



Old Town Hall
162 Whisconier Road
Brookfield, CT 06804

☎ 203.775.6256 x304
☎ 203.740.9167
✉ info@hr-ra.org

Comments from Cheryl D. Reedy
Director, Housatonic Resources Recovery Authority (HRRA)

Program Review and Investigation Public Hearing
Municipal Solid Waste Management Services in Connecticut
Thursday, October 8, 2009

Good afternoon Co-Chairmen Mushinsky and Carson and members of the Program Review and Investigation Committee. Thank you for taking up the issue of solid waste management and devoting committee resources to this study. Thank you as well for the opportunity to comment on the Staff Briefing dated October 8, 2009.

Great Job by PRI Staff

Scott Simoneau and Eric Gray have done an outstanding job learning and understanding the incredible complexities of the solid waste system in Connecticut and describing it in a readable and understandable format. Kudos gentlemen!

The remainder of my remarks will focus on some key elements in the system that we believe will impact the next part of the study, determining whether the solid waste management system in the State is adequate, sustainable and cost effective.

Scope of Study Limited to MSW.

It's important to remember that the scope has already been limited to MSW, but the entire waste disposal system in the State that must be provided contains all elements of the waste stream, even those not covered by this study, i.e. bulky waste, C&D, hazardous waste, special wastes, etc. The waste streams are not as distinct as they might appear on paper. For example, in some jurisdictions the disposal of mattresses and sofas are sometimes handled as bulky waste, sometimes as C&D, and sometime as oversized MSW, which by definition they are. All waste is part of the system. While looking at one part of the system in isolation makes analysis more manageable, it is still an artificial distinction from the way the solid waste management system operates in the real world. For example, C&D volume reduction, transfer and disposal often has higher profit margins for transfer stations than other parts of the waste stream. In some cases, the C&D waste stream will make the difference in the financial viability of a transfer station operation and thus affect costs for MSW and recycling as well. Even the 58% waste diversion goal in the State Solid Waste Management Plan (SWMP) includes planned diversion from the C&D waste stream, the hazardous waste stream, etc.

Lack of Funding

The report mentions the lack of funding and legislative support to date for implementing the State Solid Waste Management Plan (SWMP) specifically on pages 18 and 45 and by implication in many other places as well. It would be difficult to overstate the importance of funding for achieving the State's solid waste management and recycling goals and the effect of funding on the adequacy, sustainability and cost of the system. National recycling organizations and trade journals all tout the state funding and recycling grants available in other states. Connecticut, for all its environmental accomplishments, is clearly at the back of the pack in its financial support for recycling and our recycling rate shows it.

In the HRRRA region when we are able to obtain grants or additional revenue for more public education and advertising, our regional recycling rate goes up, and when we have to pull back on our program because of falling revenue, our recycling rate goes down. We have the data to prove that public recycling education and advertising programs work.

When Connecticut had the opportunity to work with the national Product Stewardship Institute to develop a program for paint manufacturers to take back and recycle all oil based and latex paint sold in the State, a program that the paint manufacturers supported, and a program that meets a specific goal in the State SWMP, it fell to several of the regions and towns in the State to come up with \$1,000 each to get the program started because the State of Connecticut could not afford to pay the \$10,000 fee.

Flow Control's Importance and Uncertainty

Flow control as discussed on pages 30 – 32 is another solid waste management and planning tool with significant effects on the adequacy, sustainability and cost of the system. Without the ability to direct the flow and guarantee tonnage of MSW including recyclables, regions and municipalities cannot plan or undertake comprehensive waste management strategies nor enter into long term contracts. Without guaranteed waste streams private companies will not invest the capital to build additional processing and recycling capacity. If the *Carbone* case had been decided by the U.S. Supreme Court in 1991 rather than 1994, HRRRA would not have signed a 29 year contract to dispose of all the MSW generated within our region with Wheelabrator. Perhaps HRRRA would not exist.

It's also important to note that the *Herkimer* decision has not yet been fully explored in court and thus questions remain about its limits. For example, can a municipality flow control its MSW to a transfer station that is owned by another municipality or a regional public agency? Can a local government adopt and enforce flow control not just for MSW but also for recyclables, for bulky waste, for construction & demolition material? Is a local flow control ordinance enforceable against not just residential waste streams but also commercial waste streams? For example, can a municipality flow control commercial recyclables such as cardboard that has a significant commodity value?

There are court cases working their way through the legal system now that will better define the limits, if any, of *Herkimer*. The outcome of those cases will have a significant effect on the long term adequacy, sustainability and cost effectiveness of the solid waste management system.

