry. Sorry.

THE CHAIR:

Okay. Senator McKinney. Okay. We'll proceed to a roll call vote on Senate Bill 3. I'd ask the Clerk to announce the roll call vote and I'll open the machine.

THE CLERK:

A roll call has been ordered in the Senate. Will all Senators please return to the Chamber? Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber?

THE CHAIR:

Have all Senators voted? Have all Senators voted? Mr. Clerk, close the machine. Please announce

tmj  
SENATE

186  
May 19, 2009

the vote.

THE CLERK:

Motion is on passage of Senate Bill 3, as amended by Senate Amendment Schedules "A" and "B".

Total Number Voting	31
Those voting Yea	27
Those voting Nay	4
Those absent and not voting	5

THE CHAIR:

Thank you, Mr. Clerk. The Senate Bill Number 3 passes. SENATOR LOONEY:

Mr. President?

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, Thank you, Mr. President, for a change in a couple of markings.

THE CHAIR:

Please proceed.

SENATOR LOONEY:

Yes. Thank you, Mr. President. On Calendar page 3, Calendar 279, Senate Bill 813, we had passed that bill temporarily earlier because the Clerk wasn't in

**H – 1057**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2009**

**VOL.52  
PART 21  
6516 – 6874**

law/gbr  
HOUSE OF REPRESENTATIVES

431  
May 26, 2009

Those voting Yea 81  
Those voting Nay 65  
Those absent and not voting 5

DEPUTY SPEAKER KIRKLEY-BEY:

The bill as amended passes.

The House will stand at ease for a moment. The Speaker said you can sit at ease as well.

(Chamber at ease.)

DEPUTY SPEAKER KIRKLEY-BEY:

Will the House please come back to order. Will the Clerk please call Calendar Number 640.

THE CLERK:

On page 22, Calendar 640, Senate Bill Number 3, AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS, favorable report by the Committee on Planning and Development.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Ryan, you have the floor, sir.

REP. RYAN (139th):

Thank you, Madam Speaker. Madam Speaker, I move the Joint Committee's favorable report and passage of

the bill in concurrence with the Senate.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate. Will you remark further?

REP. RYAN (139th):

Thank you, Madam Speaker. What we have in the underlying bill is AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS. The Senate, to make it a little better bill, did have a Senate Amendment A, LCO 6395. Will the Clerk please read the amendment?

DEPUTY SPEAKER KIRKLEY-BEY:

Will you please read -- repeat the LCO for me?

REP. RYAN (139th):

LCO 6395.

DEPUTY SPEAKER KIRKLEY-BEY:

Will the Clerk please call LCO 6395, designated Senate Amendment A.

THE CLERK: LCO Number 6395 Senate A offered by Senator Williams, et al. In line 3, after "authority" insert or "any other person or entity." In line 14, after "authority" insert, "any other person or

entity."

DEPUTY SPEAKER KIRKLEY-BEY:

The -- do you care to have leave to summarize?

REP. RYAN (139th):

I think the --

DEPUTY SPEAKER KIRKLEY-BEY:

That did it.

REP. RYAN (139th):

-- amendment is pretty much self-explanatory. I  
move for adoption.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on adoption of Senate  
Amendment A. Will you remark? Will you remark on  
Senate Amendment A?

Representative Berger, you have the floor, sir.

Representative Noujaim, you have the floor, sir.

REP. NOUJAIM (74th):

Thank you, Madam Speaker. Very briefly I rise in  
support of the amendment. Short and sweet.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you very much, sir.

Will you remark? Will you remark further on  
Senate Amendment A? If not, let me try your minds.  
All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER KIRKLEY-BEY:

Those opposed, nay.

The ayes have it. Senate Amendment A is adopted.

Will you remark further on the bill as amended?

Representative Berger.

REP. BERGER (78th):

Thank you, Madam Speaker, and looking forward to vote in the affirmative for my friends and colleagues that represent Franklin because there is a similar condition that we see -- not similar but close to similar condition that we see in the city of Waterbury where we have a very, very bad situation, Madam Speaker, that's occurring where we have the potential in our city to have 60 trucks filled with waste from restaurants and garbage to run through our downtown area, Madam Speaker. Sixty multi-axle, tractor trailer trucks loaded with garbage going through downtown Waterbury and going to a facility which is about a quarter of the mile off of the downtown area.

Madam Speaker, the Clerk is in possession of LCO 7361. And I ask he call and I be allowed to summarize.

DEPUTY SPEAKER KIRKLEY-BEY:

Will the Clerk please call LCO 7361, designated Senate Amendment "B".

THE CLERK:

LCO Number 7361, Senate "B", offered by Senator Meyer, et al.

DEPUTY SPEAKER KIRKLEY-BEY:

The Representative has asked leave to summarization is there any objection? Is there any objection? Is there any objection? Seeing none, please proceed, sir.

REP. BERGER (78th):

Thank you. Thank you, Madam Speaker. To continue, last year, I believe, or the year before this, the General Assembly put forward an important environmental justice bill, and within that bill were several components, one of which was to have alternative energy.

And the City of Waterbury has stepped up, Madam Speaker, and members of the chamber and we have -- we do have currently a site which is proposed and which is under construction right now, the site that this amendment will take care of, Chestnut Hill Bioenergy. It would be 100 yards from a current facility being

constructed in the city of Waterbury, First Light Energy, which is a peaking facility. And, Madam Speaker, within a quarter of a mile of the proposed facility of Chestnut Hill Bioenergy, is the Yankee Gas facility, which is a facility which is storage of liquefied natural gas. It's a facility that is roughly 100 feet high and it serves a purpose, and the City of Waterbury has stepped up proudly to be able to do something about energy in this state and reducing the cost to its citizens.

About a mile away from this proposed facility is a facility, called Phoenix Soil, that burns contaminated soil which emanates into the skies surrounding a valley of which Waterbury is located in, and that facility is operating to this day. Madam Speaker and members of the Chamber, this is an oversaturation for the City of Waterbury to have to endure another sited facility in an area that is oversaturated to this point.

Now, let's talk about 50 or 60 trucks filled with waste from restaurants coming off the highway and moving to this facility through an area that the City of Waterbury is trying to develop and return to its tax rolls. We have the odor of those trucks. We

have untested technology where this facility will then transfer that garbage into electricity and sell it to the State of Connecticut and its citizens. Untested technology from a company with a more than poor track record, a company and its investors from Massachusetts who choose to site this off the downtown area of Waterbury. Massachusetts investors wanting to come to -- off downtown Waterbury to have a garbage plant that makes energy; untested technology. Now their plan is to have 200,000 tons per year to be processed at this facility.

This would be the first facility of this nature in this -- in this United States, not to mention the state of Connecticut. There is a plant of similar fashion that operates in Europe that only processes 100,000 tons of garbage. They are looking to double this in the down -- off the downtown area of Waterbury; 600 tons per day, 200,000 tons per year, 60 triaxial trucks coming off the highway, right next to a potential Greenway river project that will run from the north sections of the city of Waterbury following the Naugatuck River through the south end.

A Greenway project, millions and millions of state and federal dollars, and this facility will be

right next to it. Now, the investors and companies, the bioenergy technology, they have a facility that they had operated, and it was an outdoor facility, in the state of New Jersey. And what happened with them in New Jersey? They were closed down.

The State of New Jersey closed the facility down because of their track record. And, Madam Speaker and members of the Chamber, the track record is what we're talking about here. We're not against the technology. We need the energy. We all know that. We have a problem of where it's located and the untested technology that follows with it. The company in New Jersey was cited, Madam Speaker. There's a list here, probably 15 or 20 issues that the State of New Jersey cited the company for. And if I could, I'll just read a few of those: allowing deliveries of waste matter outside of accepted hours of operation; discharging storm water containing pollutants to the waters of the state without a valid permit -- and Madam Speaker, I'll just say that Naugatuck River would run right next to this facility; accepting contaminated waste soil without approval of DEP; continued failure of the facility to properly resolve the unpermitted discharges in violation of statutes from 19 -- from

2005 to 2007. And these are just some of the citations that New Jersey has cited them for and has closed them down. And they have had a bad track record in other cities -- in other cities and other states.

So Madam Speaker, I think that that fully explains the position here, and I would like to move adoption of the amendment.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on adoption of Senate Amendment "B". All those in favor -- let me try your minds. All those in favor please indicate by saying aye. Oh, you all want to speak to Senate Amendment "B", huh? Okay. Representative Williams, you have the floor.

REP. WILLIAMS (68th):

I don't know about all of us, but maybe just me, Madam Speaker. Thank you, Madam Speaker, and good evening. And through you, a few questions to the proponent of the amendment, please.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Berger, prepare yourself.  
Representative Williams, please frame your question.

REP. WILLIAMS (68th):

Thank you, Madam Speaker. And through you, to Representative Berger, it is my understanding through the explanation of the amendment and for legislative intent purposes that this legislation would be very specific to the city of Waterbury and would be very specific to a particular type of technology that is being proposed there. Is that correct? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Berger. Representative Berger.

REP. BERGER (78th):

Through you, Madam Speaker, yes.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker, and through you to Representative Berger, the power plant that is in question, the Chestnut Hill Bioenergy Plant, has that project made a formal proposal to the city, to the State Siting Council, to the Department of Environmental Protection, or any other government entity? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Berger.

REP. BERGER (78th):

Yes. Madam Speaker, thank you. They have made a request. They have received some contingent funding to move forward, but the current siting council has not made a determination on the siting of the facility at the location. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker. And through you, to Representative Berger, has the proposal that is contemplated in Senate "B", has that been to a public hearing through a committee of cognizance -- committee of cognizance in the General Assembly? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Berger.

REP. BERGER (78th):

I'm not sure if it has, Madam Speaker. I wouldn't have the exact answer on that. I believe that, through you, Madam Speaker, if I could, I believe that the concept itself has had public hearings. I'm not sure if this particular amendment, as it's structured, has had a public hearing.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Well, thank you, Madam Speaker. And that is sort of leading into my next question, which is has this project had a formal public hearing on the proposal in the city of Waterbury? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Berger.

REP. BERGER (78th):

Yes. Through you, Madam Speaker. This is actually the Chestnut Hill Bioenergy have presented proposals to leadership in the city of Waterbury and actually has spoken to many advisory committees. And just as recently as last Thursday, Madam Speaker, the Greenway Advisory Committee, which will be -- which is in charge -- which is charged by the State to form this Greenway had resolved a resolution against that project. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker And through you, to Representative Berger, so is it safe to assume that because no formal application has been made with the

State Siting Council, that no formal public hearing that has been prescribed in our statutes with respect to the citing and building of new generation projects. Is it fair to say that that has not happened? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Berger.

REP. BERGER (78th):

Through you, Madam Speaker, that process has not started yet.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker. I thank the gentleman for his answers. Madam Speaker, I rise reluctantly to oppose this amendment. And my reluctance and opposition to the amendment is not based on the policy implication of the amendment so much as it is my friendship and the fact that the city of Waterbury is a neighbor of my district, the 68th district.

My office at my other job is in the city of Waterbury, and so I feel a certain affinity for the city of Waterbury and have worked very closely with the Waterbury delegation on a number of issues over

the years. But Madam Speaker, I think the process here is terrible. Madam Speaker, we are saying here today through this amendment that we are passing into legislation the concept that a particular type of power plant can't be built in a particular city.

Madam Speaker, ladies and gentlemen, years ago the Legislature removed itself from the political process of the siting and building of generation and created the State Siting Council so that you didn't have Legislators all across Connecticut passing law saying you can build this, you can't build this there; letting politics play into the siting and building of generation. And I think that most, if not all of us, would agree that the removal of politics from the siting process has been a positive thing for our State that we don't have Legislators against legislators and pitting towns against towns and cities against cities.

It's been a very positive development for our ability to site and build new generation that we have removed politics from that process. That's not to say that over the years that we haven't seen a rat snuck into a bill here or there where a particular project was quashed or certainly deterred by the -- by the legislation that was passed, but it's not a positive

development for the siting and building of new generation when we pass something into law saying you can't build this here and you can't build that there.

You know, I can appreciate the environmental justice argument that Representative Berger and others make. Last year, as he indicated, we passed legislation that created a variety of mechanisms to create environmental justice for cities and towns that may be perceived to be overloaded with energy projects, and whether or not that has been a positive development in our state's energy future remains to be seen. But I certainly think it's worth letting that process work and not injecting more politics into the process. You know, I think that it's fair to note that this is not necessarily a case of not in my backyard, that the City of Waterbury may -- we may ultimately determine that the City of Waterbury may have already taken on their fair share of energy projects.

I'm not sure whether we can determine that or not yet because we're avoiding the process. Madam Speaker, I also want to point out that a few short years ago the majority in this body, up in the Senate, when the Governor signed legislation that created a

renewable portfolio standard, we said that by 2020 we were going to have 20 percent of our energy generated by renewable power. I think many of us know that we're not anywhere near that goal right now. And one of the first things that we're doing since having passed that legislation is contemplating legislation that would say you can't build a renewable power project in a particular city. You know it may make sense from a siting perspective, Madam Speaker and ladies and gentlemen, to just say you know, we don't want this technology anywhere.

If we're going to say that we don't want this technology in the city of Waterbury, let's just have the courage to say we're not going to build it anywhere. It's untested. We don't want anybody to have to avail themselves of it.

Madam Speaker, on the issue of public input there has been no formal public hearing process through the Siting Council as we would have on every other project. The town of Watertown actually is going to benefit, potentially, from the building of a renewable power project that turns wood chips into energy. And in Watertown we went through the entire process. I think it was very fair. The public was heard. People

were able to go to a public hearing and make their case to the Siting Council. As I recall very few, if any, people actually showed up at that public hearing to oppose the project. But the process was fair. People were well noticed that the project was up for a public hearing, and the Siting Council did their due diligence and did their job.

Madam Speaker, what we're saying here in this amendment is not only are we going to not build this power plant, but well let's face it, there are a lot of cons that Representative Berger mentioned, a lot of things that -- that may potentially be a problem for this city if this power plant was to be built. But what we're also saying is that 187 Legislators between the House and Senate, potentially the Governor, are going to say to the city of Waterbury, you folks cannot avail yourselves of the potential pros of this project.

And let's face it. There are some pros with an energy project, the most significant of which is increased tax revenue for the city or town in which the host community is located or the number of jobs that will be created for the construction of the -- of the project and obviously ongoing as the commodity of

energy is produced.

So, we're saying to those folks that without the benefit of a public hearing and without the benefit of a bill being filed, you can't avail yourself -- yourselves in the city of Waterbury of the potential pros of a project like this. I don't think that's such a very good precedent, Madam Speaker. Again, I don't think we want 169 towns and 187 Legislators passing legislation saying, no, you can't put this here in my town, you can't put this in my project.

So, Madam Speaker, ladies and gentlemen, I urge rejection of the amendment, and I do it with such great reluctance out of my friendship to the -- many of the members of the Waterbury delegation and out of the fact that I am a neighbor and consider myself one of them.

But Madam Speaker, I think the process that has been undertaken throughout this whole ordeal has been fatally flawed and will have ramifications for many years down the road. As we look at how do we build and site new power plants in the future, people are going to look back and this and say look what they did for the City of Waterbury. They said no in the Legislature, and that's what's going to be looked at

and cited as we go down the road.

So, Madam Speaker, I respectfully urge -- and not only urge rejection of the amendment, but urge us all to think about going forward, how it is that we can, in a comprehensive way, develop energy policy that is completely void of politics and is done for all the right reasons. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Noujaim, you have the floor, sir.

REP. NOUJAIM (74th):

Thank you, Madam Speaker. Very briefly, I rise in support of this amendment, and I urge my colleagues to support it as well. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir. Will you remark? Will you remark further on Senate Amendment "B"? Will you remark further on Senate Amendment? If not, let me try your minds. Representative Ryan. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER KIRKLEY-BEY:

Those opposed nay. The Chair's in doubt. When

the vote is taken, it will be taken by roll. Will staff and guests please come to the well. Members take your seat. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting Senate Amendment Schedule "B" by roll call. Members to the chamber, please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all the members voted? Have all members voted? Please check the board to see that your vote has been properly cast. The machine will be locked and the Clerk will prepare the tally. Will the Clerk please announce the tally.

THE CLERK:

Senate "B"ill Number 3, Senate Amendment "B"

Total number voting	147
Necessary for adoption	74
Those voting Yea	101
Those voting Nay	46
Those absent and not voting	4

DEPUTY SPEAKER KIRKLEY-BEY:

The bill, as amended by Senate "A" and "B", is adopted -- is passed. Will you remark further on the

bill as amended?

Representative Sharkey, you have the floor, sir.

REP. SHARKEY (88th):

Thank you, Madam Speaker. Madam Speaker, I also regrettably rise to oppose the underlying bill. I do so for two reasons. One is for many of the reasons that Representative Williams alluded to in his opposition to the underlying amendment. I think we have a process here in the state of Connecticut that we have established for the siting of these facilities, a process that is supposed to be apolitical, a process that is supposed to evaluate the siting of these kinds of facilities based upon what is best for the environment, what's best for the state as a whole. And it -- as we take up these bills and these initiatives to prevent the siting of these kinds of facilities in specific communities, in specific towns, for specific reasons, I think we really run the risk of going down a very slippery slope of overriding the very processes that we've put in place to allow for this siting to occur in an apolitical context.

If we allow every individual Legislator to pass laws to prevent it from happening in their backyard or in their communities, pretty soon everything is going

to be off limits throughout the state because every town is going to feel empowered to try to prevent the siting of these facilities in their own communities.

The second reason why I oppose the --

DEPUTY SPEAKER KIRKLEY-BEY:

Can you hold it for one second, Representative Sharkey. I'm having difficulty hearing the Representative. Please keep your noise down to a minimum. Representative Sharkey, please proceed.

REP. SHARKEY (88th):

Thank you, Madam Speaker. The second reason why I oppose the underlying bill is because I believe it's unconstitutional. We have had a case law here in the state of Connecticut, most recently in 2001, in the City Recycling versus the state of Connecticut case, in which facts very similar to those that are presented here in this bill were presented to the Supreme Court, and the Supreme Court found that to single out specific sites, specific projects of this type, whether it be for recycling purposes or other types of siting issues that are otherwise controversial, runs afoul of our Equal Protection Clause in the state Constitution.

So, for both of the -- I believe, Madam Speaker,

that ultimately this is -- if it was to continue and if there was to be litigation associated with it, I believe it actually would be overturned by our courts based upon the precedent that we've already said, again, because we have a siting process and we can't be singling out specific individuals, specific companies, for targeting of our laws to prevent them from doing what the law already allows them to do.

I believe that there are credible, valuable, good arguments being raised by those who oppose both the Franklin location as well as the Waterbury location, as have been enunciated by their champions, Representative Ryan and Representative Berger. I also believe that the process, the siting process, is the place where those arguments can be made, not here on the floor of the House of Representatives, or up in the Senate, but rather through the process that we've already created for the siting of these facilities, that's where those arguments to be -- need to be made, embedded by the people that we've put in place to make those decisions. I don't believe as Legislators we should be in that position. So, for those reasons, Madam Speaker, I will be voting against this bill. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you. Representative Ryan, you have the floor, sir.

REP. RYAN (139th):

Thank you, Madam Speaker. I'd like to take a few moments to explain the underlying bill, to share with my colleagues the concerns of the effects of this proposed ash landfill. It's going to take in 200,000 tons of ash per year for 30 years and will be done in a natural area in the town of Franklin. While the landfill will be placed in an area that it joins -- an area where people enjoy many of the natural settings. It will be placed on a riverbank.

So I'm joining with the citizens of the small town of Franklin who are concerned about this location choice by requesting that my colleagues pass this legislation which prohibits the Connecticut Resources Recovery Authority from condemning, purchasing, leasing, accepting, or taking title to, using or otherwise acquiring any portion of the land located in the town of Franklin or Windham for the purpose of establishing an ash residue disposal area.

The local town of Windham has already passed a resolution in opposition to this proposal, and I join

with them in their concerns. The present designation for this area where the proposed landfill is supposed to go is residential, R 120. While various uses in addition to single family dwellings are permitted, a landfill isn't. In order to obtain a permit for this type of activity, the Planning and Zoning Commission would have to have their zoning regulations amended.

I recognize the precautions that have been incorporated into CRRA's plans to prevent adverse effects from the disposal of this ash, which is associated toxins. They have placed in a system of drainage and liner layers to keep the ash contained, but I still worry about the aquifer under the landfill if the system failed. Water, as we all know, is a very valuable resource, and it's starting to become scarce.

This is a drinking water source, and I don't think we can take any chance of polluting the water source as part of this drainage system. Over the years we've gone through a lot of trouble to clean up our rivers. This proposed site was recommended as a potential area by the State in a study put into place in 1989. We've seen things evolve considerably since then. The dailies of dealing with pollution by

dilution has been dismissed by most environmental scientists as being dangerously ineffective.

The CRRA has openly admitted that there are encasement systems lead. And the DEP has admitted that they do not have the manpower to monitor the local wells. Many residential homes have been constructed in the immediate area since the time of 1989, and they have seen organic farms, which get harvest here and other game from the forest that consume the fish from the river. Many of the produce, poultry, cattle, and other agriculture products are consumed by other towns throughout Connecticut. The Shetucket River itself is a drinking source for the town of Sprague.

So one day we're going to need this water supply. This concern was conveyed in a recent Norwich Bulletin article. This concern is a subject from a letter from the First Selectman of Franklin when he describes a study done by the Southeastern Connecticut Council of Governments and the Southeast Water Authority. The study looked at the current and protected future water sources to support the regions present and future water requirements. A major finding of the study was that the water supply deficit in the region is going

to occur between the years of 2010 and 2020, leading to a shortfall of 10 million gallons of water per day by 2040.

This First Selectman also cited another study completed by the Connecticut Water Resources Commission and the United States Geological Survey, concerning the Shetucket River basin that -- a site near where the proposed landfill will be located has the capacity to generate nearly 62 million gallons of water daily. Just like Representative Berger we have a concern about 60 additional tractor trailer trucks that will travel a local state road to bring ash to the facility.

While it's designated a state road, it is still a two lane country road leading to the facility from the closest state highway. Traffic, which is already congested in the area, would fill the air and roadways with even greater hazards and air pollution. It's a narrow and windy road which would pose a problem for local traffic and local residents. The landfill's designed to be used for 30 years. After that it could take many years for CRRA to close the landfill, and then what happens? And who has the responsibility for the maintenance of the landfill?

Who is responsible for any problems that may occur with the property after the closure? These are questions that have yet to be addressed. There is no need for an additional ash landfill in Eastern Connecticut. We have one located in Putnam. CRRA has not acquired a permit from DEP showing need. CRRA, up until this point, has not been able to even satisfy the DEP requirement to show compelling need for a facility in Franklin. Need should be determined before a company considers placing a landfill on any land in the state.

I have spoken with the Mayor of Putnam, as well as the management of the facility there, and both are receptive to receiving the ash which would be deposited in Franklin. They both believe an agreement could be reached with CRRA to have the ash sent there at a competitive rate. The current landfill in Putnam has another 16 year lifespan, and the town and management company are exploring a 400-acre expansion of the site, giving it another 30 years of use after the current 16 years.

In fact, Wheelabrator is now accepting ash from CRRA and would be happy to continue to do so. We have another question about all the dumps in Connecticut

importing additional trash from out of state. We should be asking that question because we think they should be preserving that space in our dumps for our own citizens instead of creating new dumps.

Obviously another concern, according to Willimantic Waste Company who currently hauls ash from CRRA's incinerators to Putnam, the cost of hauling the incinerator ash would be the same whether it goes to Putnam or Franklin. But do we have to be hauling this ash anywhere?

I would encourage CRRA to recycle and find uses for its ash from incineration that do not involve any landfills as has been suggested on many other occasions. We should be more like Vermont where there's a focus on zero waste management. Twenty two towns there are working to reduce waste which provides for new innovative uses for any waste that is generated and which could create new jobs for the state of Connecticut.

Local farmers are concerned that there's going to be a potential for airborne contaminants to blow onto the nearby organic farms. All of the reason I have stated were considered by the voters of Franklin when 43 percent of them came out to vote in a recent

referendum. The result was 400 to 97 against the location of the proposed ash landfill in the town.

I need -- I realize we need to dispose of our waste, and I appreciate the energy that is produced in the process, but I think it's time to be creative in how we dispose of the residuals. We need a long-term solution that does not involve this site in Franklin. I think I've suggested some. I should also mention that Franklin is not one of the 70 towns served by CRRA. Hoping this community can preserve this land, I ask my colleagues to support this bill. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir. Representative Hamzy, you have the floor, sir.

REP. HAMZY (78th):

Thank you, Madam Speaker. I rise for a point of inquiry.

DEPUTY SPEAKER KIRKLEY-BEY:

Please proceed.

REP. HAMZY (78th):

Madam Speaker, the underlying bill as amended deals with landfill -- I'm sorry -- ash residue for landfills and prohibiting the CRRA from purchasing or

condemning that property. I would ask if it's the Chair's intent to refer this bill to the Energy and Technology Committee, which has oversight of that subject.

DEPUTY SPEAKER KIRKLEY-BEY:

That is a discretionary referral, sir, and the body would have -- at the will of the body, and the Chair will have a - will call a vote. The Chair does not have that authority. Will you remark further, sir?

REP. HAMZY (78th):

Yes. Madam Speaker, I would make a motion to refer the bill as amended to the Energy and Technology Committee.

DEPUTY SPEAKER KIRKLEY-BEY:

The motion is to refer to Energy and Technology Committee. We'll stand at ease for a moment please.

(Chamber at ease.)

DEPUTY SPEAKER KIRKLEY-BEY:

The motion before us is to refer this bill to the Energy and Technology Commission -- Committee. Is there any objections?

Representative Merrill, you have the floor.

REP. MERRILL (54th):

Thank you, Madam Speaker. Yes, I would object to the referral. We're waiting for the board to have the correct motion to refer.

DEPUTY SPEAKER KIRKLEY-BEY:

That should be on the board, ma'am. It is now correct.

REP. MERRILL (54th):

Thank you, Madam Speaker. Yes, I would object to this motion to refer. While there is some mention of energy issues in -- particularly in Senate Amendment "B", it is not a mandatory referral, and so I would argue that the main issue in the bill, as amended, is not really -- it's only peripherally related to energy issues and is not the primary subject. So, while arguably it could have been sent to Energy, I don't think, in this instance, it needs to go, and I would object to the motion.

DEPUTY SPEAKER KIRKLEY-BEY:

Will you remark further on the motion to refer?  
Will you remark further? If not, let me try your minds. All those in favor on not referring this to the Energy -- all those in favor of referring this to

the Energy and Technology Committee --

REP. CAFERO (142nd):

Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Yes, Representative Cafero.

REP. CAFERO (142nd):

Madam Speaker, there is some confusion, at least at this side of the aisle. I realize we're voting on a motion to refer. I presume we're going to do it by voice vote based on how you began. I would just request that it be made clear as to the consequence of voting yea or nay with regard to this vote. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

A yea vote would send it to the Energy and Technology Committee. A no vote will not refer it. The motion is to refer this to Energy and Technology. Let me try your minds. All those in favor of the referral, please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER KIRKLEY-BEY:

All those opposed nay.

