

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE

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In re: House Bill 747

Stenographic report of hearing
held in the Majority Caucus Room
Main Capitol, Harrisburg, Pennsylvania

Tuesday
May 25, 1999
10:15 a.m.

HON. ARTHUR HERSHEY, CHAIRMAN
HON. SAM SMITH, Subcommittee on Mining
HON. CHARLES McIlhinney, Secretary

MEMBERS OF THE COMMITTEE

Hon. Thomas Armstrong	Hon. Ron Miller
Hon. Brett Feese	Hon. Chris Ross
Hon. Robert Freeman	Hon. Carole Rubley
Hon. Kenneth Jadlowiec	Hon. Steve Samuelson
Hon. David Levdansky	Hon. Jerry Stern
Hon. Jennifer Mann	Hon. Dan Surra
Hon. Eugene McGill	Hon. Greg Vitali

Also Present:

Fred Taylor, Esquire

Reported by:
Dorothy M. Malone, RPR

Dorothy M. Malone
Registered Professional Reporter
135 S. Landis Street
Hummelstown, Pennsylvania 17036

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1 CHAIRMAN HERSHEY: Good morning. I am calling
2 the meeting to order. We scheduled this meeting today to
3 receive testimony on House Bill 747, the Municipal Waste
4 Facilities and Transportation Act. There should be copies of
5 the agenda and bills on the table inside the door. If there
6 are not, I hope you can share. My staff is here to help
7 anyone with copies that they need.

8 My name is Art Hershey. I am Chairman of the
9 Environmental Resources and Energy Committee. At this time
10 I will have the members introduce themselves starting with
11 Representative Ross.

12 REPRESENTATIVE ROSS: I am Representative
13 Chris Ross from Chester County.

14 REPRESENTATIVE VITALI: Greg Vitali, Delaware
15 County.

16 MR. TAYLOR: I am Fred Taylor, Counsel for
17 the Committee.

18 REPRESENTATIVE SMITH: Sam Smith, Jefferson,
19 Indiana and Clearfield Counties.

20 REPRESENTATIVE SURRA: Dan Surra, Elk and
21 Clearfield Counties.

22 REPRESENTATIVE MCGILL: Gene McGill, Montgomery
23 County.

24 REPRESENTATIVE SAMUELSON: Steve Samuelson,
25 from Bethlehem representing Lehigh and Northampton Counties.

1 REPRESENTATIVE MANN: Jennifer Mann from
2 Lehigh County.

3 REPRESENTATIVE FREEMAN: Bob Freeman from
4 Northampton County.

5 REPRESENTATIVE ARMSTRONG: Tom Armstrong,
6 Lancaster County.

7 REPRESENTATIVE JADLOWIEC: Ken Jadlowiec,
8 Potter, McKean and Cameron Counties.

9 REPRESENTATIVE MILLER: Ron Miller, York
10 County.

11 REPRESENTATIVE FEESE: Brett Feese, Lycoming
12 County.

13 REPRESENTATIVE STERN: Jerry Stern, Blair
14 and Bedford Counties.

15 CHAIRMAN HERSHEY: Thank you, ladies and
16 gentlemen. The legislation similar to this was before the
17 House of Representatives last session. It is now before the
18 House again this session in the form of this bill, House
19 Bill 747. This has been an issue of some concern to the
20 citizens of Pennsylvania.

21 The reason I called this hearing is so that
22 we can share our thoughts and see what, if anything,
23 Pennsylvania can do to help our citizenry with the solid waste
24 disposal problem while we wait for the federal government to
25 act.

1 Representative Sam Smith, the prime sponsor
2 of Legislation 747 who was the prime sponsor of House Bill
3 2832 last session has been working on this issue for some
4 time. He has developed quite a bit of background and
5 expertise in this issue. As Chairman of the Committee, I am
6 going to take advantage of my position as Chairman and ask
7 Representative Smith if he would do me the favor of presiding
8 over this hearing.

9 Our first witness has gotten tied up in a
10 traffic jam on the turnpike. Secretary Seif is surprisingly
11 not ready to set up. We are going to start with the third
12 witness, Mr. Biderman.

13 That being said, Representative Smith, if
14 you are willing to take on the assignment I would appreciate
15 your calling the first witness.

16 ACTING CHAIRMAN SMITH: Thank you, Mr.
17 Chairman. I appreciate the opportunity to preside over the
18 meeting as we hear testimony on this legislation. As you
19 know, it is very important to the Commonwealth, especially
20 important to some of us in some of the rural areas.

21 And so with that we will call Mr. Biderman,
22 Counselor for the Environmental Industry Associations
23 Pennsylvania Waste Industries Association and I appreciate
24 your willingness to speak up first given the change of the
25 order.

1 MR. BIDERMAN: Mr. Chairman, members of the
2 House Environmental Resources and Energy Committee:

3 My name is David Biderman. I serve as General
4 Counsel of the Environmental Industry Associations and I am
5 here today on behalf of the Pennsylvania Waste Industries
6 Association (PWIA). PWIA is the state chapter of the
7 National Solid Waste Management Association that is a part
8 of the Environmental Industry Associations. We appreciate
9 the opportunity to present our views on HB 747 to you today.

10 PWIA represents the private sector landfill
11 operators and waste haulers in Pennsylvania. In 1997, our
12 industry provided over 23,000 jobs; generated \$784.5 million
13 in income for individuals; generated one billion dollars in
14 total income for individuals and proprietors; added \$1.2
15 billion worth of value to the entire economy; and produced
16 \$2.3 billion worth of goods and services. We represent
17 companies and individuals who provide an important public
18 service to the homeowners, businesses and industries of
19 Pennsylvania.

20 The PWIA is aware of increasing opposition to
21 out-of-state waste being disposed in Pennsylvania landfills.
22 Although the PWIA opposes HB 747, for the reasons I will
23 identify in a moment, we are sensitive to the many issues
24 it raises. The solid waste industry in Pennsylvania wants
25 to work with all Pennsylvanians to minimize any adverse

1 impacts of these imports. We continue to work to ensure that
2 unsafe vehicles are not traveling on our highways. We want
3 enforcement of our existing solid waste regulations. Our
4 members work and live in these communities, and they want to
5 work with local governments and the state government here in
6 Harrisburg to assure safe roads, a clean environment, and
7 good solid waste management. HB 747 may be good politics
8 but we think it is bad policy and is probably illegal under
9 the U.S. Constitution.

10 We have several concerns with HB 747 and
11 believe that the Legislature needs to think seriously about
12 the real impact this legislation would have on the economy
13 of Pennsylvania. First, limiting the capacity of Pennsyl-
14 vania's landfills will reduce the economic benefits mentioned
15 above. Jobs will be lost if this bill is passed. Assuming
16 that one-third of the landfills are closed over the next
17 three years as a result of this legislation, up to 7,000 jobs
18 could be lost in the waste disposal and related businesses.
19 That is 7,000 Pennsylvanians, your constituents. This would
20 result in a significant loss in income for Pennsylvania
21 workers, a loss in state and local income taxes, and a loss
22 in host community fees.

23 Second, HB 747 may create capacity shortages
24 and additional costs. This bill will cause Pennsylvania to
25 have a capacity shortage and disposal rate increase similar

1 to the current capacity shortages and high disposal costs in
2 New York and New Jersey. This decreased capacity and increase
3 in disposal rates will result in increased costs for Pennsyl-
4 vania's businesses and local governments. HB 747 could
5 recreate the capacity crisis which lead to the passage of
6 Act 101 in 1988. Limiting capacity almost assures higher
7 rates. Even at higher disposal rates, the economics may
8 still make it more efficient to transport waste into
9 Pennsylvania than to facilities in other states.

10 The proposed permit moratorium on permit
11 modifications and expansions also runs counter to the
12 Commonwealth's brownfields doctrine. Permit modifications
13 accomplishing voluntary remediation of existing environmental
14 problems, which often include expansions or increases in
15 volume, would be swept within the moratorium preventing the
16 accomplishment of environmental benefits.

17 Third, imposing additional vehicle registration
18 fees of between \$1,500 to \$5,000 per vehicle for waste
19 trucks over 56,000 pounds will increase costs of Pennsylvania's
20 businesses and local governments. Small haulers, perhaps
21 unable to afford these new fees, may be forced out of
22 business.

23 In addition, the proposed vehicle registration
24 fee ironically could cause an increase in the number of
25 waste trucks, weighing less than 56,000 pounds, on

1 Pennsylvania's roadways. For haulers to compete in the
2 marketplace, they may be forced to choose this option to
3 avoid unreasonable bonding and licensing fees.

4 These vehicle registration fees will create
5 an inordinately severe burden on smaller, locally-owned
6 transporters who will not be able to afford these high fees,
7 forcing them to close, putting more Pennsylvanians out of
8 work. The penalty of forfeiture of trucks involved in any
9 violation of the transporter program is excessive, and will
10 impact inordinately on smaller companies.

11 Fourth, HB 747 would create a local veto over
12 state approval of environmental permits for waste facilities.
13 Following the three-year moratorium, the legislation provides
14 that DEP may not issue permits unless owners or operators
15 execute host community agreements for their landfills and
16 transfer stations. This requirement provides an effective
17 local veto over state environmental permitting and policy
18 and will most likely result in political gridlock. In
19 essence, there would be no statewide policy. Consider the
20 politics of local municipal races and how the "NIMBY"
21 syndrome would factor into these races. Current permitting
22 time lines average about two years. When you add on a three-
23 year moratorium and local veto it appears apparent that we
24 will recreate the capacity crisis which lead to the passage
25 of Act 101 in 1988.

1 Fifth, HB 747 would have a definite impact on
2 small businesses. By restricting the permits for commercial
3 residual waste facilities but not captive facilities, which
4 are owned by a company and used only for the disposal of
5 their waste, the legislation harms small businesses that must
6 rely upon commercial disposal facilities and cannot afford
7 the high costs of developing a captive site. Some residual
8 wastes are disposed of in municipal waste landfills so the
9 closure of municipal waste landfills would also impact on
10 the business community.

11 Sixth, HB 747 would interfere with interstate
12 commerce. The U. S. Supreme Court has repeatedly ruled that
13 states are prohibited from discriminating against out-of-state
14 waste because such state laws violate the Constitution's
15 interstate commerce clause. We believe that HB 747, while
16 facially neutral, suffers from many of the same constitutional
17 flaws. Ironically, the U. S. Supreme Court first reached
18 this conclusion in its 1978 decision in Philadelphia v. New
19 Jersey, where the court struck down a New Jersey law that
20 effectively prohibited Pennsylvania from exporting its solid
21 waste to New Jersey. Since 1978, the court has expanded the
22 prohibition against state restrictions on interstate waste
23 movements to include special fees, surcharges, and facially
24 neutral laws that have a discriminatory effect. The proposed
25 legislation interferes with interstate commerce by:

1 1. Imposing new fees on waste haulers engaged
2 in interstate commerce but not imposing similar fees on other
3 types of vehicles;

4 2. Imposing a moratorium upon the permitting
5 of commercial residual waste landfills which accept out-of-
6 state waste but not restricting the permitting of captive
7 facilities; and by

8 3. Establishing a complex new regulatory
9 scheme for the purpose of restricting interstate commerce.

10 Moreover, while HB 747 seeks to put a wall up
11 around Pennsylvania to isolate it from interstate commerce
12 in waste materials, imagine the consequences if other states
13 that receive Pennsylvania waste did the same. According to
14 an EPA study, Pennsylvania exports about 40 percent of all of
15 the hazardous waste generated in the state. Pennsylvania
16 sends all of its low-level radioactive waste to other states.
17 What if states importing these waste materials decided to
18 impose capacity limitations or fees similar to those proposed
19 here? What would Pennsylvania do? No state is allowed,
20 under our federal Constitution, to isolate itself from
21 interstate commerce.

22 Finally, HB 747 works against the State's
23 initiatives to attract business and encourage economic
24 development. Unreasonable interference by policy makers and
25 regulatory agencies will cause businesses considering

1 Pennsylvania as a location for growth and development to
2 reconsider the wisdom of locating operations within the
3 Commonwealth. This legislation would appear to be leading
4 in the opposite direction of all of the initiatives which
5 have been taken over the past couple years to improve
6 Pennsylvania's business climate.

7 On behalf of the members of the Pennsylvania
8 Waste Industries Association, thank you for allowing us to
9 present our views on HB 747. I will be happy to answer any
10 questions you may have.

11 ACTING CHAIRMAN SMITH: Thank you very much
12 for your testimony. We will now take questions from the
13 members. I will start with Representative Surra, who is
14 also my neighbor in northwestern Pennsylvania and someone
15 who is likewise very knowledgeable and an active member of
16 the Legislature on issues involving waste. So, Representative
17 Surra.

18 REPRESENTATIVE SURRA: Thank you, Sam.

19 BY REPRESENTATIVE SURRA:

20 Q I take it, Mr. Biderman, that you are not
21 in support of the legislation. You mentioned in your
22 testimony that doing this would cause a lessening of capacity
23 and a subsequent increase in disposal fees in Pennsylvania.
24 And I find that interesting, because while I think the fact
25 that Pennsylvania is becoming the pay toilet for the rest of the

1 the country, that is a slap in the face for everybody that
2 I represent. Maybe from your side of the industry you think
3 it is okay.

4 In my district, we happen to be the proud
5 host to the Greentree Landfill. Recently it has come out
6 that Elk and Clearfield Counties are paying like \$26 a ton
7 to dispose of trash there and New York and New Jersey are
8 being charged between 12 and \$14 a ton to dispose of theirs.
9 Now, that is just business I guess. But that certainly
10 doesn't sit too well with the people from my area. How can
11 that be? You know, it seems like there is a glut of landfill
12 space, disposal capacity; is there not in Pennsylvania?

13 A Well, I certainly wouldn't characterize it
14 as a glut. If you recall, less than ten years ago there was
15 a great crisis in this country. We were very concerned
16 throughout the United States about not having enough disposal
17 capacity for all the garbage that we all produce. The
18 federal government had passed stringent environmental
19 regulations, of course, closing down lots of the older
20 landfills. Some people referred to those as dumps. And
21 the waste industry, to their credit, constructed new
22 landfills using state-of-the-art liners and equipment to
23 safely manage these waste materials.

24 So what has resulted, there has been an
25 increase in capacity coming on line over the past few years.

1 You are absolutely right about that.

2 Now, I want to address your question -- your
3 statement about the relationship between capacity and costs.
4 It is really economics. If there is a decrease in the
5 supply of something, but the demand for that something remains
6 the same, the price is going to go up. That is just the way
7 it is generally in economics and that has been our recent
8 experience in the United States.

9 The State of Massachusetts several years ago
10 imposed some sort of limitation on capacity. They are not
11 allowing construction of incinerators or other disposal
12 facilities as far as I remember. And there has been a
13 recent increase in disposal fees in Massachusetts because
14 there just isn't enough capacity to handle the waste materials
15 being generated in that state. The linkage between capacity
16 and price is, I think, pretty well understood. I can't
17 speak to, unfortunately, the particular situation in the
18 landfill you are referring to.

19 But I think if this state chooses to decrease
20 its capacity to six years, you are going to see increased
21 costs. Because you are still going to have all the waste
22 or most of the waste generated in Pennsylvania as well as
23 a substantial amount of waste that is coming in from other
24 states.

25 Q Don't you find it interesting then that the

1 area that is the host to landfill is paying twice the
2 disposal per ton fee as New York and New Jersey residents?

3 A Again, I don't know why that might be.

4 Q I don't know either.

5 A Is that a private sector landfill?

6 Q Yes.

7 A And did the private sector negotiate with the
8 local county --

9 Q Under Act 101 our county was required to
10 have disposal facilities under planned negotiated contracts,
11 yes.

12 A One other thing, if I may. Again, I don't
13 know the specifics of this particular facility. But if the
14 New York waste, they guaranteed a certain volume of material,
15 if you can guarantee a larger volume of material, then it is
16 possible that you get a lower rate for that material. That
17 may be possible. That may be what is going on.

18 Q Why don't you try to explain that to my
19 neighbors? In the press recently there has been all this
20 talk about Mayor Giuliani saying that there is no
21 Pennsylvania community will have to receive out-of-state
22 waste if they don't want it. Any municipality that is host
23 to a landfill received a questionnaire basically asking them.
24 My township supervisors were like, what, we don't have any
25 say one way or the other over this. If this private company

1 that runs a landfill in Elk County has a contract with
2 company X, Y, Z in Oyster Bay can the mayor stop them from
3 doing business in Pennsylvania? Can the governor stop them
4 from doing business?

5 A I don't think that the mayor of the City of
6 New York has the ability to interfere with contracts between
7 a New York State generator and a Pennsylvania disposal
8 facility. The host community agreement process exists to
9 deal with exactly those sorts of concerns. My understanding
10 that the large majority of landfills in the State of
11 Pennsylvania have those sorts of agreements. And it is
12 in that process in which those concerns should be addressed.

13 Q The host municipality agreement in no way
14 can stop a permit from being issued. The township supervisors
15 are forced to negotiate with a gun to their temple. And
16 that is why we are trying to address it in this bill.

17 But then in your opinion the discussion about
18 the mayor, between the mayor and the governor saying that
19 no municipality will take New York trash if they don't want
20 to really is out of their control.

21 A No, no. I am sorry. When the City of New
22 York is going through its government contracting process
23 for contracts to take the New York City waste that currently
24 goes to the rest of the landfills, there certainly can be
25 as part of that process terms and conditions to the contract

1 that describe to where those waste materials go and under
2 what conditions those materials go. I'm not privy to those.

3 Q Municipal contracts the mayor has control of?
4 Any private company, what I am trying to address is a private
5 waste hauler has a contract with a Pennsylvania company, the
6 mayor of New York in no way can control the way they do
7 business; is that not correct?

8 A Well, I think it depends on the nature of how
9 the New York company is collecting its waste. If they are
10 collecting municipal waste from Queens County or Cayuga
11 County in update New York, you know, there is a governmental
12 entity there that has the ability to set terms and conditions.

13 REPRESENTATIVE SURRA: Thank you.

14 MR. BIDERMAN: You are welcome.

15 ACTING CHAIRMAN SMITH: We will be willing
16 to come back around if you need follow up, Representative
17 Surra. Next, Representative Freeman.

18 REPRESENTATIVE FREEMAN. Thank you, Mr.
19 Chairman.

20 BY REPRESENTATIVE FREEMAN:

21 Q Mr. Biderman, page three of your testimony
22 you talk about how this legislation in your opinion would
23 run counter to the Brownfield Doctrine that we have
24 instituted here in the Commonwealth of Pennsylvania. Believe
25 me I can't quite follow the logic of that. Will you please

1 expand on that?

2 A Certainly. To the extent that there are
3 permits or permit modifications that are in the pipeline that
4 are going to allow for existing landfills, part of any
5 existing landfill, to be shut down and for the expansion
6 to take place in another area and for there to be economic
7 development on top of an existing solid waste landfill,
8 this could cause less development of ground fill facilities.
9 I assume you are familiar with the ground fill concept and
10 how --

11 Q Yes.

12 A Okay. So, what you have the risk here is that
13 to our ability to choose to remediate a particular area or
14 to cap a particular landfill and then allow development over
15 that facility to be limited because we won't have the ability
16 to expand into a different area.

17 Q I still fail to follow your logic. The major
18 focus of ground fill legislation is old industrial sites
19 in different cities is very important. What attempts have
20 been made to take old landfills, and say, turn them into
21 golf courses.

22 A Of course.

23 Q It is very limited. I still fail to see how
24 this legislation in any way undermines that because you still
25 want to develop that for its own economic purposes regardless

1 of whether the existing landfill can expand or not.

2 Q Well, if we cannot expand existing landfills
3 due to the moratorium or due to the cap that will take place
4 after the moratorium, then our ability to choose to remediate
5 -- to cap a particular landfill will be limited. We won't
6 have the option of going somewhere else.

7 Q We can go round and round on this, but I
8 still think it has nothing to do with whether or not you
9 choose to take an old site and use it for some other use
10 that might still have some economic benefit regardless of
11 whether you are a landfill operator or not. Developing a
12 piece of landfill for a site.

13 A second point, you touched on the interstate
14 commerce clause which many members of your industry repeatedly
15 raised concern. You would acknowledge, however, that the
16 state under the federal Constitution, states do have the
17 responsibility and the power to regulate matters of health
18 and safety?

19 A Absolutely. The police power granted to
20 states and local governments includes health and safety.
21 But to the extent that those regulations are lost across the
22 line, no pun intended there, and interfere or discriminate
23 against interstate commerce, that violates the dormant
24 commerce laws.

25 Q I guess it would be my intention, those of us

1 who support this legislation that solid waste, any problems
2 comes from the purview of health and safety concerns, that
3 is why I think there is a strong basis for this to have a
4 constitutional reason for it in support for it. I think
5 if you hide solely behind the interstate commerce clause,
6 we do a disservice to our responsibility as legislators to
7 look out for the public health and safety.

8 A Well, I would just recommend that you carefully
9 read the recent legal decisions that have come out since
10 the Carbone (phonetic) decision, even going farther back than
11 that, Supreme Court... decisions, that weigh the health and
12 safety concerns that are legitimate, nobody is doubting that
13 they are legitimate, versus the plenary power of commerce
14 under the commerce clause. And in that balance, the
15 interstate commerce clause wins every time. Recently in
16 Wisconsin, another state experiencing inflows of waste
17 materials from a neighboring state, Illinois. Chicago,
18 Illinois is close to Wisconsin. A lot of Chicago, Illinois
19 waste is moving into southern Wisconsin. People in Wisconsin
20 don't like that. Big surprise. So the Wisconsin Legislature
21 twice passed legislation that is facially neutral based on
22 their public health and safety powers with a recycling twist
23 to it to preserve landfill space.

24 And each time the district court and then the
25 federal appeals court struck it down.

1 You are right. The State of Pennsylvania,
2 the Commonwealth of Pennsylvania has health and safety
3 concerns. State laws or state regulations that inhibit the
4 movement of any material, whether it is waste material or
5 shoes or lights or motorcycles is unlawful under the commerce
6 clause.

7 REPRESENTATIVE FREEMAN: Well, I guess our
8 point of difference is whether one could consider waste
9 purely in terms of being a trade act versus a sanitary
10 (inaudible). I guess we could go back and forth on that all
11 day. But it would be my contention that when you get to
12 solid waste or hazardous waste, you are much more into safety
13 and health than you are into commerce. Thank you for your
14 comments.

15 ACTING CHAIRMAN SMITH: Thank you. I note
16 the presence of Representative Carole Rubley from Chester
17 County. The next questioner is Representative Vitali.