Railroad Transfer Stations

While the report mentions the increasing use of rail to move MSW from a transfer station to a disposal location out of state, it does not provide much information about the operation of transfer stations by a railroad. Until the Clean Railroads Act was signed into law by President Bush in October of 2008, railroads were free to operate transfer stations on railroad property using railroad employees without **any** regulation from either State or local governments.

Operating without the need to comply with even the most basic environmental regulations, allowed railroads to offer disposal tip fees significantly lower than market rates compared with transfer stations that had to follow all the environmental and permitting rules and regulations. The Clean Railroads Act changed that and required railroads to at least apply for a state permit to continue operation as a transfer station. It has yet to be determined whether the State can require and enforce the same standards on a railroad transfer station as it does on other transfer stations.

In the HRRRA region the Housatonic Railroad operated a limited transfer station for several years in the Hawleyville section of Newtown for C&D waste from outside the region. When the railroad applied for a permit from DEP to bring its operation into compliance with the new federal law, the railroad claimed that it was still subject to significant areas of federal preemption in the transfer station permit process, e.g. the ability to expand its operation even while its DEP permit application is pending, the ability to operate twenty four hours a day, the ability to transfer unlimited tonnage despite any limits DEP might put on the capacity of a typical transfer station, the right to ignore local wetlands regulations, and more.

While the Town of Newtown, DEP and Attorney General Blumenthal are intensely involved in trying to enforce all the powers of the State under the Clean Railroads Act, it may be several years before the limits of those powers are determined by a court.

What this has shown in our region, however, is that despite solid waste planning by local governments through a resources recovery region, long term contracts for waste disposal by both public and private entities and the best efforts of DEP, a railroad transfer station can remove an entire waste stream from the plan virtually overnight as the Housatonic Railroad has done with C&D material in our region.

How the balance is struck between federal preemption and state regulation of railroad transfer stations could have a significant effect on the adequacy, sustainability and cost effectiveness of the solid waste management system in the long term.

Recycling and Beneficial Reuse Infrastructure

While the report generally gives good marks to the adequacy of the recycling and reuse infrastructure in the State, there are holes in that infrastructure that should not be ignored. The cost effectiveness of the recycling and reuse opportunities available is significantly impacted by Connecticut's transportation challenges. While the center of the State may be well served by multiple facilities within economically viable driving distances, that is not necessarily true in other parts of the State.

The report rightly notes that there is only one permitted facility in the entire State that is able to accept food waste for composting. Food waste is a significant part by weight of the municipal

solid waste stream. For the SWMP composting goals to be reached, there will have to be facilities sited in other parts of the State as well.

But siting of necessary infrastructure by itself is not necessarily enough to get the job done. New Milford Farms, the only permitted food composting facility in the State, has been in operation now for two to three years and is still importing food waste necessary for its process from NY City. Why? Because the rest of the infrastructure necessary to support it is still being developed in our region, i.e. hauler investment in collection vehicles suitable for food waste, food waste producer staff training for proper separation, education programs to train the food eating public to separate food waste from other waste at disposal, etc.

Development of not only food waste composting but other recycling and reuse infrastructure in all parts of the State is necessary for an adequate, sustainable and cost effective solid waste management system.

Tension Between Local Control and a Comprehensive Solid Waste Management Program

The report rightly discusses in several sections the innate tension between Connecticut's time-honored tradition of local control for municipalities, and the need for comprehensive statewide planning for solid waste management and efficient solid waste collection and disposal services. Page 25 discusses how each municipality's choice of the level of control they want to exercise in solid waste disposal has significant impacts on statewide outcomes. Page 46 notes that town by town and region by region variation in what can be recycled and how it is prepared for curbside collection impacts statewide results. The report also discusses the difficulties that CRRA has in its authority and ability to exercise its mission of statewide solid waste management planning. The Report discussed the difficulty in siting transfer stations, waste to energy facilities, ash landfills, and even expanding existing facilities due to local opposition and legitimate concerns about environmental justice. And CRRA rightly points out that the 58% waste diversion goal in the SWMP did not come from any analysis about what was feasible to accomplish but from what was required to limit the increasing export of solid waste from the State.

Given all this, a key question that remains to be answered is whether it is reasonable to expect that the State can implement a comprehensive and efficient solid waste management system that is sustainable, meets its environmental goals, at a price that is reasonable for consumers, with so little funding and resources for implementation, so little State control over the system, and so many options open to local governments, private sector transfer stations operators, collection companies, etc.? One might well wonder whether more design and control of the system exercised at the State level, coupled with funding not just for the State but also for local partners, might produce a more efficient, sustainable and perhaps even less expensive system for solid waste management.