The nays have it. The motion to refer fails.

Will you remark further on the bill as amended?

Representative Mushinsky, you have the floor.

REP. MUSHINSKY (85th):

Thank you, Madam Speaker. Without looking at the merits of each site and each case, which is not really our job but the job of the regulatory agencies, I have to remark that both the underlying bill and Senate "B", the Waterbury amendment, both concern an attempted end run around the siting process which the Legislature did establish in the 1980s. And we did that because we were having trouble making tough decisions. We established a certificate of need for these plants and a regulatory siting process because the people and businesses of the state do generate waste, despite our efforts at recycling. They do generate waste, and waste disposal must follow proper geological sitings in order to protect the public health and the natural resources of the state.

The Legislature decided at that time that we should have science based -- a science based process to pick these sites. One of these disposal areas is proposed for a very peaceful area in Franklin, and I did go out and look at it on Sunday. It's very scenic and agricultural. The other -- the waste food

processing site is proposed for an urban brownfield in Waterbury. They're two very different sites. And it is understandable that there is local opposition and that there is legislative opposition. And that is why we set up a Siting Council and a DEP regulatory procedure. If we didn't, we'd have no disposal sites in Connecticut.

The implication of an end run around this process will not be seen for a few years, but here is what will happen. It may mean that the ash from our municipal waste energy plants will be shipped out of state at the end of Putnam landfills useful life. And there is very much disagreement about how long that life is. But in any case when it is full, the disposal will be out of state, perhaps twice as expensive as in state.

And that falls on, of course, our municipalities, our residents, and our businesses. And that may be the ultimate price of passing legislation to ban sites in Connecticut. So you may still wish to do that, but that is something that will be an effect of our end run around the process. So for myself, I will be voting no to be consistent. And you're free to do what you wish, but just be aware there are

implications when we change the process that we so carefully set up. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you.

Representative Johnston, you have the floor, sir.

REP. JOHNSTON (51st):

Thank you, Madam Speaker. Madam Speaker, on the bill before us, as it is amended, I'd like to join the comments of the esteemed Chairman of the Planning and Development Committee, who spoke earlier, and by Representative Mushinsky, who just finished speaking on this, Madam Speaker. Here it is a year later, and almost the exact bill but with the inclusion of a -- of a trash plant is before us.

A bill that was on the floor of this House last year at 11:40 on closing night that we had to act, and I was opposed to us acting to stop this process last year, Madam Speaker. I've given it a lot of thought since. And my opposition last year, my logic hasn't changed. We very carefully, and many of us weren't here at the time, but I think this Legislature very carefully set up a process whereby we're going to site different things across the state of Connecticut.

And most of those things are things, quite

frankly, that none of us want in our backyard. But if we did not set up a process and if we did not -- and if we do not follow that process then Connecticut would be saddled. We would not place any of these facilities anywhere in the state of Connecticut. We have -- all have friendships in this building, and I would suggest to you that the proponents of this bill, as amended, are good friends of many of ours. And politicians, especially, are famous for not wanting to let their friends down, and we're not good at saying no. Some of it in our nature is that we like to say yes and we like to make people happy.

And so it would be easy for us to say, Representative Ryan is pushing for this bill. And Representative Ryan is a good guy, and I'd really like to help his town out. Or Senator Hartley and some of the Waterbury delegation, I really have a lot of respect for them. I'd like to help them out. They're a friend of mine. And Representative Noujaim over there is looking at me and smiling. But at some point our obligation has got to go a lot further than that because each of us balances our obligation to do what's best for our town. And a large part of what we do is to come here and advocate for our town for

things that are good for our town and to fight against things that we would not want in our town. And that's logical. But I think we have a real strong obligation here to balance those needs against the needs of the state as a whole.

And I think if tonight we vote yes on this amendment, it is going to be very difficult at any point in the future for any project that's proposed for any town in the state of Connecticut for this Legislature not to get involved. How do we tonight say to Franklin, we're okay. We're not going in -- we're not going to put this in Franklin. And to say to Waterbury, it's okay. We're not going to put it in Waterbury and two years from now not say to Terry Backer, it's not going to Stratford or to say to Mae Flexer, it's not going to Killingly.

At some point we've got to balance the needs of the state. If there is a process flaw in the underlying law, and in the underlying permit application and review process, I'd be perfectly happy to consider that bill or amendment if it was before us to say that there's a flaw in the process. And I've listened carefully. We've had 12 months since this debate was last on the floor of the House. And I

haven't quite heard that flaw. The closest I've come to is there's been some alluding to that there's not a need. But as I understand in the process when it gets to the DEP stage where an application is actually submitted to the Department of Environmental Protection, they look at the need process. And so if the thought would be that that need process ought to be moved further up in the process before the application process, then that could be before us.

And that might be an entirely reasonable thing to do if someone could make the case. But this Legislature has got to be incredibly careful because what may seem like an easy decision tonight to help out a friend, to help out a town, could actually be long-term very bad, poor public policy for the state of Connecticut. We have to seriously think about that, Madam Speaker. And I have seriously thought about that as the person who had the microphone in their hand on the floor of this House last year when this bill was PT'd. And I kept an open mind in the 12 months since. And quite frankly I have heard nothing, no specifics about the process that's been put forth that would change that process. And the argument is this is not the best site.

**H – 1058**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2009**

**VOL.52  
PART 22  
6875 – 7232**

I don't think that's a determination that this building in a political environment ought to be making. It should stay with the process, and if in future years we think that that process needs to be changed, Madam Speaker, I think that we ought to bring forth that piece of legislation and change that process. But without that being before us, I think this would be really poor, bad long-term public policy for the state of Connecticut and I ask each Legislator here to think, think hard as we continue this debate tonight.

And I would urge those who try to think about balancing the long-term needs of the state to say this is not the piece of legislation that we ought to pass forth tonight. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative. Representative Johnson, you have the floor, ma'am.

REP. JOHNSON (49th):

Thank you, Madam Speaker. I stand in support of this bill. First of all because I am very, very supportive of protecting the pristine aquifer that is in the town of Franklin and also is shared by the town of Windham, and that once the landfill is placed there

what will happen is that potential source of drinking water for the region will be totally compromised, and we will not be able to use that for drinking water ever again.

I also support this legislation because of the fact that the infrastructure in the area isn't suitable to having 60 additional trucks going both ways, every day, bringing in additional trash in a -- in an area that is very, very bucolic and has a very, very windy road. It's a road I traveled many years, 30 years ago that has not -- has not made any improvements at all and is very, very crowded. It would really be a hazard for the town of Franklin to have this additional truck traffic moving back and forth on it.

The fact is is that there is a already existing landfill in Putnam. The Putnam landfill has capacity for at least 15 years according to CRRA's material that was given to me through the Office of Legal Research, and it also has capacity to expand. So there is landfill capacity existing already. They actually built a bridge so that the truck traffic going off of Route 395 wouldn't interfere with the businesses, wouldn't interfere with the residential

area in the town of Putnam. So there is ready access only 100 yards from the highway to the landfill in that area. That landfill has capacity to expand of about 30 -- up to 30 years.

So we're really very supportive of keeping it there. The town of Putnam likes the landfill and is very supportive of keeping it there and possibly having an expansion, even though there would have to be a permitting process that would have -- they would have to go through to expand the landfill. With respect to the constitutional issue, Representative Sharkey mentioned that there is a possible equal protection issue in the City Recycling case.

In that case -- that's a very different case from what's going on here. There was an existing plant. They had -- the City Recycling had actually proposed to expand that facility, and they had been granted the zoning and the permits and those kinds of things. And then this legislation was passed that prohibited the expansion that had already been permitted on a local level. That's not what's going on here.

Generally speaking equal protection only refers to situations where there's discrimination going on in suspect classes, which include race and gender and

that sort of thing. To apply equal protection in this circumstance would be a very, very, very hard burden on the plaintiff bringing the case and very, very unlikely that they would win the lawsuit in this circumstance. They found absolutely no harm to the environment in the case where City Recycling brought their action no harm to the environment at all.

They found erroneous facts in the complaint. So that's why that case actually came up, and there was an equal protection claim there that they found suitable. But in this case there's a big distinction. There's a big, big difference. This place -- these zoning approvals have not been given to CRRRA. In this case the zoning approvals haven't been given in the town of Windham or the town of Franklin. In this case the town of Franklin voted against the bill four to one -- the proposal, rather, four to one.

And in this case the town of Windham has actually been against siting the landfill on the property line between Windham and Franklin. So there are a lot of distinctions made. This -- I think that an equal protection case in this circumstance would fail. And I urge support of the bill. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative. Representative  
Berger, you have the floor.

REP. BERGER (73rd):

Thank you, Madam Speaker. And quickly just would  
like to thank everyone in the Chamber that supported  
LCO 7361, which became part of the bill that we're  
going to vote on very shortly, hopefully.

And also for the purposes of legislative intent,  
Madam Speaker, that the facility that would be  
proposed in Waterbury, when we talk about the siting  
of that facility, we talk about it being cited in any  
municipality where you have a 96 megawatt energy  
facility, where you have an 18 million gallon  
liquefied natural gas facility by Yankee Gas, and  
which is in close proximity, hundreds of yards and 100  
yards in some cases, of hospital, churches, schools,  
and residences. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir. Representative Chapin, you have  
the floor.

REP. CHAPIN (67th):

Thank you, Madam Speaker. Madam Speaker, I rise  
in opposition to this bill for many of the reasons  
that were already stated, actually both from those who

spoke in opposition to the bill as well as in response to some of those who spoke in favor of the bill.

This bill very clearly sets aside certain statutes in order for this legislation to become effective. Sections 22 A-276 are the condemnation powers that this body gave CRRA. And quite honestly, if we think that that was a lousy policy decision, then perhaps that should have been the bill that we were debating. Connecticut General Statutes 22 A- 285 A authorizes CRRA, regardless of state law or municipal charter, to establish up to four ash residue sites in the state.

I believe the statute calls for two sites west of the Connecticut River and two sites east of the Connecticut River. I've heard comments today in support of this bill that says we have plenty of ash landfill room already. And if that is, in fact, the case, Madam Speaker, then I'm not quite sure why we're not looking to amend that statute to take that requirement for four different sites to be identified.

We've heard discussions about zoning approvals, about traffic. There's nothing in the process for the siting of these landfills that allows anybody trying to site the landfill to have a free pass on all of

these things. It's my understanding that all state and local permits must be in place. I have heard from many people from that area of the State who have objected to the siting of the landfill there, specifically on the grounds of the aquifer.

Now, somebody earlier clearly identified it as a potential drinking source. It's also my understanding, in my conversations over the course of this session on this bill, that DEP's position is that they would prefer that these landfills be sited over aquifers in case the liners do actually rupture and it allows migration of the material away from the residential areas in the community. Now, others again have spoken on whether or not the policies that we have in place in the state of Connecticut are erroneous and need to be changed.

But nothing during this debate has said to me that that is the case. This is simply a case of Legislators from that area doing, quite honestly what we would probably all do for our own districts, but as somebody stated earlier, it's not the right way to go about policy making. And I urge my colleagues to oppose the bill as amended. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir.

Representative Hamzy, you have the floor.

REP. HAMZY (78th):

Thank you, Madam Speaker. I also rise to oppose the bill as amended. And a lot of the reasons are for -- are in concurrence with the statements that were made by previous speakers, specifically Representative Sharkey and Representative Mushinsky.

But I'd like to also add a couple things. When we talk about or when there is discussion that these potential -- either the ash site or the waste energy site that we're talking about will cause pollution or intrude on neighborhoods, or what have you, we're predetermining the outcome of the process that we have created.

All of those issues will be fully vetted by the process that was created by this Legislature. So to draw the conclusion that because these things are being proposed that they will actually come to fruition is a huge leap of faith. And I don't believe that we should be short-circuiting this process before it even starts.

Now I, like other people, have spoken in opposition to this bill. Respectfully the intentions

of the Legislators proposing this bill as amended, frankly, I would probably be doing the same thing. But when we take a look at our obligations to the people of this state on a statewide basis, we have a process that was created specifically to make these difficult decisions. Hopefully, we will respect that process and vote against this bill. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Backer, you have the floor, sir.

REP. BACKER (121st):

Thank you, Madam Speaker. I rise in opposition to the bill as amended, and it's a hard thing for me to do because I firmly believe that water is, as we would all immediately say, one of our greatest resources and our most necessary resources. I do have a sense that most of us don't realize how in jeopardy our waters around the world and in this country are. But I find myself rising in opposition to this for many of the reasons you have heard other speakers make tonight.

We have established a process. And that process has many, many opportunities to intervene, to present

the information, to object to it and move through the process once an application is in place to force an administrative hearing, to move to the Siting Council. I think a preemptive approach like this would only shift the burden to another community.

Where I live, in my own community within three miles of my house, I have three or four sewage treatment plants, trash energy plant, a landfill. I've got it all. So what we might end up with is just shipping it to another place. Now, I agree with many people here. Representative Ryan is putting up a -- I think an excellent defense for his community, and much of what he says I am certain is true. And I am certain that in the process -- the administrative process that information would win the day for them. But we did set up a process to do this. Many of us have facilities in our communities because it went through the process and we had to accept them. We've all had opportunities to sit here and do preemptive legislation to stop a -- whether it's a trash energy plant or it's a coal plant or an asphalt plant or any of the types of things we have.

So I -- I feel uncomfortable because I know the stress and the difficulty of both our ground water

and surface water or under. And I respect the opposition to this on this House floor. However, if we begin today to preempt these things before they get to the application process, before they get to administrative hearings, before they end up in deciding council, we will have no way to deal with these problems.

But I would like to point out that Representative Ryan made one excellent -- excellent point that may have -- may have slipped by. Our lack of a good public policy on solid waste, on packaging, is part of the reason we're here and that in the state of Connecticut -- I walked through the door here 17 years ago listening to discussions about what we're going to do about solid waste and how we're going to reduce our trash footprint, is I guess what we would say today. And we didn't do anything about it in 17 years, which brings us to where we are now.

So with all that said, there is a process. That process is important. If we circumvent it here today we hand it off to someone else, much the way many of us who are living either in an inner ring suburb or in the inner city have already had to deal with all these issues. So, I'm going to oppose the bill as amended

today.. It does not diminish my concern for water quality in Long Island Sound, the river or the concerns raised by Representative Ryan. I just think we have a very long process where all those good arguments can be made and a good decision would be the outcome. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Roy, you have the floor, sir.

REP. ROY (119th):

Thank you, Madam Speaker. Madam Speaker, I rise in support of the bill before us. I want to point out that we have been working over the past several years on eradicating and -- not eradicating but in using brownfields and remediating them, getting them back into use, help our cities revive themselves. And what we're going to do here is destroy virgin land. We as a small state like Connecticut cannot afford to lose. This is our chance to show that the work we've doing over the past years is worth it. That we believe in it. As I said, we're a small State. We're losing our farmland. We're losing all of our -- not all or our, but many of our open spaces to overdevelopment, to poor uses.

We have available already another landfill in Putnam that -- the life of that surely will outlast the technology that's coming, that's advancing, that's going to eradicate even the smallest of ash so that we will not need landfills in the future. Madam Speaker, I urge members of my -- of this Assembly to join me in voting aye. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Butler, you have the floor, sir.

REP. BUTLER (72nd):

Thank you, Madam Speaker. I rise in favor of the bill as amended. First of all, from the underlying bill it's been pointed out that we already have an existing ash landfill in Putnam that has 15 years of life. Why do we find the need at this point to expand to another site? I don't know, but I certainly agree with those who don't want that and would favor us using the Putnam landfill instead, especially since they want it. It just makes a lot of sense to me.

In terms of the amendment, I have to speak up for the city of Waterbury, especially this particular zip code, because this is not a case of not in my backyard. It's a case of social justice. This zip

code is one of the most polluted zip codes in the state. We've taken a lot of plants. We've done a lot. We sacrificed a lot. If those who spoke about the Siting Council, in that we put this in place and we should trust that.

Well, I could tell you that, somebody might have put this together and we're supposed to trust that, but in Waterbury last year -- last year in Waterbury, trusting the Siting Council, you know what they got us? That got us a brand new 96 megawatt natural gas plant. That's trusting the process. And it's not like we've just got that one plant. The zip code was already very polluted. And we trusted the Siting Council and they failed us. Why are we here today? Because they failed us. We have built an 18 million gallon natural gas tower. Just to give you an idea of the size, this whole chamber would probably fit inside that thing.

That's what the people in that zip code have to look at every day. Something that big would probably top off these chambers and have a little bit of extra space for some other natural gas. It's huge. And a half a block away is the 96 megawatt plant. And a few hundred yards away is a waste water treatment plant

that, with the money from the state, they encouraged us to build it large enough to consider a regional solution to waste water so that some of the other surrounding towns may have a place for their waste water.

We don't -- you don't have to tell us about a Siting Council. We already have enough pollution in this zip code. And then we have probably a couple of blocks away a place called Phoenix Soil. Now the Siting Council knew about all this other pollution in this place that I'm talking about now, Phoenix Soil. They were supposed to leave the city of Waterbury three years post that testing. Okay, three years. Now this testing started in 1995. If I calculate right, probably in 1998, '99 thereabouts you would think that this facility would be gone. Well, I can tell you, in 2009, this facility is still there burning contaminated soil.

Did the Siting Council take that under consideration when they gave us the brand new 96 megawatt natural gas plant? It didn't work for us. We still got it. And for those who said that, you know, not my backyard, well, we have done our share because you know for all those -- for all those towns

-- for all those towns that had their harbors dredged, whether it's New London, Hartford -- I mean New Haven, any harbor, the contaminated soil will probably find its way to Waterbury.

We're doing enough for the state. We have enough pollution. And just to finalize this, all of this is taking place in a valley of which there are four elementary schools and two high schools, probably eye level with all these stacks that releasing particular matter into our atmosphere.

The Siting Council isn't working for Waterbury that's why I urge a favorable vote on this bill as amended. Thank you very much, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you.

Will you remark? Will you remark further on the bill as amended?

Representative Orange, you have the floor.

REP. ORANGE (48th):

Thank you, Madam Speaker. Good evening to you. Ladies and gentlemen of the chamber, I rise this evening in support of this bill, and I can recall when I came in here as a freshman and I had an issue in my community to deal with and it had to do with siting of

an asphalt plant.

Some people in this chamber may remember that, and some of you may have been with me, and others weren't. And I appreciate those that were with me. My father was ill and in the nursing home at the time, and I discussed the issue with him. And he said to me, you are there to represent the people that elected you.

And I commend Representative Ryan and the Waterbury delegation for doing just that. I had to do it. They're doing it. And someday you may have to do it. So I strongly rise to help my fellow colleagues do what they were elected to do, represent their constituents. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Rigby, you have the floor.

REP. RIGBY (63rd):

Thank you, Madam Speaker. The Clerk has an amendment, LCO Number 8355. Would the Clerk please call the amendment and may I be allowed to summarize.

DEPUTY SPEAKER KIRKLEY-BEY:

Will the Clerk please call LCO 8355, designated House Amendment A. The Representative has asked leave

to summarize.

THE CLERK:

LCO Number 8355, House "A" offered by  
Representative Rigby.

DEPUTY SPEAKER KIRKLEY-BEY:

The Representative has asked leave to summarize.  
Is there any objection? Hearing none, please proceed,  
sir.

REP. RIGBY (63rd):

Thank you, Madam Speaker. This amendment seeks to close a loophole that allows local zoning boards to approve a wind turbine test site without a public hearing and without notifying neighbors of the proposed test site. This amendment will give transparency to a process where residents have been in the dark and controversy has arisen from the process going on behind closed doors and without -- without a public hearing.

The amendment doesn't interfere in any way with the Siting Council and the process that follows. It simply seeks to give people a chance to hear what is being proposed and what is being debated. Again I, in no way, want to interfere with the process of the Siting Council and I move for adoption.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on adoption of House Amendment A. Will you remark? Will you remark further on House Amendment A? If not, let me try your minds.

Representative Williams, you have the floor.

REP. WILLIAMS (68th):

Thank you, Madam Speaker, and good evening. I rise in support of the amendment. I know this is something that has come out of Representative Rigby's district, and this was in the -- big story in the Hartford Courant actually with respect to this issue. And so I actually don't think it goes as far as the two amendments that have passed so far. It simply requires some advanced public hearing processes and allows the public some more time for input.

And so, I would ask for the members indulgence to support this. This is a very parochial issue for Representative Rigby and his district, and I would urge adoption. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Roy, you have the floor, sir.

REP. ROY (119th):

Thank you, Madam Speaker. Madam Speaker, I stand in opposition to this proposed amendment. I think we do need the certificate of environmental capability. I do think we need some municipal permits to do the things that Representative Rigby wants done up in Colebrook, or what -- maybe what he's trying to stop to being done.

So, Madam Speaker, I ask that this be rejected at this time. And I'm sure that there's another occasion when we can bring this one forward. Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir. Will you remark? Will you remark further on House Amendment A? Will you remark? If not -- Representative Rigby, did you pull your button? Yes?

REP. RIGBY (63rd):

Thank you, Madam Speaker. I would like to withdraw my amendment in respect to Mr. Roy's comments. Representative Roy. Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Is there objection? Is there objection? Hearing none, so ordered. The amendment has been removed -- withdrawn. Will you remark further on the bill as

amended? Will you remark further on the bill as amended? If not, staff and guests please come to the well. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is taking a roll call vote. Members to the chamber please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all members voted? Have all members voted? Please check the board to see your vote has been properly cast. The machine will be locked. And the Clerk will prepare the tally. Will the Clerk please announce the tally?

THE CLERK:

Senate "B"ill as amended by Senate A and Senate "B" in concurrence with the Senate

Total number voting	146
Necessary for passage	74
Those voting Yea	95
Those voting Nay	51
Those absent and not voting	5

DEPUTY SPEAKER KIRKLEY-BEY:

The bill as amended passes in concurrence with

the Senate.

Will the Clerk please call Calendar Number 79.

THE CLERK:

On page 27, Calendar 79 substitute for House Bill  
Number 6284, AN ACT CONCERNING ADOPTION OF A MODEL  
ENERGY CODE AND GREEN BUILDING STANDARDS, favorable  
report by the Committee on Energy and Technology.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Dargan, you have the floor, sir.

REP. DARGAN (115th):

Thank you, Madam Speaker. I move acceptance of  
the Committee's favorable report and passage of the  
bill.

DEPUTY SPEAKER KIRKLEY-BEY:

The question before us is on acceptance of the  
Joint Committee's favorable report and passage of the  
bill. Will you remark further?

REP. DARGAN (115th):

Thank you very much, Madam Speaker. I would  
first like to start out by thanking a number of  
people. First, my Ranking Member, Representative  
Perillo. My co-Chair in the Senate and Ranking  
Member in the Senate, the Chairs of Energy and  
Environment and also State agencies; Department of

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**ENVIRONMENT  
PART 4  
965 - 1301**

**2009**

1  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

CHAIRMAN: Representative Roy

VICE CHAIRMEN: Senator Maynard  
Representative Hurlburt

MEMBERS PRESENT:

SENATORS: DeFronzo, Roraback

REPRESENTATIVES:

Chapin, Backer, Bye,  
Camillo, Conroy, Davis,  
Fontana, Hennessy, Hornish,  
Jutila, Kehoe, Lambert,  
McCluskey, Miner,  
Moukawsher, Mushinsky,  
O'Rourke, Piscopo,  
Spallone, Urban, Willis,  
Wood

REP. ROY: We will start with the officials list and then we will go to the public. The officials will reserve one hour. If it goes over that one hour, we then begin to rotate between the two lists. I ask people to keep their testimony to three minutes because if there's questions, we go on and on and on, so you'll have plenty of time to speak.

So, with that, Senator Edith Prague.

SENATOR PRAGUE: Good morning, Representative Roy and members of the Environment Committee. Thank you for this opportunity.

For the record, my name is Edith Prague, and I'm the senator from the 19th District. I'm here to testify on Proposed Bill Number 3, an act prohibiting the acquisition or use of certain parcels of land as ash residue disposal areas.

Susan Allen is here with me. I'm going to

speak very briefly, and then she'll speak very briefly. Susan Allen has been involved in this situation from day one.

You know, what CRRA is planning to do in Franklin is absolutely, totally outrageous.

First of all, there's a landfill in Putnam, which is not far from Franklin that has plenty of room for them to dump their ash. The piece of property that they have chosen in Franklin is a pristine piece of property that sits on the banks of the Shetucket River. The Shetucket River is a source of drinking water for the town of Sprague, and I learned just the other day that it is also the water that Kofkoff chicken farm uses for their chickens. There's a very high water table there. People in Franklin all have wells.

It is unconscionable that CRRA would run roughshod over the people in the town of Franklin that absolutely do not want this landfill in their community.

So, I could -- I'm going to let Susan tell you about what's going on. She lives there. She works with this large group of people, and I really thank this committee for paying attention to this very serious issue.

The fact that the Planning and Zoning Board has had their power taken away from them so that they have nothing to say about permits or whether this should happen in their town. And planning and zoning boards in any town don't have any authority at all to prevent such a thing happening in their town.

So, with that I'll put the microphone on for you, Susan. There just press the button. There.

3  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

REP. ROY: Thank you, Susan. After you finish testifying, please see the clerk so they the correct spelling for your name.

SUSAN ALLEN: Certainly.

REP. ROY: Thank you.

SUSAN ALLEN: First off, thank you, Edith.

I would also like to thank the Environmental Committee for giving me this opportunity to speak. My name is Susan Allen, and I live in Franklin, Connecticut. I have come today to express my support of Senate Bill 3, and to voice my opposition to Connecticut Resource and Recover Authorities, CRRA's choice of location for an incinerator ash landfill in Franklin, Connecticut.

I would like to preface my comments by informing the committee and others or those who are also against the proposed site in Franklin, many having to work today. I have with me a petition with 158 signatures of local residents vehemently opposed to the ash landfill. I also have 51 handwritten letters from people in the region stating the negative impact this particular site would have on their lives.

Finally, I was recently invited to share information about the proposed ash landfill at a Windham County Conservation Consortium meeting. This organization represents 15 towns in the region. They recently voted and approved to draft a letter to Commissioner Gina McCarthy denouncing this location. This proposed site would a negative regional impact. There is a litany of reasons why this site is wrong for a dump. However, in consideration of time constraints, I will elaborate on just two.

The first reason, it is extremely shortsighted and borders on arrogance to site a landfill, complete with toxic materials, on top of a class A, drinkable, as is, moderate to high yield aquifer.

In many parts of the world, large corporations are buying up water resources. They realize that clean water is an increasingly scarce and valuable commodity. Just last summer a neighboring town had only a ten-day supply of water left and other towns had shortages, too. These were in 2008. What about the needs of future generations to come? It is ludicrous to endanger this precious resource because, once it is compromised, there is no going back -- and my well is on this aquifer -- and, in my opinion, any aquifer testing done by CRRA needs strict policing.