18 REPRESENTATIVE VITALI: Thank you.

19 BY REPRESENTATIVE VITALI:

20 Q On the jobs issue, in your testimony you state
21 that jobs would be lost if the bill is passed. As I read
22 this bill there is nothing on its face that this bill would
23 detract the amount of waste coming into Pennsylvania. And
24 also I would think if in fact it becomes more expensive to
25 landfill, there might be an increase in the recycling fee.

1 I am just, and I guess on top of that, Pennsylvania is at
2 full employment now. The highest employment rate we have been
3 at in many years.

4 So I just take issue with your job loss
5 argument and maybe you would like to respond to that.

6 A Well, if there is a certain number of permit
7 expansions or new permits in the pipeline, and as a result
8 of this legislation those permits are sent back, then all the
9 construction jobs that were associated with the new permits,
10 all the construction jobs that were associated with those
11 expansions of existing landfills, will cease to exist.

12 Q These aren't people who are currently working
13 will not be working.

14 A No, these are jobs that are -- that is correct.
15 In addition, as the state --

16 Q You are not suggesting anyone is going to be
17 thrown out of work?

18 A Well, let me get to the second part of where
19 I think the job loss will take place. As disposal capacity
20 decreases in the state under this legislation, apparently
21 there is 12 to 14 years of capacity, and under the legislation
22 that is going to be reduced. There is going to be less
23 landfills and less capacity in each landfill to hold waste
24 materials. So the number of employees employed in the
25 solid waste industry will naturally decrease along with

1 capacity. And the calculation that we have put together
2 is that if you take the two components that I am talking
3 about, it could be as high as 7,000 jobs.

4 Q Then are you suggesting that the amount of
5 landfilling will decrease under this act or fail to increase?

6 A Well, I think what will happen is that if
7 this legislation is passed --

8 Q Failing to increase, that is not going to be
9 job loss.

10 A Well, the day you pass this, the day you pass
11 this, there is not going to be a job loss. That day, no,
12 nobody is going to lose their jobs. But as the landfill
13 gets full, a landfill that has six months left in it, that
14 landfill is going to fill up a little faster than it would
15 have in the absence of this legislation, because you are
16 keeping other capacity that the free market has demanded
17 from coming on line, and that is going to accelerate job
18 loss.

19 Q I think I understand your answer. The other
20 issue, I guess I echo Representative Freeman's comment about
21 interstate commerce and its intention. As I read the statute
22 on its face, it doesn't affect those haulers in Pennsylvania
23 who would continue to dispose in Pennsylvania versus those
24 in other states who would come in to Pennsylvania. Everyone
25 seems to be treated equally under the act. The vehicle

1 registration fees, again, applied equally to all.

2 I guess a major comment, I'm just somewhat
3 skeptical about that and just wanted to note that for the
4 record. Thank you.

5 A Thank you.

6 ACTING CHAIRMAN SMITH: Next, Representative
7 Ross.

8 REPRESENTATIVE ROSS: Thank you.

9 BY REPRESENTATIVE ROSS:

10 Q I think you have raised some interesting
11 points, Mr. Biderman. The question I have for you is based
12 on the experience of trying to establish a landfill in a
13 municipality. It is an extremely difficult and painful
14 process and very burdensome to the municipality and the
15 residents that live near it. I think that one of the senses
16 of frustration that people have is that here in Pennsylvania
17 we may have provided for our own waste and we sense that
18 some of our neighboring states are not doing that. That they
19 are not going through the painful process to properly dispose
20 of their waste and allowing us to carry the burden for them.
21 I think there is a fundamental sense of unfairness on that
22 and a good deal of frustration at the local level that is
23 building.

24 I noticed in the beginning of your comments
25 that you are aware of that increasing opposition and also that

1 you are sensitive to the issues that it raises. I also see
2 here that you have some concerns about this particular piece
3 of legislation. I was wondering if you could share with us
4 if you have any alternatives that would help to redress some
5 of the unfairness that I have just described in a way that
6 you think would be better.

7 A Well, it is my understanding that the solid
8 waste industry wants to work, and as I said, with all levels
9 of government, local governments, the people on the front
10 line who live near landfills and don't like seeing trucks
11 going by their houses. The state government that does the
12 permitting and the Legislature to minimize these effects.
13 I don't have -- there is no, unfortunately, magic bullet
14 to solve these problems. There isn't any model legislation
15 that I carry around in my pocket hoping that somebody asks
16 me that question. Maybe next time I will have it though.
17 I think we need to work together to figure out ways in which
18 facilities like these which are necessary for the maintenance
19 of public health and safety, because if you don't have any
20 facilities, the garbage still goes somewhere. You know
21 every day we all generate garbage. We need to figure out
22 ways to make sure that those facilities are environmentally
23 sound, and the federal government has told us to do that and
24 we are doing that and we have the safest landfills we have
25 ever had in this country's history.

1 And we also need to figure out ways to minimize
2 the transportation effects. And those are issues that we
3 want to work with you on. Again, I don't have any proposals
4 here to give you, but would be glad to meet with you and
5 figure out ways to address the issues that don't result in
6 job losses or violate federal law.

7 Q Well, let me just follow up briefly. You
8 indicated some concerns about interstate commerce, and
9 obviously that particularly is regulated at the federal
10 level. Do you see any need for federal regulation in this
11 area to make sure the individual states carry their fair
12 share?

13 A I think that would be an expansion of current
14 federal law governing solid waste. I don't think that RICRA,
15 the federal legislation that governs the solid waste industry,
16 speaks to that issue. That would be a pretty dramatic
17 expansion of that law. State borders aren't supposed to be
18 artificial barriers to the movement of materials in commerce.

19 I know, I had a little dialogue with
20 Representative Freeman about this. But, you know, garbage
21 or shoes, just because, I will give you another example.
22 Just because people in Massachusetts want to protect the
23 Massachusetts dairy industry doesn't let them do something that
24 prevents Vermont that is cheaper producing milk from bringing
25 their milk across the border. There are ways to deal with

1 that. But this isn't any different from that.

2 REPRESENTATIVE ROSS: Thank you.

3 BY ACTING CHAIRMAN SMITH:

4 Q Since you were just talking about some of the
5 options at the federal level, it is my understanding that
6 the court rulings over the years have basically said that
7 garbage is protected under the commerce clause and unless
8 Congress were to enact some laws that would give authority
9 to the individual states, we are not allowed to discriminate.
10 Would that be kind of a short --

11 A That is 100 percent accurate.

12 Q I understand there are some pieces of
13 legislation, as the Chairman had referenced in his opening
14 remarks, that would presumably give the states some authority.
15 Where does your association stand on those bills that are
16 present before Congress?

17 A We are currently reviewing all those bills.
18 There are, I believe, I believe there are six separate pieces
19 of legislation currently pending before the Congress. Each
20 of which authorizes in slightly different manners states to
21 regulate and inhibit the movement of waste materials into an
22 importing state depending on volumes, definitions of post
23 community agreements and things like that. In fact, Congress
24 will be having a hearing on this issue sometime next month.

25 Q Is your association opposed to those bills?

1 A I believe the association is opposed to it.
2 That is not my bailiwick. But I believe our position is that
3 free markets are working fine. That there isn't a need for
4 federal intervention in this area.

5 Q Given, as you mentioned, the amount of waste
6 will relatively continue day in and day out with no noticeable
7 changes what value does your association place on having to
8 deal with one state versus another state? Why would you
9 oppose that legislation? You are still going to have the same
10 amount of waste to deal with as a manager of waste.

11 A Well, some of the legislation doesn't do that.
12 Some of the federal legislation would authorize governors to
13 ban all out-of-state waste from certain states if they go
14 over a certain volume. There are other provisions that would
15 have severe impacts on the current movement of materials
16 from generating states; Illinois, New York to importing
17 states such as Virginia and Pennsylvania.

18 Q So, would you say that some states should have
19 some authority to regulate?

20 A Again, I don't believe states should have that
21 power.

22 Q I want to go back to where I was planning on
23 starting. In this legislation, if you were to isolate the
24 section that deals with the moratorium is it, in your opinion
25 -- you are an attorney?

1 A Yes, I am.

2 Q So you can kind of state that with a little
3 bit of authority when you talk about constitutional, when
4 you testified to the constitutional questions that you raised.

5 A I hope so.

6 Q Is a moratorium constitutional?

7 A The answer to that question is a classic
8 legal answer, and that is, we don't know yet. And the
9 reason we don't know yet is that because this is a very
10 novel approach. As you are probably familiar with, the
11 State of Virginia has recently passed into law capacity
12 limitations on landfills in Virginia. Those laws aren't
13 even in effect yet. Their effective date is July 1. I
14 don't know whether it is legal under the Constitution. I
15 have my suspicions that they are not because they were
16 enacted with a specific intent to keep out out-of-state
17 waste.

18 Q The host municipal agreement section of this
19 legislation, you referred to it as having an effect of
20 local veto or you make some reference to it, it provides
21 an effective local veto. How does allowing a municipality
22 or requiring a municipality to publicize the provisions of
23 their host municipal agreement, how does that create a local
24 veto?

25 A Well, it is my understanding of the legislation

1 that it doesn't merely require that the proposed landfill or
2 expansion of existing landfill be put in a newspaper. There
3 is a whole process that has to be gone through. And DEP is
4 not allowed to issue a permit unless a host community
5 agreement is signed that jumps through certain hoops. You
6 have to have A, B, C, D, E and F. So that is effectively
7 giving veto authority to local communities to say, for
8 example, you know, we don't want trucks coming through
9 between 2 p.m. and 4 p.m. because that is when the schools
10 are coming out. We don't want kids to, you know, get in
11 trouble. I am not saying that is a good or bad thing, but
12 I am giving you an example of why that might impose a local
13 veto.

14 Q My understanding in interpretation of this
15 provision is that it simply allows the community, the
16 residents of the community that would become the host to
17 have, I believe it is on page four of your testimony, I
18 believe it gives them, the individual citizens of a
19 municipality, the ability to understand what their township
20 supervisors or elected officials are agreeing to. As
21 Representative Surra had referenced early on today, often
22 times these local elected officials feel that they have no
23 choice but to make an agreement with a landfill -- with an
24 applicant who is putting together an application for a
25 landfill permit. They feel they have no choice but to agree

1 to something. What this legislation really does in my
2 opinion is just make sure the citizens of that community are
3 fully aware of what those provisions are. It in essence
4 allows them to apply a market force to that establishment of
5 an agreement. And I don't think you are opposed to the use
6 of market forces, at least that is what your testimony
7 implied early on.

8 A And you are right about that. I don't frankly
9 understand why the characterization of the local government
10 having a gun to its head. That is sort of a very bad image
11 used generically.

12 You know, if local governments don't want to
13 have these facilities, I think they have the ability to say,
14 you know, we want you to do X and Y and Z before we are going
15 to sign a host community agreement. These facilities in
16 some parts of the country, and I assume in some parts of the
17 state, are a way of attracting jobs.

18 Q That may be what you are told at the level
19 that you are involved with this industry. But if you were
20 involved at the local township building, I am talking about
21 the shed out on the back roads of Pennsylvania where the
22 grader and the snow plow truck are sitting there, and those
23 folks that work in those places as township supervisors and
24 such, when a company comes in, they buy up or get options on,
25 say, four or 500 acres of ground, and they start through the

1 process of getting a permit, doing the water monitoring and
2 all of those things that are required and they come into that
3 municipality and say, we are going to put a landfill up there
4 on the old Biderman farm and we need you to work out -- we
5 need to have an agreement with you and we are willing to
6 give you this, that or another thing. At that point those
7 supervisors typically feel that they have no choice but to
8 come to an agreement. They are faced with a company that
9 frequently has a couple of lawyers standing at their side in
10 a threatening tone with, you know, if you don't, we will.
11 And that is the kind of atmosphere that these host municipal
12 agreements are currently arrived.

13 And all this legislation seeks to do is to
14 make sure that those supervisors have some level of support
15 I guess you could say from their local community. And the
16 community has a full recognition of what that agreement
17 would be. I don't see -- I would like you to explain to me
18 how that is a local veto?

19 A Notifying the community that you are going to
20 site a solid waste landfill. It isn't much different from
21 notifying the local community that you are going to site a
22 new concrete plant or some other facility. It is a big
23 facility and I think from your description, you know, it may
24 be a rural area. Trucks are going to go by bringing stuff
25 in. Trucks are going to go by bringing stuff out. In the

1 waste business the trucks hopefully will come back empty.
2 Why does the waste facility get treatment special and different
3 from other facilities? What is different about the waste
4 facility than from any other significant industrial site?

5 ACTING CHAIRMAN SMITH: The difference is that
6 they have an impact on that community. We want those
7 individuals to have some kind of, we want that local
8 municipality to be able to get a benefit if they are going
9 to be forced to take it. I think we are looking for a
10 balance there. You mentioned the trucks. You know, with a
11 lot of our other industries like just your last example.
12 When a local business, whether it is a concrete plant or
13 a coal mine or whatever, often times those are managed and
14 owned and operated by local individuals. We have trouble
15 with the truck traffic we consult with them. The local
16 municipality, the local police, the local legislator, they
17 will get some cooperation and have them slow their truckers
18 down and get them under control. Your industry that is not
19 the case. We have to go after them day in and day out with
20 heavier efforts to enforce the laws because they are
21 constantly abusing the law. I am talking about speed and
22 weight and back hauling and things like that.

23 Some of those items that you mentioned at
24 the front end of your testimony regarding the corporate
25 impact and good citizenship type stuff, you know, the impact

1 that the waste industry has on Pennsylvania isn't what I see.
2 I'm not saying what you say is not true necessarily. It is
3 not what I see in my area. I think many of us in rural
4 Pennsylvania that have landfills in our region would agree
5 with that.

6 I would agree with you on one thing. That if
7 this legislation were put into place, the cost of disposing
8 of waste would probably go up. I would argue with you that
9 if Pennsylvania were to look at the number of landfills it
10 has today and Pennsylvania were to be able to use those
11 landfills for primarily Pennsylvania generated municipal
12 waste over the next 20 or 30 years, that those existing
13 landfills would almost serve as an asset to the community
14 over a long haul, an asset to the Commonwealth.

15 What is happening today is because of the
16 economics, as what Representative Surra was referencing,
17 where a local resident often times paying 25 or \$26 a ton
18 and someone from New Jersey paying \$12 or so a ton.

19 What is happening now is that those landfills
20 are being filled up with waste from out of state. And that
21 is not I think a prudent use of that facility.

22 Does anybody else have any follow-up questions
23 here? Representative Surra.

24 BY REPRESENTATIVE SURRA:

25 Q Briefly, and I don't want to belabor this.

1 You are comparing waste to shoes I think you said or volley
2 balls or bicycles or whatever, milk. I think there is a big
3 difference though. Because if you park a truckload of shoes
4 out in front of the capitol they are worth something. You
5 park a truckload of trash out in front of the capitol and
6 it is a liability. And those shoes that are being produced
7 are marketed somewhere. Without trash being disposed of
8 somewhere, it is going to be there forever and very serious
9 consequences possibly.

10 I know you don't like my using the term putting
11 a gun to your head for host municipality agreements. Let's
12 say I am a township supervisor in a rural township in
13 Pennsylvania and you are a trash company executive. You are
14 coming in to site a landfill. We can't agree on a host
15 municipality agreement. Will that in any way stop you from
16 getting a permit and operating in my community if we don't
17 agree?

18 A Under existing DEP regulations I believe,
19 although I am certain the answer to that question is no.

20 REPRESENTATIVE SURRA: That is exactly right.
21 So you come in to me and say, look, we are going to get this
22 permit. You better cut a deal with me or else you are not
23 going to get anything. Is there a gun to their head or is
24 there not? I mean, maybe you don't like that phrase. Maybe
25 I should use a different term. They don't have a choice.

1 They don't have any say. It is between you and the Department.
2 The locals have nothing to say about it. So, in fact, I
3 don't think this legislation goes far enough. Thank you.

4 ACTING CHAIRMAN SMITH: We have one more
5 follow up from Representative Samuelson.

6 BY REPRESENTATIVE SAMUELSON:

7 Q I noticed in your testimony you talked about
8 we continue to work to ensure that unsafe vehicles are not
9 traveling on our highway. I just wanted to ask what steps
10 the waste industry association has taken so far to ensure
11 that unsafe vehicles are not traveling on our highways.

12 A Our association, I mean in the bylaws state
13 that one of the critical things that we talk about. But it
14 is more than just, you know, something you look up in a
15 looseleaf that is on somebody's shelf. We are constantly
16 reminding our members, and it is not Pennsylvania specifically,
17 it is all of our 30 chapters, you know, safety matters.
18 Safety in the facility, safety on a truck, safety on a
19 highway and safety in the transportation.

20 The image of the industry is tied directly to
21 how safe we are and how environmentally sensitive we are.
22 And we are constantly reminding our members and sending them
23 information and we have educational programs. I invite you
24 to come to Dallas next month to see them. We are constantly
25 reminding people about how important it is to be safe and

1 giving them hands on educational advice about how to do that.

2 Q How many trucks are coming off the road as a
3 result of what you are saying?

4 A As a result of what I am saying, I don't know
5 the answer to that.

6 Q I do have one other concern, you expressed
7 a concern about vehicle and weight fees, on page three of
8 your testimony, this legislation has for some of the heavier
9 trucks. Those over 56,000 pounds, 64,000 pounds and 73,000
10 pounds. How many trucks are out there in each of those
11 categories? For instance, in that heaviest category, 73,000
12 pounds, over 36 tons, how many trucks are out there in that
13 category?

14 A Nationwide?

15 Q No, in Pennsylvania.

16 A I am sure it is a constantly changing number
17 depending upon what people are doing with their trucks. I
18 don't know the answer to that. I am sure we can provide
19 that number to you if you want.

20 Q I would be interested if you have a breakdown
21 of how many are in each category.

22 A Okay, and I would be interested in knowing
23 how many trucks of that size that are not trash trucks are
24 being used in the State of Pennsylvania and why those trucks
25 aren't being subjected to similar fees.

1 ACTING CHAIRMAN SMITH: Thank you very much.
2 We are running a little bit behind here. I apologize to
3 the other testifiers. Thank you, Mr. Biderman, for testifying.
4 We appreciate your stepping up first. If you provide any
5 information to the Committee as a follow up, I would
6 appreciate if you would send it to the attention of the
7 Chairman and he will distribute it to the members. And
8 along those lines, I would appreciate those bylaws that you
9 were referencing that emphasize safety. I have at least
10 one operator that I am sure hasn't seen a copy of that.

11 Excuse me. Mr. Taylor.

12 MR. TAYLOR: Mr. Chairman, thank you very much.
13 I wonder if you could provide, you mentioned in your
14 testimony there are six or seven different pieces of
15 legislation in Washington in regard to this issue and there
16 is going to be a hearing next month. I wonder if you are
17 prepared, if you could provide us with a summary of those
18 pieces of legislation and if you have notes on what the
19 hearing is going to be, on what particular piece of
20 legislation the hearing is going to be on.

21 MR. BIDERMAN: It is a Senate hearing. So I
22 don't know what they want to have the hearing on, an
23 informational hearing. It is not a specific hearing on a
24 particular piece of legislation. I will be glad though to
25 send you the six bills, at least two of which have been

1 introduced by Pennsylvania Representatives. In fact, my
2 recommendation to you is to call Specter's office or
3 Greenwood's office. They will have all of that. But I will
4 gladly provide that to you.

5 MR. TAYLOR: I would appreciate that. Thank
6 you, Mr. Chairman.

7 ACTING CHAIRMAN SMITH: Next we will have
8 Secretary Jim Seif, Secretary of the Department of
9 Environmental Protection. Secretary Seif, we appreciate
10 your patience. Beginning at this point, you have the floor.

11 SECRETARY SEIF: Good morning, ladies and
12 gentlemen. Mr. Chairman, we appreciate this opportunity to
13 present the Administration's views in support of House Bill
14 747.

15 I am James Seif, Secretary of the Department.
16 With me is Larry Holley, who is Chief of the Waste Planning
17 Unit within our Department.

18 There have been a number of bills. 747 is
19 this year's version and I understand that Senate 671 exists
20 in the other chamber as well. We don't believe that either
21 one is the model that Mr. Biderman has mentioned that he
22 would like to present to you, we do command to you attention
23 a number of provisions within those bills and we hope that
24 you will consider them favorably.

25 House Bill 747 would do four important things.

1 First of all, it would impose a three-year moratorium on
2 the issuance of new municipal waste, construction waste and
3 commercial residual waste landfills and resource recovery
4 facilities and any increases in daily waste volumes facilities
5 which facilities could accept.

6 Second, these proposals would put a cap on
7 waste disposal capacity that would permanently reduce
8 that capacity by more than one-third in a way that will
9 allow markets and communities to adjust.

10 Third, the proposal would require all
11 municipal waste transporters operating vehicles with a weight
12 over 56,000 pounds to receive approval to operate in
13 Pennsylvania and to pay a fee of between \$1,500 and \$5,000
14 per vehicle to help finance an expanded waste truck
15 inspection program.

16 Lastly, these proposals require that a host
17 community agreement be in place before our Department could
18 issue a permit for a new or expanded municipal waste disposal
19 or transfer facility. Host communities also would be
20 required for the first time to give public notice and
21 opportunity to comment on any draft agreement. This is an
22 important part of public participation in this area and
23 consistent with our views on public participation in general.

24 This proposal was supported last year by a
25 variety of environmental, local government, sportsmen and

1 other groups but was not passed. We hope that the General
2 Assembly will take favorable action this year and would
3 call to your attention a number of developments in the last
4 nine months that increase the need for action.

5 First, because no legally enforceable permit
6 moratorium was in place in our Commonwealth, our Department
7 had no choice but to act on permits pending. As a result,
8 the amount of available disposal capacity increased from
9 a healthy 12 years to an estimated now 14 years.

10 We took action on 11 of the 23 permit
11 applications pending at the time of the announcement of this
12 bill last September because they did meet the requirement
13 of our laws and regulations.

14 In each of these actions, we carefully
15 considered concerns of the communities hosting the facilities
16 to the extent allowed by current law.

17 It turns out that an overwhelming majority
18 of the permits were issued without opposition or, indeed,
19 with the support of host communities such as in the counties
20 of Elk, Bradford, York, Cambria and Allegheny.

21 We still have 16 permit actions pending that
22 would increase waste disposal capacity or daily waste volumes
23 if the permits were issued.

24 I would note that during this same time other
25 states, Virginia has been mentioned, and that is the best

1 example, have signed into law legislation that would impose
2 permit moratoriums.

3 Waste capacity in Pennsylvania will continue
4 to increase until legislation like this bill, 747, is put
5 in place to reduce the total amount of waste capacity
6 available in Pennsylvania.

7 The second problem that has gotten worse has
8 to do with trucks and truck safety.

9 We find that a persistent 25 percent or more
10 of waste trucks we inspect fail to comply with even basic
11 safety and environmental regulations regardless of the
12 actions we take under present law.

13 In 1998, 591 trucks out of 2,000, out of
14 2,142, that we, along with the State Police, Department of
15 Transportation and the PUC took a look at, had violations
16 that included unsecured loads, bad brakes, bad axles, over-
17 weight, leaking trailers and other violations.

18 To increase the effectiveness of truck
19 inspections, we conducted the first ever multi-state waste
20 truck inspections in February and then again last week. This
21 was done over several days and in several states to prevent
22 the phenomena of a truck waiting or hiding. A cooperative
23 effort with eight states previously, and with a slightly
24 fewer number of states just last week, made it difficult
25 for haulers to hide.

1 We did find one example of a trucker who had
2 so many violations that he simply got out of the truck, put
3 his thumb out and left the truck and our inspectors, who
4 deal with each other and hitch-hike home.

5 So far in 1999 we found 367 out of the 1,700
6 or so trucks with violations.

7 In our Commonwealth, waste haulers make over
8 600,000 trips a year, that is not local haul, those are
9 long hauls. We think that we need and that the Legislature
10 could find that this category of trucks and this category
11 of haul are a constitutionally permissible category for
12 the special kind of regulation that we are urging. We
13 hope to have those kind of tools to get bad truckers off the
14 road, bad trucks off the road and to increase our ability
15 to conduct inspections on a more regular basis.

16 If I may, I would like to talk about an
17 issue that is separate. I would like to emphasize how
18 separate it is. This is not a bill, the sort that we are
19 urging the Congress to pass. It is a separate matter and
20 we will keep the pressure on that. The state will be
21 appearing at the Senate hearing Mr. Biderman mentioned.
22 But I would like to fill you in on some matters.

23 There are a number of bills before the
24 Congress, some of them rather draconian, and probably not
25 supported by us. We are working with a number of states in

1 that area. We started by getting New York to renew the
2 commitment it made in my presence at a Senate hearing nearly
3 two years ago, not to send waste to communities that do not
4 agree to receive it.

5 In February, we sent along with five other
6 states a strongly worded letter to New York City, and I
7 spoke with the mayor of New York City personally about it,
8 in which we expressed our opposition to their plan to resolve
9 their waste problems primarily through exports.

10 We had a response from Deputy Mayor Joseph
11 Lhota, who just recently said, "New York City would never
12 send its waste to a community that does not agree to receive
13 it."

14 That reaffirmation was good news. We were
15 asked then by Governor Ridge to follow up on that and find
16 out what communities in Pennsylvania had to say about whether
17 they wished to accept that waste or not.

18 We got a survey out in February and learned
19 that over 70 percent of the communities surveyed said they
20 would not accept New York waste and it is that simple. We
21 intend to hold New York to that promise.

22 We also renewed, as I mentioned, our efforts
23 on Capitol Hill. We met in March with the Pennsylvania
24 congressional delegation. The Governor did personally
25 pointing out that the long time trend of increased imports

1 into Pennsylvania was continuing, but it slowed down in 1997.
2 It is back now up to 12.8 percent.

3 I might say that the Governor's position on
4 this is not new. Governor Casey, who had a number of his
5 own actions, struck down on constitutional grounds, including
6 the moratorium that everyone thinks is so easy to oppose.
7 He bemoaned the problem as well in pointing out not long ago,
8 in fact, last October, that no governor without the authority
9 of Congress can deny permits based upon whether the landfill
10 will receive out-of-state trash.

11 Congressman Greenwood has sponsored one of the
12 bills. He is from Bucks County as you know, a very large
13 host county for out-of-state waste. We have worked with
14 him and others in the states on this kind of legislation,
15 not shutting the doors and impeding interstate commerce,
16 but giving us the right to freeze unwanted imports to
17 support local officials in deciding whether they want out-of-
18 state trash and the permission to adopt flow control
19 ordinances. We will continue to seek federal legislation.

20 It has been in that regard, I might say,
21 very helpful to have support from the Pennsylvania General
22 Assembly. They have in the past resolved to remind the
23 Congress of its constitutional responsibility in this area.
24 I understand that Representative Hershey and George have
25 a proposal that will involve making that resolution again.

1 We hope that you will pass it and will join you in seeing to
2 it that members of Congress know of your expression.

3 The news isn't all bad. I think Pennsylvania
4 does have its act together. With 67 counties all having
5 municipal plans, with the recycling rate overall of 26 percent,
6 which is more than two million tons a year. We have
7 enormous statewide participation in the number of individuals and
8 municipalities that are involved in recycling and we are
9 headed to even higher numbers.

10 We now have as well a growing recycling
11 industry and we have a great number of efforts underway to
12 reduce waste in the first place, which in the long term is
13 among the best ways to handle both solid, demolition,
14 industrial and hazardous waste. We will continue, as will
15 most businesses and municipalities on that path, but in the
16 meanwhile, and even without congressional action we need the
17 support that this bill brings.

18 In the long term, those solutions will help us.
19 In the short term, we need the help right now. We believe
20 that House Bill 747, which reduces, eliminates waste
21 management option, which is easiest for anybody in any state,
22 in any of the 25 states in fact, that send us trash. We
23 can keep our own house in order and prove to the Congress
24 as we argue for their help that we are in fact being
25 responsible for our own waste.

1 We appreciate this opportunity to present
2 these views. We would be happy to answer your questions.

3 ACTING CHAIRMAN SMITH: Thank you, Secretary
4 Seif. We appreciate your patience again. We will start at
5 the far right table if there are any questions. I also note
6 the presence of Representative Levdansky. I will ask him
7 if he has any questions. Go ahead.

8 REPRESENTATIVE LEVDANSKY: Thank you, Mr.
9 Chairman. I hate to ask -- I am the last person here and the
10 first question. It doesn't seem appropriate.

11 BY REPRESENTATIVE LEVDANSKY:

12 Q Mr. Secretary, I have looked through this
13 legislation. One thing it doesn't have is a reduction in
14 average daily volume. The issue of waste capacity, if we
15 simply focus on capacity and ignore average daily volume,
16 my fear is what we are likely to do is to reduce capacity
17 of waste in the state and simply drive up the price. If we
18 don't reduce the volume to which trash is falling into our
19 landfills, it seems to me we could be engaged in an illusory
20 chase.

21 I understand that presently we are dumping about
22 75,000 tons of trash a day into our landfills in Pennsylvania.
23 And those same landfills hold permits that permit them to
24 take up to 121,000 tons a day. So it seems to me that Fresh
25 Fields in New York can close next year and can still ship

1 to Pennsylvania and we can still take it in under our average
2 daily volume p e r m i t to up to 121,000 tons a day. So
3 given that isn't this capacity issue sort of an illusory
4 dog chasing its tail kind of exercise?

5 A I don't think so, Representative Levdansky.
6 I think we have with respect to permits issued and contracts
7 entered into by municipalities and private owners at these
8 facilities, an obligation to honor those contracts. We
9 cannot simply, without invoking a taking clause suit, squeeze
10 the market like that. In fact, when you squeeze the market
11 even in permissible levels, I think you affect everyone's
12 right including local people's right to have a sensible
13 price and a steady price.

14 I think that municipally owned landfills would
15 be especially harmed by this. And although it seems we
16 should go back and alter all our permits, I don't think we
17 can do that under the law. The permits say what they say.
18 I think the overall problem, whether Fresh Fields closes or
19 not, is to give us the right, as this bill does, to work
20 with local communities when out-of-state trash comes in.
21 That is a better way to tackle the problem.

22 Q Just to follow up in my just economic mind
23 going on here. We take in about 75,000 tons of trash a day.
24 The DEP has already permitted, and the permits that they
25 have given the landfills in the states, the ability to take in

1 up to 100 -- with average daily volumes you have set in those
2 permits, they can take about 121,000, up to 121,000 tons a
3 day. So even if we have a moratorium on new permits, there
4 is enough latitude under the existing average daily volumes
5 included in the present permits to essentially freeze
6 Pennsylvania into the number one position of being the
7 pay toilet for the east coast of the United States. There
8 is enough latitude to keep us being locked into the position
9 if we don't reduce average daily volume permits.

10 A Yes, but there is -- I don't know that your
11 numbers of 75 or 121 are correct. I assume that they are.
12 They are simply an addition of all the permits between the
13 maximum and minimum. Reality is that the landfills are
14 in competition with each other and you are not going to get
15 someone who is immediately going to jump up on any basis
16 but temporarily. They certainly are not going to get all of
17 them jump up to huge extra volumes. And this would be
18 especially true if this bill were in place and we could do
19 the regulatory actions that we are requesting. The market
20 simply won't work that way.

21 REPRESENTATIVE LEVDANSKY: Thank you.

22 ACTING CHAIRMAN SMITH: Thank you, Representa-
23 tive Levdansky. Next I recognize Chairman Hershey.

24 BY CHAIRMAN HERSHEY:

25 Q Secretary Seif, thank you for coming today.

1 The resolution that you mention sponsored by myself and
2 Representative George, I understand is in the House Inter-
3 governmental Affairs Committee. It will be active when we
4 return in session here in early June, and hopefully, it will
5 be passed before you and the Governor go to Washington.

6 A Thank you. Would you please let the Chairman
7 of that Committee know of our support of that resolution.

8 CHAIRMAN HERSHEY: We will do that. Thank you.

9 ACTING CHAIRMAN SMITH: Thank you. Since
10 I violated the time frame, we would like to ask the members
11 to try to focus on two questions the first time around and
12 I will then recognize a follow up if there needs to be.
13 Representative Vitali.

14 REPRESENTATIVE VITALI: Thank you, Mr. Chairman.

15 BY REPRESENTATIVE VITALI:

16 Q I do want to note that in section seven of
17 this bill under Host Municipality Agreement, there is a
18 proposal to take additional money from the recycling fund,
19 which in addition the growing greener initiative does, which
20 concerns me. And also, because the bill itself will have
21 an indirect benefit of increasing recycling, I just want to
22 talk a little bit about recycling. You mentioned in your
23 testimony that Pennsylvania recycles at a rate of 26 percent
24 of municipal waste. Is that based on 1996 figures?

25 A I believe those are 1997 figures. And I might

1 point out there is a great deal of variation between counties.
2 Anywhere from three percent up to as high as 50 percent,
3 but the overall rate is 26.

4 Q Twenty-six percent is for the calendar year
5 1997?

6 A '97.

7 Q The 1998 figures, when are they due?

8 A I don't know. Mr. Holley.

9 MR. HOLLEY: The reports are due in the
10 Department April 1st.

11 BY REPRESENTATIVE VITALI: (To Secretary Seif)

12 Q The 1996 figures, were they also 26 percent?

13 A They were less. The trend continues upwards.

14 Q What were the -- that is what concerns me,
15 what the trend is. 1996 figures, what were they?

16 MR. HOLLEY: Slightly over 25 percent.

17 BY REPRESENTATIVE VITALI: (To Secretary Seif)

18 Q Okay, so you had less than a percent increase
19 between 1996 and 1997. And that concerns me. I am wondering,
20 as this legislation takes money from the recycling fund as
21 the growing greener does, what is the Department going to do
22 to break this trend of almost flat increase in recycling?

23 A It is not at all flat.

24 Q When it starts out -- well, 25 point something
25 and 26 is not, whereas our goals are 35 and some states are

1 over 40 percent.

2 A It is according to their figures, which by the
3 way is an important aspect of our concern. I might say it
4 started at single digits just ten years ago. That is a
5 pretty steep curve in my view.

6 We also have an enormous amount of infra-
7 structure in place including training that we will continue
8 to have. We also have a number of programs, and this is what
9 the recycling money is really for, not just to pay for
10 programs, but programs which will enhance the market toll
11 of recyclables, that is, actual products and research into
12 the use of recyclable material.

13 The fact is, I would like to make this point
14 as well, that growing greener does not, and I think I sat
15 at this table and said it quite a few times previously,
16 decrease the amount of money made available to local
17 communities for recycling. I don't think that this bill,
18 in my view, has anything in it that causes a reduction of
19 money available to recycling either. This is House Bill 747,
20 printers number 793 to which I refer.

21 Q Section 7 which would fund the host municipality
22 agreements by providing monies from recycling funds up to
23 \$20,000 per municipality.

24 A I am corrected.

25 Q Again, my concern is if there are adequate

1 monies in the recycling fund and have been, why in the past
2 two years has recycling increased by less than a percentage
3 point?

4 A Do you want to try that, Mr. Holley? I can
5 think of a number of reasons. But let's ask an expert.

6 MR. HOLLEY: One of the things we experience
7 is as we approach the 25 percent, it has been tougher to get
8 the extra percentages. And we recently adopted the EPA
9 formula which allows us to be compared equally among states.
10 Secretary Seif has stated that other states have different
11 calculation methods for developing recycling rates. This is
12 true. That's why you would see some of the states have re-
13 cycling rates as high as 50, 60 percent because they count
14 things such as cars. If you want to compare us with other
15 states, we are doing very well among the nation's elite and
16 we will continue to do so.

17 Where it becomes tougher, we are taking extra
18 steps and spending more money to get those extra percentages.
19 As we try to move towards 35 percent, we will be going further
20 to get more and more recycling and improving our data collec-
21 tion, that is, because we believe that the data is out there
22 to support our 35 percent rate.

23 REPRESENTATIVE VITALI: Well, I am not going
24 to engage you in a debate about recycling because it is
25 probably not the day for it, but thank you for your time.

1 ACTING CHAIRMAN SMITH: Thank you, Representa-
2 tive Vitali. Next, Representative Armstrong.

3 REPRESENTATIVE ARMSTRONG: Thank you.

4 BY REPRESENTATIVE ARMSTRONG:

5 Q Secretary Seif, I will keep to two questions.
6 First of all, the survey to the host communities, in surveying
7 them on the waste from New York City, my assumption would be
8 correct at this point that in surveying them if they responded
9 that they would not receive trash from New York City that they
10 could receive trash from New York State?

11 A Well, I would expect that the wording of the
12 question was a litt e bit more New York City specific. But
13 one could take the o,inions expressed in general about out-
14 of-state trash as probably pretty valid. In either case,
15 I would want to use that as a measure or hold them to it. What
16 we will do is hold New York City to it in two ways. One,
17 we are keeping track of the bids that the city and each
18 borough puts out for trash hauling. We hope to see in there
19 a provision requiring that to haul trash as the word goes to
20 communities with agreements.

21 Secondly, we will, at this end of the trans-
22 portation route, see to it that host community inspectors in
23 the various communities as well as our own inspectors are
24 taking a look at the agreements. Again though, to make that
25 really work, we need a bill which requires such agreements to

1 exist in our own law and that is what we are proposing here.
2 That those agreements be in place and controllable prior to
3 the issue of the permits.

4 Q One other question I had in regards to the
5 awards granted, the Governor's environmental excellence
6 awards that you noted over the past two years eliminated more
7 than 28 million tons of waste. What has that done to the
8 business communities? Has there actually been a reduction
9 of some of the costs or do they realize more of a cost for
10 that trash reduction?

11 A It is an absolute reduction. There is not
12 just evidence, and the testimony will speak to those
13 companies, and I will send a brochure that describes each of
14 the projects and why they reduce waste and therefore costs.
15 But there is a general run of academic work being done. Some
16 at Carnegie Mellon for example demonstrating that when you
17 avoid waste, that is, reducing it in the first place, or
18 reducing the amount you have to pay to have removed or
19 processed or insured or whatever, you are getting to be a
20 genuine 21st century manufacturer. That is zero waste goal
21 is being met. Not because it makes you feel all good and
22 green inside, but because of the economic efficiency. Less
23 energy, less space, less risk and efficient use of raw
24 material and machinery and brain power. That is the real
25 solution in the longer term for waste in general. When

1 households get as good as some of these companies are we will
2 have gone a long way toward reducing this trash problem.

3 REPRESENTATIVE ARMSTRONG: That has been my
4 experience with companies that are in my area that have
5 received some of those awards. I just wanted to flesh it
6 out a little more. Thank you for your comments.

7 ACTING CHAIRMAN SMITH: Thank you. Representa-
8 tive Rubley.

9 REPRESENTATIVE RUBLEY: Thank you, Mr. Chairman.
10 BY REPRESENTATIVE RUBLEY:

11 Q Thank you, Mr. Secretary, for your remarks.
12 Following up on the survey that you did of the host
13 municipalities, four risk energy facilities agreed to accept,
14 that they would be willing to accept New York City trash in
15 six landfills. Thirteen didn't respond. So you have no way
16 of knowing which way they would go.

17 But of the ten facilities have you done any
18 evaluation or estimates on the volumes that could then be
19 increased if they were to take additional waste from New
20 York City and what that would do to our overall percentage
21 of increase in trash?

22 A You are asking that if we went to the
23 communities that agreed to trash, how much more could they
24 agree to given the capacities that they are willing to --

25 Q Given their permit.

1 A We have not taken a look at that. We can if
2 you wish. The usual reason for a resource recovery facility
3 is that they can use the fuel. To them it really is an
4 asset. It is BTUs. It is a matter of interstate commerce if you
5 wish in a very explicit way. That tends to be a reason there.
6 For a landfill facility, it has to do with a community's desire
7 to have the host community agreement fees that have flowed,
8 I assume they have been arranged to the benefit of the
9 community.

10 Q I think that would be the concern especially
11 with the waste energy facilities, what the additional impact
12 would be eventually on those communities.

13 The second question, many of our waste energy
14 facilities were built to handle far more waste than is
15 actually generated in those communities. It is an asset.
16 It helps them to pay -- they are generating the fuel and
17 getting revenues back. Have you evaluated what the impact
18 of the moratorium if this bill were to be signed into law,
19 what the impact would be on, especially on those facilities
20 in the future? Could they continue to accept the same waste
21 as is going out if their intent was to increase down the road?
22 Would this have any impact on their ability to pay off their
23 bonds?

24 A In fact, the issue you mention is a serious
25 one in New Jersey where the flow control statutes were struck

1 down, that is, the ability of a facility to have an agreed
2 upon and guaranteed minimum amount. When that left the
3 capacity of the municipality to demand, in other words, the
4 trash went elsewhere because the market broke elsewhere,
5 unfortunately, it broke and got driven west. Those facilities
6 were in deep trouble and bonds were in danger of defaulting.
7 The General Assembly of New Jersey had to step in with
8 emergency legislation and the like. That is why among the
9 states that are joining us in lobbying Congress, New Jersey
10 is one of those that is hoping for flow control permission.

11 With respect to our own situation, you have
12 as a technical proposition at any given resource recovery
13 facility an upper limit. I don't expect it is a physical
14 possibility to go beyond that. What they really want is not
15 a guaranteed, all-the-time upper limit, but simply a steady
16 flow, a predictable flow, because that helps them on their
17 operational characteristics as well as their financial
18 characteristics. Those are what you are going to see they
19 want and want to protect as opposed to an immediate right to
20 go to their upper limit. They can't go to their upper limit
21 if the market doesn't send it to them.

22 REPRESENTATIVE RUBLEY: Thank you.

23 ACTING CHAIRMAN SMITH: Next I recognize
24 Representative Ron Miller from York County.

25 BY REPRESENTATIVE MILLER:

1 Q Mr. Secretary, I would just like a point of
2 clarification if I might. You can't see this chart. I
3 apologize to you. Under the state waste capacity chart it
4 shows constant capacity on the left. On the bottom it has
5 total capacity, years of capacity. Based on that what is
6 being divided into the tons of capacity? Is that purely
7 Pennsylvania waste or all waste being disposed of currently
8 in the state including what comes in from out of state?

9 A Look at the small blue line on the right side
10 of each of the columns. I'm sorry, the small blue line on
11 the right side of the statewide column. By region there is
12 also information. That is how much was used overall by
13 every hauler out of state or in state in that calendar year.
14 The green is simply eight times that, because that would
15 show at present rates eight years' of capacity. The red
16 shows the total capacity that actually exists right now
17 permitted statewide and that is what we would like to reduce
18 down to the green and get to the eight-year level.

19 Q If we do something by statute to reduce the
20 amount of waste coming in from out of state by any means
21 that years of capacity is going to significantly increase
22 because the usage figure is based on everything?

23 A Yes. I will say again, and I am saying this
24 in effect to some lawyer who in the future will be looking
25 to this hearing for legislative history on whether we are

1 trying to impede interstate commerce. That is not what this
2 bill is about. But if by somehow the Congress gave us the
3 help that we have been asking for and imports went down,
4 then we are going to have a longer term capacity. In fact,
5 one of the benefits of this bill will be, as we give ourselves
6 an eight-year window here and bring in space until we get
7 those eight years, is the time for the markets to change and
8 they will and Congress to act and we hope it will and other
9 developments which will give us and the General Assembly
10 in regulating this area a better view. But in the meanwhile
11 let's act now.

12 REPRESENTATIVE MILLER: Thank you.

13 ACTING CHAIRMAN SMITH: Next, Representative
14 Surra.

15 REPRESENTATIVE SURRA: Thank you, Mr. Chairman.

16 BY REPRESENTATIVE SURRA:

17 Q Secretary Seif, I want you to know that I stand
18 ready and willing to help you on this issue. I supported
19 much of what you do and the Administration said in recent
20 years on the trash issue in Pennsylvania. I have a problem
21 with some of your actions I guess. Average daily volume
22 total landfill capacity in Pennsylvania has drastically
23 increased under the Administration. I would have to ask if
24 you are serious about taking care of the problems and the
25 needs of Pennsylvania when we have adequate capacity. How

1 can we allow it to increase so drastically? It just doesn't
2 seem to fit. Average daily volumes have been increased,
3 landfills have been re-expanded, permits have been issued.
4 In my opinion, it has been rubber stamped. And we are fooling
5 with a permit in my area now has since been suspended. There
6 is a number of reasons why it should have been denied initially
7 I think.

8 I guess when you look at the fact that we
9 are going to cap capacity and we could almost double the
10 amount of trash we are taking in Pennsylvania, I just ask
11 you what good is it? Now, the limits have been raised so
12 high why did we get there? You were in charge of the volumes.
13 The volumes were more than enough to serve the needs yet
14 they were increased drastically. I just have to ask you why?

15 A I don't think the increase was either drastic
16 and it was certainly well within the legally permissible
17 Act 101 limits. It is important in landfill operation and
18 permitting to have maximum and minimums in terms of
19 operational variation between any two days, between seasons
20 and over the business cycle. Those are simple market facts.