The second thing to elaborate on is the regional development of this area as an ecotourism destination. There has been much time, money and effort into promoting the uniqueness of this area. The proposed site lies within the last green valley, formally known as the Quinebaug Shetucket National Heritage Corridor. Congress designated national recognition for this area in 1994, enlarging it 1999. This nationally recognized area keeps our state healthy by providing oxygen filtering carbon dioxide, producing 1.4 million tons of top soil, storing clean water, enhancing the health of Long Island Sound.

These pristine forests and clean waterways lend themselves to a tremendous biodiversity in plants and animals. This area has seen the return of bear, moose, fishers, and sea lamprey, which have been gone for generations. In fact, a local fisherman believes a pair of

5  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

bald eagles, still an endangered species in Connecticut, is nesting on the riverside of the proposed site.

The Shetucket River, which lies right next to this area -- to the site, is a trophy trout river and the only river in the eastern side of the state stocked with Atlantic salmon. In other words, this area, it's a jewel. As stewards of this land, do we really want to place a toxic ash dump in the middle of it?

Finally, Franklin's a small town where family's lived for generations in a town that will be left with a mess when CR -- it is the town that will be left with the mess when CRRRA finishes -- and, make no mistake, it will be a mess. The EPA has acknowledged all landfills will eventually leak and ash residue, the material that CRRRA wants to dump, used to be considered hazardous. In 1995, EPA lowered its standards, changed the tests -- not the materials -- to reclassify it to a lower status.

It is our duty to preserve this land with all its natural resources, ones we will need for the next generation. Please have the foresight to do the right thing and support SB3.

REP. ROY: Thank you.

SUSAN ALLEN: Thank you.

REP. ROY: Are there any questions for our guests?

Any questions from members of the committee?  
Representative Lambert.

REP. LAMBERT: Thank you, Mr. Chairman.

I find it ironic when I lived in Brooklyn,

6  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

Connecticut, and on Blackwells Brook, we had to close the landfill because it was near a pristine lake and the waterways.

To your knowledge, has there been any impact studies done? What would -- what hazards would impose on the water? Have you went ahead and did that yet, or is that -- I know you --

SUSAN ALLEN: Would you like me to address that?

REP. LAMBERT: -- had reservations about someone else doing it, but have you or your area, the regional area, done that yet?

SUSAN ALLEN: The Environmental Review Team was contacted. To my knowledge, they're in the middle of doing a study. The results have not come in yet. They are actually waiting for the results. So that is an independent review. That's -- that's the best I can answer you.

REP. LAMBERT: And the composition of the ash, you had mentioned that it was hazardous. Is that something that you know for fact, or is that --

Susan Allen: I -- I --

REP. LAMBERT: -- speculation?

SUSAN ALLEN: No, I do have material. I actually have it with me that actually names the composition, and it was the Conference of Mayors that in, back in 1995 -- is that what I mentioned -- that -- I'm a little nervous -- that -- I do have the information with me, in fact, I could give that to you.

REP. LAMBERT: Thank you.

Thank you, Mr. Chairman.

7  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

REP. ROY: Thank you.

Representative Kehoe.

REP. KEHOE: Good morning. One of the competing interest we --

REP. ROY: You to know each other?

REP. KEHOE: Yeah. One of the competing interests we often hear up here is about local control and the legislative purporting to know more than local towns do. So, I'm -- having come -- served on a town council, I'm just curious why would this not be a decision that Franklin or Lebanon or any of the surrounding towns couldn't comfortably make on their own to not have it go forward?

SUSAN ALLEN: To my knowledge -- to my knowledge, the CRRA has eminent domain authority, and I believe encompassed in that is that they can bypass town zoning boards.

REP. KEHOE: Have they discussed that the use of the eminent domain or have they --

REP. ROY: Please use your microphone.

SUSAN ALLEN: I -- I just actually talked to a wetlands member who said they will, in fact -- I believe they're not even going to go through the town wetlands committee. That was -- initially, they thought they might do that, but I've just spoke to a member who said they're not even going to go through the wetlands. So they won't go through zonings or wetlands.

REP. KEHOE: And have -- I'm just curious have you had discussions with CRRA in terms of understanding how they might proceed or not proceed?

8  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

SENATOR PRAGUE: CRRA also has to get permits from DEP, and they have to go before the Siting Council. The issue of eminent domain is a critical issue. I don't know where CRRA stands at this point. I have not had conversations with them. When this bill was before us last year, it passed the Senate. And the reason why it didn't pass the House was because it came up within the last half hour of the session. And then Majority Leader Donovan tabled it because he didn't have time. It was taking too much time, and he had other issues to discuss.

But to answer your question, I have not had a discussion with CRRA. I find them -- for me, it's difficult for me to talk to them because I'm so put-off by their arrogance. There is a landfill in Putnam that they could use that has plenty of space, and it has more space than they can buy, according to one of the town officials. And there's no reason why they can't go to Putnam. They've made up their mind that they want Franklin. Well, people in Franklin should have something to say about this. So thank you.

REP. KEHOE. Well, that was actually my point. I would have thought that people in Franklin (inaudible.)

SENATOR PRAGUE: This is the only way the people in Franklin can be heard. So thank you.

REP. ROY: Any other questions or comments from members of the committee? Representative Lambert for the second time.

REP. LAMBERT: Thank you, Mr. Chairman.

Senator, the area in Putnam, would you like to explain that. Is that pristine and is that all

9  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009 11:00 A.M.

trees or is that more of a commercial type of area versus Franklin?

SENATOR PRAGUE: It's my understanding there's already a landfill there. And there's more space in that landfill that they're already using as a landfill. There's more space there that could be used by CRRA. It isn't like they're going into Putnam and taking a fresh piece of property and developing a new landfill.

REP. LAMBERT: Thank you, Senator.

Thank you, Mr. Chairman.

SENATOR PRAGUE: Thank you,

REP. ROY: Thank you.

Any other questions or comments from members of the committee?

Thank you, very much.

SENATOR PRAGUE: Thank you very much.

REP. ROY: And CRRA will be up in the not too distant future, if you want to listen to their comments.

SENATOR PRAGUE: I do, I absolutely do.

REP. ROY: Thank you.

Next speaker will be Representative Kevin Ryan.

Susan, please go to the clerk's desk. Thank you.

REP. RYAN: Thank you, Representative Roy, Representative Chapin, and the other members of

10  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

the Environment Committee. I also -- I'm Kevin Ryan. I also represent Franklin. I'm here to share my colleague's concerns and the effects of the ash landfill, and the effect it's going have on this beautiful part of the town.

While the landfill will be placed where there is currently a gravel operation, it is next to the land that you heard described earlier, on a river bank in a pristine area that's used by a lot of folks to enjoy the environment.

There -- people are concerned about this location choice, and I ask you to look at Senate Bill 3, which would prohibit the Connecticut Resource Recovery Authority from condemning, purchasing, leasing, or accepting or taking title to, using or otherwise acquiring any portion of this land located in the town of Franklin, as well as the adjacent land in the town of Windham. And the purpose as you heard would be to establish an ash residue disposal area.

I should mention -- I think you're going to hear from Representative Johnson that the town of Windham has already passed a resolution in opposition to this proposal, and we join with them in their concerns. I realize that precautions -- and I'm sure we're going to hear from this from CRRA -- has been incorporated in their plans to prevent adverse effects from the disposal of such a system -- with such a system of drainage and line of layers to keep the ash contained, but I still worry about that aquifer that you heard described that's under the landfill if the system fails.

Water, as we all know, is a valuable resource, and it's become scarcer. This is drinking -- this is drinking water source, and I don't think we can take a chance of polluting this

11  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

water as part of this drainage system. We're going to need this water supply one day, if not now. And I believe this concern was conveyed this morning in a newspaper article in Norwich Bulletin.

So, as I did last year, I encouraged CRRA to recycle and find uses for the ash from the incineration, which don't involve any landfill. I realize that we need to dispose of our waste, and I appreciate the energy that is produced in this process, but I think it's time to be creative in how we dispose of this residuals. We need a long-term solution that does not involve this site in Franklin, and, hopefully, we can help this community preserve their land.

REP. ROY: Any questions or comments for Representative Ryan? Oh, the ladies took them all.

REP. RYAN: Thank you.

REP. ROY: Thanks, Kevin.

Our next speaker is Tom Kirk from CRRA.

TOM KIRK: Good morning. If I could ask that Peter Egan, the CRRA from Environmental join me, as well, he might be able to answer some questions.

REP. ROY: Fine. Just we'll have to get his name -- get the correct spelling of his name after you've finished. Thank you.

Tom Kirk: Well, thank you, Representative Roy, Representative Chapin, and members of the committee. I appreciate the opportunity to speak with you today against Bill 3.

I do want to, before I get to my prepared

12  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

remarks, which I provided to the clerk, just answer a couple of questions that were raised in the first couple of speakers.

CRRA didn't choose the site. The choices, essentially, were made by DEP's criteria. We can only look where it's suitable to build. DEP determined this location, in effect, by establishing very strict criteria, which by the way, have not yet been confirmed. We're still in year-long process of confirming that that criteria makes the site suitable. But that includes proximity to a Class B river. A Class B River, as you aware, is one suitable for swimming and fishing but not for drinking. It's -- four miles upstream the river is the -- is Windham waste water facility outfall and an old unlined ash landfill.

The Putnam facility, privately-owned facility, is available to the CRRA and other in- and out-of-state customers. The DEP's solid waste management plan has determined that there's space through 2018, another nine years. Nine years is a short amount of time in terms of solid waste planning. We've been working on replacement for the Hartford landfill for over 3 and a half years now.

The publicly owned -- a publicly-owned ash fill it is important to Connecticut for a number of reasons both financial and practical. We're committed to waste-to-energy as a facility -- as a means of dealing with our waste and most of the towns and cities in the state utilize trash to energy. And a byproduct to trash to energy is the ash residue. At the same time, having a publicly-owned trash landfill provides about \$10 million per year in lower tipping fees for the cities and towns across the state.

As you know, CRRA's charged with implementing

Connecticut's solid waste management plan which calls for disposing of the trash generated by the municipalities in the most cost-effective environmentally protective manner. To do this, we heavily promote recycling. Our single streams systems are breaking records across the state. We're doing everything we can to minimize the amount of garbage we have to deal with, but we still have millions of tons to deal with, and we convert those millions of tons into renewable energy.

CRRA and the State of Connec -- trash to energy are largest producers of renewable energy in the state, by far. Trash to energy is the preferred way of dealing with the waste that can't be reused or recycled. In fact, Connecticut is going to be the first state next year to completely eliminate garbage landfills. The other 49 states routinely and -- routinely use garbage landfills. Connecticut will be the first state to avoid them completely, we will have no garbage landfills, but we do need an ash landfill.

Our proposal uses state of the art engineering environmental controls. Seven layers of protection ensure the ash, an inorganic non-odorous material consistent with damp concrete, is forever isolated. The DEP has extraordinary strict belt-and-suspenders approach to siting, such that, we model the system to be independent of a liner system so it is protective of the environment even in the absence of a liner system.

There's much testing and confirmation of existing assumptions still to be done, but, at this time, we anticipate that the criteria chosen by DEP, and, therefore, choosing the Franklin site will be validated and we would hope to, within about a year, apply for permit

14  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

for the site.

I think I'll leave it at that and point you to my submitted testimony and be happy to answer any questions you may have.

REP. ROY: Thank you, Tom.

Are there any questions? Representative Hennessy.

REP. HENESSEY: It's been pointed out that there's an aquifer under this site? Is -- are -- are you aware that there's a drinking source?

TOM KIRK: Yes. It's an aquifer. It's not a drinking source. It's in -- it's required and part of the DEP criteria that it be located over an aquifer to ensure that in a -- in the modeling, if we were to build it without a liner -- and, keep in mind, we're building a seven -- seven-stage protection liner into this system. If it were built without it, we must prove that because of the aquifer underneath the site, the water will migrate towards the Shetucket River, the class B water resource, and without impacting either the quality of the Shetucket River. We can't degrade the quality of the Shetucket River, and it can't degrade groundwater or surface water around the site. So, yes, we're aware of it. There's aquifer there. By the way, if it's found to be -- and this is a test that hasn't yet been completed. If it's found to be drinking water suitable for a municipal water supply, it is not permit table under the DEP regulations. So, if it is a drinking water source for the city or capable of being a drinking water source for the city, it can't be permitted as a landfill and we couldn't get the permit.

REP. HENNESSY: Thank you, Mr. Chairman.

15  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. ROY: Thank you.

Senator Maynard.

SENATOR MAYNARD: Thank you, Mr. Chairman.

A couple of questions, I note that one of the criteria is, in fact, the proximity to a Class B river. Why -- perhaps you said it and I missed it, but why is it that that's desirable?

TOM KIRK: I'll let Pete answer that.

PETER EGAN: Good morning, everyone. Peter Egan with the Connecticut Resources Recovery Authority.

SB3

Connecticut is unique in this country with regard to the criteria that the Environmental Protection Agency, here in Connecticut, the DEP, has established for siting landfills.

As Tom mentioned, essentially, it is a belt-and-suspenders engineering process. Not only does a developer need to construct the landfill with a secure containment system, state of the art, multiple layer containment system that contains the ash residue from migrating offsite.

The DEP requires another level of protection, and it's honestly astonishingly rigorous and onerous and stringent and that additional layer of protection, essentially, drives the developer of a landfill to identify a site next to a large receiving water body. And, briefly, the reason is this, DEP requires that, although the landfill will be designed and constructed with state of the art engineering -- containment engineering, they require that the permittee assume that all of that protection

will not be there. Assume that it will not be there and model for us and demonstrate to us that the rainfall that lands on the ash, migrates down through the ash, is not going to harm the environment or human health. And the only way to accomplish that is to identify a location that is above an aquifer. The groundwater direction underneath, of which, is moving towards a large receiving water body. So, that the scientist, the models, the engineers can demonstrate that any leakage from the landfill will be immediately carried away to the large receiving water body assimilated and diluted.

This is astonishingly rigorous standard, and it is why we have a -- it is why a developer will only develop a landfill in Connecticut next to a large river over an aquifer. As Tom mentioned, DEP will not allow a landfill to be developed on an aquifer that is a potential public water drinking source. So, CRRA needs to find a an aquifer that or a site that has an aquifer but is not so large that it may provide a public water drinking water source. And, if I may, provide an analogy to this siting process, I'd like to do so, and that is this, this is like the Department of Correction looking across the state and developing a prison and putting all the safeguards in place: A fence, barbwire, security system, prison guards, walls, buildings, gates, locks, but then being told, You can only build that prison if in the event all of those safeguards go away, the public safety is still protected.

SENATOR MAYNARD: Thank you. And, just briefly, what is the life span of this proposed facility?

TOM KIRK: Our development would be 30 years.

17  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

SENATOR MAYNARD: Thank you, Mr. Chairman.

REP. ROY: Any other questions or comments from members of the committee? Representative Moukawsher.

REP. MOUKAWSHER: Thank you, Mr. Chairman. You were saying earlier that the choice of this site was driven largely by the criteria that DEP has set forth for a location of an ash landfill. And -- and, within those criteria you're bound by them, but do you have any feeling that their criteria are too limited? I mean, you -- would there be some changes in their criteria that would make siting of a landfill an easier proposition and still safe? I mean, do you have any thoughts on that?

TOM KIRK: Yes, I do have some thoughts, and I would point out that we searched a total of 77 sites to find the most suitable and ranked them from one through 77, and, virtually -- well, virtually, all of the 77 are not -- don't meet the minimum criteria. And the -- and Pete, I think did a very good explanation of why it is so difficult to find a site and why we're close a river and why we're over an aquifer.

If Connecticut had chosen, as most other states do, a less rigorous, less onerous siting process, there are other sites that would be likely available away from the river. But I'm not proposing that. Connecticut prides itself in being extraordinarily protective of its natural resources, and I thank God for that. But, to answer your question, yes, the criteria that DEP sets out is extraordinarily strict and limits substantially the sites available.

Also, what's limiting, frankly, is the development. When DEP looked sites, 13 -- back in 1993, there were 13 sites that were found to

be suitable. Most of those sites are not available anymore because of development.

REP. MOUKAWSHER: Thank you. Is there a -- I don't know what the -- what is it? Is there a particular chemical composition of ash that -- do you have all these very stringent requirements. You're going to seven layers of a liner. What are the dangers of ash residue to the environment?

PETER EGAN: Properly contained in a permitted solid waste landfill, there are no risks to human health or the environment. Ash residue is the ash, the burned residue, from combustion of municipal solid waste. It is very similar to damp concrete when it is generated. It has significant quantities of the same materials as concrete. It has lime, and the constituents that are of concern, typically, are metals. In fact, that's what the constituents of concern are, metals.

This material shortly after being generated begins to set up, somewhat like concrete, when it's placed in a secure, lined landfill, isolated from the population and from the environment it poses no risk.

REP. MOUKAWSHER: Thanks. And just, you know, to maybe just follow up on the criteria. I mean, people are here today because the Shetucket River is a great resource, and it's part of the Thames River Estuary. And -- and that river, in and of itself, and then the Thames River Estuary is a very important body of water, which then also, you know, impacts Fishers Island, Long Island Sound.

It struck me when I read your -- the written testimony where, you know, it was mentioned that in the event of a failure of the liner

19  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

system, any water that might contact the landfill would migrate into the adjacent stream or river where it would not impact service water quality, which, you know, to me is -- the basic question what would it affect it? Service water quality, you know, to me is a reservoir or -- but here you have a river where all the -- if there were a liner failure, you would have metals, you would have lime, you would have whatever other chemical components there are, going into a river, where herring, alewife, and all manner of fish come in from the ocean to spawn. It would be going into the environment of the Sound.

You know, that's why I was concerned about the criteria. To actually -- I think any place you go if you have to place near a river and over an aquifer, you're going to have people that are very concerned about it so that's why I asked about the criteria. It seems to me that this kind of puts you in a tough position no matter where you may attempt to place this so that's just my comment on it.

TOM KIRK: I -- I -- there's two ways I'd like to respond to that if I -- I would. I -- I think the DEP is -- is very sensitive, speaking for them, I think very sensitive to those concerns and has done, I think, an extraordinary job of trying to address the best way to deal with the -- the very, very low risk of failures. Most other states would not require us to have a belt-and-suspenders approach. DEP does. And I acknowledge that and, frankly, value that. We're very, very conservative in terms of our policy.

But the other point I think is worth mentioning is, this site -- there's about 450, 500 acres of interest for this site. Representative Ryan mentioned there's an existing gravel and sand

pit operation there, but the rest of the site is beautiful, no question, as is most of Eastern Connecticut. And we -- we'd be in a position, I think, to be able to preserve some of that beauty.

The 100-acre-or-so footprint of the landfill would not be visible from neighbors or the roads or the river. If it were visible it would not be permitted by the DEP. And, further, our boundary area assures for, in perpetuity, that about 350 acres of open space would be preserved, surrounding that guarding it from view from the river or from neighbors and preserving it, in fact, tying it into the city of Sprague's greenbelt so that the Sprague can continue to be green, free flowing.

There are -- this is a controversial subject. There's no question. As public servants working for the CRRA, our job -- our -- the legislature had told -- has told us in 285 -- statute 285, go out and develop landfills, two on each side of the Connecticut River. We don't need four in the state. We need one, and this is the best place to put it. And that is determined by the strictest -- the nation's strictest environmental controls and the DEP.

REP. MOUKAWSHER: Thank you.

REP. ROY: Thank you.

Any -- Representative Lambert.

REP. LAMBERT: Thank you, Mr. Chairman.

Nice to see you again, Mr. Kirk and Peter.

I have a couple of questions. One, what is the overall reason why you're not going to Putnam. I know what you said about the DEP. But is

21  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

this still a choice that CRRA can make, or is this something that you choose to make?

TOM KIRK: The choice of where we develop a landfill is not ours to make. The choice of whether or not we pursue a landfill development, the legislature made in 228 -- 285. Whether or not we could continue to use Frank -- the Putnam landfill, we're using it today. The Hartford landfill closed December 31st of this past year and for the next few years, at minimum, we will utilize the Putnam landfill.

There's two reasons, I think, that speak to why it's important that we develop Franklin. One, is the State's Solid Waste Management Plan, written and updated in 2005, by the Department of Environmental Protection, says that Putnam has through 2018. That's nine years left. That is a blink of the eye in solid waste planning -- for solid waste planning purposes. Could it be expanded? Perhaps, perhaps not. It's privately owned, and, perhaps, it's not feasible financially but, nonetheless, it's only good for another nine years. That's all we can assure.

But, the second reason is equally important. It costs towns and cities, at least, another \$10 million a year in garbage fees because our only options for ash are Putnam, privately-owned or out of state. New York, Massachusetts, Ohio and Pennsylvania take ash today, and we hope they'll continue in the future. But we know there are states interested in preserving their capacity for their own citizens. We should not count on that capacity continuing to be available to Connecticut.

REP. LAMBERT: Yes. Also, Mr. Kirk, did anyone do a traffic impact study? Putnam is all over. It's on many roads, you go 395. They're used

22  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

to that traffic up there. In Franklin, you have a lot of winding roads. I remember when Stratford brought their garbage to Brooklyn, Connecticut, and it was a nightmare. And the fact of it is, it impacts the neighborhood. So I just want to know, did you do an impact study? Is Franklin some way easier to get to and you've driven those winding roads?

TOM KIRK: Yes, we did do an impact study, and Pete can describe it to you.

PETER EGAN: We've done a preliminary traffic analysis. It's not complete. It's still in draft form. There are no fatal flaws. Secondary roads will not be used. Ash will flow either north or south on Route 2 to Route 32; approximately, 7 miles north, on Route 32, to the entrance of the former Franklin Farm Mushroom site. And that will be the entrance to the landfill. The traffic analysis has not uncovered any fatal flaws, if you will, or issues that cannot be engineered around.

There will be approximately 60 deliveries per day under current plan and so that would be about 120 truck trips up and down Route 32.

TOM KIRK: And I just add that that is in the context of Route 32's present traffic of about 10,800 vehicle trips a day.

REP. LAMBERT: And, unlike, what was stated before, I do have to say, I have worked with you. I do want to commend you publicly for the fact that when we worked with recycling, that you had negotiated with our 12 towns that if we save on recycling, we're allowed to reduce our solid waste without a cost to us. So, there are merits with the CRRA. I understand the difficulties, but I also --

23  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Being in that rural setting, when you talk about an ash fill -- and the fact of it is, I'm not thinking in terms of fly ash. This is the heavy grade ash. You do not need to put a cover on it after delivery? Is this just free in the air? And what is the impact, environmentally, in the surrounding air. And is there air quality and what kind of testing will be done? Is CRRA -- will they be doing it, or will the DEP be doing that air quality test?

PETER EGAN: Any -- any air quality testing that would be required would be conducted at the expense of CRRA using a third-party engineering firm, most likely but would be overseen by the Connecticut DEP similar to what occurs today at the waste energy facilities in Connecticut and other facilities in Connecticut that have discharges to the environment.

Today, ash is not covered on a daily basis. That does not occur in Putnam. It did not occur in Hartford. In the event that DEP decides that, at this site, daily cover of ash is appropriate, then they would require that as a condition of the permit. Again, it arrives as wet concrete or a matrix similar to wet concrete. It's placed. It is not dusty. It does not disperse in the air. And that's the best I can answer the question at this time.

TOM KIRK: Representative, I'd add to that air emissions at the landfill will not be an issue. It will be examined in the permit process. Ash is not friable or "dusty" to use a better term. In fact, ash residue, the wet concrete-like matrix that characterizes trash energy ash, allows it to be used as daily cover at municipal solid waste landfills throughout the rest of the country. So it's actually used as

24  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

cover. If we were to send it to Ohio or Pennsylvania, at substantial cost, of course, it would be used as daily cover. It wouldn't even be used in the landfill. It would be used to cover garbage in that landfill.

REP. LAMBERT: Thank you, Mr. Chairman.

REP. ROY: Thank you.

Representative Hennessy for a second time.

REP. HENNESSY: Thank you, Mr. Chairman.

The release of methane, what kind of component is methane coming out of this?

TOM KIRK: This material is ash is postcombustion. So the conversion into energy has been completed. It's inorganic, no odors, no friability, no dust and no methane, at all.

REP. HENNESSY: Okay. Thank you.

REP. ROY: Thank you.

Any other questions or comments from members of the committee? Representative O'Rourke.

REP. O'ROURKE: Mr. Kirk, I'm just wondering. This is an identified site at Franklin that you have; is that right?

TOM KIRK: Yes.

REP. O'ROURKE: Do you have a list of other sites if this bill passes that you would move onto number 2, number 3, number 4?

TOM KIRK: The -- I -- I appreciate the question and we've been asked it before. Yes, we have ranked all 77 sites into two categories:

25  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Minimum acceptable and unacceptable; and then most responsive or most acceptable, in terms of the DEP criteria.

We have not shared that that list or where the second place -- where the second best place to put a landfill would be. Primarily, because we think it's our obligation, as stewards of the Solid Waste Management Plan, to develop it where DEP tells us to, which is the best place in Connecticut.

REP. O'ROURKE: Can I ask, are any of them in my district?

TOM KIRK: I'd rather not answer, frankly.

REP. O'ROURKE: Could you share with us the list at some point?

TOM KIRK: Yes. Preferably after either a successful -- if this bill is successful. Obviously, the next plan -- quite honestly, if this bill is successful, we'd have to look, frankly, at -- is what the legislature telling us -- are they saying, don't do it in Franklin? Are they saying, we really don't want you to do it? I don't know how we'd go to the second place.

REP. O'ROURKE: This is my first opportunity to read about it or hear about it so I'd like to see the list at some point.

Thank you, Mr. Chairman.

REP. ROY: Thank you.

Any other questions or comments from members of the committee? Seeing none, Tom, thank you very much.

26  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

TOM KIRK: Thank you very much.

REP. ROY: Mr. Egan, please see the clerk.

PETER EGAN: Thank you.

REP. ROY: Our next speaker is Mike Pace of CRRA, and he'll followed by First Selectwoman Mary Ann Drayton-Rodgers from Oxford.

MIKE PACE: Good morning, Mr. Roy, ladies, gentleman. Thank you. I have a prepared speech, which I will get to, and I have copies for you.

But I -- I think one thing I'd like to preface my remarks on is this, as CRRA -- and sometimes we hear adjectives that describe it -- we are here to do what the public's interests is.

CRRA is formed by the State, by the Legislature, and we have mandates of what our responsibilities are to the State and the public's interests. Basically, that's what we're today to do, to follow through on what our obligation is. All right.

As I said, and as I was introduced, I'm the chairman of CRRA, and I'm also the first selectman of the town of Old Saybrook. And I've been on the board since the revamping of the board in CRRA after the Enron unfortunate event. And I've been appointed through two governors, and three times before this legislature.