21 Secondly, while we have appreciated your past
22 support for our efforts, we do object to any implication
23 that we are not serious when at least some people are
24 running around calling Pennsylvania a pay toilet. That seems
25 hardly consistent with serious minded public policy effort to

1 handle a real problem.

2 But in any case, the fact is we are quite
3 serious. That is why we are asking for this bill.

4 Q Well, from my perspective, when you have
5 increased daily volumes to where they are and you have
6 expanded landfills that you have, you are not serious about
7 dealing with out-of-state waste.

8 A Sometimes indeed those expansions take place
9 at the private insistence of members of the General Assembly
10 including even this Committee.

11 REPRESENTATIVE SURRA: Mr. Chairman, I would
12 suggest that you, Mr. Secretary, and this Committee look at
13 House Bill 793 for the language that deals with the capping
14 for the host municipality agreements. Specifically giving
15 the local people some real control over those agreements
16 and some legal power. And in fact, if our capacities would
17 go down to a certain level, then the Department could step
18 in and override. I think there is a little better language
19 in the current bill which basically would throw the
20 municipality that is unable to come to an agreement into
21 court. And from my experience when the companies with all
22 the money and the lawyers go to court with some rural
23 municipality, the rural municipality is going to lose.

24 SECRETARY SEIF: We would be pleased to take
25 a look at that and discuss that with you or the Chairman or

1 anybody.

2 REPRESENTATIVE SURRA. House Bill 793 I think
3 does a much better job. I guess I am done.

4 BY REPRESENTATIVE SURRA:

5 Q Oh, one other thing. The Governor of Virginia
6 has basically issued a moratorium on the zone, an executive
7 order until the legislation was passed. What would stop us
8 in Pennsylvania to protect us to give you some power and
9 authority to help us do this dead time?

10 A The same thing that would have stopped
11 Governor Gilmore of Virginia from doing it, namely, the court.
12 And secondly, the same thing that stopped Governor Casey
13 from doing it; namely, in the court. You can't govern by
14 edict and we need the support of a statute like this to
15 let us take the common actions we are urging. I would love
16 to hot dog in front of some trash dump and close them down.
17 The fact is that they will be in court. Give me some tools.
18 I will use them if you give them to me.

19 REPRESENTATIVE SURRA: Thank you.

20 ACTING CHAIRMAN SMITH. Thank you very much,
21 Secretary Seif. We appreciate your time for being here.
22 Again, I apologize for the shift in timing. I appreciate
23 your testimony.

24 SECRETARY SEIF: That is my pleasure. We
25 are here at your convenience for this or any other problem.

1 ACTING CHAIRMAN SMITH: We are going to take
2 just a couple minutes here for the court reporter to stretch
3 her fingers. We would like to have Ms. Imperato come to
4 the table and get situated.

5 (Brief recess.)

6 ACTING CHAIRMAN SMITH: I would like to call
7 us back to order. Again, Ms. Imperato, again, I apologize
8 for the inconvenience today. I understand you were caught
9 in traffic also. So, we appreciate your patience in staying
10 with us for the duration of the hearing and you have the
11 floor.

12 MS. IMPERATO: Thank you, Representative.
13 I do apologize for being stuck in traffic, but we also
14 sustained a tremendous amount of damage in yesterday's storm,
15 including my own personal computer went out. So that is
16 why the report is in the state that it is.

17 As Pennsylvania's oldest citizen's environ-
18 mental organization, founded by citizens in 1939, we have
19 been involved in promoting waste reduction, reuse and
20 recycling since the 1970s. PRC was one of the leading
21 grassroots organizations that led the support for Act 101 and
22 actually sort of bullied the Department of Environmental
23 Resources into accepting a higher recycling rate. When the
24 bill originally came out it was at 10 percent goal. PRC
25 accentuated that to a 25 percent goal. Since then we have

1 been working diligently to teach citizens and municipalities
2 how to recycle effectively through conferences, seminars,
3 on-site visits, participation on advisory committees,
4 production of how-to-literature and through extensive public
5 outreach educational programs.

6 As a waste minimization and recycling advocate,
7 our goals are three:

- 8 1. Reduce the generation of waste
- 9 2. Maximize the rate of recycling in
10 Pennsylvania and the surrounding states
- 11 3. Make recycling sustainable by improving
12 markets for recyclables

13 Since the early 1980s when the then Department
14 of Environmental Resources began closing polluting and
15 inadequately designed dumps and landfills, recycling advocates
16 have been preaching the need to reduce waste and recycle
17 in order to save existing disposal capacity and reduce the
18 need for more landfills and incinerators. If we don't create
19 the waste, we don't need to handle it for disposal or even
20 process it for recycling.

21 I am sorry to have to report to you that we
22 have failed in reaching that goal of reducing the amount of
23 waste that we generate. We produce as much waste today as
24 we did ten years ago. Approximately 4.28 pounds per person
25 per day. And that is even with plastics replacing the heavier

1 glass and metal packaging, the computerization of paper
2 records and the reduction efforts in packaging, Pennsylvanians
3 generate more than 9.2 million tons of waste per year.

4 In terms of maximize recycling, Pennsylvanians
5 have been doing an excellent job of recycling as Secretary
6 Seif has reported to you. We have achieved the state 1998
7 goal of 25 percent. More than 21 percent of the 67 counties
8 have exceeded that goal and two, Lebanon and Wyoming Counties,
9 recycle more than 50 percent. It isn't always the case
10 throughout the entire Commonwealth and some of our urban
11 centers are having less than stellar performances because
12 of some of the problems they are facing trying to get all
13 of their populations to participate. States with aggressive
14 organic composting programs such as Minnesota are reaching
15 goals of 50 percent waste diversion.

16 The results in terms of maximizing recycling,
17 Pennsylvania's programs are successful, but some of our
18 neighboring states are not as successful. Pennsylvania
19 imports more municipal waste than it generates. According
20 to a 1998 report, more than 9.8 million tons annually come
21 into the state from 25 other states. So while our residents
22 are recycling to conserve landfill space, out-of-state
23 waste generators are using up that capacity for their waste
24 as well as their recyclables. One of the states contributing
25 to Pennsylvania's waste load is Washington, D.C. and their

1 recycling rate is a nonstellar eight percent. In terms of
2 trying to improve the sustainability of recycling, we have
3 suggested that making recycling collection and processing
4 costs efficient and create sustainable markets for the
5 materials we collect through curbside and drop-off programs.
6 If we can make recycling more cost efficient than disposing
7 of these materials, then recycling can be sustainable. But
8 this scenario can only happen if we can close the loop on
9 recycling by creating value-added products of recycled
10 content that consumers purchase at less cost than virgin
11 content products.

12 The result though, again, is not a success.
13 We are batting only one out of three. Recycling markets are
14 at an all time low. Part of the reason is due to the global
15 marketplace where foreign governments are selling their
16 natural resources below our market values in order to stay
17 their failing domestic economies.

18 Aluminum and glass have traditionally been
19 the financial backbone of many municipal recycling programs.
20 Plastics, which is extremely costly to collect and process,
21 are currently taking over those packaging markets for glass
22 and aluminum. Collection efficiency research for plastic is
23 not being funded either by the private sector or by the
24 government sectors. And that is causing a problem because
25 we cannot collect these materials. In Philadelphia alone,

1 when they took plastics out of their curbside recycling
2 program, their costs went down at least 50 percent.

3 Viable solutions to these problems need to be
4 market driven solutions with limited dependency on government
5 subsidies. We need to take a supply and demand approach to
6 controlling waste and promoting recycling. We need to
7 address causes not the symptoms. You may think that this is
8 strange for an environmental organization to be taking an
9 economic supply and demand approach, but quite frankly, we
10 have found it the most effective way to achieve our goals
11 for environmental protection.

12 I have several suggestions to make to you.
13 Suggestions to improve incentives for waste reduction.

14 1. Create an additional disposal surcharge
15 for generators that dispose of recyclables for communities
16 both in state and out of state. That is the only way we are
17 going to meet the constitutional muster. Any community that
18 is not recycling 25 percent would pay a surcharge and that
19 would be implemented on a sliding scale over the years. We
20 are suggesting a two dollar per ton fee for disposing in
21 Pennsylvania. So, if a community were recycling 15 percent
22 of their waste stream, they wanted to dispose in Pennsylvania,
23 whether it was a Pennsylvania-based community or an out-of-
24 state community, they would pay an additional \$40 a ton fee
25 to the recycling fund. That money then would go to communities

1 that are not meeting the 25 percent to help them to achieve
2 that goal.

3 A second incentive would be to encourage
4 communities to enact "pay as you throw" collection programs.
5 The only success stories of waste generation reduction have
6 been found in the nine Pennsylvania communities that have
7 initiated a "pay per bag" program. I have listed here a
8 stellar example in Wilkes-Barre which has a population of
9 47,000. When they started their "pay per bag," that is,
10 when you pay by the amount of waste that you put out at the
11 curbside, they went from 21,000 tons to 12,000 tons in one
12 year. Over the next couple of years they initiated an
13 aggressive recycling program, they went down to 7,000 tons
14 for 47,000 people. That represents a waste generation rate
15 of 8 pounds per person per day. That is 85 percent less
16 than the average Pennsylvanian is generating. And where did
17 that waste go? It did not go into the rural dump. It did
18 not go into their parks. It did not go into commercial
19 dumpsters. People learned how to reduce their waste stream.
20 They bought smarter. They did environmental shopping. And
21 why? Because it saved them money. The public works
22 department, their budget, their annual budget, went from
23 \$2.2 million a year to \$.9 million a year. That is an
24 economic incentive for reducing waste. Much better than
25 any type of legislation that we could do at the statewide

1 level.

2 Suggestions for improving recycling, as I had
3 said earlier, by charging a surcharge fee for communities
4 that are not meeting the 25 percent goal, we can use these
5 for target grants to communities to improve their recycling
6 program.

7 We would provide grants for best management
8 practices for recycling and waste reduction. A tremendous
9 amount of the waste stream is organic and that can be
10 composted. While we are building our composting programs in
11 the state, it is very costly to operate. They have a lot of
12 operational problems. It needs money to make these things
13 work. I am suggesting that we can improve our recycling
14 rate by composting these types of materials.

15 You can also ban recyclables from all
16 generators disposing of waste at Pennsylvania facilities.
17 The ban must be applied evenly to in-state and out-of-state
18 generators. Again, effecting the supply and demand ratios,
19 you cannot put your recyclables into landfills or to
20 incineration, they will come up with a means of dealing with
21 that problem.

22 In 1995, the federal Court of Appeals, 7th
23 circuit, ruled that "a state could realize its goal of
24 protecting the environment by mandating that all waste first
25 be treated at a facility to remove the designated waste."

1 Applied uniformly to in-state and out-of-state generators,
2 the courts should rule that this measure is constitutional.

3 Suggestions for improving environmental
4 operations of disposal facilities:

5 We need to review our municipal waste
6 regulations for consistency with other regulations. Waste
7 haulers -- facility owners have told me it is much more
8 predictable to get a permit in Pennsylvania than it is in
9 New York. Part of that is because we have done a good job
10 of rewriting regs and being clear about it. It will still
11 take a while, but it is very predictable that you will get
12 a permit in Pennsylvania. We need to make sure that it is
13 not easier than in the other states.

14 We need to require the best management
15 technology. Frequently facility operators get a permit
16 extension and then wait many years before they actually take
17 action on it and that permit is locked into the technology
18 of the day. You know that technologies change all the time.
19 I do know that there is a five-year review period on these
20 landfills, but you could get caught in the window of time
21 where you have facilities operating with old technology.

22 We also need to fund research to improve
23 recycling technologies. We must create incentives for
24 communities to use non-disposal technologies such as
25 organics composting.

1 We must invest in R&D particularly in the
2 plastics industry to improve collection efficiencies.

3 I have some suggestions for improving the
4 sustainability of recycling. We need to improve the
5 environmental use of these materials, because there is no
6 place for it to go. We are collecting materials. They are
7 being stockpiled. In some cases we know that they are being
8 landfilled, particularly a scandal in Pittsburgh. We need
9 to be able to develop a recycling market center for
10 Pennsylvania that can get Pennsylvania industries to utilize
11 recycled feedstock instead of virgin materials. And I am not
12 saying we are going to put the virgin suppliers out of
13 business. Just increasing a few percentage points will help
14 us to divert this material that we are collecting with our
15 curbside programs.

16 Making recycling more cost effective than
17 disposal by working with other states in the region to
18 sustain markets. We can't do it as a state alone. We
19 must work with other groups in buying recycled. In getting
20 more products made with recycled content. Provide technical
21 assistance to industries to show them how they can use our
22 recycled feedstock instead of virgin materials, and consider
23 taxing products that do not have recycled content.

24 It used to be that people thought that
25 recycled paper, which my testimony is written on, was an

1 inferior grade. You can't tell that this is any different
2 than something that maybe could have had 100 percent rag
3 content in it. But this is perfectly usable and it has 25
4 percent recycled content.

5 We need to encourage surrounding states to
6 make responsible policies and regulations to provide for
7 their own disposal. I am very pleased to see that New York
8 City officials have said that they won't send city trash to
9 Pennsylvania communities who don't want that. But as a
10 former township supervisor, I know that I had to make
11 decisions that were very controversial in our community.
12 I didn't, fortunately, have a landfill, but where you have
13 these landfills existing, the political entities make the
14 decisions based on economics. In Bucks County, where the
15 landfill pays for all of the municipal taxes, this is a real
16 economic incentive that many times overrides citizens'
17 concerns about environmental or safety, because the people
18 who are concerned about taxes win out. I am not trying to
19 take the power away from those elected officials, but just
20 saying just because they say it is okay doesn't mean that
21 everybody buys into that.

22 In conclusion, PRC believes that a disposal
23 permit moratorium is a band-aid approach to resolving the
24 issue of having too much cheap disposal capacity at this time
25 that waste generators can use even to dispose of recyclables.

1 About 60 percent of the currently permitted capacity in this
2 state is being used today. You have heard discussion from
3 some of the representatives about the concerns with the daily
4 volume. PRC has this concern as well. So that by having a
5 moratorium you will not stop the flow of waste into the state.
6 You can just increase the amount of daily tipping so that
7 we are not accomplishing the goal of what we wanted to do.
8 In fact, we will probably even enhance the situation of
9 having more trash coming into the state. Pennsylvania leads
10 the nation in the amount of import, next highest. We are
11 9.8 tons of waste coming into our state. Virginia is next
12 with 2.8 tons. So it definitely is a heavy industry in our
13 state. I am not sure that that is something that we all
14 want to promote.

15 What would be the effects of a waste disposal
16 moratorium? We may create a short-term supply, going back
17 to our supply and demand equation, that will drive up
18 disposal costs. I think that some of you have already
19 recognized that fact.

20 Now, on the positive side, driving up costs
21 is good because that makes recycling more cost effective.
22 Actually, in Pennsylvania the average cost of disposal is in
23 the high 40s. In Washington State, Oregon, where they are
24 paying \$72 a ton for disposal, recycling is a really cheaper
25 alternative. So that is on the plus side.

1 One of the disadvantages is by having limited
2 disposal capacity it can go to the highest bidder and that
3 may not be some of our local or rural communities, some of
4 the desperate, urban, out-of-state communities who pay gladly.
5 Especially less than what it would cost them to put in their
6 own facilities.

7 We may also create a short-term demand for
8 recycling processing facilities. What happens when you have
9 short-term solutions like a moratorium, you will actually --
10 those prices will go up, recycling will be a much more
11 viable alternative. So that you have to build more recycling
12 facilities. So what happens with that moratorium is that
13 you are going to find MRFS that you have built, that when
14 costs again go down, then your MRFS are inoperable. And I
15 must say over the last ten years where there has been a
16 shortfall of facilities, the private sector has not come
17 forth. It has been the public sector that encumber tax
18 dollars, take on bond commitments and then are left holding
19 the bag when the economics turn around and it is no longer
20 a practical solution for them.

21 The current daily volume of waste being
22 disposed in Pennsylvania would be really unchanged with the
23 permit moratorium, and as I have discussed with the board,
24 we are just not resolving that what we are trying to resolve.

25 When the moratorium is over, the infrastructure

1 created initially in response to the moratorium to process
2 more recyclables may collapse putting Pennsylvania back where
3 it is today.

4 We need to promote neutral ways to foster
5 the goals of reducing waste, improving recycling and
6 developing sustainable markets for the materials we collect.
7 Pennsylvania Resources Counsel believes that serious
8 consideration must be given to a more comprehensive approach
9 that achieves our goals of waste reduction, recycling and
10 sustainable markets over a long period of time without
11 continuous government subsidies and can withstand the roller
12 coaster ride of a global economy.

13 Thank you very much for your time.

14 ACTING CHAIRMAN SMITH: Thank you for your
15 testimony. I recognize Chairman Hershey.

16 CHAIRMAN HERSHEY: Thank you, Representative
17 Smith.

18 BY CHAIRMAN HERSHEY:

19 Q Pat, thanks for coming here. You have some
20 very, very interesting suggestions. And I see on page two
21 at the top, maximize recycling. I was interested to note
22 you could tell us while several counties have achieved the
23 goal that was set aside of 25 percent, Lebanon and Wyoming
24 far outstrip the rest of the counties.

25 I would like to know what are some of the

1 things they have instituted that have put them in that
2 position?

3 A I can't state specifically to those counties.
4 But the biocycle effort every year in April does state it
5 and I shall be glad to make this available to you, and it
6 shows what other states are doing. Where communities have
7 active composting programs, where they take care of yard
8 waste and organics, which in many cases, almost 40 to 50
9 percent of our waste stream during the summer in my
10 community generates about 50 percent of its waste stream.
11 It is yard waste that could be composted.

12 But these are difficult facilities to run.
13 They need space, particularly when you are in suburban
14 communities, needing heavy equipment to be able to turn
15 these piles. So, I would say, to maximize recycling, we
16 really need to look at some of the other materials,
17 particularly composting. Textiles is another one where,
18 you cannot believe how much textiles actually go into
19 landfills. You think with the Salvation Army and all the
20 charities that we have, that most of it is going over to
21 Kosovo and to those needy countries. Unfortunately, most
22 of the African countries don't need our winter clothing and
23 a lot of that gets disposed of.

24 I invite you to go and look at a landfill or
25 an incinerator and just see the materials that are getting

1 thrown away even with our 25 percent recycling rate.

2 CHAIRMAN HERSHEY: Thank you.

3 ACTING CHAIRMAN SMITH: Thank you. Next,
4 Representative Rubley is recognized.

5 REPRESENTATIVE RUBLEY: Thank you, Mr. Chairman.
6 BY REPRESENTATIVE RUBLEY:

7 Q And thank you, Pat, for your thoughtful
8 testimony. My question is on the section you talked about
9 paying as you throw, pay per bag. How positive it has been
10 in the community such as Wilkes-Barre and I think Perkasio
11 does it too. Because of the benefits, both in reduced costs,
12 you have got municipal pick up and reduced waste that is
13 constantly disposed of, why aren't more communities getting
14 involved in this?

15 A Well, I can tell you from personal experience
16 in my own community of 10,000 in Chester County where I am
17 head of the solid waste because no one else wants to do it,
18 I tried to get our residents and our board of supervisors,
19 whom I was a member up until a year ago, to go in and buy a
20 bag system. Most of them, the complaint that I got was that
21 it is easier this way. We pay a flat rate and I can put out
22 as much as I want.

23 When you ask people what they do for the
24 environment, they are all saying I am willing to recycle.
25 But when you ask them if they will pay for the amount of trash

1 they put out, all of a sudden it gets into their pocketbooks
2 and they think they are going to be hurting.

3 My community pays \$240 a year, each homeowner,
4 to pay for its waste. I generate one bag, just my husband
5 and myself, one bag of trash every other week because I
6 actively participate in recycling. My costs, if we did a
7 pay per bag system, would be \$100.00. And the complaints I
8 got were from people with large families, people with large
9 properties. I actually had a woman say to me, well, what
10 am I going to do with all of my fence posts. When they rot
11 I put them out at the curb. I would have to pay for that.
12 Yes, you would. She had 50 acres and she was telling me
13 that it was going to cost too much for her to pay for trash
14 because she would have to pay a generation rate.

15 When I reminded our residents that we pay
16 generation rates on our utilities, our electric, our water,
17 why not treat trash the same way? I think you can see the
18 example of Wilkes-Barre which is stellar and they have a
19 mayor who will come and talk to you with great pride about
20 that community's response and how they have saved money.
21 We need to push this. And one of the things I am recommending
22 is that DEP consider in its grant programs, in its
23 performance grant programs, reward these communities. It is
24 hard to get it started. It is hard to convince people that
25 they are not going to be paying four times as much. It is

1 just a matter that it is different. And I think more
2 education with more financial incentives with the recycling
3 fund, we should be able to get more communities to buy into
4 this.

5 Minnesota has a 50 percent recycling goal.
6 Has the highest number of communities with paper bag programs.
7 They recognize that that is the only way that they are going
8 to get to that 50 percent goal.

9 REPRESENTATIVE RUBLEY: Thank you.

10 ACTING CHAIRMAN SMITH. Thank you. Representa-
11 tive Surra is next.

12 BY REPRESENTATIVE SURRA:

13 Q Thank you for your excellent presentation.
14 Is there anywhere that you know of where they have an
15 additional surcharge for generators that dispose of
16 recyclables? Are there any states that are doing that now?

17 A No, there are states that have bans on
18 recyclables. This was just something I came up with. My
19 board of directors that represents the private sector, the
20 public sector and citizen activist group, that is something
21 that we can come up with. We recognize the difficulty in
22 putting the responsibility on the generator to prove it. We
23 also recognize that many states and communities count their
24 waste differently. EPA has proposed a set of standards of
25 how to count your waste and how to count your recycling.

1 When you start adding C and D, it really drives the numbers
2 way high. But we feel that the monies that would be
3 generated by this surcharge fee could be used to basically
4 police the program. And I think once people got the word,
5 the word got out that we were going to surcharge because
6 they weren't recycling, all of a sudden you see motivation
7 and incentives to getting programs in place.

8 Q And finally, you stated in your testimony
9 that it is alleged that getting disposal permits is much
10 easier and more predictable in Pennsylvania than in other
11 states. Is that your opinion also and what is different
12 about New York? I mean, New York State has all this rural
13 area and yet the companies want to come to Pennsylvania.

14 A I have been told by disposal facility
15 operators, by attorneys who represent them, that it is more
16 predictable because our rules are written much more clearer
17 and there is less ambiguity. States like New York put in
18 their rules environmental social impact statements that can
19 tie up an application for years and you are going to go
20 where you are going to get the least resistance. So, on
21 one hand we have streamlined our government, we have improved
22 our regulations so that there is a level playing field, and
23 this is what I have heard time and time again. So, because
24 we are doing things fairly, we are doing things in a more
25 businesslike fashion, we are paying the price of having more

1 facilities here.

2 ACTING CHAIRMAN SMITH: Thank you. Next,
3 Representative Vitali.

4 BY REPRESENTATIVE VITALI:

5 Q Just a quick response to Carole Rubley's
6 question about why aren't communities doing pay per bag?
7 When I ran for election in 1992 I suggested this pay per bag
8 system. And my primary opponent converted that comment into
9 that I had a secret plan to triple trash fees and in
10 generalizing picked right up on it. So, there is an
11 education component needs to be applied because that can be
12 twisted.

13 In any event, two questions. One involved,
14 your testimony talked about we need more monies for grants,
15 for best management practices, for recycling. We need more
16 money to refund research to improve recycling and more money
17 for market development. In light of that, the fact that
18 this bill and the growing greener initiative take monies
19 from recycling funds which presumably would be one source
20 of this, that makes me uncomfortable. Maybe you can respond
21 to that.

22 A I also serve as chairman of the State Solid
23 Waste Advisory Committee which de facto makes me in charge
24 of the Recycling Fund Advisory Committee. I have spent a
25 lot of time looking at the numbers, finding out exactly what

1 was expended and also looked at what other states are spending,
2 particularly in terms of market development. It is my
3 position and my board's position that we can do a good job
4 of recycling and administering recycling programs in the
5 state without the entire amount of money that has been put
6 into Act 101 funds. So we are in support of diverting some
7 of those funds with certain conditions that a strategic plan
8 be developed for recycling markets, that we be looking at
9 the grant programs that each of the municipalities are
10 applying for. I know a lot of the ins and the outs of why
11 this surplus has generated including the fact that some
12 municipalities do not spend all the money that they are given.
13 And the problem of state government in terms of having to
14 encumber monies and hold it because it is going to be spent
15 over a number of years and not knowing exactly where you are
16 going to be. I look at you directly, each one of you and
17 say, that after spending many, many hours looking at this,
18 PRC believes that we can divert funds from the recycling
19 fund under very strict controls and a lot of monitoring
20 without negatively impacting recycling in the state. There
21 are many initiatives. I am working with the Department of
22 Environmental Protection. They are very open to it. We have
23 a market development task force that has been formed for
24 the Recycling Fund Advisory Committee. They don't all agree
25 with me about giving away some of the money. Many of them

1 want to hold onto it until they are sure they can let it go.
2 But I also, as an environmental group, see the goals of
3 growing greener as admirable and something that should be
4 supported and recognize that you need to have funds to do it.
5 I would love to see an environmental bond be passed. But
6 if we cannot get that, I am willing to utilize some of the
7 recycling monies because I think we can do a good efficient
8 job in running these programs.

9 Q It concerns me that you have municipalities
10 who want more in grants for trucks and bins and so forth
11 and they are not getting it because of the structure of the
12 program. It concerns me you could use more monies in the
13 performance grant incentive type programs that they are not
14 being used right now. It concerns me that they are not using
15 monies for market development that they could be doing.
16 If you look at Philadelphia, it is only around five point or
17 six percent recycling rate. It just concerns me that when we
18 have all these unmet needs and we have a recycling rate that
19 you heard before is increasing at less than a one-percent
20 rate, that we deplete that fund before we really figure out
21 what we need and start to implement those needs. That
22 concerns me.

23 A I understand your concern. But I also think
24 that we need to spend the money efficiently. I think the
25 worst thing that could happen is that this recycling fund

1 became an entitlement grant for communities who weren't
2 working to make recycling sustainable. That is one of our
3 major goals. You can't continue to run recycling based on
4 government subsidies. I don't want to come back to you in
5 five or ten years and say, we are almost there. You know,
6 keep the surcharge going because we haven't gotten it
7 sustainable. And I don't think those representatives want
8 to just keep on putting money in this. Communities have to
9 work together, they have to be smart about how they run
10 their programs and don't just consider it an entitlement
11 program.

12 Q The other concern I have is the testimony of
13 Mr. Seif's assistant involved, I guess he reconciled our
14 recycling rate versus the rate of the state's recycling
15 higher by a different way of calculating statistics and
16 indicated that his approach, one approach would be to deal
17 with the way of calculation instead of increasing actual
18 recycling. Fighting crime, by working on statistics instead
19 of putting more cops on the street. That concerns me.

20 Your feeling on are we recycling significantly
21 less than other states, you cited a 40 percent rate --

22 A I cited 50 percent.

23 Q Because they calculate things differently or --

24 A They definitely do.

25 Q This is more because it is volume based trash?

1 ACTING CHAIRMAN SMITH: Excuse me. I know
2 that recycling is an important component of this process.
3 It certainly has an impact on this issue, but I would rather
4 not get too far off into the recycling, you know, the ins
5 and outs and the fine points. If we could just try to stay
6 as it relates to the legislation before us I would appreciate
7 it.

8 MS. IMPERATO: The only thing I will just
9 say very briefly is that valuing your successes, you have to
10 be sure that you have accurate metric measuring and there
11 are many different -- they do it differently because everyone
12 likes their figures to look good.

13 ACTING CHAIRMAN SMITH: Thank you. I recognize
14 Representative Levdansky.

15 REPRESENTATIVE LEVDANSKY: Thank you, Mr.
16 Chairman.

17 BY REPRESENTATIVE LEVDANSKY:

18 Q Ms. Imperato, one of your suggestions is that
19 we consider banning recyclables from all generators disposing
20 of waste at Pennsylvania's facilities. In essence you are
21 suggesting we take a look at a waste disposal ban that can
22 in fact pass constitutional muster. I am more than intrigued.
23 I am very interested in pursuing this. I think you have
24 maybe found a real solution to the problem of out-of-state
25 waste. My question to you is have you discussed this idea of

1 Pennsylvania banning specific forms of waste and then forcing
2 other states to meet that standard? In effect, that is what
3 a waste disposal ban is. Have you discussed this proposal
4 at all with Secretary Seif in the Department or anybody in
5 the Administration?

6 A The Administration has considered this over
7 time. It is just a matter of getting enough support for
8 doing that. And it has been successful in areas. It doesn't
9 mean that you go to a landfill and you count and see if
10 there is a bottle here and a can there. What it does do
11 it makes people collect it better. Efficiency is what is
12 going to drive this. That is an economic force. And you
13 will come up with less contamination and people will work
14 harder at getting better quality material that generates
15 a better price.

16 Q In terms of how it works, I want to make sure
17 I understand this. Say, for example, a waste disposal ban
18 for example, we will say that we in Pennsylvania we would
19 pass a ban, say, we are going to recycle all aluminum cans.
20 And we would require every community to remove aluminum cans
21 from their waste streams. And then we would turn around and
22 say now we are not going to permit any landfill in our state
23 to take in aluminum from Pennsylvania communities or any
24 communities from outside of Pennsylvania.

25 A Right.

1 Q That is how it would work?

2 A That is right.

3 Q Now, in order to do that, in order to require
4 all communities in Pennsylvania to recycle aluminum, you
5 would require communities who under Act 101 right now are
6 not recycling at all; correct?

7 A I am suggesting in our testimony that we
8 could exempt, as is exempted in Act 101 communities with
9 less than 5,000, so that -- because it is not efficient to
10 collect in very, very rural communities. And yet many of
11 them do and they have drop off programs.

12 But you could look at where your waste is
13 coming from. Is it coming from a community of greater than
14 10,000, and that is where you manage recycling, you say you
15 cannot put those recyclables --

16 REPRESENTATIVE LEVDANSKY: I have a few more
17 questions, but I would save them for future discussions with
18 you. I am concerned about efficiency, but I am even more
19 concerned about the designation of being the number one pay
20 toilet here on the east coast and doing something about that.
21 I think a waste ban points to a solution in that direction.
22 Thank you.

23 ACTING CHAIRMAN SMITH: Thank you very much.
24 I appreciate your testimony. You have given us some very
25 provocative and thoughtful suggestions.

1 BY ACTING CHAIRMAN SMITH:

2 Q The one problem, the one question I would raise
3 relative to the same issues, when you mandate a certain
4 amount of recycling, have we not had some problems with
5 communities that have source separated only to turn around
6 and redump that? The items that cannot be recycled, then
7 they turn around and put them back in a landfill elsewhere.
8 Have we not had a problem with that?

9 A We have had that in Pittsburgh where the
10 hauler was found to be putting the newspapers in there. And
11 that was, quite frankly, it is because the city accepted
12 a bid that was ludicrously low. No one could possibly have
13 survived. And if the private sector goes down the tubes
14 we haven't accomplished anything. We have to come up with
15 realistic bids.

16 So has it happened? Yes. Has it happened
17 a lot? I don't think enough to discourage us from recycling.
18 I just would like to add one thing. That there are states
19 considering landfill bans for minimum content. If you are
20 going to make a plastic coke bottle, sell coke in our state,
21 you are going to require that they have a 25 percent goal
22 content. When that happens, all of a sudden the private
23 sector comes to the forefront with a solution. When
24 California was proposing that two years ago, all of a sudden
25 we saw plastics being shipped from the east coast to the west

1 coast because they were gearing up for that minimum content
2 legislation. It didn't pass and everything went away. So
3 there are ways of stimulating the private sector response
4 that we can leverage their resources by suggesting that we
5 will pass either a landfill ban or a minimum content,
6 recyclable content.

7 So there are ways we can accomplish our goals
8 creatively. We would like to do it voluntarily. When the
9 Newspaper Publishers Association was threatened ten years
10 ago with minimum content requirements for their newspapers,
11 they said, no, no, don't do that. We'll come up with a
12 voluntary solution. And today our newspapers have 50 percent
13 recycled content. I don't want to blow smoke into a smoke
14 and mirrors game here. But if the private sector feels it is
15 going to be in their interest, they will come up with
16 creative cost effective solutions to our collective problems.

17 Q I remember that threat on the newspaper
18 industry. I had one newspaper I think I didn't get my name
19 in their paper for about five years over that.

20 A Well, you know the Morning Call in Allentown
21 was one of the first ones to come out with a 50 percent
22 content paper. And the Inquirer said, oh, it is dull, you
23 know, people want this brightness. And the people responded.
24 Who is telling you this? We want a market for our newspaper.
25 Put it in your newspaper and we will continue to buy it.

1 Where there is a will there is a way. And what the role of
2 government should be is to push and prod to make these things
3 happen on a voluntary basis.

4 ACTING CHAIRMAN SMITH: Thank you very much,
5 Ms. Imperato. We appreciate your testimony.

6 Next is Katharine Radomsky. She is President
7 of the Upper Dauphin Area Citizens' Action Committee.

8 Katharine, I appreciate your taking time out of your schedule
9 to be with us today. I apologize for running late. Please
10 proceed.

11 MS. RADOMSKY: Thank you. I would like to
12 particularly thank the members of the Committee who have the
13 courtesy to remain here for the last set of testimony. I
14 appreciate it.

15 Good morning. My name is Katharine Radomsky
16 and I am here representing the Upper Dauphin Area Citizens'
17 Action Committee, a 3,200-member citizens group formed to
18 oppose the expansion of the Dauphin Meadows Landfill located
19 in northern Dauphin County. I appreciate the opportunity to
20 comment today on House Bill 747 and I appreciate the
21 opportunity to discuss an issue that has occupied a consider-
22 able amount of time over the past six years and in which I
23 have been deeply involved in on both a local, county and
24 state level.

25 Because I occupy the designated "citizen

1 activist" slot on today's agenda, you are probably expecting
2 me to present you with impassioned pleas to help us "stop
3 the dump," but before you write me off as just another NIMBY
4 with a personal agenda and tune me out waiting for lunchtime
5 to arrive, listen closely, because our plight mirrors what
6 is going on across this Commonwealth. The evolution of
7 Dauphin Meadows Landfill is a prime example of how
8 Pennsylvania's approach to solid waste management has failed.
9 I'm here today to shed some light on what it's like to live
10 with that failure, to let you know the level of frustration,
11 anger, and betrayal felt by residents, and to implore this
12 Committee to take a crucial first step in addressing this
13 complex problem. First, I'd like to give you a brief history
14 of DML and how I ended up here before you today.

15 History of Dauphin Meadows Landfill

16 Dauphin Meadows Landfill opened in 1979 as a
17 small 13-acre landfill designed to accommodate local trash.
18 Known as the Fulkroad Landfill, it was locally owned and
19 operated and was permitted to receive 70 tons of trash per
20 day (TPD) and was expected to last 20 to 30 years. It didn't.
21 By the mid-1980s the economics and management of landfills
22 across the state changed dramatically. Small operators, who
23 couldn't afford to meet the new more stringent regulations,
24 sold out to large, out-of-town corporations. This landfill
25 was no different. It was sold to Chambers Development

1 Corporation, and along with the change in ownership came a
2 string of broken promises and permit violations. The original
3 landfill that was to last for 30 years, didn't even make it
4 for ten. In 1987, it was fined for being overfilled and then
5 closed. But unfortunately the story doesn't end there. The
6 new owners sought and were granted by DEP two expansions,
7 a 14-acre site in 1991 and a 23-acre site in 1994. Each time
8 the company returned to DEP for more land, they also requested
9 and received an increase in tonnage, so that by 1995, they
10 were permitted to receive 886 tons per day. Ownership of
11 the site changed several times as well, as Chambers Develop-
12 ment Corporation merged with USA Waste Services, and USA
13 Waste Services in turn, merged with Waste Management. In
14 1995, Dauphin Meadows filed an application for a 154-acre
15 expansion and an increase in tonnage to 5,000 TPD. That
16 application is still pending before the Department.

17 Yes, I am a NIMBY with a personal agenda.
18 And yes, a landfill moratorium would help me immensely. No
19 one of sound mind would want thousands of tons of trash
20 dumped in their backyard every day. We don't want it in our
21 backyard, and we don't think it should be in anyone else's
22 backyard either.

23 We shouldn't have to apologize for not wanting
24 hundreds of trash trucks, traveling on our rural roads,
25 rumbling through our small towns, spewing litter and diesel

1 fumes and compromising the safety of our roadways. We
2 shouldn't have to apologize for the fact that we don't want
3 to smell noxious gases that permeate the air, on some days,
4 as far as a mile away from the landfill. We shouldn't have
5 to apologize for not wanting our prime farmland used as a
6 garbage dump. We shouldn't have to apologize for being
7 afraid that our groundwater will become contaminated. We
8 shouldn't have to apologize, and we won't. What we will do
9 is demand that our state finally take steps to control
10 unnecessary landfill growth. Why should we be forced to
11 live with the adverse effects of this facility, when it is
12 not even needed for Pennsylvania's waste?

13 Pennsylvania's Waste Management Strategies are Outdated

14 It's time for Pennsylvania to revise its waste
15 policies. It's been 11 years since the last major revision,
16 and much has changed since then. Today we face a landfill
17 crisis that it is the exact opposite of the one we faced
18 in the late 1980s. Over half of our landfills and 60 percent
19 of the permitted daily volume is now owned by a single
20 corporation. The importation of municipal and other wastes
21 has grown exponentially. In 1990, 25 percent of the municipal
22 solid waste that was disposed in PA landfills came from
23 out of state, by 1998, that figure soared to 67 percent. The
24 amount of waste landfills are permitted to receive on a
25 daily basis has grown exponentially as well. In 1990, PA

1 landfills were permitted to receive 76,000 tons per day,
2 today they are permitted to receive about 125,000 tons per
3 day. During the same time period, PA's in-state generation
4 rates remained constant at about 32,000 tons per day. Why
5 has PA permitted four times the amount of daily volume it
6 needs?

7 What can you, as lawmakers do about it?

8 1. Stop using the excuse that you are power-
9 less to address the problem without U.S. congressional action.
10 And stop perpetuating the myth that proposed federal
11 legislation will solve the problem. These are lies that
12 have been repeated by politicians everywhere I go.
13 Pennsylvania has the power, today right now, to take action
14 to control landfill growth. HB 747 is a great first step
15 You may not be able to stop the flow of garbage across our
16 borders, but you can control the growth of landfills and
17 their permitted daily volume based on in-state waste
18 generation rates. If federal legislation is passed, it will
19 do little to help us and may in fact, make matters worse.
20 The proposed federal legislation will be ineffective for a
21 number of reasons.

22 It only applies to municipal solid waste
23 imports. It does not apply to hazardous, residual, chemo-
24 therapeutic/infectious, asbestos, incinerator ash, sewage
25 sludge, construction and demolition debris and other non-

1 municipal waste. There is nothing to prohibit waste
2 companies from replacing their municipal solid waste streams
3 with these wastes. And we have seen an increase in the amount
4 of these waste flowing across our borders already without
5 the federal restrictions, so we know the market is there.

6 Additionally, the current version of the
7 federal bill states that restrictions would only apply to
8 "unwanted" waste, and that communities that wanted to
9 continue to receive it would certainly be able to do so.
10 And then they defined communities that want the waste as
11 those which specifically authorize it in their host agreements.
12 The problem with that is the majority of landfills in this
13 state has in their hot little hands a host agreement which
14 authorizes them to receive out-of-state waste. And why is
15 that? It is because those township supervisors with the
16 proverbial gun to their head, as referenced before, were
17 told you are not allowed to say I can't bring out-of-state
18 waste in here. That is illegal. And if you want to deal
19 and you want your tipping fees, sign here. And so local
20 officials sign. They didn't have a choice.

21 As a consequence, even if the federal
22 legislation was passed, it would do very, very little to
23 stop the flow of waste across our borders. And I think it is
24 the single most frustrating aspect of this issue to hear
25 politicians at every level fall back on the fact that the lack

1 of federal action on this is the reason why we haven't solved
2 our problems. It is a complex problem, yes. But for God's
3 sake, please put the responsibility where it belongs.

4 The second thing that the UDACAC would
5 encourage you to do is to institute a moratorium on landfill
6 permits and establish a statewide capacity cap based on
7 in-state generation rates as suggested by House Bill 747,
8 but only as a first step. If Pennsylvania is serious about
9 implementing a long-term solution to our current waste
10 situation, there needs to be a roll-back of existing excess
11 daily volumes. The Governor's Executive Order of 1996
12 called for DEP to review each landfill permit to determine
13 if daily volumes were creating undue impacts from traffic,
14 odor, litter and other nuisances and to adjust them according-
15 ly. This has not been done. During this Administration,
16 DEP has not denied a single request for an increase in daily
17 tonnage.

18 If the Department is serious about trying to
19 control the landfill growth, they have ample power as we
20 speak today to go in there and ratchet back daily volumes
21 based on real impact to the communities and the environment
22 if they choose to do so.

23 Number three is we advocate to take steps to
24 ensure that traffic impacts from these facilities are
25 controlled. Coming from someone who lives in a community

1 that is forced to bear the traffic burdens, I can tell you
2 that more people are impacted by truck traffic than any other
3 aspect of a landfill's operation. In the case of Dauphin
4 Meadows, trucks travel 20 miles from the nearest highway,
5 one way, on rural secondary roads, passing through many small
6 communities to deliver their loads to the landfill. Then
7 they turn around and travel 20 miles back. Fully 25 percent
8 of these trucks have been found to be operating in violation
9 of the law. These conditions should not be allowed to
10 continue.

11 Number four, communities should be involved
12 in drafting host municipality agreements.

13 Residents who are forced to live with the
14 impacts from a landfill on a daily basis, should have the
15 opportunity to give input on host community agreements.
16 Frequently, these agreements are not made public until after
17 they have been signed. As I mentioned earlier, in regard
18 to the federal legislation, many local officials have agreed
19 to take out-of-state waste, but don't really want it. In a
20 recent survey of host communities, 47 respondents said they
21 didn't want to receive waste from New York City, and yet a
22 review of those communities show that 28 of them already
23 accept waste from New York and have signed agreements
24 authorizing it.

25 We also recommend that host municipality

1 agreements be expanded to include all impacted communities.
2 In the case of Dauphin Meadows, Elizabethville and Millersburg
3 boroughs have no input whatsoever on the agreement the landfill
4 holds with Upper Paxton Township and Washington Township, and
5 yet, those two boroughs experience all of the traffic impacts
6 associated with the facility. It's important to redefine exactly
7 what a host municipality is and broaden that term to include
8 host community.

9 Number five, we urge you to do whatever you can
10 to make sure that DEP stops protecting the waste industry and
11 starts enforcing the current regulations. It has been our ex-
12 perience that whenever the Department has latitude in interpret-
13 ing regulations, it invariably sides with the waste industry and
14 against the citizens and the environment. From our standpoint,
15 DEP is not assuming the posture of a department looking to help
16 control landfill growth.

17 Dauphin Meadows provides a prime example of this.
18 When USA Waste filed what was a technically inadequate applica-
19 tion to expand its landfill, the Department honored the company's
20 request to "suspend their application instead of either denying
21 it or requiring them to withdraw it. By its own admission, the
22 Department states that "suspension" is not defined in the regu-
23 lations, in fact, an application can either be under review
24 (and hence under time deadlines), denied or withdrawn. By grant-
25 ing Dauphin Meadows a "suspension" the DEP not only gave them
unlimited time to revise their application, but by doing so,

1 opened the door for USA Waste to file a \$90 million lawsuit
2 against Upper Paxton Township. We wonder, if the Department is
3 serious about tackling the landfill issue, why are they granting
4 favors instead of saying "no"?

5 Another example of DEP's tendency to favor the
6 waste industry is illustrated in its failure to pursue water
7 quality violations at Dauphin Meadows Landfill. Dauphin Meadows
8 repeatedly discharged illegal levels of arsenic, thallium,
9 cyanide, boron, silver, manganese, lead, chloromethane, tera-
10 hydrofuran and other chemicals I won't even try to pronounce,
11 into the unnamed tributary of the Wiconisco Creek. Well over
12 2000 violations on its NPDES permit over several years. How
13 did DEP pursue this matter? They issued a permit for a 23-acre
14 expansion of the landfill, granted them an increase in tonnage,
15 and then issued a new NPDES permit that raised the legal limits
16 on the chemicals the landfill was having difficulty complying
17 with. Again, are these the actions of a Department that's
18 looking to say no"?

19 When Governor Ridge first introduced this land-
20 fill initiative from his campaign soapbox in September 1998, 23
21 applications for landfill permits were before the Department,
22 in the eight months that have passed, DEP has granted more than
23 half of them. Will this pattern continue into the next millen-
24 ium? Will small communities like mine continue to bear the
25 burden of being the repository for east coast trash? The de-
cision is yours. Make the right one.