I, obviously -- I'm here today to be in opposition to Bill Number 3, which is an act prohibiting the acquisition or use of certain parcels of land as a resident -- ash residue disposal area. I would say this with the bill, all right, if we take a look at what the

realities of what we're proposing are. Yes, it's something everybody should be concerned about, absolutely. All right. We are concerned about it. That's why it took us over a year to go through a, sort of, what the DEP had as identified sites some years ago. We also know in the realities that we had to close the Hartford site

[Gap in tape]

MIKE PACE: -- an ash landfill up stream, which I believe is unlined and has not presented a problem.

All that could be luck. Right? But the fact is we are here presenting you with the siting of an ash landfill that will have all of the safeguards that are needed for the public's interests. We have spent time talking with the leaders, if you will, of Franklin. We are not stuffing this down their throat. We are not being arrogant about it.

We have also put aside monies for CRRRA to give to the town of Franklin through its board of selectmen, if you will, to verify any of the engineering that we say we're going to put in place.

So we're trying to approach this as a good partnership relationship, not as stuffing it down to them. We also know that we have to have DEP permits to do so, which are far stricter, as you've heard than many other places, and we concur with that.

Part of the development of this is the fact that, yes, there is a current Putnam landfill, and, as you heard, it has about nine to ten years of life. We also know, and you know very well, economics of this state and the towns is

extremely important. We're talking \$10 million a year of costs that can be saved to the towns by the tip fees that need to be charged.

The other thing is I'm sure you realize that CRRA, as a quasi public entity, is really in place to offset what is in the merchant's market. We run by a net cost of operation to keep our cost down. If there is only one place to go, and it's a merchant operation for stockholders, the tip fee is whatever then bears, as opposed to a net cost of operation.

So, we bring these things to you in full light of what we want to do, where we want to do it, and we can demonstrate and we can show you the models of what this ash landfill will look like constructed. What it would look like postconstruction. It's also important to know that we are not developing the ash along side the water, as you try to visualize this. As Tom Kirk said, there will be a significant piece of this property that will remain untouched. All right? Realizing now that what's going on is digging a whole deeper into the aquifer. Right?

So the big issue, and I do agree is as one of the ladies said before, is traffic. We are looking at traffic to see how we can mitigate the traffic, the time of the traffic, not interfering with rush hours, not interfering with buses for schools and things of that nature. And, as you heard, there is about a 10,800 traffic count per day. We would be adding about a 100 traffic count per day for this thing.

These are all legitimate concerns. CRRA is not discounting it, but what we are saying is that allowed to move forward, all right? We will be working with the town of Franklin and the DEP

29  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

to put something in place, all right, that will not hurt the environment; that will not be detrimental to the town; and that will be in accordance with DEP standards and will, in fact, save the state and the municipalities, through our budgets, a considerable amount of money. Thank you.

REP. ROY: Thank you. Mike --

MIKE PACE: Yes.

REP. ROY: This took about three years, from what I've heard, to come up with this site. You have a list of 77 possible sites that the DEP gave -- and I'm sure that numbers 70 through 77 are probably not very good. Once -- if -- if you were to be allowed to go forward with Franklin, would you, even though you got 30 years of life there, would you seek to purchase or take ownership of the next two sites just so that you don't have to go through the same thing down the line. I mean, none of us are going to be around 30 years but --

MIKE PACE: Thank you.

REP. ROY: -- some other people -- me too -- but there's going to be bunch of people who will have to deal with it and can we do something that -- that may mitigate going through this process again with time constraints and all.

MIKE PACE: I think as we look as CRRA and one of my efforts in CRRA is to, you know, save the company, which we have, and I'll take a look at the new model moving forward.

I think, one of the biggest effort we're doing is try to do as much recycling as we possibly can as much as we can pull out of that waste stream. As little as we can throw into the

furnaces, obviously, there's less residue. That's our major thrust effort. We're looking at that not only with recyclables that we now have plastic bottles and things, but we're now looking at with food products. We're looking at it with wood products. We're looking at it with on a variety things, working with the DEP to bring as much recyclables out of the furnace, if you will.

The other thing is we're constantly looking for things that we can do for beneficial reuse of ash. Some states allow it, ours does not. So there is opportunity for us going out into the future to take a look at what the state would look at for beneficial reuse of this ash. I'm not a chemist. I can't tell you what those may be, sir, but I do think there's opportunity there.

So we have two phases here. We have the short term for what we need to do for the State of Connecticut, both environmentally and economically, and, then, we have what CRRA is working on, what is the long-term initiative, which also includes different technology of how we turn that garbage resource into energy. We're looking at that, too.

So we're -- we're on a mission, if you will, looking beyond the 2012 year, going out for the next new technology and the terrific effort that the State seems to putting on the 58 percent recyclables.

REP. ROY: Thank you. And, certainly, neither one of us can predict the future, but I'm just hoping that maybe we can look ahead so that we can avoid, you know, what we're going through now.

Any other questions or comments, Representative

31  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Mushinsky -- not Mushinsky, Moukawsher. Excuse me.

REP. MOUKAWSHER: Almost. Thank you.

You mentioned your, you know, and it may have been just a phrase that isn't necessarily accurate, but you said, when we dig into the aquifer. I know there's got to -- there's an aquifer there. Are you actually being -- digging into an aquifer or --

MIKE PACE: No, we -- we aren't. Right now. The sand and gravel is, you know, obviously, if you're going to remove the product. You're digging down closer to the water level. Our intentions is not to do so. Our intention is to leave the land whole, if you will, and where -- whenever if we're able to get the property at that point, you know, put in a base -- and Peter can explain it better -- and then put in this bathtub affect of the plastic liners. And, then, as you heard before, the rain falling down on the product, if you will, there's a collection system within the liners that collects that rainwater that would filter on or through the ash. That, then, gets collected and then transported as a commodity offsite for, again, purification and cleaning so nothing goes into the land into the aquifer. We do not dig into the aquifer. My comment maybe out of context was what's going down there now is digging closer to the aquifer.

REP. MOUKAWSHER: All right. So, right now, the sand and gravel area is not flooded or there's no water coming through the ground.

MIKE PACE: I, you know, I -- I, can't speak to that. I'll let Peter.

32  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

REP. MOUKAWSHER: Okay. Just another question.

MIKE PACE: Sure.

REP. MOUKAWSHER: Earlier was said that you don't have the DEP permits yet for this and --

MIKE PACE: No.

REP. MOUKAWSHER: -- you also have to determine whether the water in the aquifer is drinking water quality. How long is all going to take, I mean, you know, we're being presented with this today. I mean, in a sense in could be moot in a year or whenever, you know, this process --

MIKE PACE: Yeah, I -- I think --

REP. MOUKAWSHER: -- works out (inaudible.)

MIKE PACE: I think that you're right, but the issue here is, do we spend of millions of dollars of money -- which is really the taxpayers, the municipals -- going through an episode and then get slammed at the end and say, no, because of whatever reason you're not going to do it.

We've already talked with Ms. McCarthy to get her to understand the lengthy process and obviously she does, to take a look at both the economic uses, the economic conditions that would be applied but importantly, for her, the environmental conditions.

If this bill goes through and we put this aside, I'm here to suggest that then there are some other very important financial and other issues that this legislature's going to have to do with. This has broad ramifications.

33  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. MOUKAWSHER: I understand. Just one more question. When -- assuming that you went forward, I guess if you have a liner system you would be digging the receptacle for this ash, in the ground first and then lining it. I mean how does it work?

MIKE PACE: If you don't mind, I'm going to let Peter answer that.

Peter, could you explain how you would do that? Why don't you come over here?

PETER EGAN: Peter Egan with CRRA. As you might imagine we've not done detailed design of this site because we're not certain yet exactly where the footprint would be located. But I -- it's reasonable to expect this would be the way it would unfold.

There's about 35 feet between the ground surface and the water table -- 40 feet -- 35 to 40 feet. I expect that the base of the landfill will be down, maybe, 15 or 20 feet. We have to stay a minimum distance above the high water table. That distance is 5 feet so we would go down 15, 20 feet, most likely, and we would construct the base liner system, and then we would begin filling from an elevation, approximately, 20 feet below grade and then come up to grade and then over the years in a couple of decades fill up to a maximum permitted elevation.

REP. MOUKAWSHER: Thank you.

Thank you, Mr. Chairman.

SENATOR MAYNARD: Thank you.

Yes, I think Representative McCluskey, you had a question earlier.

REP. MCCLUSKEY: Thank you.

And thank you for your testimony. I have a very narrow question, not on the merits of the bill, per se, but I wanted to know whether or not this site was located anywhere near a rail line because I do have concerns that some of the state roads not necessarily -- there not like interstates and the truck traffic that you're talking about are rather heavy trucks, I believe, and so I just wanted to know if there's any opportunity for us to build a spur line to the site if we -- if this site was chosen so that we could get some truck traffic off the road?

MIKE PACE: Again, Peter.

PETER EGAN: The answer is there are two rail lines in the vicinity. One on each side of the Shetucket River, both are active. We have not looked at in detail at whether or not we could move ash to this site by rail. It would be an intermodal activity. A general rule of thumb is moving commodities or materials, such as this on rail, typically, does not become economic until you get out to 4 or 500 miles. There -- these are very short distances. From Preston to Franklin is only -- I don't know, 15 miles; from Hartford to Franklin, about 40. But it's there. There's a -- I think it's the Vermont Central or it's -- the Worcester Line is active. And it is certainly a possibility and something we will analyze in more detail if we move further along through the development in permitting process.

REP. MCCLUSKEY: Thank you. And just for the record, I know that the community of Hartford, if some of the ash would be generated at the Hartford facilities, has all -- always had

35  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

concerns about increased level of truck traffic in the neighborhood surrounding the facility. And I my recollection is there is a rail line not to far from the CRRA plan in Hartford. So, I would strongly -- ask you to consider that option of disposal if this site is, in fact, chosen.

Thank you.

SENATOR MAYNARD: Representative Lambert, did you have a question?

REP. LAMBERT: Thank you.

I'd like to know at what point is the ash tested because there at -- there is always speculation that the ash that you produce is mixed with fly ash. And we would know if that was mixed -- Peter will answer this.

MIKE PACE: Absolutely, Peter will answer this.

REP. LAMBERT: -- if that's mixed, we know that it would dilute the toxicity. So, at what point, are we testing? And do we test the fly ash separately than the regular ash, or do we mix them together and get a diluted toxicity?

MIKE PACE: Peter.

PETER EGAN: The -- there are two ash waste streams generated at the waste-to-energy facilities that are operating in this country. A fly ash, which is generated from pollution control equipment. Primarily, the lime used to scrub the acid gases and neutralize the acid gases and then a bottom ash, which is pulled out of the bottom of the boilers. These two ashes are combined at all the plants. That's how the technology works. And ash is combined, consolidated and then it is tested.

REP LAMBERT: At any point is the fly ash tested to see how toxic it is because my -- my point is it is diluted, and I'd like to know, at any point, does the DEP come in. Does any organization or state body come in and test that fly ash because it can be highly toxic and hazardous? And we're diluting this, and I'm just -- and I think that this is one of one of questions that the people in Franklin had. They just want to make sure whether your liner breaks -- we all know that there's caps. We had Raybestos down there. We had a cap on that landfill. And Attorney Blumenthal came in because they broke violations, and he came down immediately had to stop it because they did not want that liner to be penetrated because, once it is, they're not worrying about bottom, they were worried about coming up.

So, my point is, I'd just like to know what would be the highest toxic waste level that you have, and I'd just like to know if there's no testing, then I'd like to know that.

PETER EGAN: We do not test the fly ash separately. We test after the bottom ash and the fly ash have been consolidated and that analytical is available to the public.

REP. LAMBERT: Thank you.

SENATOR MAYNARD: Are there other questions? Yes Representative Mushinsky.

REP. MUSHINSKY: I have a fly ash site right down the street from my house, and it has been tested. And, as I remember when we did the when the test results were available, the only thing that showed up was salt but the metals did not move. Have you -- do you have an answer for the salt emission?

PETER EGAN: An ash residue matrix consists of everything that you can't burn in a high temperature boiler, in addition to lime material that is added to neutralize acid gases, and that would include salts. It would include pieces of metal. It would include any metals that are scrubbed out in the pollution control equipment: rocks, grit, glass, dirt. There are salts. There are metals. This is the residue from burning the 2.2 million tons of garbage that you and I all generate every year. And it is -- it contains these various inorganic fractions and materials. There are salts.

REP. MUSHINSKY: Well, I'm just asking the question because you have a freshwater fishery nearby, is the salt a problem? Is the salt at the levels you think will be released a problem for the coldwater fishery?

PETER EGAN: If -- in order to receive approval and a permit and authority from DEP to develop this ash landfill at this site, we would have to demonstrate that those salts would not be a problem to a coldwater fishery in the Shetucket River.

SENATOR MAYNARD: Thank you.

Other questions? Yes, Representative Kehoe.

REP. KEHOE: Thank you very much. I'm just trying to get a handle on the ash that's been discussed, and I'm guessing this is going to be for our environmental person over there. Other than the volume of it, are there any commercial uses that are made or can be made of ash. I mean, I know you can't get necessarily -- because of the volume of it, but I'm just trying to put it in perspective in terms of,

38  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

you know, how it's handled, and so on?

PETER EGAN: The answer is, yes. In the United States, in the last -- within the last decade or maybe two decades, there have been several initiatives in some states to reuse in a beneficial manner, municipal waste combustor ash.

Typically, this involves taking the ash, amending it so that it improves the matrix and its ability to be used in applications including road base material, construction of Jersey barriers. I'm familiar that Florida has tried to use ash in this beneficial manner, Pennsylvania. Honestly, it's my understanding that it is not worked primarily because it's not been economical. There is some amendment that needs to be done to the ash before it can be used to improve the matrix and to modify and amend the matrix.

In Connecticut, the DEP has ruled, essentially, a decade ago that they were not comfortable with ash residue being beneficially used in this manner.

REP. KEHOE: Thank you.

SENATOR MAYNARD: Thank you.

Are there other questions from committee members?

I have just one final question. I see that the facility is intended for the use of the 90 member towns, and there was some interest whether or not, if sited, the landfill will be available to towns that comprise the Bristol Resource Recovery Authority?

MIKE PACE: Yes. We're in conversation with

39  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Bristol. I believe there's testimony that they've already submitted. Where this -- this ash landfill we're looking at, not just for Mid-Conn, but for, you know, the interest of all the municipalities, as they see fit, moving forward with their contracts, sir.

SENATOR MAYNARD: And that is factored in to the design and life --

MIKE PACE: Absolutely.

SENATOR MAYNARD: -- of the facility. Great. Thank you very much.

Anything else from committee members? Oh, Representative Conroy.

REP. CONROY: Thank you, Mr. Chairman.

Can you just tell me what the hours of operation for this facility would be and if you would be working on the weekends, also?

MIKE PACE: My understanding, from the chairman's point, we would not be working on the weekends. And we would make accommodations, talking with the -- you know, the leadership of Franklin to make sure it doesn't interfere with bus -- school busing hours and things of that nature. You know, obviously, we want to avoid heavy traffic hours, if there is such on there. So we would accommodate the schedule to meet the best interest of the town, the public and the school system.

REP. CONROY: Okay. And what would be the latest time be that you'd be working there?

MIKE PACE: Peter, what are you projecting?

PETER EGAN: I would expect that -- I'm sorry. I

40  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

would expect that we would operate the landfill from approximately 7:00 or 8:00 a.m. to 3:00 or 4:00 p.m., five days a week. As Chairman Pace mentioned, we would try and look at traffic flow patterns, in particular, with regard to what happens early morning and govern truck traffic around that. Understand that, as the permittee of the landfill, CRRRA and the DEP, through putting conditions in the permit, can govern traffic flow to and from any solid waste facility in the state of Connecticut and would look at that particular matter as they looked at issuing a permit for such an activity in Franklin.

REP. CONROY: Thank you.

SENATOR MAYNARD: Anything further?

MIKE PACE: If I might, sir, just one last comment. And I know it's not for your consideration, but when we talk about tough economic times that the State it is in, we would be paying a host benefit to the town of Franklin at the rate of about \$5 to \$6 a ton. My calculations and our calculations are that that would offset their mill rate, their taxes to their residents, by about 33 percent.

So there's a significant impact to the town on the favorable side on economics. So this is not the state, just us, picking out a thing and there's not an economic benefit. In today's world, if you can offset somebody's taxes by one-third moving out, that's substantial.

Is it the prime consideration? No. The environment is. The State's needs are, but, as we look moving forward, we do anticipate, hopefully, some jobs created by this, as well. Thank you and you made it easy that Peter was here for me.

64  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Okay, Mayor Mark Lauretti. He will be followed by Simone Mellor. Mark, good to see you again.

MARK LAURETTI: Good to see you, Mr. Chairman, and members of the Environment Committee. I'm here to speak in opposition to Senate Bill Number 3. I did have a prepared text to read. I'm going to forego that and just make a few brief comments in the interest of -- of time.

But I wanted to echo the sentiments -- comments and sentiments of Chairman Mike Pace, who's also the first selectman of Old Saybrook as a board member for the CRRA, the newly constituted board back in 2002. There is a -- the board, as you know, is comprised of many chief-elected officials and people who represent the business community around the state.

I want to say that I believe that the CRRA board of directors represents the State's interests, particularly in -- in this case of siting an ash residue landfill. Not only as a board member for CRRA, I also come from this -- from a different perspective and that I am a chief-elective official of a municipality that has been a host community to both a MSW landfill and an ash residue landfill that is sited on the beautiful Housatonic River so I understand firsthand the aches and pains that residents of any community go through when a proposal of this magnitude is put before them and share some of their concerns because I've been through it.

But, speaking from my own perspective, I think that it is important for the State to recognize the value of publicly owning these facilities and the value that it brings for the entire state of Connecticut and all its residents.

65  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Chairman Pace spoke about the -- the economic impact that it will have to many residents and many municipalities is certainly not something that -- that should be over looked. And that, as you know, garbage disposal will be our responsibility forever and that now is the perfect time that the State, through the CRRA take a leadership role in siting an ash landfill that is needed. And, if you look at the big picture and in the long term, it's something that will bring many, many dividends. I thank you.

REP. ROY: Thank you.

Any questions for the Mayor? Seeing none, Mark, thank you very much.

Simone Mellor followed by State Representative Susan Johnson.

SIMONE MELLOR: Good afternoon, Representative Roy, Representative Chapin, and Senator Maynard, and members of the Environment Committee. Thank you for the -- providing the opportunity to comment on SB 3, an act prohibiting the acquisition or use of certain parcels of land as ash residue disposal areas.

My name is Simone Mellor. I'm the community organizer of Toxics Action Center Campaigns. We're a public health and environmental organization. And we've been around since 1987 and have work side by side with over 575 community groups to clean up and prevent pollution. Currently, we're working with the citizens group in Franklin to protect drinking water resources, public health, the environment, and quality of life of their town and surrounding area.

I'm speaking with you today to encourage your

support of Senate Bill 3. By supporting this bill, you will take a major step toward safeguarding critical drinking water resources and protecting public health in Franklin, Windham, and other surrounding areas.

We believe that the CRRA should not be permitted to site an incinerator ash landfill in the community of Franklin or Windham. Ash landfills pose a threat to drinking water and public health of residents living nearby. According to the US EPA, landfills -- all landfills eventually leak, making it inevitable that what goes in will eventually come out.

Incinerator ash can contain dioxins, lead, cadmium, arsenic, and other heavy metals and toxins. As the ash is transported and placed into the landfill, there are immediate threats for communities situated along the truck route, near the landfill and downstream on the Shetucket River. The toxins that are part of the ash particles are known to cause serious health problems. Lead exposure can lead to brain and other nervous system damage; while cadmium has been linked to cancer, kidney problems, miscarriages and still-births; while dioxins are one of the most toxic chemicals known to humans and are classified as probable carcinogens by the EPA.

Furthermore, as incinerator emission controls have gotten stronger and more effective at preventing toxic chemicals from leaving the smokestack and being redistributed into the air that we breathe, the ash has become increasingly toxic. Ten to 30 percent of the volume of garbage that goes into an incinerator comes out as ash. Because our waste stream is toxic, it includes materials like lead, mercury and cadmium in electronics; arsenic and chromium often coating waste wood; and dioxin

resulting from the burning of PVC; the ash that results is toxic as well. This ash can leak out of dump trucks, become airborne ash residue dries or -- because airborne ash residue dries and contaminates drinking water. Drinking water in Franklin and communities downstream would be particularly vulnerable. Residents in the area have private drinking water wells right near by the aquifer. And the contamination of these private wells would prove disastrous for the community.

The proposed location for the ash landfill is directly on top of the pristine aquifer. This is classified as GA to double GA by the Connecticut DEP currently. Thank you for your opportunity to provide these comments.

REP. ROY: Any questions or comments from members of the committee? Representative Lambert.

REP. LAMBERT: Thank you, Mr. Chairman. Simone, you mentioned the quality and the classification of the aquifer.

SIMONE MELLOR: Yes.

REP. LAMBERT: You -- I'm not sure if you were in the room before with testimony that this has not been established yet. On what basis can you stand before the committee and tell us that on what qualifications it is already and how the classification has been established by you?

SIMONE MELLOR: To my knowledge the Connecticut DEP has certified this aquifer's class, GA to double GA. Part of the requirement, required permits that CRRA needs to apply for is to have the aquifer reclassified to a GC.

REP. LAMBERT: By having it reclassified, are you saying that it would not be used for future

68  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

drinking water?

SIMONE MELLOR: Yes. That's what GC would mean.  
Classified as GA to D double -- D -- to G  
double A means that it is drinkable as is.

REP. LAMBERT: Thank you, Mr. Chairman.

REP. ROY: Thank you.

Any other questions or comments from members of  
the committee? Senator Maynard.

SENATOR MAYNARD: Just curious, not to be facetious,  
but is there any location that your  
organization would find acceptable for the  
purpose outlined?

SIMONE MELLOR: In my opinion, I think that the  
Putnam ash landfill is a acceptable location.

SENATOR MAYNARD: I -- I guess I'm saying for the  
siting of a new facility. Would there be any  
location that your organization would feel that  
there was not a detrimental environmental  
impact?

SIMONE MELLOR: I -- I would love to do more  
research on that. Currently, I think that this  
is just a horrible location for the ash  
landfill to be built.

REP. ROY: Thank you.

Any other questions or comments? See nothing,  
thank you. Simone -- now, State Representative  
Susan Johnson followed by Jennifer  
Davis-Muller.

REP. JOHNSON: Thank you, Mr. Chairman, and members  
of the Environment Committee. I'm  
Representative Susan Johnson. I represent the

69  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

49th district, House district -- and the town of Windham. I'm here to support the proposed Senate Bill Number 3, an act prohibiting the acquisition or use of certain parcels of land as ash residue disposal areas to prevent the CRRRA from taking the property by eminent domain for -- and using it as an ash disposal area.

I'm also the chairman of Windham's Inland Wetlands and Water Courses Commission, and I am here because I'm very, very concerned about the protection of the aquifer that sits under the proposed location, and I would like to be able to preserve that area.

We have been running out of water in Mansfield and the river has been running dry because of the use of the University of Connecticut, the students, the population is expanding, and I see some of this area has a potential for water in the future. So I would very much appreciate your support of this bill, and I entertain any questions you may have.

REP. ROY: Thank you, Representative.

Any questions for Susan? Seeing none, thank you very much, Susan.

REP. JOHNSON: Thank you so much.

Jennifer Davis-Muller to be followed by Jean deSmet of Windham.

JENNIFER DAVIS-MULLER: Representative Roy and members of the committee, my name is Jennifer Davis-Muller, and I'm speaking on concerns for the traffic impact of the proposed Franklin ash landfill. I'm a concerned resident of Franklin. I'm here to speak in favor of Proposed Bill SB 3, an act prohibiting the acquisition or use of certain parcels of land

70  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

as ash residue disposal areas, and I need to clarify my written statement. It should read that I am in favor --- in favor -- in favor of Bill SB 3. I miswrote and wrote that I'm opposed. I'm not opposed. I am opposed to the landfill but in favor of the bill.

The route the vehicles would take to and from the proposed site is Route 32. It is a two-lane state route that runs through Franklin from its intersection with Route 2 to the Lebanon town line. It carries high traffic volumes and an average daily traffic that exceeds 19,000 vehicles per day. It also carries high peak rush hour traffic that exceeds 1800 vehicles per hour -- I'm sorry that first word -- number should be, yeah, 19,000 vehicles per day and carries a high peak rush hour traffic that exceeds 1800 vehicles per hour. This is the only feasible route to access the proposed landfill site in Franklin. CRRA proposes to send 60 fully-loaded dump trucks weighing up to 80,000 pounds per day to and from the landfill site. That's 120 total trips, equaling 120 trucks added to the route -- to Route 32 every day.

Route 32 is a nonlimited access roadway that is intersected by town roads. There are many commercial and private roadway -- driveways that ingress and egress directly on to Route 32. The vertical and horizontal alignment of the road varies greatly from sharp curves, steep grades, rolling hills and straightaways. There are two signalized intersections: one of which is at the bottom of a steep grade with a poor sight line to the traffic lights. The posted speed limit varies. However, the observe speed often exceeds 60 miles per hour. There are sections of the roadway that freeze in the wintertime and flood during heavy rain events. There are homes and obstructions in

71  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

close proximity to the roadway.

All of the above factors are a recipe for motor vehicle accidents. In fact, according to the DOT's traffic accident viewing system, from 2003 to 2007, there were 285 accidents along Route 32 in the town of Franklin. These accidents involved 507 vehicles in total, over 17 percent of those were trucks, 49 percent of those accidents occurred at an intersection of roads and driveways. Speeding and tailgating accounted for over 48 percent of these accidents. There -- 139 injuries resulted from these accidents, including one fatality. Many of our residents have been hit entering Route 32 from side streets or their own driveway. My husband and I have both been involved in accidents recently on this road. And there's no one that you can talk to in Franklin who doesn't have a horror story about traveling on Route 32.

If I may just take a few more moments of your time -- others have been rear ended attempting to turn off of Route 32. It is simply a dangerous stretch of road. The thought of adding an additional 60 extremely heavy, hard to stop dump trucks is unconscionable. State routes, in general, such as 32, are the most dangerous roadways in Connecticut. That's per the DOT's report.

Accidents involving dump trucks like the ones that will transport ash along Route 32 can be devastating. Everyone remembers the dump truck accident, when the dump truck lost its brakes traveling down Avon Mountain causing -- smashing into 19 vehicles killing four people. This is risk that the residents of Franklin do not want to take.

REP. ROY: Can we wrap it up there?

JENNIFER DAVIS-MULLER: Yes.

REP. ROY: Thank you.

JENNIFER DAVIS-MULLER: Just -- just an ending if I might -- environmental issues with leakage from the trucks. It passes a large egg farm. These -- this egg farm distributes their eggs all throughout New England. It also passes a large grain facility that transports internationally and contamination would be a huge factor, not just to Franklin, but much more widespread. Thank you.

REP. ROY: Thank you. Any questions for Jennifer from members of the committee? Seeing none, thank you very much.

JENNIFER DAVIS-MULLER: Thank you.

REP. ROY: Jean DeSmet followed by Anthony Fratianni.