1 ACTING CHAIRMAN SMITH: Thank you very much,
2 Ms. Radomsky. Again, I appreciate your taking the time to
3 come and I apologize for the lateness. I don't know if there
4 are any questions, rather comments. I've been informed that
5 there is another hearing scheduled in this room to begin at
6 one o'clock. So, we'll have to watch as we wind down. Repre-
7 sentative Surra.

8 BY REPRESENTATIVE SURRA:

9 Q Thank you Ms. Radomsky. I think I could have
10 written your testimony. I have experienced much of the same
11 thing throughout my stint here as legislator before this as an
12 activist fighting these types of facilities. I think you ask
13 some great questions. Why is Pennsylvania permitted four times
14 the amount of that daily volume we need? I mean, it goes to
15 what I tried to address with the Secretary. I like what he says,
16 what the Administration says. I am perplexed at what they do.
17 You certainly hit the nail on the head. What they are saying
18 is fine. It looks like what they are doing is actually trying
19 to promote the permitting of landfills and expansion of the
20 amount of trash Pennsylvania can take.

21 I'm not sure if you are familiar with the
22 language of the bill as it deals with host municipalities.
23 Are you familiar with the language of the bill?

24 A Yes.

25 Q If there cannot be an agreement reached, then

1 it will go to court. It has been my experience that anytime
2 you go to court with these very large, powerful industries,
3 the townships are at a disadvantage and they will certainly
4 lose. I think much better things, Representative George's,
5 I think it is House Bill 793, I don't know if you got a chance
6 to review that, which really gives municipalities some local
7 veto power. And then if in fact our capacity in Pennsylvania
8 drops to a certain level, the Department can step in and
9 say, look, we need to do this.

10 I would like your feelings on what the bill
11 says and what you think we should do as far as host
12 municipality agreements?

13 A As far as the host municipality agreements
14 that we prefer under Representative George's version, as
15 you said, under House Bill's 737 version, let's face it.
16 The court will be deciding this. Chances are instead of
17 the gun to the township supervisors' heads, now you have a
18 machine gun. I mean, they are not going to want to go to
19 court or they will get halfway and be bankrupt. It is just
20 an inevitable consequence of the procedure.

21 Q Any legislation I think you would agree should
22 really allow the host municipality a viable seat at the
23 table where they can negotiate.

24 A Yes, absolutely. And I would like to see an
25 expanded definition of community however.

1 Q Yes, I saw that. One of the other things you
2 mentioned was that DEP is not assuming the posture the
3 Department looking to control landfill growth, even when they
4 have reason to deny. This is a phrase that I have said many
5 times over the years, DEP cannot say no. It almost seems
6 like, Representative Smith and I were at a hearing recently
7 and it was like, whose side are they on? I mean, if you
8 didn't leave that hearing with that opinion, you must have
9 been deaf, dumb and blind.

10 A Secretary Seif specifically sat here today
11 and said, but we will say no if you give me the tools. We
12 need the tools. I think where we may disagree at this point
13 in time is I believe they already have these tools. But if
14 they want more and that is going to make them do it, let's
15 give it to them.

16 REPRESENTATIVE SURRA: In my opinion, it is
17 difficult to say we have some of the toughest environmental
18 regulations when it deals with landfills in the nation and
19 then in the reality of it, then we are just inundated.

20 I want to thank you for your presentation
21 in coming before us today.

22 ACTING CHAIRMAN SMITH: Thank you. Representa-
23 tive Miller.

24 BY REPRESENTATIVE MILLER:

25 Q Thank you. I just have a quick question under

1 what can you do? What can you do about it as lawmakers?
2 You seem to be suggesting that the municipal solid waste
3 landfills can accept hazardous waste. And that is not true.

4 A Let me make a correction. What I was saying
5 is the federal bill only addresses municipal solid waste.
6 It doesn't address any of the other forms of waste.

7 Q But the point is Pennsylvania municipal solid
8 waste landfills does not accept hazardous waste.

9 A That is correct.

10 Q That will not come in to replace the loss of
11 municipal solid waste?

12 A But residual, chemotherapeutic and infectious,
13 asbestos, incinerator ash, sewage sludge and C and D will.

14 REPRESENTATIVE MILLER: If they are permitted
15 to allow for it.

16 ACTING CHAIRMAN SMITH. Thank you. Representa-
17 tive Samuelson.

18 REPRESENTATIVE SAMUELSON: Thank you very
19 much for your testimony.

20 BY REPRESENTATIVE SAMUELSON:

21 Q I wanted to follow up with the traffic impacts
22 in your community. You said that fully 25 percent of these
23 trucks have been found to be operating in violation of the
24 law. And as I listened earlier this morning to some of the
25 statistics of Secretary Seif, I was struck by some of the

1 similarities. The 1998 figure that he provided this
2 Committee, 591 trucks out of the 2,142 that were inspected
3 by DEP, the State Police, PennDOT and the PUC had violations.
4 That is over 27 percent.

5 I wanted to ask further about some of the
6 enforcement efforts in your community and some of the
7 violations that have been found in your community.

8 A Well, you bring up an interesting point. Our
9 personal experience has been that when we went to our local
10 and state officials that we were having difficulty with this
11 particular type of vehicle on our roadways. We were
12 encountered with nothing but difficulty. Oh no, we can't
13 stop those trucks. Once we were able to coordinate a trash
14 net check, we weren't given the responses from the survey.
15 Some great state secret apparently. So I don't have any more
16 numbers than you do. I can tell you that from poor brakes,
17 liquid leaks out, that when inspections have occurred that
18 typically one or two trucks have been pulled out of service.
19 Most of the examples that Secretary Seif gave would be
20 witnessed in our community any day of the week.

21 REPRESENTATIVE SAMUELSON. Thank you.

22 MS. RADOMSKY: Another issue that isn't met
23 is the majority of the drivers are extremely rude to the
24 residents and the towns they pass through.

25 REPRESENTATIVE SAMUELSON: Thank you very much.

1 ACTING CHAIRMAN SMITH: Thank you. If there
2 are no other questions, I will turn this hearing back over
3 to Chairman Hershey and I appreciate your kindness in
4 allowing me to preside.

5 CHAIRMAN HERSHEY: Thank you, Sam. I thank
6 everyone for coming. We will hold the record open on this
7 bill for ten days to receive written testimony for those
8 who wish the same. That written testimony will be included
9 in the record and we will continue this dialogue in several
10 more meetings at another time.

11 At this time, our counsel, Mr. Taylor, has a
12 comment.

13 MR. TAYLOR: Just to make sure we have the
14 record straight today, we have received written testimony
15 from a Diana Dakey consisting of two documents. You want
16 these put into the record as they presently exist? I notice
17 they have notes on them.

18 MS. DAKEY: I would like they be entered
19 as they are.

20 MR. TAYLOR: As they are. Thank you very
21 much. We have that on the record. Like the Chairman said,
22 anyone else who wishes to submit written testimony has ten
23 days to do it.

24 CHAIRMAN HERSHEY: Very well. I thank everyone
25 for coming. I thank you for your patience. Hearing no more

1 business, the meeting is adjourned.

2 (Whereupon at 12:50 p.m. the hearing was
3 concluded.)

4 (The prepared testimony of Diana G. Dakey,
5 was as follows:)

6 Dear Representative Hershey and members of
7 the Committee:

8 Thank you for holding these hearings and your
9 study of the issues associated with the overcapacity of
10 landfill space in Pennsylvania. I agree with the Legislative
11 Findings which make this legislation necessary. I have been
12 actively working with the Upper Dauphin Area Citizens Action
13 Committee, and am very much aware of how waste can engulf
14 a small town. I support this legislation and hope my
15 comments will be considered to strengthen it.

16 The legislation has many good features, but
17 is most lacking in its ability to give citizens any relief
18 at the local level. There are no legislative means for the
19 DEP to not permit a particular landfill and when one such
20 as the Dauphin Meadows Landfill, situated in a residential
21 area near a church and along a school bus route, nor are
22 there any legislative means to give a host community a means
23 to not enter into a host agreement. To remedy this major
24 omission of the legislation, I urge you to do two things:

25 1. Please include the section from Senator

1 Piccola's bill, SB 671 on community safety policy which is
2 the only significant difference between SB 671 and HB 757
3 (HB 747 omits this section). The community safety policy
4 section is needed in order to give the DEP a means for the
5 DEP to deny a permit. Without the community safety policy
6 section, DEP has no legal grounds for denying a permit,
7 which is precisely the dilemma we face today, and one of the
8 reasons for the current overcapacity. Are we to assume that
9 the DEP will continue to approve all applications that can
10 be built to technical specifications? Even those cited as
11 to cause extraordinary irreversible harm to the host
12 communities? The Governor's Executive Order of 1996 has put
13 in motion a procedure for a "harms vs. benefits" analysis
14 by the Department. However, since that Executive Order,
15 DEP has not denied a permit, based on harm to communities,
16 but has permitted at least facilities. We need strong
17 legislation, to mandate that DEP should advocate for the
18 citizens of Pennsylvania.

19 If DEP has no role in saying "No" to the
20 applicant, who can? (which is my next point)

21 2. Section 7e. Whereas the language in 7(e)
22 is good (by stating that DEP will not approve an application
23 unless a host agreement is in place), I am troubled by the
24 language in 7(f), which makes the assumption that the host
25 community must give the waste industry a host agreement.

1 The problematic language is in 7(f) which
2 states that the department may reimburse a host municipality
3 for various fees "used in the efforts to reach the agreement."
4 This language assumes that an agreement must be reached.
5 Where in this legislation does it make provision for a
6 community to refuse to host a landfill? Must any Pennsylvania
7 community host a landfill just because the waste industry
8 chooses to site one there?

9 I can foresee an enormous amount of litigation
10 as communities say "No" to hosting a landfill, and are sued
11 by a landfill. Act 747 says that disputes will be settled
12 in the Court of Common Pleas. And indeed they will. How
13 unfortunate that all siting and expansion decisions will
14 wind up in court, bankrupting our communities. The waste
15 industry will resort to lawsuit intimidation tactics, just
16 like they have in Upper Paxton Township where I live.

17 So let's write some legislation that supports
18 communities who say No, so we don't all end up in court.
19 (*This can be done at whatever regional planning level is
20 appropriate for the community.)

21 Representative Surra is right. The Upper
22 Paxton Township supervisors were coerced into signing an
23 agreement with a \$90 million suit by Waste Management against
24 them.

25 Take, for example, the issue of casino

1 gambling in Pennsylvania, or the operation of an establish-
2 ment serving liquor. These are two types of free enterprises,
3 which the state or local governments have determined cannot
4 be operated by anyone, anywhere, just because one is a
5 property owner. Landfills can be regarded in the same light
6 as casino gambling. Like gambling, a landfill has equally
7 far reaching potential negative impact on a community, and
8 therefore, it is an appropriate role for government to es-
9 tablish guidelines for the siting of such facilities, or to
10 determine not to site such facilities at all. We have
11 communities that opt to be dry towns. If a community deems
12 that the harms exceed the benefits of having liquor serving
13 establishments, communities do not have to accommodate these
14 establishments. Not so with landfill. Under Pennsylvania
15 law, every community must accommodate a landfill. In any
16 community where the waste industry can buy enough land, there
17 can be a landfill.

18 Representative Surra is right. In conclusion,
19 what is lacking from this legislation is the ability to stop
20 a particular landfill. You have removed the section which
21 defines how DEP can do this. And you have no provision for
22 how a community can refuse to develop a host agreement and
23 not be sued for their decision. Every landfill siting
24 issue or expansion issue will end up in court. Please do
25 the citizens of Pennsylvania a favor and legislate clearly

1 how an application can be turned down by DEP, or a host
2 agreement can be not entered into so that we do not have to
3 spend the next several decades in court.

4 Among the legislative findings (Section 2) is
5 listed (3) The Commonwealth is responsible for the protection
6 of the health, safety, and welfare of its citizens concerning
7 solid waste management. We need to ensure this, without
8 citizens having to resort to the courts to protect their own
9 health, safety and welfare.

10 Attached are pages 1) discussing capacity
11 issues, and 2) a listing of specific concerns regarding the
12 legislation.

13 Again, thank you for holding these hearings,
14 and your attention to these vital issues.

15 **CAPACITY ISSUES**

16 Representative Miller, please note:

17 1. Proposed capacity cap is too high: We
18 do not want to guarantee capacity. We want to reduce it.
19 The proposed legislation is for a statewide capacity cap of
20 6-8 years calculated based on the unused permitted statewide
21 capacity in 1997, divided by the amount of waste received
22 in 1997 at these facilities.

23 It is important to note that of the total
24 amount of waste received in 1997, only 60 percent was
25 Pennsylvania generated. Therefore, in 1997, we had 1.67

1 times as much capacity for Pennsylvania as for PA plus
2 imports. A cap based on those years means that the legislation
3 is proposing a cap not of 10-13.4 years of Pennsylvania
4 generated waste. This is too high when you only need 1 to
5 1.5 years to construct a major landfill expansion.

6 Representative Levdansky is right.

7 2. Daily volume cap is needed.

8 The current generation rate for PA is about
9 32,000-40,000 tons per day. Current permitted volume is
10 120,000-125,000 tons per day (not all of it used), or 2 to
11 3 extra tons permitted for every ton generated in
12 Pennsylvania.

13 Legislators are urged to support the
14 proposals in the Pledge to Stop the Wasting of Pennsylvania
15 of the Pennsylvania Environmental Network:

16 Support a rollback of statewide total daily
17 volume of permitted dumping (at landfills and other waste
18 facilities) to a level no greater than the total daily
19 volume of waste generated statewide to bring Pennsylvania
20 dumping in line with Pennsylvania waste generation.

21 and/or

22 Support a planned targeted annual percentage
23 reduction in permitted waste dumping volumes to promote
24 further waste minimization, recycling and efficiency.

25 3. How will space be allocated among municipal

1 waste facilities, C&D facilities, etc.? Does the cap apply
2 to all? or to each category? How will the capacity be
3 allocated when several landfills have applied for expansion?

4 I suggest the Committee take a look at a plan
5 proposed by Al Wurth, Department of Political Science,
6 Lehigh University, Bethlehem, Pennsylvania (see attached),
7 which proposed an auction of permit volume.

8 Other points:

9 1. Prerequisite for permit issuance: The
10 department shall not issue a permit for a new...or for the
11 expansion of any such landfill or facility existing on the
12 effective date of this act, unless a permit applicant
13 executes a host municipality agreement with the host
14 municipality.

15 I would like to see the word "new" inserted
16 in reference to the agreement with the host municipality,
17 so that it reads Prerequisite for permit issuance: The
18 department shall not issue a permit for a new...or for the
19 expansion of any such landfill or facility existing on the
20 effective date of this act, unless a permit applicant
21 executes a new host municipality agreement with the host
22 municipality, superseding all previous host agreements, and
23 corresponding to the time frame of the new permit.

24 This clarification is needed due to the fact
25 that the waste industry has the habit of strategically

1 executing host agreements at times and with time frames
2 to span the period during which the waste facility applies
3 for an expansion, so that when the waste facility applies
4 for an expansion there is time left in the previous host
5 agreement, therefore, the facility always has a host
6 agreement.

7 We also need to ensure, through legislation
8 in this act, that host agreements that were signed as part
9 of applicants now at DEP, are considered null and void when
10 the applications are returned to the applicant in compliance
11 with the three-year moratorium.

12 Previous host agreements were not reached
13 in accordance with the terms of this act.

14 2. Preserve existing capacity: One of the
15 purposes and goals of the legislation is to "preserve
16 existing capacity." I see nothing in this legislation that
17 does this. Presently, a publicly owned facility can reserve
18 its capacity for itself. But the public cannot tell a
19 privately held corporation how to make a profit (as
20 determined by the Supreme Court in the Carbone case.)

21 We need for the DEP to bring on a team of
22 legal experts to identify strategies to allow Pennsylvania
23 to reserve capacity. This could possibly take the form of
24 the municipal or county government retaining ownership and
25 subcontracting out. Or, develop legal strategies whereby

1 the host community agreements that stipulate the percentage
2 of total intake that is from a certain geographic area.
3 Local and county governments cannot afford to do this legal
4 research on their own. DEP should commit resources to
5 identify legally viable strategies for reserving capacity
6 that can be applied to any agreement.

7 I agree with Representative Vitali.

8 3. Recycling goal:

9 Purposes and goals (12): Have at least 35
10 percent of all municipal waste and source-separated recyclable
11 materials generated in this Commonwealth recycled by January
12 1, 2003.

13 I recommend that the goal also include the
14 following: "Enable all communities to implement recycling
15 to the fullest extent possible." In Dauphin County, we
16 already at or close to the 35 percent goal, yet my community
17 has no facilities for recycling. Imagine how much more we
18 could recycle if facilities were made available to everyone
19 willing to recycle.

20 4. Recycling fund use for legal expenses:

21 Section 7(g)2, the use of the recycling fund
22 to pay legal expenses incurred in executing a host agreement,
23 is like robbing Peter to pay Paul, since it is one of the
24 purposes and goals of the legislation to encourage recycling.

25 (Prepared testimony of Diana G. Dakey, dated

1 May 28, 1999, was as follows:)

2 Dear Representative Hershey and members of
3 the Committee:

4 Thank you for holding hearings this week
5 regarding HB 747. Having attended the hearings I wish to
6 submit additional comments based on information learned on
7 Tuesday (I submitted written testimony on 5/25).

8 1. I recommend the inclusion of language
9 from HB 793. 4(a) Denial of permits. The governing body of
10 a host municipality may deny any permit or permit modification
11 for a facility located in a municipality, except as provided..

12 Note: In part 4(a) Exception for public
13 need (1): I am unsure what is meant by region. Is this a
14 DEP region or some other? I hope that we would not have a
15 situation whereby Department feels it must permit a landfill,
16 because it is highly likely that a county solid waste plan
17 will have provided for trash disposal using sites both in
18 and outside of a "region."

19 As I mentioned in my first set of written
20 comments, the major flaw in HB 747 is the lack of any local
21 control, and the inability to say "No" to any particular
22 landfill. The language in HB 793 may remedy this problem.
23 Secretary Seif said that of the 11 expansions recently
24 permitted by his department, "most" were issued without
25 community opposition, and some even with community support.

1 This being the case, upon adoption of the language in HB 793,
2 those communities that want to host a landfill, may do so.
3 Those communities for whom a landfill is detrimental, need
4 not be forced to. I agree that there is a constitutional
5 basis (protection of health and safety) to prohibit a
6 landfill from operation. Let us give local people the
7 ability to opt out of hosting a landfill), just as they may
8 opt out of gambling, alcohol sales, and other businesses
9 that the community feels is injurious to the health and
10 safety of the community.

11 The above clause would certainly help us in
12 northern Dauphin County where the Dauphin Meadows Landfill
13 is widely opposed, is situated adjacent to a residential
14 area, farms, a church and along a school bus route; uses
15 haul routes that go through small towns; and is a threat
16 to the economy, water supply, and quality of life.

17 2. As suggested by Katharine Radomsky,
18 President of the Upper Dauphin Area Citizens Action Committee,
19 the definition of the "host community" should be broadened
20 to include all affected townships. Among affected townships
21 are those along haul routes.

22 I totally disagree that Secretary Seif lacked
23 the tools necessary to deny landfill permits. I am tired
24 of his excuses. There is plenty of room in the existing
25 regulations and the Constitution. Furthermore, Seif was

1 given a Governor's Executive Order. In addition to the
2 examples cited by Katharine Radomsky, I haggled with the
3 DEP Waste Management Division over pending revisions to the
4 Municipal Waste Regulations in which DEP intends to exempt
5 "expansions" from new requirements because it is "unfair"
6 and the "industry can't comply." (I'm not kidding!) The
7 present Administration continues to act to protect waste
8 industry interests and should be held accountable for the
9 present egregious situation.

10 I urge the Environmental Resources and Energy
11 Committee to closely watch the situation of the application
12 for the expansion of the Dauphin Meadows Landfill. Whose
13 interests will the Department defend?

14 Thank you for the consideration of my comments.
15 Please also note that the remarks of Katharine Radomsky
16 echo the thoughts of myself and the residents of Northern
17 Dauphin County. I encourage the House Environmental
18 Resources Committee gives them the proper weight they deserve.

19 Again, thank you for your attention to this
20 issue of vital importance to the citizens of Pennsylvania.

21 (Prepared testimony of Dr. Albert H. Wurth,
22 Jr. was as follows:)

23 I am writing to offer suggestions and comments
24 on House Bill 747, the bill dealing with landfill permitting
25 and other solid waste issues, on which the Committee held a

1 hearing last week. I have comments on several issues, and
2 some questions that I feel the Committee should address in
3 its review of the bill.

4 I. Support the moratorium, but remove the
5 time limit.

6 First, I support the moratorium as a simple
7 but limited first step in addressing the primary problem
8 with waste dumping in Pennsylvania, which is the continuing
9 over-permitting of waste disposal capacity that has allowed
10 Pennsylvania to become the leading dump site in the nation
11 for out-of-state waste.

12 I must urge the Committee to extend both the
13 time and the scope of the moratorium beyond the three-year
14 period and extend it indefinitely until statewide waste
15 generation and disposal rates demonstrate a need for new
16 capacity. The three-year time period in Section 5 seems
17 rather arbitrary, and the Section 6 capacity cap (though
18 itself confusing and flawed--see below) already attempts
19 to address the kinds of indicators that would warrant the
20 issuance of new permits. The clearest and simplest problem
21 that House Bill 747 addresses is the excess capacity for
22 dumping that the Commonwealth has already permitted. The
23 findings in Section 2(a) of the bill, especially numbers
24 4-7, indicate the negative impact of excess capacity.
25 Indeed, the problem that gets Pennsylvania more than its

1 fair share of the nation's waste is the excess permitted
2 disposal capacity. Any permitting of new capacity should
3 not be based on an arbitrary time frame but on demonstrated
4 need for the capacity for the waste management plans of the
5 Commonwealth.

6 II. Move beyond the moratorium on new
7 capacity to "roll back" over-permitted daily dumping volumes.

8 Second, as several environmental groups in
9 the state, including Sierra Club and PEN have been urging,
10 the moratorium should be strengthened by more than a "freeze"
11 or moratorium on new permits. Existing total permitted
12 capacity should be rolled back as rapidly as possible to
13 match the levels of waste generation in the state. That is
14 the only workable and constitutional means that Pennsylvania
15 has to avoid becoming a dumping ground for all the nation's
16 trash. The state cannot discriminate on the basis of origin
17 of waste, but it can determine the total quantity of waste
18 dumped on a daily or annual basis.

19 The critical concern with waste dumping is
20 how much is dumped on the Commonwealth. This quantity (not
21 its origin) can be regulated by the daily disposal volume
22 permitted statewide. Currently the state permits 3-4 times
23 its own waste generation rate to be dumped on a daily or
24 annual basis. This excess daily volume is the real target
25 that would help Pennsylvania escape its status as the

1 nation's dumping leader. Another proposed law, House Bill
2 793, takes a step toward a rollback in its provision for
3 recission of unused waste capacity at disposal facilities.
4 While such a move would cut back on excess permitted volume,
5 it still would not bring Pennsylvania permitted dumping
6 capacity in line with Pennsylvania waste generation. In
7 effect our impacts from dumping would still be at least
8 twice our "fair share." The obvious and effective approach
9 is to roll back, through an orderly and predictable process,
10 the daily or annual volume of disposal permitted to bring
11 it in line with the daily or annual volume of waste generated
12 in the Commonwealth. The state has the authority to issue
13 permits; it has the authority to set volume levels.

14 III. Plan for waste reduction not increase.
15 Incorporate annual percentage reductions in waste dumping
16 volume.

17 Third, the targeted recycling rate plus
18 emphasis on waste reduction as reflected in the purposes
19 and goals stated in Section 2(b), especially numbers 1-6
20 and 12, demand an overall plan for reduced waste generation
21 and waste disposal over time. To that end, the rollback
22 of dumping capacity should not simply point toward existing
23 waste disposal rates or statewide waste generation rates,
24 but should instead focus on targeted goals of reduced waste
25 disposal reflected in planned annual reductions in permitted

1 disposal capacity. To the extent that we seek real reduction
2 of waste, we must plan real reduction in disposal. Annual
3 incremental reductions in permitted daily or annual dumping
4 capacity will give concrete targets on the disposal side
5 that would complement efforts in waste reduction and
6 recycling.

7 IV. Provide more control for local host
8 communities over disposal facility permits.

9 Fourth, though House Bill 747 expands the
10 significance of the host community agreement in the permitting
11 process, as in Section 7, it is not clear that the host
12 community can effectively reject the siting or expansion of
13 a landfill. Provisions like those in Senate Bill 671, that
14 provide for Community Safety Policy (SB671, Section 8), and
15 in House Bill 793, that give host communities explicit power
16 to reject permits (HB 793, Section 6), should be added.
17 The language in House Bill 747 appears to require a host
18 community agreement in Section 7(e), but the succeeding
19 Section 7(f) leaves differences between the facility operators
20 and the host community to the courts. The courts are not
21 the easiest recourse for small, financially strapped
22 municipalities, but are very familiar territory for large
23 waste facility operators.

24 V. Identify host communities by the
25 communities impacted, not just those with geographic

1 jurisdiction.

2 Fifth, the "host community" should be more
3 than simply the municipality in which the facility is located.
4 Waste disposal facilities have impacts on all surrounding
5 communities, and the affected municipalities, including
6 neighboring municipalities and the affected county or
7 counties should also be included in the host community
8 decision process. Several bills including SB 330, SB 399
9 and HB 769 take steps toward addressing this obvious problem
10 of impacts extending beyond the jurisdictional "host
11 community." Binding community referenda would assure the
12 greatest and best measure of support for the facility from
13 the affected communities.

14 VI. Rework the treatment of the "Statewide
15 Capacity Cap" to focus on the real issue which is the annual
16 or daily permitted dumping volume and not the ambiguous
17 "years of capacity."

18 Sixth, and most confusing, the Statewide
19 Capacity Cap, as provided in Section 6, is, as presently
20 worded, either unclear or wrongheaded or both. The "capacity"
21 appears to be determined by the volume dumped statewide in
22 1997, which is, except for 1998, presumably the largest
23 dumping year in the history of the Commonwealth, as imports
24 of waste have increased steadily in recent years. Taking
25 this near-highest-ever annual dumping level and using it as

1 a base year for computing future expected dumping amounts
2 to "locking in" a pattern of excessive, over-permitted
3 dumping on Pennsylvania as the basis for permitting future
4 waste disposal capacity expansion.

5 Section 6 also mentions the available "unused
6 permitted statewide capacity" in 1997. This is even more
7 confusing in that it presumably represents a fixed "supply"
8 of remaining permitted disposal capacity. If the moratorium
9 is in effect, and the 1997 figures for amount disposed per
10 year are used, the number of years of capacity is already
11 determined, unless, as is likely the intended meaning, the
12 1997 unused capacity will be updated each year on the basis
13 of actual capacity used up during that year. If such annual
14 corrections are not included, the 1997 space divided by the
15 1997 dumping rate will provide an already determined
16 schedule of years of capacity.

17 A simple illustration will make the point. If
18 we encouraged, through recycling and waste reduction
19 efficiencies, a 20 percent reduction in annual waste
20 generation and dumping, our real "years of capacity" would
21 increase in two ways, we would fill less available landfill
22 space and would need less space per year in future years.
23 If we continued to use the 1997 annual disposal numbers,
24 one of those two savings would be lost in the computation
25 because "years of capacity" would be computed by dividing

1 remaining permitted disposal capacity by 1997 numbers by
2 the new 20 percent reduced numbers. This would cause an
3 underestimation of the real future "years of capacity."
4 (The same miscalculation can move in the other direction as
5 well, with overestimation consequences, if we increase rather
6 than decrease annual dumping totals in relation to 1997
7 numbers).

8 Years of capacity is itself not an appropriate
9 target indicator. Our focus for protecting the environmental
10 quality and public health of Pennsylvania should not be on
11 years of capacity but instead on reducing the amount dumped,
12 which would always increase years of capacity. Indeed,
13 significant recycling and waste reduction could make our
14 current landfill capacity last for the foreseeable future
15 and investments in additional capacity would be uneconomic
16 and wasteful.

17 If we choose a target year, and do not adjust
18 to or plan for future reductions in annual tonnage dumped,
19 we will create a rigid system that continues to create
20 excess capacity and thereby to encourage disposal in the
21 state and discourage recycling and waste reduction.

22 The uncertainty in the formula for determining
23 future need for waste disposal makes the whole effort
24 unpredictable, and could easily provide perverse incentives
25 for either increasing dumping or building new facilities

1 when neither is needed or desirable.

2 Thank you for the opportunity to submit
3 testimony.

4 (Prepared testimony by Priscilla deLeon and
5 Tina Krasnansky, was as follows:

6 Mr. Chairman, members of the House Environ-
7 mental Resources and Energy Committee, we would like to
8 thank you for the opportunity to present our written comments
9 on House Bill 747. We bring a unique perspective on this
10 issue. Currently, we are elected officials serving as
11 Councilwomen in Lower Saucon Township, the host municipality
12 to Eastern Waste of Bethlehem, Inc. (formerly the City of
13 Bethlehem Landfill). Since we also serve on the Joint
14 Eastern and Lower Saucon Landfill Committee, we have
15 personally encountered many of the aspects of landfill
16 regulations and operations, including permit expansions,
17 both major and minor; permit reissuance; and two host
18 municipal agreements. As residents living within one mile
19 of the landfill, we have firsthand knowledge of the daily
20 nuisances that emanate from a facility. We are pleased at
21 the direction House Bill 747 is heading, however, we would
22 like to offer these additional comments:

23 Section 2 Legislative findings

24 (4) This section should include language
25 preserving a municipality's zoning integrity.

1 (9) In Lower Saucon's case, the approach route
2 to the waste disposal facility is in a residential area with
3 school bus stops. We share your concern and agree with
4 stronger measures to police the waste vehicles.

5 Section 3 Definitions

6 There is no definition for "commercial"
7 residual waste as referred to in this bill. Is this the same
8 as a municipal/residual landfill?

9 Section 5 Moratorium (e) Exceptions

10 One aspect of the permitting process that has
11 been constantly overlooked is when an owner of a waste
12 facility only transfers the stock to another owner. When
13 this happens, as it did in Lower Saucon Township, no review
14 process of the new owner is necessary. This is a giant
15 loophole that large waste conglomerates use to bypass the
16 public review process by DEP, as well as the host municipality
17 and the public. Important issues such as compliance and
18 operational history are not considered.

19 Section 5 Moratorium (f) Special Circumstances

20 In our opinion, it would be a mistake to give
21 any agency this latitude. Based on our past experiences,
22 many times, the department has chosen to interpret regulations
23 to the benefit of the facility and not for public health or
24 the environment.

25 Section 7 (d)(5) Host Municipal Agreements

1 In addition, areas of concern should include:
2 submission of a quarterly report with narratives summarizing
3 facility construction, leachate monitoring, groundwater
4 quality monitoring, gas monitoring and groundwater abatement
5 activities.

6 We would appreciate the opportunity to submit
7 further comments in the future.

8 (Prepared testimony of Alan S. Miller, Esquire,
9 on behalf of Vogel Disposal, Inc. and Seneca Landfill, Inc.
10 was as follows:)

11 Mr. Chairman Hershey and Members of the House
12 Environmental Resources and Energy Committee:

13 These comments on H.B. 747 are submitted on
14 behalf of Vogel Disposal, Inc., Mars, Butler County,
15 Pennsylvania, a locally-owned waste management company. H. B.
16 747 will destroy Vogel Disposal, Inc., a company owned by a
17 Butler County family that employs 275 people and handles the
18 waste collection and disposal needs of western Pennsylvania
19 communities. Ironically, the legislation would also kill
20 a major project of great environmental benefit, i.e., the
21 voluntary removal by Vogel of 23 acres of municipal waste
22 currently disposed in unlined areas and the installation of
23 a state-of-the-art liner system and other controls.

24 Seneca Landfill, Inc. is a landfill owned and
25 operated by the Vogel companies. It is located in Jackson

1 and Lancaster Townships, Butler County, Pennsylvania. The
2 landfill enjoys an excellent working relationship with the
3 host townships and county, and provides a livelihood for 15
4 employees. All of the waste disposed in the Seneca Landfill
5 is generated within a 75-mile radius. The landfill does not
6 accept of waste generated in New York or New Jersey. Seneca
7 Landfill is a local landfill, serving the needs of western
8 Pennsylvania.

9 The Seneca Landfill site has been used since
10 the 1970s as a municipal solid waste landfill. Older
11 portions of the landfill were permitted before modern
12 regulations became effective in the late 1980s and, therefore,
13 do not have protective liners. The active landfill was
14 last permitted on July 20, 1993, and a state-of-the-art
15 lined disposal area was opened in January 1995. However,
16 the landfill currently has less than 3 years of life
17 remaining.

18 Consequently, in March of 1999, Seneca
19 Landfill submitted to the Department an application for
20 a permit modification and expansion. The most significant
21 part of the proposed project is the removal and complete
22 relocation of approximately 300,000 cubic yards of waste
23 from the older unlined areas to new lined areas meeting
24 current standards. The unlined areas from which the waste
25 is to be removed, approximately 23 acres, will then be lined

1 with a double liner system meeting current regulatory
2 standards, and that area will then be available for future
3 waste disposal. The permit modification does not expand
4 the existing landfill permit boundary. The removal of waste
5 from those unlined areas and the installation of a state-of-
6 the-art facility will have major environmental benefits.
7 Since those unlined areas were fully permitted pursuant to
8 then existing law, the company has no obligation to undertake
9 this project. It will have no ability to undertake this
10 project if H.B. 747 is enacted.

11 Other significant environmental benefits are
12 proposed in the project, including enhancing an existing
13 stream that is severely impacted by acid mine drainage
14 located in the Slippery Rock Watershed, removing existing
15 strip mine spoils to reduce the impacts to the area's
16 watershed caused by acid mine surface water and collecting
17 and treating abandoned surface mine water flows discharging
18 from local coal seam outcrops situated on the property,
19 further improving the quality of the area's watershed.

20 The project will also provide major economic
21 benefits. Vogel Disposal provides collection of municipal
22 waste for 75,000 residential customers located in the
23 Pennsylvania counties of Allegheny, Armstrong, Beaver, Butler,
24 Clarion, Crawford, Forest, Lawrence, Mercer, Venango and
25 Westmoreland, and commercial refuse collection for 10,000

1 customers in that area, including state agencies with local
2 offices. Butler County is projected to receive \$15,712,376
3 in host county fees from the pending Seneca Landfill permit
4 modification, and Jackson and Lancaster Townships are
5 projected to receive \$8,230,292 and \$1,122,313, respectively,
6 in host municipality fees. The permit modification is
7 projected to disburse \$8,760,000 in wages to the local
8 community and an additional \$3,900,000 in employment benefits
9 to personnel. All of the major environmental and economic
10 benefits of Vogel's proposed Seneca Landfill project will
11 be lost if H.B. 747 is enacted, because during the three-year
12 moratorium, all of the remaining landfill space will be used
13 up, which may put Vogel out of business.

14 Remediation of unlined waste disposal areas
15 is also the principal feature of a proposed permit
16 modification for the Tri-County Landfill located in Mercer
17 County. It involves the removal of 1,551,000 cubic yards of
18 waste from approximately 40 acres of old unlined areas,
19 placing that waste into double-lined disposal cells and
20 installing double geosynthetic liners in the former disposal
21 areas. The waste to be removed was disposed in the 1960s
22 and 1970s under two permits and other authorizations before
23 modern-day protective standards were enacted. The Tri-County
24 project would also have major environmental benefits,
25 including protection of groundwater. This project could be

1 performed if H.B. 747 is enacted.

2 As you can see, the proposed legislation runs
3 contrary to the Commonwealth's heavily advertised Brownfields
4 policy of encouraging the reuse of industrial lands affected
5 by past activities in order to avoid development on green-
6 fields. The removal of waste from the unlined areas and
7 the lining of those areas contemplated by the Seneca Landfill
8 project will have the added benefit of increasing the amount
9 of air space on lands that have already been the subject of
10 landfilling for decades. Remediating and reusing those
11 previously landfilled areas is fully consistent with the
12 Pennsylvania's Brownfields policy. The Commonwealth should
13 be encouraging landfill projects which create waste disposal
14 capacity at existing landfills through upgrading of areas
15 landfilled before modern regulation. However, the proposed
16 legislation makes no provision to encourage such projects,
17 and indeed, places applications for permits of virgin areas
18 on even footing with those at existing landfills. This is
19 not a rational approach.

20 Since it is not believed that the Legislature
21 intends by this moratorium to preclude projects which bring
22 old landfill areas to current standards, such as the Seneca
23 Landfill project, Vogel Disposal, Inc. and Seneca Landfill
24 respectfully propose that an additional exception to the
25 moratorium be inserted into the bill to exempt permits and

1 permit modifications which involve the removal of waste from
2 unlined areas and the installation of a liner system meeting
3 current municipal waste landfill standards. This proposed
4 provision is fully consistent with H.B. 747, which notes in
5 Section 2(a)(4) that the construction and expansion of
6 landfills "usually consume natural lands;" these projects
7 involve the reuse of lands already affected by past land-
8 filling activities. Such a provision will not only preserve
9 existing projects that have significant environmental
10 benefits but also will encourage others in the waste industry
11 to evaluate the potential for similar projects rather than
12 focus on greenfields.

13 To be consistent with the Brownfields policy,
14 any moratorium should be limited to permits for new landfills
15 on virgin lands until statewide capacity is equal to or less
16 than eight years. DEP should continue to accept and review
17 applications for expansions or modifications at existing
18 landfills.

19 The section of the bill setting prerequisites
20 to the submission of applications once six years of statewide
21 capacity is reached is unworkable and will act to the
22 detriment of smaller local companies. Once the six-year
23 point is reached, DEP is allowed to accept applications.
24 But once DEP issues a permit anywhere in the state to any
25 entity which increases statewide capacity back to six years,

1 the moratorium is reinstated, and all other permits pending
2 with DEP cannot even be reviewed. Thus, a permit could be
3 issued for the expansion of a landfill located in eastern
4 Pennsylvania, which will have no impact on the availability
5 of landfill capacity in the northern or western parts of
6 the state, and all other pending applications for landfills
7 in other parts of the state will be put on hold. This is
8 an unworkable disaster and not rational.

9 The proposal to impose additional vehicle
10 registration fees of between \$1,500 to \$5,000 per vehicle
11 for trucks over 56,000 pounds that haul waste will be a
12 great economic burden and is unjustified. Vogel Disposal,
13 Inc. currently owns 150 vehicles licensed for 56,000 pounds
14 or more, all of which haul only waste generated in western
15 Pennsylvania. Under the vehicle registration fee structure
16 proposed, Vogel Disposal would be required to pay approxi-
17 mately \$300,000 in additional registration fees, an amount
18 that will impose a back-breaking financial burden on the
19 company. Since Vogel's customers are western Pennsylvania
20 municipalities, companies and even state agencies, it is
21 their costs that will increase. Since the program applies
22 only to trucks transporting waste to a landfill located in
23 Pennsylvania. it unfairly and, perhaps unconstitutionally,
24 singles out that limited class of trucks for treatment and
25 does not impose similar fees on all other trucks of the same

1 weight classification that use the same roads of the
2 Commonwealth, including trucks that haul waste in the
3 Commonwealth but who dispose of that waste in landfills
4 outside the Commonwealth. It is simply unfair to impose
5 these enormous fees on Vogel Disposal, an operation which
6 exemplifies Pennsylvanians taking care of their own waste.

7 Two other provisions in the transporter
8 program are unfair. First, requiring that all bonds be
9 collateral or cash and precluding the use of surety bonds
10 does not provide any benefit to Pennsylvanians or DEP, and
11 merely burdens transporters, especially smaller companies
12 like Vogel. Second, the penalty of forfeiture of trucks
13 involved in any violation of the transporter program, even
14 violations that have no environmental impact, is excessive
15 and punitive.

16 On a final note, please consider that the
17 perceived evils the Legislature is seeking to cure by this
18 bill simply are not caused by Vogel Disposal or Seneca
19 Landfill, which service only local areas and do not even
20 accept waste from New York or New Jersey. Focusing on
21 statewide capacity, rather than the capacity of individual
22 landfills, will clearly act to the detriment of the small,
23 locally owned companies who have every incentive to run their
24 businesses in a fashion consistent with the desires of the
25 local communities in which the owners and employees live.

1 In fact, a statewide moratorium will only benefit the few
2 remaining large national waste companies who own multiple
3 sites with years of remaining capacity by reducing competition
4 from small locally owned companies. Unlike a national
5 company with numerous sites, the small landfill company
6 cannot redirect waste to other sites. Since only national
7 waste disposal companies will be able to survive the
8 moratorium, the Administration's proposed moratorium will
9 effectively destroy smaller Pennsylvania owned companies,
10 eliminating competition and further driving up the costs
11 of waste disposal for Pennsylvania's municipalities and
12 residents.

13 PROPOSED REVISION TO H.B. 747

14 Section 5(e) - Add the following additional
15 exception as subsection (e)(4):

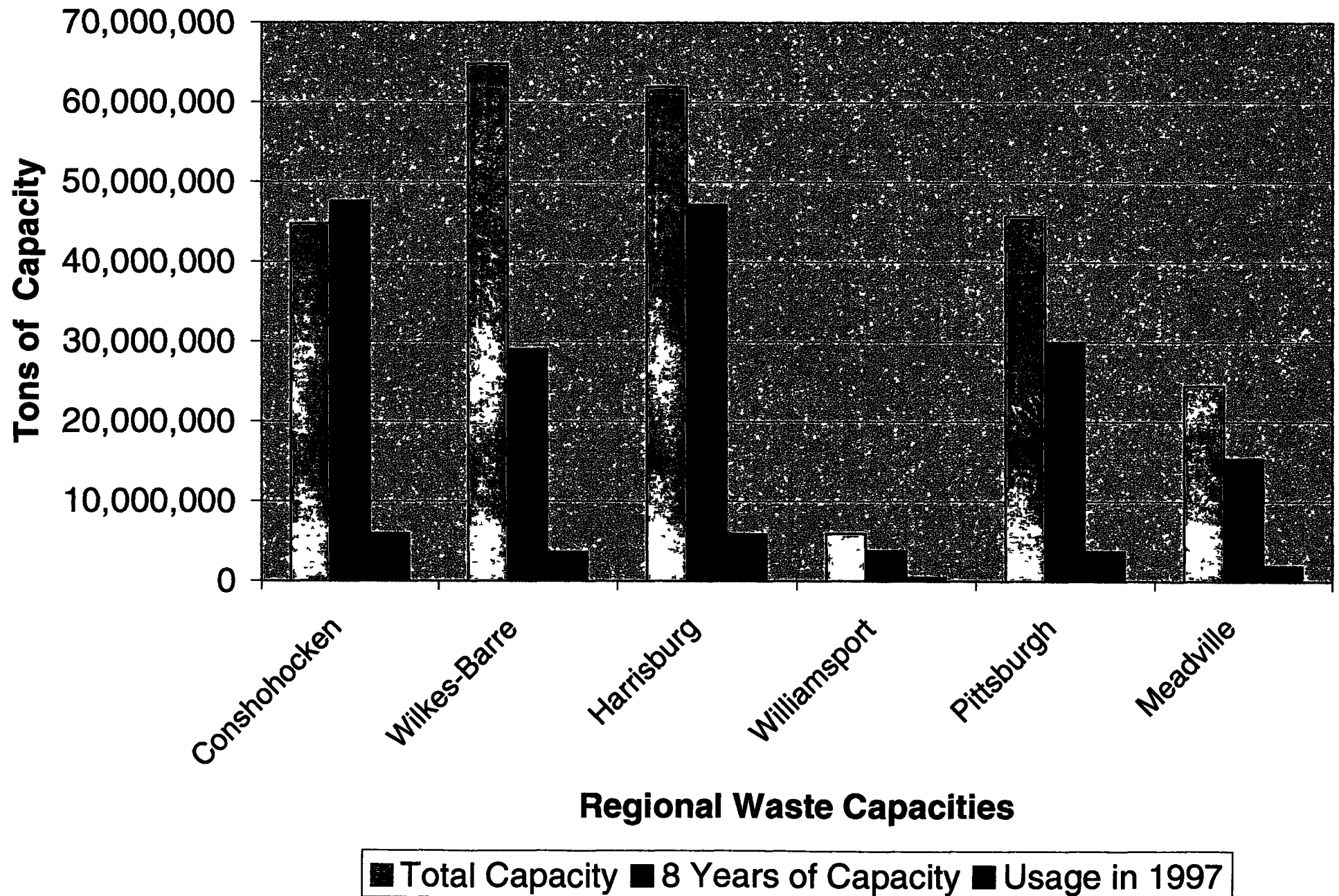
16 (4) A permit or permit modification, and
17 application therefor, where the application includes a
18 proposal to remove solid waste from any unlined disposal
19 area and deposit or redeposit such waste in any lined
20 disposal area meeting all applicable current regulatory
21 standards for landfills.