JEAN DESMET: Thank you, Senator Maynard, and Representative Roy for having me. I'm the first selectman in the town of Windham, and I thought I was going to be late today.

SB3

REP. ROY: You are. We expected you to finish by eleven.

JEAN DESMET: I'll tell you what I was doing any way. I was at the -- crowning our cupid. Every year Willimantic, romantic Willimantic crowns a cupid and was kicking off our romantic Willimantic Chocolate Festival. So I have to get back in time for the chocolate soiree tonight so I'm glad I got to go early.

Willimantic is a very special little town. That's -- that was my point there. The town of

Windham was one of the first communities in the state to build a waste incinerator. So 30 years ago this was a new and promising technology, and we thought our garbage would just disappear, and we would produce electricity and make some money. And it sounded like such a great idea.

After an area was exposed to hydrochloric acid, we began to understand that that clean white smoke contained dioxins and mercury. Windham closed its incinerator because it was environmentally unsound and economically a drain. Soon after CRRA asks us if they could use our, our ash landfill and waved that million dollars in front of us as a carrot. But the Windham residents voted, and we said, No, thank you, you do not have enough money to make us pollute our river and our aquifer. And we closed our landfill.

During this time, CRRA tried to open an ash landfill on the Shetucket Plains in Windham. The residents fought that ash landfill. We won, again. That was apparently another temporary reprieve. So here we are again. I was fighting those battles early on when I was cupid. And now I'm the first selectman in Windham, in part, because I fought CRRA's attempts to pollute Windham.

We are not just NIMBYs. We are here to testify that no one should have an incinerator as a neighbor, and no one should have to have a 180-foot high ash landfill. We should all protect our pristine aquifers and rivers all over the country. The targeted area here is on our plan of conservation and development as high priority for preservation because, in Windham, we value our quality of life.

One wonders why Windham and Eastern

Connecticut, in particular, are the prime targets for ash landfills in the state. Somebody asked where the other ones are. There's a couple more targeted at Windham. Perhaps, someone thinks we'll sell our rivers and aquifers for the dollar. This is an environmental justice issue. We heard it articulated here very clearly by CRRA. There's a lot of money in this. Do you want to sell yourself short? In Windham, we say, No.

If you have a map -- I don't know if you do -- of the proposed action landfill, it's got this straight line at the top. That straight line is the Windham border. Somehow their footprint just ends at the Windham town line. But the Windham Board of Selectmen passed a resolution unanimously opposing this ash landfill at our gateway, and that's in your packet.

This legislative body made a law that every town in Connecticut must incinerate its garbage. The law was made because -- to create -- to make incineration a viable enterprise. I'm glad Representative Urban is here, because I think you should do a fiscal analysis of this. Incineration is not a viable enterprise. It is a waste of money. It's producing a hazardous waste, which legislative you -- you decided is not hazardous by another stroke of the pen. Nobody knows what's in that ash. It's time for the State to recognize that the -- these policies were created to enable a failing business. Let this business stop. We have to change our direction. You're telling the towns regionalize, get by with less, find out what's fiscally prudent. Incineration is not fiscally prudent. You could take those hundreds of millions of dollars that everybody's referred to, put it into recycling, put it into waste reduction. We found due to the poor economy, we're saving a lot of money

75  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

in Windham on tipping fees.

REP. ROY: I think we're going stop right there.

JEAN DESMET: Okay.

REP. ROY: With the recycling, with the reusing, is there anything in our waste system that you know of that can't not -- cannot be used or recycled. Because if -- if not, then we've got to locate incinerators or ash landfills or something somewhere.

JEAN DESMET: Right. One alternative is there are things that are not incineratorable even, like shards of pottery. Things like that you can create safe landfills for them so there are -- if you go smaller, instead of thinking 30 million cubic yards, go back to a smaller safe landfill. If you take out the toxins, you take out the chemicals, you take out the pollutants, that could contaminate it within a landfill, we've spent million of years creating safe landfills. It's only because we started adding all these other things to the process that we contaminated it.

REP. ROY: Thank you.

Any other questions? Representative Urban.

REP. URBAN: Thank you, Mr. Chairman.

And I thank you for your comments. I'm assuming where you're going with that is we need to look at the result that we're trying to achieve in the State of Connecticut and working backwards to see whether programs are getting us where we want to be.

JEAN DESMET: Right.

76  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. URBAN: And, certainly, this would be a subject for that so thank you for bringing that up.

Thank you, Mr. Chairman.

REP. ROY: Representative Mushinsky.

REP. MUSHINSKY: I just wanted to correct -- I understand you're from Windham, and you're in the area and you don't want the ash fill. But I wanted to correct one historic statement you made. The legislature did not set up waste-to-energy plants because we want somebody to make money. I mean, I was chairman of this committee at the time. The reason we set it up is, we had leaking landfills; they were polluting people's drinking water all over the state; and the drink -- that act of pulling the drinking water out of the ground in a well field sucks the leachate out of a traditional landfill, and it comes right up in the wells.

We had, in my own town, we were drinking TCE and any number of other things; Southington, same problem; other towns in my area, same problem. It was a statewide issue. So the State went to a combination of recycling and waste to energy because we were desperately trying to get away from landfills, which leak materials. Now the difference between this type of landfill and the other kind is that this is processed material when you combine all that ash together. The stuff actually stays in place. I have an ash landfill in my district. And the stuff doesn't become out of the landfill. It stays in there except for the salt which did come out. So you should look for that, watch for the salt, but all the stuff that came out of traditional landfills doesn't leak out of these ash landfills. And it's a -- I mean, that's a scientific -- scientific information for you.

77  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

So -- but just please don't say the Legislature did this because we wanted somebody to make money. That is not the way it happened. We were trying to protect the public's water supply, and the old system we had was very destructive to the public's water supply. So that's why we moved away. I be the happiest person up here if we can go to a 100 percent recycling, but we're not there yet.

JEAN DESMET: Well, I -- I have to agree, and I'm -- I didn't mean to imply that that was your intention. I just think that that was the result, unfortunately. We've created a -- a mega -- mega corporation that wants to continue even though it's failing.

REP. ROY: Thank you.

Any other questions? Representative Lambert.

REP. LAMBERT: Yes. I'm a long-term admirer of the way the -- quiet corner and the whole eastern section up there across the river recycles. Would you like to share with us what your recycling rate is?

JEAN DESMET: Not very good. But --

REP. LAMBERT: Oh, it's not.

JEAN DESMET: -- I have to tell you, I'm going to give you some -- some news. How's that? And Windham is not very good. The city is -- is not as good as we should be, even though we have a recycling facilities right there. Our -- my recycling coordinator just -- it's not recycling, my zoning enforcement officer just went out and started handing out notices because we realized how much cheaper it is to reduce how much we tip. As a fiscal move, he

78  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

went out and started tell -- putting notices on everybody's garbage that you didn't recycle today. And he was going down one street, which is a particularly -- not nice an area as you'd like. And he came back and he was so depressed. And he looked around, he's like, Jean, this is hopeless; there's garbage all over the street; nobody cares; this is terrible. And, then, the next day he came in and he said, Jean, I got ten calls today from people so thankful, didn't know they had to recycle, didn't know what they had to do. And they started buying recycling bins from him. He sold out. And he's -- he's delight -- and landlords calling him. So it can be changed through information. That's why I say take the hundreds of millions of dollars, give us a million, and let's start -- take half of the waste stream out that waste stream. And it can be done and people will cooperate.

REP. ROY: Can you --

REP. LAMBERT: Well, I'm a little disappointed with that. Maybe Milford's not so bad. I will have to say in defense of CRRA, they have -- when we negotiate our contracts, they have encouraged every town to recycle so reduced and to recycle.

REP. ROY: Thank you.

Any other questions or comments from members of the committee? Seeing none, thank you very much, Jean.

JEAN DESMET: Thank you.

REP. ROY: Our next speaker is Anthony Fratianni to be followed by the Sprague First Selectwoman Catherine Osten.

79  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

ANTHONY FRATIANNI: Good afternoon. My name is Anthony Fratianni, and I'm here in support of Bill Number SB 3.

As a resident of Franklin, Connecticut, I urge you to protect to protect our natural resources and the rights of our citizens of the state. As you all are aware, CRRA is in the -- excuse me, preliminary process of testing for an ash landfill in Franklin. Myself, as many of my fellow townspeople are opposed to this selection.

I would -- like to outline my opposition to the proposed site. The proposed site is to be placed -- is to place ash high in contaminants over a class A aquifer. I challenge the feasibility of the standards that we place an ash landfill over an existing of future water source of our community. Water is precious and sustains all life and is a basic human right and entitlement. As water -- water scarcity grows, efforts should magnify to protect it for future generations.

The town of Windham has already experienced a landfill failure in South Windham. The contamination polluted a good amount of the wells in that area, and the town's had to pay and provide for a public water source. To place an existing and future water source in the position of potential danger is ill-advised, at best.

Placement of the ash landfill in the suggested area will place some endangered and threaten wildlife species at risk. Furthermore, loss of farmland, both prime and important, will be lost. According to the Farmland Trust, 8,000 acres a year is lost -- every year to development. Everyone in Connecticut reaps the benefits of farmland. They are a vital part of

80  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

our history, culture and economy.

In an effort to -- of keeping this letter brief, I request but one thing. I ask for the environmental justice that our community is entitled to.

REP. ROY: Thank you.

Any questions for comments from members of the committee? Representative Backer.

REP. BACKER: Yeah, I got one -- the earlier testimony was underway. I just want to make sure I heard it right. So we have a drinking water aquifer now, but if we site the landfill over the aquifer, it would be -- be declassified for public consumption?

ANTHONY FRATIANNI: Right.

REP. BACKER: Okay. You know, water is going to become more and more dear all the time. And I think we ought to take a real close look at -- I understand the complications with siting these, but to take a -- must be a pristine water supply and put it at jeopardy for the future, you know, we may have to go back and look at our body of laws. I think that's probably a pretty bad idea because if anyone spends any time looking at global water supply, you're going to be very shocked on how bad it's going to get in a lot of places.

ANTHONY FRATIANNI: Well, basically it's a global water crisis. Maude Barlow of the Council Committee was on public radio not that long ago expressing that.

REP. ROY: Any other questions or comments from members of the committee? Seeing none, thank you.

81  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

ANTHONY FRATIANNI: Thank you.

REP. ROY: Selectwoman Catherine Osten followed by  
Diana Perkins.

CATHERINE OSTEN: Good afternoon. My name is Cathy Osten, and I am the first selectman in the town of Sprague, not quite a city as we were referred to earlier. We have less than 3,000 people so we haven't made it up to the city level point yet. We're working on it but not quite there. Maybe we're really not working on it either.

I am the first selectman in Sprague, and my concern -- and I'm speaking on -- clearly on Senate Bill Number 3, is we have had in our town a significant water issue over the last year and a half. At one point during the summer last year, we had ten days' worth of water left in the town for the townspeople. We were successful in opening up another new well, but out of our 16 wells that we have in town, 12 are contaminated. We are trying to actively open up the reservoir as our primary water source but will continue to need the wells in the area as a secondary water source. And that is my primary concern with the ash landfill in Franklin impacting the water supply for the town of Sprague. Also, recently the Town of Sprague approved the acquisition of 280 acres, formally referred to as --

[Gap in tape]

CATHERINE OSTEN: -- a half of million dollars to offset that cost to the Town. And I think that that is a significant price that the State of Connecticut has paid to keep that area as open space. They're also looking at two other pieces of property that are in Sprague and

82  
ckd/lg . ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Franklin as open space.

We are considered in the area -- in the town of Sprague as the last green valley. If you look at us from up above, we are dark. Unlike other areas because we are trying to maintain that open space, clear open land, and those are my concerns.

REP. ROY: Thank you, Cathy.

Any questions or comments from members of the committee? Seeing none, thank you very much.

CATHERINE OSTEN: Thank you.

REP. ROY: Cathy was the last public official so we -- we'll revert just to public now. Diana Perkins is next to be followed by Scott Jacobs.

DIANA PERKINS: Hello. My name is Diana Perkins, and I'm here in favor of support of Bill SB 3. I live in the town of Windham, and I'm going to do a little Ross Perot thing here. This is what they're talking about for the ash landfill, and it goes a lot, a lot further in here. And I live on this side of the river about in there. So it's a beautiful area. And I have to tell you, it's -- it's incredible. There is 10 miles of wildlife corridor between Windham and Sprague. There's nothing there. There's a cottage. There's a campground. There's a fish and game. And there's nothing. There's all kinds of wildlife. And it is beautiful. There's osprey. All the time, I'm down there. There's osprey. There's -- of course, deer and all the rest of the stuff is there, but it would be horrible to think that there's going to be a 14-story pile of stuff on top of this. And that's what they're saying, 14 stories. And that just kind of, like, I just think that it's incredible to think that

83  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

that would happen. And over my water, my well is 250 feet down. That's my water, too. And every -- and there's a whole neighborhood up in here you can't see. So I'm in favor the bill and would like to see us not have this landfill.

REP. ROY: Thank you.

Any questions or comments from members of the committee? Representative Lambert.

REP. LAMBERT: Thank you, Mr. Chairman. You have my empathy because Franklin had the Franklin mushroom. And it had -- it's had a variety of problems. And now it just kind of seems unfair that now you're being put upon this. I mean, I'm open minded, and I'm listening to all the testimony, but it -- I just have to make that comment because although I use to love the --

DIANA PERKINS: -- the mushrooms, yeah.

REP. LAMBERT: The (inaudible) that did for my gardens.

DIANA PERKINS: I could smell it, yeah, yeah. I got you.

REP. ROY: Any other questions or comments from members of the committee? Representative Moukawsher.

REP. MOUKAWSHER: Yeah. I'm in sympathy with you. I'm not unsympathetic, but, you know, one of the things we hear a lot of times when we hear about eco -- environmental justice earlier, there -- we had a bill last year that -- that was directed at that -- that object. And the point was developed areas and cities tend to get incinerators and they tend get a lot of these types of facilities, which affect air

84  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

quality and others to their detriment in all, and -- and so there's a counterargument to what you're saying that, you know, well, I don't want it here because it's pristine. And I understand that. You know, on the other hand, we often hear about developed areas getting too much of the same type of use, and that's not fair to people that live in those areas. So I don't know if you have anything to say about that. I --

DIANA PERKINS: Well.

REP. MOUKAWSHER: It's more of a comment than a question, but --

DIANA PERKINS: I agree with you that developed areas do -- and -- and -- and I -- I'm concerned about the waste management. I think we are -- really have to find other alternatives. I -- I'm very carefully -- I very carefully recycle and compost and do all the things that you think are right. And I have a very small stream of waste that goes out -- out of our household. But, I -- I -- I have to wonder if maybe it's not poorer communities that are -- are identified for this kind of -- I'm wondering if, is there one up on the Farmington River? I don't think it should be near any rivers really, landfills or -- or -- or ash --

REP. MOUKAWSHER: Yeah. I think some of the criteria is questionable.

DIANA PERKINS: Yeah.

REP. MOUKAWSHER: Thank you, Mr. Chairman.

Thank you, Diana.

REP. ROY: Thank you.

Any other questions or comments from members of the committee? Seeing none, thank you.

Scott Jacobs followed by Steve Reviczky.

SCOTT JACOBS. Thank you. First off, I'd just like address the committee here today and explain that this really is not a NIMBY issue or a "not in my back yard" issue to most of us in Franklin. I think we would fight as strongly about this issue were -- if it were located in such a -- typical site anywhere in Connecticut. I think there is a place for these things. And there is -- there are not places for these things.

SB 3

This particular site is just wrong in what's been described today as a beautifully environmental area, plain and simple. That doesn't take a lot of -- really a lot. I don't need to address that in a lot of depth in that aspect.

The other piece that I'd like to bring out, also, Mr. Kirk had address in the CRRA earlier that we're using Putnam. And there was 18-year span on Putnam. Well, Putnam, the ash site there -- and, by the way, I am in favor of SB 3, in case you couldn't tell yet. The -- he had mentioned that there was -- we're also accepting out-of-state dumping at that site. So you would think you could expand the life line or the term of that site in Putnam if we didn't accept out-of-state dumping in that area.

We also talked about the toxicity and what is in some of these -- in some of this ash. And there is -- people throw away their batteries, their nickel cadmium batteries, their -- there's lead in there, mercury in thermometers,

smoke detectors with radioactive isotopes. That stuff doesn't burn down. That's what ends up in here. And the CRRA admitted in a prior hearing that these things do leak and have leaked here in Connecticut, even with these particular grounds that they have -- these barriers that they've put in, we've already had leakage. And the EPA has admitted that they can't -- they don't have the manpower to monitor the wells.

So, in a nutshell, I'd just like to read this to you briefly. The proposal to site a toxic ash landfill in what is one of the last vast pristine areas of Connecticut's agriculture and forestry land is absolutely preposterous, as well as terribly irresponsible. This land, abundant with wildlife and active fishery, sits atop of what regarded by many in the area as the aquifer that feeds most of the adjoining property's drinking wells. I have four springs on my property. All about the surrounding areas are the archaeological remains of the early prerevolutionary home sites dating back to the early 1600s. The propose site is situated adjacent to the Shetucket River, a highly regarded fishing stream by the DEP stocked with edible trout and salmon.

This proposed site, recommended as a potential area by the state in the study put into place in 1989, has evolved considerably since then. The days of dealing with pollution by dilution have been dismissed by most environmental scientists as dangerously ineffective. The CRRA has openly admitted that their encasement systems leak, and the DEP's admitted they don't have the manpower to monitor them.

Many residential home have been constructed in the immediate area since that time and grow organic produce, harvest deer and other game

from the forest to readily consume the fish from the Shetucket River and its tributaries. The traffic, which is already congested in the area, will fill the air and roadways with even greater hazards and air pollution as possibly as many as 60 trucks per day carry their toxic payloads through these people's neighborhoods.

Doesn't it make more sense to find better ways to limit the State's production of this waste and locate it in an area other than what has been named the last green valley of Connecticut? Why not locate this site in an industrial or commercial area where nature's has already been somewhat disrupted or polluted? Perhaps, this State will not have to drive these pollutants to such a distant outpost and save our taxpayers some much needed gas money. There are several other sites that make far greater sense, do not jeopardize people's health and well-being, and will not destroy one of the last places in Connecticut where nature still exists as it did when our forefathers arrived. Will we leave nothing? Will we leave nothing to our future generations that is still clean and safe for their families to enjoy?

REP. ROY: Any question or comments from members of the committee? Representative Mushinsky.

REP. MUSHINSKY: I just wanted to comment on the solution to pollution thing. Just so people are clear, the reason -- these things are sited near a river, and I have one in my district that's also sited near a river is redundancy. If the -- they're not designed to leach every day. They're designed to be sealed. If something were to happen and there was a breach, and it leached, the redundancy is that the river will take the plume away from the wells. That's what -- what it's for. I mean,

88  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

I don't why you're laughing. This is a scientific --

SCOTT JACOBS: Well, because some of those local wells, ma'am, have -- have been near those leachate sites -- and we've already heard earlier today that there has been contamination there near those wells. We've already heard that there was toxicity near that Windham location. So -- so that the -- the idea that those would leach away into the river; A, number one, that's not good for the river or the fish. The people eat out of that stream or river. But, B, it -- it still does not prevent the leachate from entering those wells.

REP. MUSHINSKY: Okay. This is not -- the Shetucket, as I understand it, is not a drinking water river. Correct? It has a sewage treatment plant on it --

SCOTT JACOBS: The Shetucket River is not --

REP. MUSHINSKY: -- upstream.

SCOTT JACOBS: -- classified as drinking water, but it's the next best down from drinking water. You can swim it. And the DEP does stock it with edible fish, salmon, trout, and Atlantic salmon and so --

REP. MUSHINSKY: Yeah, they're -- they're edible fish in my river, too. But the -- that -- that river has a sewage treatment plant on it now. It is a waste-receiving stream. So you are not drinking out of the Shetucket right now. So the reason, again, I'm just talking strictly science here. The reason somebody might propose to put this along a river, like the Shetucket is, if the liner were to fail -- this is the redundancy that protects the citizen's drinking water from contamination.

89  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

SCOTT JACOBS: However, it's been proven not to protect that drinking water. I don't want to re-hash that --

REP. MUSHINSKY: Yeah, we're not going to go back and forth.

SCOTT JACOBS: But -- but what river is it, ma'am, that you -- that you live by that the fish is --

REP. MUSHINSKY: I live by the Quinnipiac --

REP. ROY: Well, wait a minute. Let's -- let's slow down here. Okay. Now, the two of you, when you, Representative Mushinsky, when you ask a question, put it through the Chair, then I will go to you, then you come back through me. So we don't have you talking over each other.

Representative Mushinsky.

REP. MUSHINSKY: You're -- you're correct, Mr. -- you're correct, Mr. Chairman. And I'm -- I apologize. Yes, I just wanted, through the Chair to -- because this has come up before why is it on a river. And I don't think the -- that everyone here is aware of why that policy exists. But it is, for scientific reasons, and that is the reason why the State puts anything that might fail on a major river like that.

REP. ROY: Thank you, through you, to you, Mr. Jacobs.

SCOTT JACOBS: Thank you, Representative. I appreciate it.

Back to the river concept, unfortunately, in Connecticut, many of our greatest rivers, including the Quinnipiac have been cited by the

90  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

State Fishery's Commission as having a great amount of fish that have been contaminated. The Shetucket has not been cited with that type of a fish issue. And the problem with that is that, you know, if you look in the -- I'm an avid fisherman myself -- and if you look through the guide, you'll see that most types of fish, you're only allowed one meal per month now, depending on what -- what the contaminate is, in which river it's in.

Some of these rivers like the Housatonic, the Thames, the -- the Quinnipiac have a very serious level of contaminant in them. What we have out in our area is one of the last best places left that don't have a large amount of these contaminants, and do we really want to ruin what's left? I think we should try to prevent what's left and secure it for our, our future, for our children, rather than let that be destroyed, as well.

REP. ROY: Thank you. Any other questions or comments from members of the committee?  
Representative Lambert.

REP. LAMBERT: Thank you, Mr. Chairman. Through you, I'd like to know your statement about out-of-state garbage. And do you have factual information that we are importing garbage from the bordering states of Rhode Island and Massachusetts? And it -- and I don't know if you have any -- the technical information in front of you, but how that would impact the capability of the nine years if that was stopped from out of state?

SCOTT JACOBS: I was merely commenting on earlier comments by the CRRA that they were importing -- importing that out-of-state trash, so to speak, into -- into our area. So I was making the leap from there that if we are doing

91  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

that, it would seem like it would last -- the longevity of that site, as an ash dump, would be far greater if we weren't doing that. And I think the -- there's also an expansion potential for that site in Putnam. I believe that right now they have X amount being disposed there, but there's the ability to expand that quite considerably. So I think the -- the time line could grow considerably there by not importing and expanding the dump site there.

REP. ROY: Thank you. Any other questions or comments? Thank you, Mr. Jacobs.

SCOTT JACOBS: Thank you.

REP. ROY: Steve Reviczky followed by Chris Phelps.

STEVE REVICZKY: Good afternoon. Little change of pace, I'm Steve Reviczky. I'm the executive director of the Connecticut Farm Bureau Association, which is a private nonprofit grassroots organization dedicated to farming and the future of agriculture.

HB 6313

Representative Roy, members of the committee, Farm Bureau Association supports the intent of House Bill 5819, an act allowing the production of acidified foods in farm kitchens. State law currently allows jams, jellies, preserves and maple syrup to be made and sold on a residential farm and requires that most other food products must be prepared in government inspected kitchens. The requirements for such kitchens are extensive and expensive. The cost of constructing and equipping such a facility is a barrier that many small farm operations cannot overcome.

The good news is that Connecticut has experienced an explosion in the interest and

94  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. ROY: Yes, sir.

REP. BACKER: In -- in -- in the United States food is oil. Petrochemicals, trucking, refrigeration, food is oil.

REP. ROY: Food is oil. Okay.

Are any other questions or comments?  
Representative Urban.

REP. URBAN: Thank you, Mr. Chairman.

I would just like to associate my remarks with those of Representative Backer, and I hope that we can move forward with the acidified foods.

And I thank you for your testimony.

Thank you, Mr. Chairman.

REP. ROY: Thank you.

Any other questions or comments from members of the committee?

Steve, thank you very much.

STEVE JACOBS: Thank you.

REP. ROY: Chris Phelps followed by Paul Bates. Someone named Roy loves all these monosyllabic names.

CHRIS-PHELPS: Thank you. Chairman Roy and members of the committee, I'm Christopher Phelps, program director of Environment in Connecticut. We're a statewide nonprofit environmental advocacy organization. I've submitted testimony on three of the bills before you today. Testimony opposing Senate Bill 567, testimony opposing Senate Bill 264 and

SB3

testimony in support of Senate Bill 3. And I'll briefly touch on each of those as best I can here. And also I like -- I'd like to start by noting that Connecticut Fund for the Environment also submitted testimony opposing both Senate Bills 567 and 264. And I know that they weren't able to be here today to present those in person.

567, an act limiting liability for permit violations, we very strongly oppose this bill and urge the committee to reject it. I note that both -- I was noticing that both DEP and DOT submitted testimony opposing this legislation.

In a nutshell, this bill creates financial incentive for contractors and others to cut corners on projects, violate environmental permits and to get away without the ability of the commissioner and environmental protection to enforce those violations against them. It would, I would note, retain the ability for DEP to enforce permit violations against permittee but only the permittee. And not in instances where the -- the entities or people violating the permits were others and then the permittee. And that's an outrage. There's really -- I'll skip down just to note that, you know, there's no can of ethics under which the -- the defense I was under contract is an excuse to break the law.

Imagine you get home tonight, you find a pick-up truck has plowed through the fence in your yard, smashed into the side of your house. It's now sitting in your living room, and you confront the driver of that truck, and he shrugs his shoulder and points to your neighbor's house and say, Hey, I'm just under contract to repair his roof. Go talk to him. That's effectively what this bill does when it

comes to enforcement of the environmental laws in the State of Connecticut. It would be an outrage if this bill were approved.

Senate Bill 264, regarding development at state-owned airports. I've submitted testimony briefly on that. I'd also like to just respond to a couple of items that were brought up earlier. It's my understanding that the -- the -- the permitting that's been approved for that, that was referenced by the town of Oxford economic development director, they referenced DEP permits that have been received. My understanding is those are storm water permits.

They also reference the master plan. They talked a lot about their master plan for that airport. It's my understanding that that master plan does not envision or encompass the hangers and the development they're talking about here today. And that, in fact, my understanding is that that master plan which was developed did undergo a CEPA review, did have an environmental assessment, and that in that assessment, DEP specifically noted that if future development of that airport included projects, such as what is being proposed today and an exemption, that it would require a CEPA review. So against the question that was asked, I think by Representative Backer or Representative Moukawsher, why are they suddenly discovering the need for that CEPA review? We would oppose that bill, because it really, it opens up as has been discussed earlier a pretty big can of worms. I know the time has run out.

I would just note that we also strongly support Senate Bill 3. I think the testimony here today demonstrates that location in Franklin and Windham is absolutely a terrible location for siting the ash landfill. And also getting

97  
ckd/lg ENVIRONMENT COMMITTEE February 13, 2009  
11:00 A.M.

back to a point that was brought up earlier in the day, I discovered the list of sites around the state that was originally developed by DEP back in 1989, it's currently on the DEP website. So if folks wanted to peruse that, they would. I wish Representative O'Rourke were here because I did note that one of those sites actually is in his district.

REP. ROY: Thanks, Chris.

CHRIS PHELPS: I'd be happy to take any questions.

REP. ROY: Representative McCluskey.

REP. MCCLUSKEY: Thank you.

And thank you for your testimony, Chris. I -- I -- my question would be, does the -- does your organization have a -- not a specific site recommendation for this, but do you have types of things that you would be looking for in a site that would be conducive in our state to locate this -- this residue because --

Chris Phelps: The ash?

REP. MCCLUSKEY: Yes. I mean, we -- unless we just ship it out, out of state, we got to store it someplace. And I -- and I listened to Representative Mushinsky, this is my first year on the committee, and I sort of understood what you were saying, but I also think from a -- as a generalist, that the hydrology of soil may not just because a river is located next to a site, might not necessarily flush it. You could still end up contaminating -- contaminating wells if the topography or the -- the way the water drains is away from the river in certain parts of the site. So do you have any thoughts as to where we would put this?

CHRIS PHELPS: Well, I think -- and I think that last point is good -- a good point. I believe that CRRA did say, to be fair to them, that they haven't finished the review and they don't know that that hydrology would even allow, under the current rules that they're trying to operate within this -- this -- this plan to move forward. I believe they, they expect it will, but I don't think that assessment's been done.

I guess, there's two parts to answer your question. First off, is, obviously, we do have a solid waste challenge in this state. We need to deal with our solid waste and a large part of that is the ash residue from our over reliance, what I would characterize, as our over reliance on incineration. The long-term answer is to do a much better job moving towards reducing the volume of waste we generate, source reduction and recycling, to reduce the need for landfill or incineration. That is something we're not going to accomplish next week, obviously. I think in looking at this site -- really just after a brief review of this issue, the location has been discussed here today is, effectively it's a green field. It's woodland. It's open space that elsewhere in this building and in this committee, we've been talking about for years the need to protect Connecticut's open space, woodlands, wildlife habitats, and this proposal takes hundreds of acres and turns it into a landfill for toxic incinerator ash.

So the answer to you question is, unfortunately, I would be very hard pressed to find many places in the state where it would a good idea to -- to site a toxic ash landfill dump. But this site -- this sort of a site, woodlands, along the river that is used for fishing and swimming that has -- need adjacent

99  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

areas, residential and private wells for -- for drinking water use would be an example of the absolute worst sort of location that you could site such a facility.

I -- I -- I couldn't -- to be honest, I could not come up off the top of my head a location where I'd say, Ah, there's where we should put that, because someone else would be harmed.

REP. ROY: Thank you.

Representative Bye.

REP. BYE: Thank you, Mr. Chair.

Chris, while you're here and Representative McCluskey question got me thinking about this. Because you talked about reducing the amount of ash by increasing recycling. Do you -- do you -- I'm trying to understand the put-or-pay provisions in some of the trash-to-energy plants. Are they low enough that it doesn't impact the amount of ash created, you know, the -- the -- you know the levels at which they avoid the put-or-pay fines for not meeting their solid waste goals for the --

CHRIS PHELPS: Right.

REP. BYE: -- plants?

CHRIS PHELPS: Honestly, Representative, it's not an area of expertise for me. I don't know --

REP. BYE: Okay.

CHRIS PHELPS: -- for certain the answer. I suspect the existence of such provisions, you know, it incentivizes the -- the creation of solid waste. There's a financial disincentive --

100  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. BYE: Right.

CHRIS PHELPS: -- to reduce and recycle, reduce the volume of solid waste. And that disincentive would, I think logically, tend to increase, ultimately, the output of ash and reduce our ability to really get a handle on the enormous amount of untapped potential this state has to reduce our volume of -- of solid waste through source reduction recycling efforts. But, I -- I don't know the answer to your specific question with certainty.

REP. BYE: Well, well, I think -- I think your testimony is important today when you talk about reducing ash because I think we think, oh, well the trash is just being burn and going to energy. But here's there's this residue and what do we do with it, and here's a town saying we don't want it. People don't want it, but there are lots of things we can do as a legislature to work on recycling that we haven't been addressing that helps with a lot of these program -- these problems so thank you very much.

CHRIS PHELPS: Well, thank you. And it does speak to a -- that last point does speak a bit to something -- the representatives from CRRA referred to earlier to their plants is, you know, the trash-to-energy plants, as producing a renewable energy resource. I think my testimony probably makes it clear that our prospective is trash incineration certainly is an energy resource, but it's hardly renewable. The output is some -- a waste product that we have to do something with, and that -- that is the big challenge we still have yet to really address in the state so...

REP. ROY: Thank you.

108  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

they go now.

SENATOR MAYNARD: Thank you. I know you're joined by other area residents and officials who would -- who will be offering testimony, so I'll reserve some of my questioning further. Thank you.

PAUL BATES: Thank you.

REP. ROY: Thank you.

Any other questions for comments from members of the committee?

I'm glad this good senator explained why you looked so much younger. Thank you.

Alan Desmarais followed by Paul Watts.

ALAN DESMARIS: Good afternoon, Mr. Chair and members of the committee. Thank you for letting me testify and the opportunity to speak in opposition to Senate Bill Number 3.

I'm going speak today as a member of the Connecticut Resources Recovery Authority board of directors so that would be one of the sources of my comments. In an order to place my comments in some sort of context, because I will be focusing on -- on financial issues, I believe it's important to note that I was appointed, one, to this new CRRA board of directors.

As you've heard before, basically, it was reconstituted about five years ago, and I was appointed as a member with experience in public finance. I also serve as a municipal finance director for a town of about 55,000 in -- around central Connecticut. But I also believe it's important to note that this new CRRA board

of directors consists predominantly of active, elected officials. So, in other words, the board is mainly municipal leaders acting on behalf of municipalities, and I think when we look at -- at some of the proposals we need to keep that in the back of our mind. This is municipalities acting on behalf of municipalities.

Removing from -- removing these two sites from consideration would have the following effects: One, it would place a new burden on local budgets of about \$8 per ton for every ton -- every ton of municipal solid waste, garbage, delivered for disposal. For my own town, that would mean an additional \$128,000 per year in costs. In effect, that makes it a new state mandate for the -- for Connecticut towns.

And while there's been discussion of -- of communications with Franklin and -- and, certainly, I won't go into that too much, it's important that -- to know that CRRA has been discussing this with Franklin, the leaders, the municipal leaders of Franklin. And it's important to know that there is that local decision-making process and this topic is currently under consideration by that committee -- in those communities.

The land filling of ash from trash-to-energy plants would still be required even if this law becomes bill, as -- as you've gone through a number of times. What might end up happening through all of this is the ash would be transported farther distances, creating more air pollution and creating a larger carbon footprint. As we talked about with -- with Franklin and, certainly, as a -- as a municipal employee knowing that municipalities aren't for sale, there still would be a million and half dollars of community benefit for this project.

110  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

And, again, this not to say that that's the selling price. It's meant to say that there would be a benefit to the community.

Rejection of this -- of these sites may force consideration of a different site that may be less environmentally friendly and less suitable for an ash landfill. Exhaustive studies on the appropriateness of this site are being performed and will definitively measure where this is the best site for an ash landfill. And thank you for the opportunity. Do you have questions?

REP. ROY: Thank you, Alan.

Any questions or comments from members of the committee? Seeing none, thank you very much.

ALAN DESMARAIS: Thank you.

REP. ROY: Next speaker is Paul Watts, and he'll be followed by Martin Mador.

I presume you're also younger than Senator Maynard?

PAUL WATTS: Yes. I'm actually the youngest one that came up to the Capitol today.

REP. ROY: Good for you.

PAUL WATTS: Mr. Chairman, members of the committee, my name is Paul Watts. I'm currently the harbormaster of the Mystic River. It's a saltwater estuary, which is shared by the towns of Groton and Stonington. I was appointed four years ago as harbormaster, and I'm here to speak in favor of potential changes to the state's statute with regards to speed limits on this river.

HB5476

123  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

or suggested or --

DAVID CARREAU: Yes. The Connecticut Harbor Commission Organization down at the southern end of the state has gone through a situation where they've talked about putting harbormasters through the same school as state troopers and giving them all the authority, even arming them, and so forth. And we do not like that. Essentially, it could really cause problems. We have the enforcement officers in our areas and our own local thinking is, let's have the police do their job, and let's have the harbormasters do their job.

REP. HORNISH: Thank you.

And thank you, Mr. Chair.

REP. ROY: Thank you.

Any other questions or comments from members of the committee? Seeing none, Mr. Carreau, thank you very much.

Jerry Tyminski -- and Larry Williams come back? I don't see him. If not, after Jerry Tyminski, Anita Kopchinski.

JERRY TYMINSKI: Good afternoon, Representative Roy, Senator Maynard, members of the committee. My name is Jerry Tyminski. I am the executive director of the Southeastern Connecticut Regional Resources Recovery Authority, better known as SCRRA, serving 12 member towns in Southeastern Connecticut.

I'm here to speak in opposition to Senate Bill 3, an act prohibiting the acquisition or use of certain parcels of land as ash residue disposal areas.

The ash from the -- Preston facility presently is taken to the Wheelabrator landfill in Putnam. The Putnam facility is the only option for plants operating in Connecticut to dispose of their ash in the state of Connecticut. This arrangement allows for price monopoly for the Putnam facility. The only other option is to transport your ash out of state at a much higher cost.

Cost of the ash disposal is high priority for the authority. We presently spend between 2.7 and 3 million dollars a year on ash disposal. Any savings in the disposal cost would be passed to the towns and a reduction in our tip fee. A \$3 reduction in ash disposal costs translates into \$1 reduction in MSW tipping fees.

In the early 1990s, SCRRRA built, operated, closed and now maintains under federal and state regulations a double-lined ash landfill in Montville, Connecticut. Few people in area likely know where it is located and millions of people drive by it on an annual basis. The technology has proven that landfills can be built, operated and maintained in environmentally friendly manner. When it is closed, the landfill can be made esthetically pleasing and can have limited -- recreational use to the towns.

If you choose to pass this legislation and enact into law -- and enact it into law the likelihood of any public landfill being built in the state will be nil. The cost impact upon the towns of this state will linger for many years. I ask that you think carefully on this matter before you make any decisions. Thank you, and if you have any questions, I'd be glad to answer them.

125  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. ROY: Representative Moukawsher.

REP. MOUKAWSHER: Thank you, Mr. Chairman.

I wasn't aware of the ash landfill in Montville or never gave it any thought if I was aware of it. And you're saying here, it's a double-lined ash landfill. Was it built near Montville's, you know, adjacent to the Thymes River -- but was it built under the same criteria as this current, you know, ash landfill must meet, or was the criteria different then?

JERRY TYMINSKI: It was built in the early 90s. It was built to the specifications of a double-line landfill. I don't know if the specifications are changed. But it -- but it was built to those -- those exacting specifications of the times. It means, it's located -- it's surrounded by the Mohican Sun Tribe.

REP. MOUKAWSHER: Do you know if there's any monitoring of -- of any leakage or --

JERRY TYMINSKI: The way --

REP. MOUKAWSHER: -- monitoring done?

JERRY TYMINSKI: The way the landfill was built at the time, the leachate which was incorporated inside of the ash is monitored monthly, and a report is sent back to the State of Connecticut. It's sent out to a lab, monitored monthly, and then sent back to the DEP. Before the landfill was built, there were series of deep wells drilled completely around the landfill as a water characterization for the water that was there. And, quarterly, we monitor those wells. It's sent out to a private engineering firm to a private landfill

and, that, we compare the background information before the landfill was there with the -- with the -- what we're getting out of the well at this particular point. That requirement is in place. We closed it in '99, and we will have to go for 30 years from the date of closure on that monitoring.

REP. MOUKAWSHER: Well, with respect to the monitoring, have you seen any leaching or -- or any evidence of any -- anything in the landfill --

JERRY TYMINSKI: Not --

REP. MOUKAWSHER: -- in those wells?

JERRY TYMINSKI: -- not compared to the background information. I'll be careful on this statement, but I believe those wells would pass -- well, the wells that are not adjacent to the Montville -- to the Thymes River, which has some salinity from the river because the wells are lower than the river. But the up gradient ones would probably pass your drinking water requirements.

REP. MOUKAWSHER: Okay. Then just, you know, we've been hearing about the criteria. And there's got to be a river adjacent according to the criteria that DEP has said. And there has to be -- has to be over an aquifer. Is that the case with the Montville?

JERRY TYMINSKI: Our hydrological tests have the water, the gradient water moving towards the river so any spillage would go in the river, but that is true. That's why it's situated where it is. That's a requirement of the DEP that they be near a body of water so they could float.

127  
ckd/lg

ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

I pass on one comment that is a little different. The likelihood of this ash migrating off of that landfill is -- is pretty remote. When we closed our landfill, we had to move some of it further from the Mohican Tribe, and we opened a section of it up to be able to do that. When we did, the only way we could move that ash is we put a D-9 bulldozer with a claw and a D-9 bulldozer behind it to break through the surface of that to be able to move that ash. Since you bring lime in it and you have that ash, it sets up like a mild form of concrete, and it's almost impossible to move. And, once all of the water migrates out of that ash, it's going to sit there, solidify and be like, something like sandstone.

REP. MOUKAWSHER: Thanks very much.

REP. ROY: Thank you.

Any other questions or comments?  
Representative Bye.

REP. BYE: Thank you, Mr. Chair.

Good afternoon. Are there -- this couldn't be the only state with this challenge of what to do with the ash. Are there other states that have approved some beneficial uses for ash -- for that ash that's left from --

JERRY TYMINSKI: That I'm aware of, at one time Pennsylvania was looking for -- Pennsylvania was looking forward to cap some of its mines, some of its coal mines that were in there. There was a company that was looking at using to recycle ash. Tennessee was also looking at that. But most those are not used in the United States, but if you look at Europe or Japan, ash recycling. The beneficial reuse of ash is much more widely used. They -- they

don't tend to landfill. They will use it beneficially either in road base or in some cinderblock, the applications.

REP. ROY: Thank you.

Any other questions? Representative Lambert.

REP. LAMBERT: Yes. Just to expand upon that, the places that use that for underlayment for any kinds of roads, they wouldn't be in a cold area where they're plowing because it was mentioned before that Florida had experimented with it. Would this be in areas where we're not having frost and upheaval and plowing, where we could nick it?

JERRY TYMINSKI: Well, it's not going to sit out exposed. What you would end up doing with it if you're going to beneficially reuse it in a road base, it would be mixed into the asphalt in some percentage. Okay, so it's not going to be there by itself. As far as countries that use it, I believe the Netherlands uses it quite heavily, and I'm not sure if they plow their roads, or they get a lot of snow there, but I imagine they do. At least, they get a lot of rain.

REP. LAMBERT: Yes, just to expand upon that. The places that use that for underlayment for any kind of roads, they wouldn't be in a cold area where they're plowing because it was mentioned before that Florida had experimented with it. Would these be in areas where we're not having frost and upheaval and plowing where we could nick it.

JERRY TYMINSKI: Well, it's not going to sit out exposed. What it -- what you would end up doing with it if you're going to beneficially reuse it in a road base, it would be mixed in

129  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

the asphalt. In some percentage, okay, so it's not going to be there by itself. As far as countries that use it, I believe that Netherlands uses quite heavily, and I'm not sure if they plow their roads or if they get a lot of snow there, but I imagine they do. At least, they get a lot of rain

REP. ROY: Thank you.

Any other questions or comments? Seeing none, thank you very much, sir.

Anita Kopchinski followed by Raymond Oneglia.

ANITA KOPCHINSKI: Hello, Mr. Chairman, members of the committee. My name is Anita Kopchinski, and I'm from Ledyard, Connecticut. And I'm here today to talk in support of Proposed House Bill 5819, an act allowing the production of acidified foods in farms kitchens.

Just to give you a little history about myself, I'm a Ph.D. chemist turned organic farmer. So, I, with my partner, run Hidden Brook Gardens LLC, in Ledger, Connecticut, which is a small organic farm.

Currently, the Connecticut Department of Agriculture allows an exemption for the preparation of jams, jellies, and maple syrup in the home kitchen. All other items must be prepared in a government inspected or what might be called certified kitchen. This places a significant financial burden on the small farm operation and limits additional income that could be gained from the preparation and sale of value-added items such as salsas, pickles, tomato sauce, and the like.

I urge the legislature to consider an approach used by the state of Pennsylvania. Processors

much, sir.

RAYMOND ONEGLIA: Thank you very much.

REP. ROY: Oneglia, I'll remember that next time.

Susan Allen already has addressed the committee so we will move to Tammy Avery and the next speaker is a Mira or Mina Ciufecu? If I got that right.

TAMMY AVERY: Hi. My turn. Everybody's leaving. I'm here to --

REP. ROY: Before -- we have several committees. We're all on different committees, and there is several other committees meeting today so people are coming and going all the time. It's not that they don't want to hear you. If you turned in testimony, they've got that. They do read it, but it's just a matter of everybody trying to make sure that they touch all the bases. It's sometimes difficult. Thank you.

TAMMY AVERY: I'm here to speak on Bill 3. Hello, I'm Tammy Avery. I live on Ward Lane in Franklin. We have a 40-acre pick-your-own berry and cut-your-own-Christmas Farm. We use no pesticides or sprays on our fruits or fields. Our customers know that our berries are safe to eat as they pick. This is important to mom's that bring their children. We get more compliments every year on the quiet enjoyable experience they have at our farm.

We also raise our own chickens, pigs and bees. We cut our own hay for our animals and to sell. Our chickens are free-ranged, not in a coop. We've expanded into boarding horses soon to be completed. I'm concerned people won't want to bring and keep their horses on our farm so close to an ash landfill. We are one of the

closest properties to the proposed site.

We sell our produce and jams at local farm markets. We sell our cows and eggs to the public to eat. Three-quarters of our farm sits over the same aquifer as the proposed ash dump. We have three wells, a pond, two streams, and many springs on our property. Two of the wells are shallow used to water our produce and animals. We worry people will see that we're from Franklin and not buy from us. I feel we will lose customers because of worry over the possibility of pollutants.

There is a large fruit and vegetable stand that grows their own vegetables to sell on Route 32. Franklin is the home of Egglund's Best Egg Farm, one of Connecticut's largest remaining egg farms, Blue Slope Dairy Farm, and Cushman's Dairy Farm. I'm sure these farms in our town have some of the same concerns as we do.

We also worry about the effect this will have on the wildlife in our area. There's every form of wildlife including bobcat, black bear, three types of owls, bald eagles and the rare wood turtle. We have native trout in our stream that is the same stream that cuts through the proposed ash site.

There's a couple other things. Traffic, I'd like to concern -- you know, Jen Muller brought it up. We have 1300 feet of road frontage. That's right before the mushroom ash -- the mushroom farm where the ash dump where the road will go in. That is a one-lane each way road. You're going to have the 60 trucks coming and going each way right in front of our 1300 -- of our field.

We've had numerous head-on collisions involving trailer trucks in that stretch right there.

138  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

People are doing 70 miles an hour. They're passing trailer trucks. They're head-on. We've had Life Star land in our hay field and pick people up. The one woman died. My children saw the accident, saw her being loaded into Life Star. There's a huge traffic concern in this area.

The school, our public school is very close to this area. They are on wells. There's just so many concerns that I think you guys need to take some time and think about this.

REP. ROY: Thank you.

Any questions or comments? Representative Lambert.

REP. LAMBERT: We've addressed the traffic issue before --

TAMMY AVERY: Right.

REP. LAMBERT: But my concern is, I mean, we all know that even Route 6 up there which runs parallel is called Suicide 6 --

TAMMY AVERY: Right, Suicide 6. Well, this is just Suicide 32.

REP. LAMBERT: And the reason it is is because of the narrowness.

TAMMY AVERY: Right.

REP. LAMBERT: It's not made for trucks, number one. I know in Brooklyn, we had problems with gravel trucks. And, I think, your concerns, though, I mean, you have to address the issues if this does go forward.

TAMMY AVERY: Right.

[Gap in tape]

REP. LAMBERT: -- if this does take place that you would address the issues of traffic coming in and out.

TAMMY AVERY: Well, it's not like the area right there will support doubling the lanes up. They won't be able to widen the road because of the wetlands. It's going through an area -- I mean, I sit on Board of Wetlands and with zoning, we'll have no say in any of those things because, you know, it won't be up to the Town to decide the roadways or the wetlands they're going to be going through. Both sides of the roads right there in that stretch is wetland. They can't expand the roads. They can't make a new entrance in. You know, they have to deal with that one way each way. It's going to be congestion.

REP. LAMBERT: Mr. Chairman --

TAMMY AVERY: -- doing 70 miles an hour congestion.

REP. LAMBERT: I just want to address one issue is the fact that a lot people have addressed it, "not in my backyard," but I do hear your concerns.

TAMMY AVERY: Right.

REP. LAMBERT: And I think, too, that the traffic impact in the study is, is one of the things that makes that area up there very unique, whereas, when you're looking at Putnam, it's off a highway and --

TAMMY AVERY: Right, right. They made there

REP. LAMBERT: -- they're not --

140  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

TAMMY AVERY: -- own exit right off, right.

REP. LAMBERT: Yes. Thank you.

TAMMY AVERY: I'm also here to support allowing small farms to can in their kitchen.

REP. ROY: Any other questions or comments?  
Representative Mushinsky.

REP. MUSHINSKY: Thank you, Mr. Chairman, through you to the witness, the trucks is a valid concern, and if it gets to this point, it may not, but if it gets to this point, you can ask that that be a condition of permit that the route be changed. We did do that in Wallingford, and we did --

TAMMY AVERY: The only other way to come in would be through Willimantic and then you're having congestion through the small --

REP. MUSHINSKY: Okay.

TAMMY AVERY: -- city streets coming in. I mean, I was personally involved in a trailer truck and car accident on part of 32, you know, so there are accidents constantly involving trailer trucks.

REP. MUSHINSKY: Okay. I was going to say that we had the same situation. We didn't want the trucks going through any neighborhoods.

TAMMY AVERY: Uh-huh.

REP. MUSHINSKY: So we just made that a condition of the permit.

TAMMY AVERY: Right

141  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

REP. MUSHINSKY: They had to go on a commercial road.

TAMMY AVERY: I don't think we'll have much say though in any part of the permitting. It seems -- it seems to be that, you know, the Town is going to be skipped over, you know, our zoning, our wetlands, all those things. It just seems to be that they'll skip over us. That's how we feel. It's -- it's -- the situation is Franklin only has really, you know, two main roads going through our town and then all the others are little side roads. So it's not like they can make an off ramp off a highway or something to get to it.

REP. MUSHINSKY: So you don't have a lot of choices then --

TAMMY AVERY: No, it's --

REP. MUSHINSKY: -- through your (inaudible.)

TAMMY AVERY: The map will show that we're a tiny little town, one road through.

REP. MUSHINSKY: Okay. Thank you.

TAMMY AVERY: Thank you.

REP. ROY: Thank you.

Was anybody hurt in the accident you were in?

TAMMY AVERY: Well, I had my three-year-old child in the back seat and my brand new infant. And I think it took -- raised my blood pressure quite a bit. It probably made nursing later that day a little difficult.

REP. ROY: I understand. I'm glad there were no permanent injuries. You were driving the car.

142  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

Right?

TAMMY AVERY: Yes. I was in the car, and we almost got shoved right under the trailer truck. So it was --

REP. ROY: Okay. Any other questions or comments? Seeing none, thank you, Tammy.

TAMMY AVERY: Thank you.

REP. ROY: Now is Mina or Mira --

MITA CIUFECU: I'll go to the desk afterwards to give the correct spelling and pronunciation.

REP. ROY: Thank you very much, sir.

MITA CIUFECU: Good afternoon. My name is Mita Ciufecu. I'm a ten-year resident of Franklin. My wife is a lifelong resident. I'm here to talk about my support of SB 3. I can't really add anything new that hasn't been discussed already in previous testimony regarding the setting concerns and environmental concerns.

The two things I want to point out is, as Scott Jacobs had mentioned earlier, this is not a entirely a NB issue. There are those of us that live near the dump, the proposed cite, that are very concerned about it, but, as noted earlier, we do have petition with over 156 signatures from various residents of Franklin in their opposition of the landfill.

Also, regarding or notwithstanding the EPA guidelines on siting of landfills, it seems totally bizarre to me that you would intentionally put a landfill over an aquifer in an area where you have homes that rely totally on well water for their drinking water.

143  
ckd/lg ENVIRONMENT COMMITTEE

February 13, 2009  
11:00 A.M.

And, lastly, I know, the CRRA mentioned earlier or kind of has been dangling the carrot regarding the 1 and one half million dollars yearly income. And, at least from my standpoint, I'd be more than happy to live with the higher taxes and not have an ash dump in my backyard so anyway that's all I have.

REP. ROY: Mira, thank you very much.

Any questions or comments from members of the committee? Seeing none, thank you.

Sandy Breslin. Is she outside the door? Okay, there she is.

SANDY BRESLIN: I was trying to, very diplomatically, walk around outside to talk to Mr. LeFrance for a moment. I'm so sorry, Mr. Chairman, members of the committee. My name is Sandy Breslin. I am here today representing Audubon Connecticut, which is the state organization of the National Audubon Society, and we work to protect birds, other wildlife and their habitats using science and education, conservation, and legislative advocacy, and thank you for hearing me at the end of a very long, long day.

I want to just speak briefly in opposition to proposed Senate Bill 264 and 567. I've submitted written testimony, which you may not have in front of you, but what you will get. I had not initially planned speak but a couple of things came to mind as I was listening to some of the other interchange with members of the committee.

So Audubon is strongly opposed to Senate Bill 264. The Connecticut Environmental Policy Act is one our true key laws protecting our state's environment, and it requires that any project

Senate Committee

Feb 13, 2009

SB 3

Hello, I'm Tammi Avery. I live on Ward Lane in Franklin. We have a 40 acre pick-your-own berry and cut-your-own Christmas tree farm.

We use no pesticides or sprays on our fruit or fields. Our customers know that our berries are safe to eat as they pick. This is important to Moms that bring their children. We get more compliments every year on the quiet enjoyable experience they have at our farm.

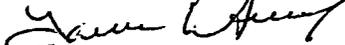
We also raise our own chickens, pigs and beeves. We cut our own hay for our animals and to sell. Our chickens are free range, not in a coop. We have expanded into boarding horses soon to be completed. I'm concerned people won't want to keep their horses on our farm so close to an ash landfill. We are one of the closest properties to the proposed site.