1 I hereby certify that the proceedings and
2 evidence taken by me in the within matter are fully and
3 accurately indicated in my notes and that this is a true
4 and correct transcript of the same.

5 Dorothy M. Malone
6 Dorothy M. Malone
7 Registered Professional Reporter
8 135 S. Landis Street
9 Hummelstown PA 17036

10 The foregoing certification of this transcript
11 does not apply to any reproduction of the same by any means
12 unless under the direct control and/or supervision of the
13 certifying reporter.
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Waste Capacity Analysis



Applications That Would Be Returned If Bill Passes

<u>County</u>	<u>Facility Name</u>	<u>Facility</u>	<u>Application</u>	<u>ID</u>	<u>Proposed Capacity Increase (Tons)</u>
Allegheny	USA South Hills	MWLF	Expansion	100592	13,650,000
Berks	New Morgan (Conestoga)	MWLF	Increase ADV	101509	NA
Berks	Western Berks RA	MWLF	Expansion	100739	129,000
Bucks	Grows	MWLF	Expansion	100148	21,007,000
Butler	Seneca	MWLF	Expansion	100403	20,550,000
Clarion	County	MWLF	ADV/MDV Inc	101187	MDV 1,500-2,500
Clearfield	Royal Oaks	CRWL	New	301011	18,427,300
Dauphin	Dauphin Meadows	MWLF	Expansion	101539	16,938,000
Delaware	Am Ref-Fuel	RR	Increase MDV	400593	4,350-5,800
Franklin	MultiLee	MWLF	New	101588	6,135,000
Lackawanna	ERSI	CDLF	Increase ADV	100932	NA
Luzerne	Cranberry Enviro	CDLF	New	101664	11,952,750
McKean	McKean Co	MWLF	Expansion	100361	3,000,000
Montgomery	Bethayres Recl	CDLF	Closure Exp	101168	235,500
Northampton	Chrin	MWLF	Expansion	100022	3,305,100
Schuylkill	Continental	CDLF	New	101665	30,276,867
Total					145,606,517 Tons*

*Does not include increases in ADV or MDV

February 5, 1999

**The Honorable Rudolph W. Giuliani
The City of New York
Office of the Mayor
City Hall
New York, NY 10007**

Dear Mayor Giuliani

We were very disappointed with the plan you announced in December to increase the export of New York City's municipal waste to nearby states, rather than taking direct responsibility for your own waste. Your plan continues a policy that relies exclusively on out-of-state locations for the transfer, processing, or disposal of New York City's trash and garbage. It is not only unfortunate, but an unacceptable policy in our view.

The interstate transportation of waste into or through our States has significantly contributed to a direct increase in safety and environmental hazards to our citizens and the traveling public. While we will continue an aggressive compliance inspection for all methods of waste transportation, increases in long-haul waste transporting will continue to affect the quality of life of our citizens and the environment.

Last year your administration made a commitment to only dispose of New York City waste at facilities which have host community agreements to accept such waste. We expect the City to live up to this commitment and will monitor waste shipments carefully to see that it does.

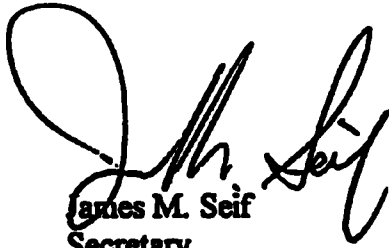
In closing, we urge you to reevaluate your plan and to follow through on the City's commitment not to send waste to sites in communities who do not agree to accept it.

We stand ready to meet with the City to discuss changes to your plan that would

February 5, 1999

bring balance to the waste marketplace.

Sincerely,



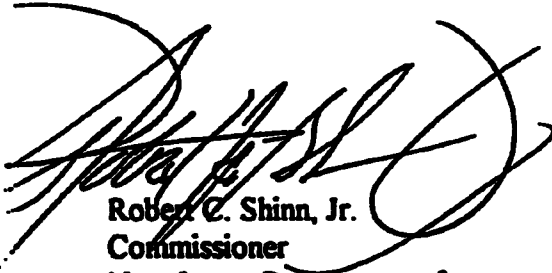
James M. Seif
Secretary
Pennsylvania Department of Environmental
Protection

Pennsylvania Department of Environmental
Protection
P.O. Box 2063
Harrisburg, PA 17105-2063
717-787-2814



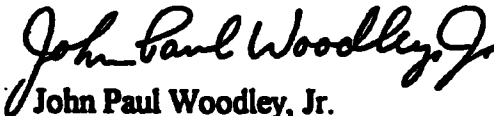
Jane Nishida
Secretary
Maryland Department of the Environment

Maryland Department of the Environment
2500 Broening Highway
Baltimore, MD 21224
410-631-3084



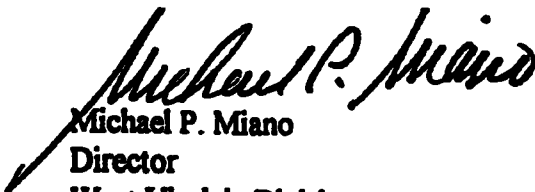
Robert C. Shinn, Jr.
Commissioner
New Jersey Department of
Environmental Protection

New Jersey Department of Environmental
Protection
7th Floor
P.O. Box 402
Trenton, NJ 08625



John Paul Woodley, Jr.
Secretary
Virginia Department of Natural Resources

Virginia Department of Natural Resources
P.O. Box 1475
Richmond, VA 23218
804-786-0044



Michael P. Miano
Director
West Virginia Division
of Environmental Protection

West Virginia Division
of Environmental Protection
#10 McJunkin Road
Nitro, WV 25143
304-759-0515

cc: John P. Cahill, Commissioner, New York
Department of Environmental Conservation



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

JOSEPH J. LHOTA
DEPUTY MAYOR FOR OPERATIONS

February 8, 1999

Mr. James M. Self
Secretary
Pennsylvania Department of Environmental Protection
P. O. Box 2063
Harrisburg, PA 17105-2063

Dear Secretary Self:

The City of New York has adopted an unequivocal commitment of disposing its municipal waste at facilities in conjunction with signed "Host Community Agreements". Your letter to Mayor Giuliani dated February 5th incorrectly questions the City's commitment to this policy. This is unfortunate because New York City would never send its waste to a community that does not agree to receive it.

The disposal of municipal waste is a business. It is an enterprise which creates numerous jobs, valuable economic activity and, when conducted in an environmentally sound manner, is profitable to both the private sector companies and local communities involved. So long as the processes recommended and utilized are safe, then the disposal of waste should be a matter left to the decisions made by the local governments and private sector companies involved.

Sincerely,

A handwritten signature in black ink that reads "Joseph J. Lhota".

Joseph J. Lhota

c: John P. Cahill, Commissioner
New York Department of Environmental Conservation



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 8471

Harrisburg, PA 17105-8471

February 11, 1999

**Bureau of Land Recycling
and Waste Management**

717-787-9870

Dear Host Municipal Official(s)

The Department of Environmental Protection would like your response to important questions about waste coming into your community for disposal. It involves whether your host community agreement speaks to the acceptance of out-of-state waste for disposal, in particular waste from New York City.

In 2001 the Freshkills Landfill serving New York City will close and require the City to find disposal sites for over 7.5 million Tons of municipal waste per year. The City's current plan is to continue export that waste to disposal sites in other states.

New York City has an established waste export policy that says, "New York City would never send its waste to a community that does not agree to receive it." This policy was repeated recently in a letter from Joseph J. Lhotá, Deputy Mayor for Operations written in response to an earlier letter from five states. I have included both letters for your information.

The Department of Environmental Protection would like to formally make you aware of this policy and ask how your host community agreement addresses this issue. Enclosed are two questions about your local policies on accepting waste from New York City into your community. We would like your response to these questions by March 19, 1999, if possible. You can fax it to Mr. Lawrence E. Holley, Acting Chief of Waste Minimization & Planning, at 717-787-1904, or send it by mail to Mr. Lawrence E. Holley, DEP, Land Recycling and Waste Management, 400 Market Street, 14th Floor RCSOB, Harrisburg, PA 17105.

We also want to remind you that we have invited host municipal officials and host community inspectors to a special meeting on March 23-24, 1999, in State College to discuss a variety of issues related to hosting municipal waste facilities. We will discuss the results of this survey at this meeting.



Survey of Host Communities

Please respond to the following questions by March 19, 1999.

1. In your Host Community Agreement, did you agree to receive waste from New York City into your community?

_____ Yes _____ No

2. If you presently do not have a Host Community Agreement or your existing agreement does not speak to receiving waste from New York City, do you agree to receive waste from New York City into your community?

_____ Yes _____ No

Submitted for: _____ (Municipality Name)

Submitted By: _____ (Signature – Municipal Official)

_____ (Print Name & Title)

Date: _____

Please return form by fax to: Mr. Lawrence E. Holley
Acting Chief
Waste Minimization & Planning
717-787-1904

Please return form by mail to: Mr. Lawrence E. Holley
Department of Environmental Protection
Land Recycling and Waste Management
400 Market Street, 14th Floor RCSOB
Harrisburg, PA 17105



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

April 27, 1999

The Secretary

717-787-2814

**The Honorable Rudolph W. Giuliani
The City of New York
Office of the Mayor
City Hall
New York, NY 10007**

Dear Mayor Giuliani

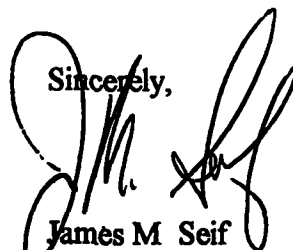
We would like to respond to Deputy Mayor Lhota's letter of February 8, in which New York City pledged its unequivocal commitment to only export its municipal waste to communities that agree to accept such waste. Deputy Mayor Lhota indicated that the City only disposes of its waste at facilities with signed host community agreements that provide for its acceptance.

In order to assure that our communities were aware of your commitment never to send waste to a community that does not want to receive it, Governor Tom Ridge directed the Department of Environmental Protection to conduct a survey of our host communities to determine where they stand on this issue.

An overwhelming majority of host communities do not want to accept New York City's trash at landfills or resource recovery facilities located in their communities. Enclosed is a copy of the survey results from Pennsylvania's host communities that reflect responses about their host community agreements for your review and action. These survey results about accepting the City's waste will allow the City to abide by its commitment.

We would like to work with the City to ensure that the wishes of our host communities are congruent with your future plans for the management and disposal of the City's waste. We continue to encourage you to develop a more comprehensive waste management plan for New York City that includes options other than waste export. We would be willing to discuss alternative options for waste management with you as soon as possible.

Sincerely,



**James M. Seif
Secretary**



PENNSYLVANIA HOST COMMUNITY SURVEY RESULTS

April 19, 1999

This report contains a summary of the results of a recent survey, pertaining to the receipt of waste from New York City. The survey was distributed by the Pennsylvania Department of Environmental Protection (DEP) to communities hosting municipal waste landfills and resource recovery facilities.

In February 1999, New York City officials assured Pennsylvania they would never send their waste to a community that does not agree to receive it. Governor Tom Ridge subsequently directed the Department of Environmental Protection to conduct a survey of Pennsylvania host communities to find out where they stand on the issue.

The survey was mailed to 70 municipalities hosting municipal waste landfills or resource recovery facilities on February 26, 1999. A total of 57 responses (81%) were received.

The following results clearly indicate that the majority of host communities in Pennsylvania do not agree to receive New York City waste.

A total of 47 host communities (82% of the responses) indicated that they do not agree to receive waste from New York City. A total of 10 communities (18% of the responses) indicated they do agree to receive waste from New York City.

Pennsylvania Host Community Survey Results **April 19, 1999**

Host communities that agree to receive waste from New York City

<i>COUNTY</i>	<i>MUNICIPALITY</i>	<i>FACILITY</i>
Berks	New Morgan Borough	Conestoga Landfill
Bucks	Township of Falls	G R O W S /Tullytown/Wheelabrator Waste to Energy
Bucks	Tullytown Borough	Tullytown Resource Recovery Facility
Butler	Clay Township	Northwest Sanitary Landfill
Cambria	Jackson Township	Laurel Highlands Landfill
Dauphin	City of Harrisburg	Harrisburg Waste to Energy Facility
Elk	Fox Township	Greentree Landfill
Somerset	Conemaugh Township	Southern Alleghenies Landfill
Westmoreland	Penn Township	Valley Landfill
York	Manchester Township	York County Resource Recovery Facility

Host communities that said no to the acceptance of New York City waste

<i>COUNTY</i>	<i>MUNICIPALITY</i>	<i>FACILITY</i>
Allegheny	Municipality of Monroeville	Monroeville Landfill
Allegheny	South Park Township	M C Armoni Landfill
Allegheny	Township of Findlay	Imperial Landfill
Allegheny	Township of Forward	Kelly Run Sanitation, Inc Landfill
Beaver	New Sewickley Township	J J Brunner Landfill
Bedford	Broad Top Township	Southcentral Counties SWA Landfill
Berks	Douglass Township	Pottstown Landfill
Berks	Earl Township	Rolling Hills Landfill
Berks	Exeter Township	Pioneer Crossing Landfill (FR&S)
Berks	Township of Cumru	Western Berks Landfill
Bradford	West Burlington Township	Bradford County Landfill
Butler	Jackson Township	Seneca Landfill
Butler	Lancaster Township	Seneca Landfill
Chester	London Grove Township	S E C C R A Community Landfill
Clanow	Farmington Township	County Landfill
Clinton	Wayne Township	Clinton County SWA Landfill
Cumberland	Hopewell Township	Cumberland County Landfill
Dauphin	Swatara Township	Residue Disposal Area B (Harrisburg WTE Facility)
Dauphin	Upper Paxton Township	Dauphin Meadows Landfill
Dauphin	Washington Township	Dauphin Meadows Landfill
Delaware	City of Chester	Delaware County Resource Recovery Facility
Erie	Summit Township	Lake View Landfill
Fayette	German Township	CBF Landfill
Franklin	Greene Township	R & A Bender Landfill
Franklin	Montgomery Township	Mountain View Landfill
Indiana	Brush Valley Township	Pellegrene Landfill
Indiana	Center Township	Pellegrene Landfill
Jefferson	Pine Creek Township	Leatherwood/Jefferson Co Landfill

Jefferson	Washington Township	Happy Landing Landfill
Lackawanna	Taylor Borough	Alliance Landfill
Lackawanna	Throop Borough	Keystone Sanitary Landfill
Lancaster	Caernarvon Township	Lanchester Landfill
Lancaster	Honey Brook Township	Lanchester Landfill
Lancaster	Manor Township	Frey Farm Landfill
Lebanon	North Lebanon Township	Greater Lebanon Refuse Authority Landfill
Lycoming	Brady Township	Lycoming County Landfill
McKean	Sergeant Township	McKean County SWA Landfill
Mifflin	Derry Township	Mifflin County SWA Landfill
Montgomery	Plymouth Township	Montgomery County Resource Recovery Facility
Montgomery	West Pottsgrove Township	SCA Services Pottstown Landfill
Northampton	Lower Saucon Township	Bethlehem Landfill
Somerset	Brothersvalley Township	Mostoller Landfill
Somerset	Shade Township	RCC Landfill
Westmoreland	East Huntingdon Township	Green Ridge Landfill
York	Hopewell Township	York County SWA Landfill
York	Lower Windsor Township	Modern Landfill
York	Windsor Township	Modern Landfill

Host communities that didn't respond

<i>COUNTY</i>	<i>MUNICIPALITY</i>	<i>FACILITY</i>
Bucks	Union Township	Tullytown Resource Recovery Facility
Cumberland	North Newton Township	Cumberland County Landfill
Franklin	Antrim Township	Mountain View Landfill
Lackawanna	Dunmore Borough	Keystone Sanitary Landfill
Lackawanna	Ransom Township	Alliance Landfill
Lancaster	Conoy Township	Lancaster Waste to Energy Facility
Northampton	Plainfield Township	Grand Central Sanitary Landfill
Northampton	Williams Township	Chrin Brothers Landfill
Schuylkill	Foster Township	CES Landfill
Schuylkill	Pine Grove Township	Pine Grove Landfill
Schuylkill	Reilly Township	CES Landfill
Washington	Chartiers Township	Arden Landfill
Westmoreland	Rostraver Township	Sanitary Landfill



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N Y 10007

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CITY PROTECTION
SECRETARY'S OFFICE

JOSEPH J LHOTA
DEPUTY MAYOR FOR OPERATIONS

May 10, 1999

Mr James M. Seif
Secretary
Pennsylvania Department of Environmental Protection
Post Office Box 2063
Harrisburg, PA 17105-2063

Dear Secretary Seif

Thank you for your letter to Mayor Giuliani in which you provide the results of the Department's survey of host communities in the Commonwealth willing to accept or not accept municipal waste from New York City

Let me reiterate our commitment that the City will only dispose its waste at facilities in conjunction with signed host community agreements. New York City would never send its waste to a community that does not agree to receive it.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph J. Lhota".

Joseph J. Lhota

Pledge to Stop the Wasting of Pennsylvania

Three steps:

STOP THE GROWTH IN DUMPING:

FREEZE OR MORATORIUM ON INCREASES IN DUMPING

1 Support proposals for a freeze or moratorium on new waste facility permits or expansions to prevent any further increase in the daily volume of dumping in Pennsylvania.

ROLLBACK STATEWIDE OVER-PERMITTING:

ROLLBACK OF PERMITTED STATE DUMPING TO MATCH STATE WASTE GENERATION RATES

2 Support a rollback of statewide total daily volume of permitted dumping (at landfills or other waste facilities) to a level no greater than the total daily volume of waste generated statewide, to bring Pennsylvania dumping in line with Pennsylvania waste generation.

PLAN STEADY FUTURE DUMPING CUTBACKS:

ANNUAL PERCENTAGE REDUCTION IN TOTAL PERMITTED WASTE DUMPING

3 Support a planned, targeted annual percentage reduction in permitted waste dumping volumes to promote further waste minimization, recycling and efficiency

We ask all elected officials to support the pledge. We believe that Governor Tom Ridge could implement these three steps under existing law with just a stroke of his pen (Waste imports have doubled in the last 4 years with no changes in the law). Our legislators and candidates for legislative office should urge the governor to do so, and should pledge their support for strict legislation to permanently end the wasting of the Commonwealth.

Citizens should ask their local governments and institutions to support the pledge. Pennsylvanians must stop the flow of dangerous, toxic materials into our land, air and waters.

Pledge proposal.

First and foremost, do not permit any additional net expansion of daily volume or of landfill capacity

Second, initiate a phased rollback of statewide daily volume to levels equal to statewide waste generation rates

Third, provide for systematic, targeted annual reductions in statewide generation and disposal rates

The effect of implementing the pledge would be to reduce the net flow of waste into the Commonwealth

It would avoid the unconstitutional "discrimination" against waste by state of origin, but would assure that Pennsylvania would not be a NET importer of waste

Proposals similar in spirit

- calls for higher waste fees imposed by the state(Harrisburg Patriot-News 9/10/98)
- calls for disposal bans (Zero Waste America)

Clearly waste fees would increase under any effective proposal, because that is precisely the outcome that is desired. Pennsylvania is currently a trash magnet because its fees are relatively low. "Polluter pays" principles should be followed. Current policy encourages dumping by making it cheap and easy. Hugh Kaufman of the US Environmental Protection Agency put it succinctly in an Associated Press story on November 1, 1998, "in Pennsylvania, being a pay toilet is viewed as economic development". Pennsylvania has "the weakest regulations in the region where the trash is being generated", Kaufman said, adding that the state has never seen a landfill it doesn't like."

The preferred policy for implementing the rollback would be an annual reduction target reached by an auction of permit volume. It could work on a market basis or a combination of a market and guaranteed permit capacity for each facility. The sale of the volume permits by the state would enable the recovery by the commonwealth of any price increases caused by the capacity rollback. These fees could be shared with the affected communities. The auction could work like the air emission allowances that are sold on the market or like the auction of radio and telephone frequencies on the airwaves. The "polluter pays" principle is promoted by such a plan in that permit capacity is purchased and fees are paid on the basis of economic demand for the dumping capacity. This is in contrast to the current overcapacity and overpermitting that effectively subsidizes interstate transport and dumping of waste--a subsidy extracted from the health, safety and quality of life of Pennsylvanians.

Contact

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(610) 866-9846(home & fax)

For more information

PEN Website - Landfills - Mike Ewall's excellent resource -
<http://www.penweb.org/issues/landfills/index.html>
Bethlehem Landfill Emergency Committee --
<http://www.lehigh.edu/~ingov/blec/landfill.htm>

Air and water pollution know no borders --physical processes - difficult to stop

Solid waste also crosses political boundaries -- not on its own -- hauled by profiteers
shifting risk and environmental degradation from one community to another,

PA leads nation in imports of waste -- by near factor of 3 over next biggest importing state
8.7 million tons in 1997, 1998 projected over 10 million tons
Imports constitute over 40% of all solid waste disposed of in the state
this means PA leads in per capita trash disposed of in-state
continuing trend (25% increase over previous quarter in 2nd quarter 1998)

Despite risks to Commonwealth, can't stop it at border
Federal court decisions--"interstate commerce" -- only Congress can regulate
City of Philadelphia v New Jersey, 437 U S 617

Result -- calls for Federal legislation
Could help but difficult path politically--dumper states like existing system
Potential problems with proposals -- half-measures, community veto

Federal emphasis is in many ways a red herring
Ask wrong question--can't get right answer

Imports are problem two ways
Imports, per se, cause several difficulties oversight, incentives,

But imports most obviously problem of quantity dumped
Imports nearly double AMOUNT of waste dumped in PA
QUANTITY, not ORIGIN is biggest problem -- and most tractable
NET quantity dumped in PA is primary source of risk and environmental harm

Real issue is that EVERY ton dumped in PA is "permitted"
Permit should not mean "permissive"
PA regulators free to set total permitted to be dumped

Current generation rate for solid waste in PA - about 40,000 tons/day,
total dumped, adding imports - 70,000 tons/day
but permitted daily disposal capacity statewide- 120,000 tons /day
Potential for 2 tons imported for each ton generated
-with existing permitted capacity

Key for quantity control is daily volume permit

Existing regulations and solid waste law require that all volume permitting balance the volume total with
the need for the space (reg)

More diversions from Governor Ridge and DEP

Moratorium alone
existing overcapacity enough to more than double imports
moratorium will have little effect except to stop the folly of further overpermitting

Years of capacity
Years = Total permitted capacity/ yearly volume
Cutting annual dumping volume in half would double years of capacity
Maximize, not minimize years of capacity If we cut our trash generation by 90%, our
expected years of landfill life would increase by a factor of 10

Truck regulation
The best way to increase truck safety is fewer trips

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Rep. George

6/23/99