We sell our produce and jams at local farmers' markets. We sell our cows and eggs to the public to eat. Three quarters of our farm sits over the same aquifer as the proposed ash dump. We have three wells, a pond and two streams on our property. Two of the wells are shallow used to water our produce and animals. We worry people will see that we're from Franklin and not buy from us. I feel we will lose customers because they will worry over the possibility of pollutants. There is a large fruit and vegetable stand that grows their own vegetables to sell on rte 32. Franklin is the home of Egglan's Best Egg Farm, one of Ct's largest remaining egg farms, Blue Slope Dairy Farm and Cushman's Dairy Farm. I'm sure these farms in our town have some of the same concerns as we do.

We also worry about the affect this will have on the wildlife in the area. There is every form of wildlife know to CT including bobcat, black bear, three types of owls, bald eagles and the rare wood turtle. We have native trout in our stream that is the same stream that cuts through the proposed dump sight.

Thank you for your time and consideration.

Tammi Avery



28 Ward Lane

N. Franklin, CT 06254

(860)642-6844

## TOWN OF WINDHAM

JEAN de SMET  
FIRST SELECTMAN



979 MAIN STREET  
WILLIMANTIC, CT 06226-2200

February 13, 2009

RE: SB 3

The Town of Windham was one of the first communities in the state to build a waste incinerator. Thirty years ago, this was a new, promising technology. Our garbage would just disappear, and we would produce electricity and make money. What a great idea.

After one area was exposed to hydrochloric acid, we began to understand that even white smoke contains dioxins and mercury. Windham closed its incinerator because it was environmentally unsound and economically a drain. Soon after, CRRA asked if it could use our ash landfill, and waved millions of dollars as a lure. Windham residents said, "No, thank you, you do not have enough money to make us pollute our children's future."

During this time, CRRA tried to open an ash landfill on the Shetucket Plains in Windham. Residents fought the landfill, which could contaminate our river and aquifer. We won, apparently a temporary reprieve.

And here we are again. I'm now the First Selectman of Windham, in part because I fought CRRA's attempts to pollute Windham. We are not NIMBY's. We are here to testify that no one should have an incinerator as a neighbor, and no one should have to look at a 180' high ash landfill, and we should protect our pristine aquifers and rivers all over the country. The targeted area is on our Plan of Conservation and Development as high priority for preservation, because we value our quality of life.

One wonders why Windham and Eastern Connecticut are the prime targets for ash landfills in the state. Perhaps someone thinks we will sell our rivers, aquifers and views for a dollar. This is an environmental justice issue. If you look at the map of the proposed ash landfill, you'll see a straight line along one border. Theoretically, Windham won a temporary reprieve. But the Windham Board of Selectmen unanimously passed a resolution opposing an ash landfill at our gateway, over our aquifer and next to our river.

When Tom Ritter was Speaker of the House, this legislative body made a law that every town in Connecticut must incinerate its garbage. This policy was created solely to make incineration a viable enterprise, not because of a need for a new method of waste disposal. Later, this body declared that incinerator ash is not hazardous waste, a policy not based on science, but rather to support the incineration industry.

It's time for the State to recognize that those policies were created to enable a failing, polluting industry. Towns and cities, and the state, are being challenged to use these

---

Phone: (860) 465-3004 • Fax: (860) 465-3110 • E-mail: [jdesmet@windhamct.com](mailto:jdesmet@windhamct.com)

An Equal Opportunity Employer  
[www.windhamct.com](http://www.windhamct.com)

economic times to re-examine policies and change wasteful practices. Incineration and ash landfills are an expensive and dirty way to dispose of garbage.

Let's use this opportunity to create a meaningful change in direction which will direct our state towards a sustainable future. Stop enabling incineration and ash landfills. Let us spend those hundreds of millions of dollars, which every town is mandated to spend on incineration, on an initiative to jump start recycling.

Some may worry that the proposed legislation could prevent the state from opening an ash landfill anywhere in the state. Embrace that possibility. Reduce incineration. Don't open new ash landfills. Force the waste industry to look into new technology, and at the same time, embrace the simple, common sense solutions to a non-problem. The recycling industry, too, has changed over the last 30 years. Windham didn't recycle at all when we started incineration. And we can recycle much more than we do. What still needs to be disposed of through incineration? All plastics, glass, metal, electronics and paper are recyclable. Food wastes are compostable. What's left? Very little.

There is an ash landfill in Putnam. There is potential capacity to last another 30 years. If we double our recycling rate, that landfill could last 60 years. CRRA can dispose of its ash there, or build a landfill in New York, where the garbage comes from. Or, they can close the incinerator, and other states will be inspired to recycle more as well.

Connecticut needs jobs. Let's put those great minds at UConn to work finding ways to reuse plastics, metals, glass and paper. We can create a sustainable industry, clean our air, and not leave a legacy of huge, polluted ash landfills for the archaeologists of 200 years from now.

These times call for brave new direction. We challenge you to lead us away from the failed technology of the past and into a cleaner, sustainable future.

Sincerely,

Jean de Smet  
First Selectwoman

**TOWN OF WINDHAM  
BOARD OF SELECTMEN**

Resolution No. 2414

**BE IT RESOLVED by the Board of Selectmen THAT**

- WHEREAS: The land along the Shetucket River currently being studied for use as an ash landfill is among the highest priorities for preservation in the Town of Windham Plan of Conservation and Development, and
- WHEREAS: This piece of land is identified as a high priority preservation area by the Windham Regional Council of Governments' Plan of Conservation and Development, and
- WHEREAS: The Office of State Archaeology and the Connecticut Historical Commission view this land as potential resource, and
- WHEREAS: Route 32 will be seriously impacted by the number of trucks needed to haul the ash to the site, and
- WHEREAS: There is the potential for contamination of the aquifer and the river, and
- WHEREAS: Membrane linings are not guaranteed to last forever, and
- WHEREAS: No one knows what is in the ash because no one has control of what goes into the incinerator, and
- WHEREAS: Incineration adds to global warming and air pollution, and
- WHEREAS: The quality of life in this area will be negatively impacted.
- THEREFORE, BE IT HEREBY RESOLVED, by the Town of Windham Board of Selectman that we strongly recommend to the State of Connecticut to spend our limited resources encouraging recycling and finding uses for the ash from incineration that does not involve land filling, and to authorize the Town Attorney as directed by the Board of Selectmen to file administrative complaints, pleadings and petitions, to seek party or intervening status, and to procure information and data from other parties pursuant to law, to advance the purposes of the foregoing resolution.

Introduced By: Lorraine McDevitt Adopted: 1-20-09

Public Hearing at the Legislative Office Building  
11:00am Friday February 13, 2009

First I would like to thank the environmental committee for giving me this opportunity to speak. My name is Susan Allen and I live in Franklin, CT. I come today to express my support of Senate Bill 3 and to voice my opposition to the Connecticut Resource and Recovery Authority's, CRRA's choice of location for an incinerator ash landfill in Franklin, CT.

I would like to preface my comments by informing the committee of others who are also against the proposed site in Franklin, many having to work today. I have with me a petition with 158 signatures of local residents vehemently opposed to the Ash landfill. I also have 51 handwritten letters from people in the region stating the negative impact this particular site would have on their lives. Finally, I was recently invited to share information about the proposed ash landfill at a Windham County Conservation Consortium meeting. This organization represents 15 towns in the region. They recently voted and approved to draft a letter to DEP Commissioner Gina McCarthy denouncing this location. This proposed site would have a negative regional impact.

There is a litany of reasons why this site is wrong for a dump. However, in consideration of time constraints, I will elaborate on just two; still mentioning some of the others in list format at the end of the letter.

The first reason: It is extremely short sighted, and borders on arrogance, to site a landfill complete with toxic materials on top of a class A (drinkable as is) moderate to high-yield aquifer. In many parts of the world, large corporations are buying up water resources. They realize that clean water is an increasing scarce and valuable commodity. Just last summer, a neighboring town had only a 10 day supply of water left and other towns had shortages too. These were in 2008, what about the needs of future generations to come. It is ludicrous to endanger this precious resource because once it is compromised, there is no going back. And in my opinion, any aquifer testing done by CRRA, needs strict policing.

The second thing to elaborate on is the regional development of this area as an ecotourism destination. There has been much time, money, and effort into promoting the uniqueness of this area. The proposed site lies within 'The Last Green Valley' formally known as the 'Quinebaug-Shetucket National Heritage Corridor'. Congress designated national recognition for this area in 1994, enlarging it in 1999. This nationally recognized area keeps our state healthy by providing oxygen, filtering carbon dioxide, producing 1.4 million tons of topsoil each year, storing clean water, enhancing the health of Long Island Sound. These pristine forests and clean waterways lend themselves to a tremendous biodiversity in plants and animals. This area has seen the return of bear, moose, fishers, and sea lamprey which had been gone for generations. In fact a local fisherman believes that a pair of bald eagle, still an endangered species in CT, is nesting on the river side near the site. The Shetucket River which lies right next to the proposed site is a trophy trout river and the only river in the Eastern side of the state stocked with Atlantic Salmon. In other words...This area - It's a Jewel. As stewards of this land do we really want to place a toxic dump in the middle of it?

Other concerns:

A whole host of traffic issues - trucks will need to travel a narrow, accident prone, 2 lane community road to get to the site;  
Archaeological issues - sites of foundations and a cemetery dating back to the 1700's and evidence of pre-1600's activity;  
Agricultural concerns - pollutants in air currents depositing on hay fields, berry farms, livestock and big egg farms in the area;  
Just to name a few.

Finally, Franklin is a small proud town where families live for generations. It is our town that will be left with the mess when CRRA finishes. And make no mistake it will be a mess - the EPA has acknowledged that all landfills will eventually leak and ash residue, the material CRRA wants to dump, used to be considered hazardous. In 1995, EPA lowered its standards (changed the test, not the material) to reclassify it to a lower status. And it is ironic because Franklin isn't even a member town of CRRA, yet we'll get the toxic tonic.

I don't have all the answers but it seems to make more sense to be looking at brown fields, using existing landfills like Putnam, incorporating new technology to update inefficient incinerators and processes for use of the ash, or better yet public campaigns promoting recycling and reducing packaging.

It is our duty to preserve this land with all of its natural resources, ones we need, for the next generation. Please have the foresight to do the right thing and support SB3.

Thank You! Susan E. Allen



**State of Connecticut**  
**HOUSE OF REPRESENTATIVES**  
 STATE CAPITOL  
 HARTFORD, CONNECTICUT 06106-1591

**REPRESENTATIVE KEVIN RYAN**  
 ONE HUNDRED THIRTY-NINTH DISTRICT

21 TERRACE DRIVE  
 OAKDALE, CT 06370  
 TELEPHONES  
 HOME (860) 848-0790  
 CAPITOL (860) 240-8500  
 TOLL FREE 1-800-842-8267

**CHAIR**  
 LABOR AND PUBLIC EMPLOYEES COMMITTEE

**MEMBER**  
 APPROPRIATIONS COMMITTEE  
 PUBLIC HEALTH COMMITTEE

Senator Meyers, Representative Roy, Senator McKinney, Representative Chapin and members of the Environment Committee:

SB 3

I share with my colleagues their concerns in the effects that this ash landfill will have on this beautiful natural area in Franklin. While the landfill will be placed where a gravel operation currently is located, it adjoins an area where enjoy many people the natural settings on a riverbank. So I join with those citizens who are concerned about this location choice in requesting that you pass this legislation which prohibit the Connecticut Resources Recovery Authority from condemning, purchasing, leasing, accepting or taking title to, using, or otherwise acquiring any portion of the land located in the town of Franklin or Windham for the purpose of establishing an ash residue disposal area. The Town of Windham has already passed a resolution in opposition to this proposal and we join with them in their concerns

I recognize that precautions have been incorporated into their plans to prevent adverse effects from the disposal of the as such as a system of drainage and liner layers to keep the ash contained but I would still worry about the aquifer under the landfill if the system failed. Water is a valuable resource and it is starting to become scarce. This is a drinking water source and I don't think we can take a chance of polluting the water source as part of this drainage system. We will one day need this water supply. I believe this concern was conveyed in an article in this morning's Norwich Bulletin.

As I did last year, I would encourage CRRA to recycle and find uses for the ash from incineration that do not involve any landfill as has been suggested on previous occasions. I realize that we need to dispose of our waste and I appreciate the energy that is produced in the process but I think it is time to be creative in how we dispose of the residuals. We need a long term solution that does not involve this site in Franklin. Hopefully we can help this community preserve this land.



198 Park Road, 2<sup>nd</sup> Floor  
West Hartford, CT 06119  
(860) 231-8842  
[www.EnvironmentConnecticut.org](http://www.EnvironmentConnecticut.org)

Written Testimony of Christopher Phelps, Program Director  
Before the Connecticut General Assembly Environment Committee

Friday, February 13, 2009

Written testimony supporting Proposed Senate Bill 3, An Act Prohibiting The Acquisition Or Use Of Certain Parcels Of Land As Ash Residue Disposal Areas.

Senator Meyer, Representative Roy, Senator McKinney, Representative Chapin and members of the Environment Committee:

Environment Connecticut is pleased to submit this testimony supporting Proposed Senate Bill 3. This bill would prevent the Connecticut Resource Recovery Authority (CRRA) from building a polluting and dangerous ash landfill in environmentally sensitive areas in Franklin and Windham Connecticut.

CRRA is currently proposing to build an ash landfill on property in the town of Franklin. The ash that would be disposed of at this site is the highly toxic waste product produced by municipal solid waste incineration. Incinerator ash is highly toxic and contains chemicals such as dioxin as well as heavy metals. Ironically, the concentrations of toxics in incinerator ash results in ash landfills being significantly more hazardous than trash landfills.

The proposed site of the Franklin landfill sits atop an aquifer providing drinking water for homes and businesses in the area. The site is also in close proximity to the Shetucket river. It is essentially impossible to prevent such landfills from leaching toxic contaminants into the surrounding environment. As a result, this proposed landfill site poses a direct threat to local groundwater supplies as well as the health of the Shetucket.

The site currently consists primarily of open space which provides habitat for wildlife. Construction of the ash landfill would irrevocably destroy this open space and threaten the site as well as surrounding land with a permanent legacy of toxic contamination.

On behalf of Environment Connecticut's statewide membership, and particularly our members in and around the towns of Franklin and Windham, I urge the committee to approve this legislation.

Sincerely,

Christopher Phelps  
Program Director  
Environment Connecticut

Concerns for the Traffic Impact of the Proposed Franklin Ash Landfill

Madam Chair, Mr. Chairman and members of the committee. My name is Jennifer Davis-Muller a concerned resident of Franklin, and I am here to speak in strong opposition to proposed bill SB 3 "AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS."

The route that vehicles would take to and from the proposed site is Route 32. It is a two lane State route that runs through Franklin from its intersection with Route 2 to the Lebanon town line. It carries high traffic volumes with an ADT (Average Daily Traffic) that exceeds 19,000 vehicle per day. It also carries high peak rush hour traffic that exceeds 1800 vehicles per hour. This is the only feasible route to access the proposed landfill site in Franklin. CRRA proposes to send 60 fully loaded dump trucks (weighing up to 80,000 lbs.) per day to and from the landfill site (120 total trips equating 120 trucks added to Route 32 each day).

Route 32 is a non-limited access roadway that is intersected by town roads. There are many commercial and private driveways that ingress and egress directly onto Route 32. The vertical and horizontal alignment of the road varies greatly from sharp curves, steep grades, rolling hills, and straightaways. There are two signalized intersections, one of which is at the bottom of a steep grade with a poor sight line to the traffic lights. The posted speed limit varies, however, the observed speeds often exceed 60 mph. There are sections of the roadway that freeze in the wintertime and flood during heavy rain events. There are homes and obstructions in close proximity to the roadway.

All of the above factors are a recipe for motor vehicle accidents. In fact, (according to the D.O.T.'s Traffic Accident Viewing System (TAVS), available on their website) from 2003 to 2007 there were:

- 285 accidents along Route 32 in the Town of Franklin.
- These accidents involved 507 vehicles in total,
- Over 17% of these vehicles were trucks.
- Over 49% of these accidents occurred at the intersection of roads and driveways.
- Speeding and Tailgating accounted for over 48% of these accidents.
- 139 injuries resulted from these accidents, including 1 fatality.

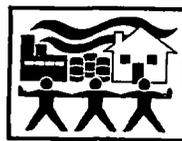
Many of our own residents have been hit entering Route 32 from a side street or their own driveway (might want to add name here... Buffy, specifics of accident, etc.). Others have been rear-ended attempting to turn off of Route 32. It is simply a dangerous stretch of road.

The thought of adding an additional 60, extremely heavy, hard to stop, dump trucks is unconscionable. State Routes in general, such as Route 32, are the most dangerous roadways in Connecticut. Per the D.O.T.'s report, "Connecticut Traffic Accident Facts 2006" (available on the D.O.T. website), from 1997 to 2006:

- Over 51% of all accidents occurred on State Routes, such as Route 32.
- Over 39% of all injuries occurred on State Routes, such as Route 32.
- Over 46% of all fatalities occurred on State Routes, such as Route 32.

Accidents involving dump trucks like the ones that will transport ash along Route 32 can be devastating. Everyone probably remembers the dump truck that lost its brakes traveling down Avon Mountain on July 29, 2005... It smashed into 19 vehicles, and killed 4 people before finally coming to a stop. This is a serious concern for the residents of Franklin. A risk that we should not have to take.

Environmentally speaking, the diesel engines are noisy and will produce a significant amount of air pollution. They will also be carrying wetted toxic ash that has the potential to leak from the truck bodies and/or be spilled during an accident. According to a Greenpeace International investigative study done 1997 a conclusion was reached that "Leftover incinerator ash is extremely toxic, containing concentrated amounts of lead, cadmium and other heavy metals. It can also contain dioxins and other toxic chemicals". In May of 1994 a letter was sent from J.Thomas Cochran Executive Director, US Conference of Mayors to Carol Browner US EPA Administrator asking that the newly developed testing procedures on incinerator ash be overturned. As stated in the letter the new testing procedures would categorize incinerator ash as Hazardous Waste requiring expensive containment procedures that according to Mr. Cochran would be too expensive for everyone involved to carry out. Under pressure Administrator Carol Browner agreed and in January of 1995 Administrator Browner announced that, although the content of the ash had not changed, incinerator ash would no longer be classified as hazardous. Who is going to monitor these trucks to ensure that they are not leaking as they travel down the road, and that they are washed before leaving the incinerator and landfill sites? Spills and accidents occur everyday, the town of Franklin has no police department, and only a small volunteer fire department. What will happen when the inevitably accident or spill occurs while trucking ash to the landfill. Spills, while bad, can be cleaned up. Fatalities and debilitating injuries, on the other hand, can not be undone. The town school buses follow this route. The trucks will be passing large poultry farms that produce eggs for distribution all over New England and a large international animal nutrition products distributor. The toxic incinerator ash problem in Franklin could quickly become much larger contamination issue. Again, we the people of Franklin should not have to assume this risk.



## TOXICS ACTION CENTER

198 Park Road, 2<sup>nd</sup> Floor • West Hartford, CT 06119 • 860-233-7623 (ph)  
info@toxicsaction.org • www.toxicsaction.org

**Written Testimony of Toxics Action Center Campaigns  
Before the Connecticut General Assembly Environment Committee  
Friday, February 13, 2009**

**Testimony in Support of Senate Bill 3, "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas"**

**Simone Mellor, Community Organizer, Toxics Action Center Campaigns**

Senator Meyer, Representative Roy, and members of the Environment Committee:

Thank you for providing the opportunity to comment on Senate Bill 3 "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas."

Toxics Action Center Campaigns is a non-profit, public health and environmental organization. Since 1987, we have worked side by side with over 575 neighborhood groups across New England to help clean up and prevent toxic pollution in their communities, and developed numerous long-term citizen leaders for the environmental and social change movements. We are currently working with the citizens group in Franklin, Voice of the People for Franklin to protect drinking water resources, public health, the environment, and quality of life of their town and surrounding area. I am speaking with you today to encourage your support of Senate Bill 3: An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas.

By passing Senate Bill 3 out of committee, you will take a major step toward safeguarding critical drinking water resources and protecting public health in Franklin, Windham, and other surrounding areas. We believe that the Connecticut Resources Recovery Authority should not be permitted to site an incinerator ash landfill in the community of Franklin or Windham. We are very concerned with the environmental damage and public health hazards the incinerator ash landfill could cause.

Ash landfills pose a threat to drinking water and public health of residents living nearby. According to the U.S. Environmental Protection Agency (EPA), all landfills eventually leak, making it inevitable that what goes in will eventually come out. Incinerator ash can contain dioxins, lead, cadmium, arsenic, and other heavy metals and toxins. As the ash is transported and placed into the landfill there are immediate threats for communities situated along the truck route, near the landfill and downstream on the Shetucket River. The toxins that are part of the ash particles are known to cause serious human health problems. Lead exposure can lead to brain and other nervous system damage and behavioral and learning problems in children, while cadmium has been linked to cancer, kidney problems, miscarriage and stillbirths. Dioxins are one of the most toxic chemicals known to humans and are classified as a probable carcinogen by the EPA.

Furthermore, as incinerator emissions controls have gotten stronger and more effective at preventing toxic chemicals from leaving the smokestack and being redistributed into the air that we breathe, the ash has become increasingly toxic. Ten to thirty percent of the volume of garbage that goes into an incinerator comes

out as ash. Because our waste stream is toxic and includes materials like lead, mercury, and cadmium in electronics, arsenic and chromium often coating waste wood, and dioxins resulting from the burning of PVC, the ash that results is toxic as well. This ash can leak out of dump trucks, become airborne as ash residue dries, and contaminate drinking water. Drinking water in Franklin and communities downstream would be particularly vulnerable. Residents in the area have private drinking water wells right nearby the aquifer and the contamination of these private wells would prove disastrous for the community.

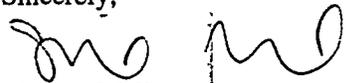
In addition, the landfill would bring 120 diesel trucks each day down narrow, winding residential roads. Diesel truck traffic pollutes the air with arsenic, benzene, cadmium, formaldehyde, nickel, and polycyclic aromatic hydrocarbons in the air, each linked to cancer.

The proposed location for the ash landfill is directly on top of a pristine aquifer that is classified GA or GAA by the Connecticut Department of Environmental Protection. This rating means that the aquifer has some of the highest quality groundwater available, and is drinkable without treatment. Siting an ash landfill in this area will almost certainly degrade the quality of water. Ash landfills have a double layer of plastic liners and a leachate collection and containment system. Claims that this technology is "state of the art" and prevents contamination are false. The reality is that all landfill liners eventually leak; evidence shows that plastic degrades over time- it becomes brittle, loses its strength, cracks and breaks apart into fragments. At that point, any protection against the toxic chemicals contained in the ash would disintegrate along with the plastic. In addition, the leachate pipes crumble overtime, clog, and even collapse; therefore, posing a threat to the environment and human health.

All Connecticut residents should have the right to breathe clean air, drink clean water and live in healthy communities. There are many reasons to pass Senate Bill 3, "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas." Specifically, I urge the members of the Environment Committee to pass the Senate Bill 3 out of committee to protect public health and drinking water in Franklin, Windham, Sprague and other communities nearby.

Thank you for the opportunity to provide these comments.

Sincerely,



Simone Mellor  
Community Organizer  
Toxics Action Center Campaigns

**Written Testimony of Keith Schoppe Before the Connecticut General Assembly Environment Committee, February 13, 2009,  
Testimony in Support of: Senate Bill 3 "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas**

---

Senator Meyer, Representative Roy, and members of the Environment Committee

I reside in the Town of Franklin. The fact that Franklin is such a "quiet" town with rural character and little industry is why I chose to buy a home here in 1995 and later start and raise my family. I am a potential life-long resident and the future of Franklin is of utmost importance to my family.

As I am sure you are aware, The Department of Environmental Protection (DEP) together with Connecticut Resources Recovery Authority (CRRA), as encouraged by Connecticut's General Statutes, has chosen a site in Franklin as the best location for a *toxic* ash landfill. I would love to tell you that I have an open mind and am willing to weigh the pros and cons of such an endeavor, but I can not. There is simply no price high enough in my mind that can justify even the potential of polluting our land, wells, and open space here in Franklin – not to mention the health of our families and neighbors.

The facts, the studies, and common sense tell even the most casual observer that the ash is extremely toxic, that it will leach heavy metals and other toxins over time, and it will negatively impact Franklin and surrounding towns for generations to come. Did you know that the chosen site sits directly on top of a very large, pristine (class A to AA) aquifer? In a time when natural resources are being exhausted at alarming rates, how did the State's very own DEP determine that the best location to dump toxic ash is over a potential source of millions and millions of gallons of potable water?

In addition to the aquifer, the 350-acre site consists of some of the most beautiful forest in CT, nestled along the banks of the Shetucket River. In this forest reside an abundance of wildlife, trees, meadows, and streams. There also lies a cemetery that dates back to the 1700's. The DEP is charged with *protecting* such natural wonders, not aiding and abetting their destruction. The DEP's own mission statement demands nothing less: "...the mission of the Department of Environmental Protection (DEP) is to conserve, improve and protect the natural resources and environment of the State of Connecticut in such a manner as to encourage the social and economic development of Connecticut while preserving the natural environment and the life forms it supports in a delicate, interrelated and complex balance, to the end that the state may fulfill its responsibility as trustee of the environment for present and future generations."

I am vehemently opposed to any proposal for a landfill in our Town; and, after doing considerable research on the subject, I am opposed to ash landfills in any location, especially near residences and clean water supplies. Burning garbage is cheap, and generates electricity and profits for companies such as CRRA, Wheelabrator, and others, but it leaves behind huge amounts of toxic residue that will continue to pollute the environment for generations. Simply finding another landfill site for toxic ash is shortsighted. Better, more efficient, and environmentally friendly technologies presently exist that do not require landfilling toxic by-products of the incineration process. Long-term strategies should be deployed including recycling, renewable energy, and zero-waste policies.

Of course, the alternatives cost more and this reaches the crux of the matter. Enormous profit will result at the expense of our small, rural, unknown, politically impotent Town of Franklin. This whole issue boils down to politics and profit, and has nothing to do with sensible environmental planning.

If the need for the landfill can not be assuaged, then the landfill should be constructed on top of an existing "Brown Field". There is no shortage of (already) polluted sites in the State that could be

Page 2

February 13, 2009

converted into landfill space without destroying precious natural resources and the entire character of our tiny, agricultural town.

The archaic siting criteria that were used by DEP no longer apply. In fact, they were established almost 20 years ago back in 1989. The criteria were based on the idea of "reducing pollution by dilution". This is not the answer, nor should it have ever been. We can not close our eyes, cover our ears, and pretend that we don't know better.

I strongly urge you to support proposed Senate Bill 3; and in so doing, send a clear message to DEP and CRRA that their complete lack of responsible long-term environmental planning should not become the burden born by the residents of Franklin, and the citizens of the State.

Respectfully yours,

Keith Schoppe  
69 Whipoorwill Hollow Road  
Franklin, CT 06254  
phone: (860) 642-4499  
e-mail: [Kschoppe@comcast.net](mailto:Kschoppe@comcast.net)

Written Testimony of Kirstin Lawrence-Apfel, Department of Natural Resources and the Environment at the University of Connecticut and Resident at 919 Route 32, North Franklin, CT. Before the Connecticut General Assembly Environment Committee, February 13, 2009, Testimony in support of: Senate Bill 3, "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas"

Senator Meyer, Representative Roy, and Members of the Environment Committee,

My name is Kirstin Lawrence-Apfel and my testimony is in support of Senate Bill 3, "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas" My letter represents one contribution for the People for the Voice of Franklin, in Franklin, CT.

I am a wildlife biologist currently in graduate school at UConn. I study and teach Wildlife Management, and interact daily with students and professors of natural resources. We address problems such as those relating to Earth, water, air, and the **sustainable** "wise use" of those resources. While I cannot speak for everyone in the department of Natural Resources and the Environment, I can speak about my direct observations and experience as the closest and possibly most affected resident to the proposed Ash Dump site, and how it would affect the area's natural resources and quality of life.

My land borders the road now used by Franklin Farms and the gravel pits of Franklin and Nacin. This is the road proposed for use as entry and exit to the Ash Dump. Traffic on Route 32 is already congested and there are frequent accidents. We don't need the increased traffic and risk of hundreds more large trucks per day carrying ash and leachate with heavy metals and toxic chemicals in them. If the Connecticut Resources Recovery Authority (CRRA) proposes widening the road, this will directly affect my property and the local wildlife on it by reducing the habitat available. It also will not reduce the risks associated with transporting toxic materials on Route 32 and the Franklin Farms access road, which both border Cold Brook by less than 20 feet at times. Cold Brook traces its way into the Shetucket River.

My neighbors and I agree on many issues with locating an Ash Dump along the Shetucket River and on top of our aquifer: it's a Trophy Trout river and is the only river in the Eastern part of the state stocked with Atlantic Salmon; at least one pair of Bald Eagles, a State Endangered Bird and our National Symbol, nest annually on the border of the proposed site; it would sit over a class A (drinkable as is) aquifer and clean water is an increasingly valuable commodity; the area lies within The Last Green Valley, a National Heritage Corridor encompassing 35 towns and designed to preserve the character of a landscape composed of forests and farms.

My land is almost 12 acres, and it is mostly forested wetland with Cold Brook winding through it. It is bordered by the forests and farms characterized by The Last Green Valley. This kind of "edge effect" of continuous blocks of wetlands, forests, and farms provides the best habitats for the widest variety of wildlife species in New England. In the end of September, 2008, I placed Remotely Triggered cameras on my land to capture pictures of the incredible biodiversity of wildlife Franklin residents enjoy. In less than four months I have obtained over 3000 pictures of animals: deer, grey squirrels, red squirrels, flying squirrels, hawks, owls, mice, wild turkeys, bluebirds, raccoons, opossums, cottontails (The New England Cottontail is currently a Candidate for the Endangered Species List), coyotes, bobcats, fishers, otters, red

Written Testimony of Kirstin Lawrence-Apfel, Department of Natural Resources and the Environment at the University of Connecticut and Resident at 919 Route 32, North Franklin, CT. Before the Connecticut General Assembly Environment Committee, February 13, 2009, Testimony in support of: Senate Bill 3, "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas"

foxes, grey foxes, and more. I have also seen Sharp-Shinned Hawks, a State-Endangered Bird, frequenting the area. Sharp-Shinned Hawks require large blocks of forested area for suitable nesting areas. Recently, a juvenile Wood Turtle, a Species of Special Concern in CT, was found on the proposed Ash Dump site. It astounds me to think of how incredibly rich the land here must be to support such a biodiversity of life. Such biodiversity cannot be found everywhere and we should preserve areas such as this instead of contemplating covering the habitats with toxic ash that will eventually leak into the ground and pollute it and our groundwater beyond recovery.

This site in Franklin, for the reasons listed above and many more, is not the appropriate site for an Ash Dump. The criteria CRRA is basing its selection on are outdated. Most distressing to me, however, is the fact that some people, as Connecticut residents, and United States Citizens, feel that we need such places as Ash Dumps. Ash Dumps are "quick fixes" that offer no real solution to the mounting problems of what to do with the refuse of a burgeoning human population. Instead of fighting about which area of land we should next destroy with toxic ash, shouldn't we be implementing more sustainable solutions? Shouldn't we be requiring the manufacturers of goods to use less packaging materials that end up in incinerators or land-fills? Shouldn't we be building and purchasing quality "American Made" goods for ourselves and our children that are meant to last more than six hours to six months before they break? And shouldn't we be finding uses for whatever ash is left over instead of destroying our pristine lands?

Thank you for the opportunity to address this important issue.

Respectfully,

Kirstin Lawrence-Apfel  
919 Route 32  
North Franklin, CT. 06254



## Bristol Resource Recovery Facility Operating Committee

43 Enterprise Drive  
Bristol, Connecticut 06010  
www.brrfoc.org

(860) 585-0419  
(860) 225-9811  
Fax (860) 585-9875

Berlin -  
Denise McNair  
Town Manager

Branford -  
Anthony DaRos  
First Selectman  
(Treasurer)

Bristol -  
Arthur Ward  
Mayor  
(Vice President)

Burlington -  
Kathleen Zabel  
First Selectman

Hartland -  
Wade Cole  
First Selectman

New Britain -  
Timothy Stewart  
Mayor

Plainville -  
Robert Lee  
Town Manager  
(President)

Plymouth -  
Vincent Festa  
Mayor

Prospect -  
Robert Chatfield  
Mayor

Seymour -  
Robert Koskelowski, Sr  
First Selectman

Southington -  
John Weichsel  
Town Manager

Warren -  
Jack Travers  
First Selectman

Washington -  
Mark Lyon  
First Selectman

Wolcott -  
Thomas Dunn  
Mayor  
(Secretary)

Testimony of the  
Bristol Resource Recovery Facility Operating Committee  
to the Environment Committee  
February 13, 2009

Proposed S.B. No. 3

**AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN**  
**PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS**

Good morning Senator Meyer, Representative Roy and Members of the Environment Committee. On behalf of the Bristol Resource Recovery Facility Operating Committee, made up of 14 towns and cities in Connecticut representing over 10% of the state's population, I am presenting written testimony on Proposed Senate Bill No. 3. AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS. We are concerned with the safe, environmental and cost-effective disposal of municipal solid waste and recyclables. In addition, since our Board is comprised of Mayors, Selectmen and Town Managers, we also represent the direct interests of our taxpayers, both residential and commercial.

BRRFOC has consistently testified that the public sector needs to have a significant role managing the state's solid waste infrastructure. We have been very vocal about the need for local government involvement vis a vis the state's waste to energy plants and we are similarly concerned about the current absence of publicly owned ash landfills. Because Connecticut does not allow ash reuse/recycling, the ash residue from the state's facilities needs to be landfilled at great cost. For the Bristol project alone, our ash disposal costs exceed \$2.5 Million/year, a cost which is embedded in our municipal member tipping fees to the tune of over \$12/ton.

Presently, there is only one MWC ash residue landfill permitted in the state, creating a private monopoly on a critical public infrastructure. We encourage and support the development of additional ash disposal capacity in Connecticut. It will provide competition and help stabilize tipping fees. We have no opinion as to the suitability of the parcels in Franklin and Windham referenced in the bill for a MWC ash landfill. We encourage the legislature to allow the process to move forward so that DEP can make a proper determination based on all the environmental factors. Our permitting process affords ample opportunity during the hearing process for the public to comment on the merits of the site. Having experienced first hand the rigorous and comprehensive environmental review that DEP conducts on proposed ash landfills, we feel the proposed bill is not in the state's best interests since the regulatory process will determine whether the site is suitable or not.

**Written Testimony of Linda L. Olsen, to the Connecticut General  
Assembly Environment Committee  
February 13, 2009, in support of "SB 3"**

Senator Meyer, Representative Roy, Chairmen and Members of the Environmental  
Committee:

I am a citizen of Franklin, CT and I am compelled to write regarding CRRA's proposed ash landfill site in our small, rural town. What strikes me the most is the fact that a large pristine aquifer lies directly beneath the proposed landfill area and threatens one of our most needed resources; pure clean drinking water. This aquifer has the potential to sustain future generations and could be used by our town, as well as parts of the surrounding towns of Lebanon, Windham, Scotland and Sprague. As we are faced with this horrific problem of contaminating our future water source, it makes one ask why would this site be chosen for a possible dump?

It's absurd that CRRA would be allowed by our state DEP to even consider such an area for a landfill. In tough economic times, our state government should not be so short sighted that they are not aware of such simple fundamentals as protecting Connecticut's clean water. If our state has to dispose of toxic ash, a possibility might be to choose a brownfield site that already presents a financial cleanup burden, such as the old Norwich State Hospital, with a projected cleanup cost of over 30 million dollars.

As a person charged with our public trust, I ask you to please act to change this ash landfill site and protect our limited and valuable resource.

Thank You,  
Respectfully,



Linda L. Olsen  
46 Pleasure Hill Rd  
Franklin, CT 06254

**Written Testimony of Anthony D. Fratianni, Before the Connecticut  
General Assembly Environment Committee  
February 13, 2009, in support of "SB 3"**

Chairmen and Members of the Environmental Committee:

As a resident of Franklin Conn., I am writing to urge you to protect our natural resources and the rights of the citizens of our state. As you are aware, CRRA is in the preliminary process of testing for an ash landfill in Franklin. Myself, as many of my fellow townspeople, are opposed to this selection. I would like to outline my opposition to the proposed site.

The proposal site is to place the ash high in contaminants over a class A aquifer. I challenge the feasibility of the standards that would place an ash landfill over an existing and future water source for our community. Water is precious and sustains all life and is a basic human right and entitlement. As water scarcity grows, efforts should magnify to protect it for future generations. The town of Windham has already experienced a landfill failure in South Windham. The contamination polluted a good amount of wells in that area and the town had to provide and pay for a public water source. To place an existing and future water source in a position of potential danger is ill advised at best.

Placement of the ash landfill in the suggested area will place some endangered and threatened wildlife species at risk. Furthermore, loss of farmland both prime and important will be lost; according to the Farmland Trust, 8,000 acres is lost every year to development. Everyone in Connecticut reaps the benefits of farmland, from producing local food to providing pastoral vistas. Farms are a vital part of our history, culture and economy.

In the effort of keeping this letter brief, I request but one thing: I ask for the environmental justice that our community is entitled to.

Sincerely,



Anthony D. Fratianni  
46 Pleasure Hill Rd  
Franklin, CT 06254

My name is Jerry Tyminski

I am the Executive Director of the Southeastern Connecticut Regional Resources Recovery Authority (SCRRA), serving 12 member towns in Southeastern Connecticut.

I am here to speak in opposition to Senate Bill 3 "An Act Prohibiting the Acquisition or Use of Certain Parcels of Land as Ash Residue Disposal Areas".

The ash from the Preston Facility presently is taken to the Wheelabrator landfill in Putnam. The Putnam Facility is the only option for the plants operating in Connecticut to dispose of their ash in the state of Connecticut. This arrangement allows for a pricing monopoly for the Putnam Facility. The only other option is to transport the ash out of state at a much higher cost.

Cost of disposal is a high priority for the Authority. We presently spend between \$2.7m and \$3.0m a year for ash disposal. Any saving in disposal cost would be passed to the towns as a reduction in their tipping fees. A \$3.00 reduction in ash disposal cost translates to a \$1.00 reduction in the MSW tipping fee.

In the early 1990's, SCRRA built, operated, closed and now maintains under Federal and State Regulations a double lined ash landfill in Montville Connecticut. Few people in the area likely know where it is located and millions of people drive by it on an annual basis. If you would like a tour, I would be glad to provide one.

The technology is proven the landfill can be built, operated and maintained in an environmentally friendly manner. When it is closed, the landfill can be made aesthetically pleasing, and can have limited recreational use to the town.

If you choose to pass this legislation and enact it into law the likelihood of any public landfill being built in the state will be nil. The cost impact upon the towns of this state will linger for many years. I ask that you think carefully on this matter before you make your decisions.

Thank you and if you have any questions, I would be glad to answer them.



City of Shelton  
54 Hill Street  
Shelton, CT 06484  
[www.cityofshelton.org](http://www.cityofshelton.org)

**Testimony of Mayor Mark A. Lauretti**

**City of Shelton**

**Re: SB 3 AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS**

**Before the Environment Committee**

**February 13 2009**

*Mark A. Lauretti*  
*Mayor*

February 13, 2009

Good morning, Senator Meyer, Representative Roy, Senator McKinney, Representative Chapin, and all the other members of the Environment Committee. My name is Mark Lauretti and I am the Mayor of Shelton. I am also a Director of the Connecticut Resources Recovery Authority appointed by the House Minority Leader. I come here this morning to speak in opposition to Senate Bill No. 3, AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS.

I have served on the CRRA Board for approximately seven years and was appointed in 2002 to serve on the newly created CRRA Board of Directors after the Enron debacle to help put the Authority back on a stable path. Along with Chairman Mike Pace and the other Directors, we have accomplished that goal and are looking to the future to continue to help the state of Connecticut be an environmental leader in the fields of solid waste management, recycling and renewable energy.

If this bill were to pass and prevent CRRA from proceeding at the Franklin site, it would in many ways make it very difficult to try to choose another site in the state. The main reason is because CRRA would be forced to then pursue another site in Connecticut, which would, by definition, not qualify as the best site in accordance with DEP's strict guidelines for siting such a landfill.

Additionally, CRRA has not even yet completed its own initial on-site testing of the location to determine if the Authority will move ahead and prepare a formal application to DEP. Passage of this bill would prevent the state from ever even knowing whether this meets all of the criteria as laid out by DEP. CRRA is charged with implementing the State's solid waste management plan and as a component of this plan, calls for the siting of an ash landfill.

While I can certainly understand the proponent's of the bill not wanting such a facility in one of their towns, this ash landfill is critical for the state to control its own solid waste destiny and not be beholden to out-of-state landfills or the only privately owned in-state landfill in Putnam. In addition, as you know, the need and responsibility of proper garbage disposal for Connecticut residents will be on-going forever. The establishment of an ash landfill is the first step in fulfilling those needs of cost containment as well as environmental best practices associated with garbage disposal.

This bill will have a negative impact on the state and its residents who will ultimately have to pay for the higher cost of shipping this ash residue out-of-state or to the privately-owned facility located in Putnam. My experience with the Bridgeport Project has taught me that solid waste facilities should be publicly owned.

Thank you for the opportunity to testify on SB 3. I would be happy to try to answer any questions you may have.

*Mark A. Laretti*

Mark A. Laretti  
Mayor, City of Shelton

chb

**Testimony of Alan J. Desmarais, member of the Connecticut Resources Recovery Authority Board of Directors, to the Joint Committee on Environment**

**Proposed S.B. No. 3 (2009) – AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS**

February 13, 2009

To the Joint Committee on Environment

Thank you for the opportunity today to speak in opposition of Proposed S.B. No. 3. The proposed bill would remove from consideration certain parcels of land located in the towns of Franklin and Windham for use by the Connecticut Resources Recovery Authority (CRRA) as an ash landfill.

In order to place my comments in some context, I believe it is important to note that I was appointed to the new CRRA Board as a member with experience in public finance. I also serve as a municipal finance director for a town of 55,000 in central Connecticut. I believe it is also important to note that the new CRRA Board consists predominantly of active elected officials – in other words, the new CRRA Board is mainly municipal leaders acting on behalf of municipalities.

Removing these two sites from consideration would have the following effects:

- 1) It would place a new burden on local budgets of \$8 per ton for every ton of municipal solid waste (garbage) delivered for disposal. For my own town, that will mean an additional \$128,000 per year in costs.
- 2) This would, in effect, create a new state mandate and cost for Connecticut towns.
- 3) It would effectively remove self-determination from local governments. Local decision making processes exist and function in the towns. The location of an ash landfill is currently under consideration by these communities.
- 4) The landfilling of the ash from trash-to-energy plants would still be required even if this bill becomes law. The ash would then be transported to more distant landfills, creating additional air pollution and a larger carbon footprint.
- 5) The bill would deprive the host community or communities payments from CRRA of approximately \$1.5 million annually.
- 6) Rejection of this site may force consideration of a different site that may be less environmentally friendly and less suitable for an ash landfill. Exhaustive studies on the appropriateness of this site are being performed, and will definitively measure whether this is the best site for an ash landfill.

Thank you for the opportunity to submit this testimony for your consideration.

**Testimony of First Selectman Michael Pace  
Town of Old Saybrook  
Re: SB 3 AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN  
PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS  
Before the Environment Committee  
February 13 2009**

Good morning, Senator Meyer, Representative Roy, Senator McKinney, Representative Chapin, and all the other members of the Environment Committee. My name is Michael Pace and I am the First Selectman of Old Saybrook. I am also the Chair of the Connecticut Resources Recovery Authority Board of Directors appointed by the Governor. I am here today to testify in opposition to Senate Bill No. 3, AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS.

I was selected to serve as the Chair of the CRRA Board of Directors since the General Assembly re-created the CRRA Board and Management back in 2002 to restructure the Authority and get it back on track after the Enron bankruptcy. I am proud to say that along with all of my other fellow Board members who have been asked to serve after 2002, we have been successful in recovering most of the monies lost in the Enron transaction and have returned the Authority to its core mission of serving in the best interest of its member towns and the state of Connecticut.

As part of its core mission as defined in statute, CRRA is responsible for developing an ash landfill such as we have proposed in the town of Franklin. SB 3 would severely hamper the Authority's efforts at fulfilling its statutory mission of implementing the state's new Solid Waste Management Plan. As you may know, CRRA in accordance with DEP and in agreement with the City of Hartford, has closed the landfill in Hartford as of December 31, 2008 and must find another location for this inert ash residue material. CRRA is currently shipping some of its ash residue to out-of-state landfills and to the only other ash landfill in Connecticut located in Putnam which is privately owned.

As Chairman of our Board and also a chief elected official of one of the Mid-Connecticut Project towns, one of my main goals is to ensure that CRRA's trash-to-energy projects provide the lowest possible trash disposal fees to its member towns and residents while at the same time ensuring the public health and strict environmental standards are met at all of our facilities. In order to achieve those goals, the development of a CRRA publicly owned ash landfill is critical to ensure trash disposal tip fees remain stable and attractive.

CRRA was established over thirty years ago to be the implementer of the state's Solid Waste Management Plan and to modernize Connecticut's solid waste management system into what it is today. We continue to review and implement new solid waste and recycling technologies where appropriate and economically feasible. Our new state-of-the-art single stream recycling facility in Hartford became operational last fall and has been very successful to date. The facility allows CRRA member towns to deliver their

curbside recyclables in either the single-stream or dual-stream fashion. This is just one example of how CRRA is looking to the future on behalf of the state and its towns and in their best interests.

CRRA is currently performing on-site testing of the Franklin location to verify the suitability of the site. If the area meets all of DEP's strict landfill siting criteria, CRRA would then proceed with a permit application to DEP. If this legislation were to pass the General Assembly and prevent CRRA from the Franklin site, the Authority would have immense difficulty pursuing the next best site for obvious reasons.

As a first selectman, I can appreciate the concerns of the town and its residents about such a landfill proposal. However, as we have stated repeatedly when we started this landfill search process several years ago, that CRRA is committed to the highest environmental and public health standards and must adhere to all applicable laws and regulations.

I want thank the members of the Committee for the chance to speak and would be happy to try to answer any questions you have.



100 CONSTITUTION PLAZA - 17<sup>th</sup> FLOOR • HARTFORD • CONNECTICUT • 06103-1722 • TELEPHONE (860) 757-7700  
FAX (860) 757-7740

Testimony of

**THOMAS D. KIRK**

**President, CONNECTICUT RESOURCES RECOVERY AUTHORITY**

Before the

**CONNECTICUT GENERAL ASSEMBLY'S ENVIRONMENT COMMITTEE**

**RE: SB 3 AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS**

**Friday, February 13, 2009**

---

Good morning, Senator Meyer, Representative Roy, Senator McKinney, Representative Chapin, and all the other members of the Environment Committee. My name is Tom Kirk and I am President of the Connecticut Resources Recovery Authority. I am here today to speak in opposition to Senate Bill No. 3, AN ACT PROHIBITING THE ACQUISITION OR USE OF CERTAIN PARCELS OF LAND AS ASH RESIDUE DISPOSAL AREAS.

While the title of this proposed legislation doesn't specify which parcels of land could not be acquired, the text of the bill makes it clear that it is aimed at prohibiting CRRA's proposal to locate an ash landfill behind the former Franklin Farms mushroom factory in Franklin. In order to help you make a reasoned decision when you vote on SB 3, let me explain why we need a publicly owned ash landfill in Connecticut and why the Franklin location is the best location for an ash landfill.

We need a publicly owned ash landfill because it is the most environmentally responsible and most cost-effective method of disposing of the ash residue from the Hartford, Preston and Wallingford trash-to-energy facilities. These facilities directly serve more than 90 cities and towns. It will allow the state to maintain strict control in order to protect our environment and our public health. At the same time, it will save municipalities a projected \$10 million per year in lower tipping and hauling fees when our new ash landfill opens.

As you know, CRRA is charged with implementing Connecticut's Solid Waste Management Plan, which calls for disposing of trash generated by our municipalities in the most cost-effective, most efficient, most environmentally protective manner. To do this we heavily promote recycling in order to divert as much material as possible out of the waste stream. Trash not suitable for recycling is converted into renewable energy which is sold to the power grid. Trash-to-energy facilities are by far the largest source of renewable energy in Connecticut.

Please let me emphasize that trash-to-energy, which is the solid waste management method Connecticut chose in the 1980s, is environmentally protective. Instead of just dumping our trash in a big hole in the ground like the state did until the 1980s, we are significantly reducing the amount of landfilled material while creating much-needed energy to power everything from the lights above us to the computers you turn on to research legislation. Our solid waste management practices make Connecticut the nation's leader in environmental excellence – in fact Connecticut will soon be the only state in the nation that has completely eliminated garbage landfills.

Trash-to-energy is the preferred method of dealing with waste that cannot be reused or recycled. Under CGS 22a-285, the Legislature has directed CRRA to develop four ash landfills, two on each side of the Connecticut River, to dispose of the ash safely, responsibly and cost-effectively. As you know, we had been using a site in Hartford's North Meadows for this purpose, but the Hartford ash landfill recently closed after reaching capacity. In 2005, we began planning for that event by launching what became a three-year screening process to identify the best site for an ash landfill, a site which would ensure the environment and public health would be protected and where traffic from ash-hauling trucks would affect the fewest number of people.

We looked at 77 potential ash landfill sites throughout Connecticut before determining that the Franklin location, behind a closed mushroom factory, best meets the extraordinarily strict ash landfill siting criteria set by DEP, including:

- Safe distance from public water supplies and residential areas;
- Proximity to a large Class B stream or river; and
- Suitable geology, hydrogeology, and hydrology.

Yes, it may seem counterintuitive that an ash landfill would be located near a stream or river, but it is a DEP requirement. This is belt-and-suspenders engineering. In the unlikely event of a failure of the liner system, any water that might contact the ash landfill would migrate into the adjacent stream or river, where it would not impact surface water quality. In this case, the river is the Shetucket, and the chosen site is downstream from the Windham sewage treatment plant and a closed, unlined ash landfill.

Our proposal utilizes state-of-the-art engineering and environmental controls. Seven layers of protection that will ensure the ash – an inorganic, non-odorous material with the consistency of damp concrete – is forever isolated. In fact, our design for the ash landfill is even more protective of the environment and public health than is required by either the DEP or the U.S. Environmental Protection Agency.

Before we apply for permits, however, we first need to confirm that the Franklin site is the state's best location for an ash landfill. We are doing this through a series of detailed ecological, geological, archeological, hydrological, hydro-geological, traffic and topographic site investigations. One critical test, for instance, will tell us whether there is a high-yield aquifer – a water source capable of supplying a minimum 5 million gallons of water daily – under the site. If there is, our search for an ash landfill will go elsewhere.

Please let me expand on my earlier comments about the need for a publicly owned ash landfill. It would provide us with the infrastructure necessary to economically dispose of ash properly. Instead of sending the ash out-of-state or to a private ash-landfill in Connecticut where we cannot control the long term costs, we would maintain control. Connecticut should not be beholden to another state or the private sector for such a vitally important environmental and public health concern.

Although public control of our ash is of critical environmental and public health importance, economic arguments against this bill are equally persuasive. First, it will provide Franklin around \$1.5 million in additional revenue annually for hosting the ash landfill, about one quarter of Franklin's town budget. Many other municipalities will also benefit, though, through the savings of reduced tipping and hauling fees. We project these savings to total \$10 million per year when our ash landfill opens, and more each year after that. It's something I dare say every one of those municipalities will appreciate.

SB 3 would cripple CRRA's ability to effectively manage solid waste in Connecticut, including CRRA's ability to provide savings to our municipalities. I urge you to vote against SB 3 right here in committee so CRRA may continue to do its job – which requires cost-effective disposal of the ash residue from our proven trash-to-energy process

Thank you for your patience and your understanding.

The Jacobs Family  
215 Pleasure Hill Road  
North Franklin, CT 06254

February 4, 2009

SB 3

To Whom It May Concern:

The proposal to site a toxic ash landfill in what is one of the last, vast pristine, areas of Connecticut's agricultural and forestry land is absolutely preposterous, as well as terribly irresponsible. This land abundant with wildlife and active fisheries sits atop of what is regarded by many in the area as the aquifer that feeds most of the adjoining properties' drinking wells. All about the surrounding areas are the archaeological remains of early pre-revolutionary home-sites dating back to the early 1600's. The proposed site is situated adjacent to the Shetucket River, a highly regarded fishing stream by the DEP stocked with edible trout and Atlantic salmon.

This proposed site, recommended as a potential area by the state in a study put into place in 1989, has evolved considerably since then. The days of dealing with pollution by dilution have been dismissed by most environmental scientists as dangerously ineffective. The CRRA has openly admitted that their encasement systems leak and the DEP has admitted that they do not have the manpower to monitor the local wells. Many residential homes have been constructed in the immediate area since that time, and grow organic produce, harvest deer and other game from the forest or readily consume the fish from the Shetucket River and its tributaries. The traffic which is already congested in the area, would fill the air and roadways with even greater hazards and air pollution, as possibly as many as 60 trucks per day carry their toxic payloads through these people's neighborhoods.

Doesn't it make more sense to find better ways to limit the State's production of this waste, and then locate it in an area other than what has been named the "The Last Green Valley" of Connecticut? Why not locate this site in an industrial or commercial area where nature has already been somewhat disrupted or polluted? Perhaps the State will not have to drive these pollutants to such a distant outpost, and save our taxpayers some much needed gas money. There are several other sites that make far greater sense, do not jeopardize people's health and well being, and will not destroy one of the last places in Connecticut where nature still exists as it did when our forefathers arrived. Will we leave nothing to our future generations that is still clean and safe for their families to enjoy?

Sincerely,

*Scott Jacobs*