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## TESTIMONY OF GREGORY J. CAVA SB 211, AAC Municipalities and Solid Waste Management March 2, 2012

I appreciate the opportunity to address you concerning Raised Bill 211. I am an attorney at law admitted in Connecticut, a former chairman of the Real Property Section of the Connecticut Bar Association, and am a Fellow of the American College of Real Estate Lawyers. My practice is concentrated in the area of real estate and land development. I appear frequently on behalf of clients before planning and zoning commissions and have served as an elected planning and zoning commissioner, and as an inland wetland commissioner in two different municipalities.

### ***Principal types of Solid waste facilities.***

It is not a stretch to say that our modern consumer and business society creates an enormous amount of solid waste. Solid waste management is a critical state priority and a proper distribution of properly constructed facilities for handling solid waste is necessary to protect the environment. There are two principal types of solid waste facilities, those that involve the land burial of solid waste (e.g., a landfill) and those that do not (e.g., a transfer station or recycling center). The first presents concerns of long-term environmental impacts and under existing law, municipal planning and zoning commissions make siting decisions affecting land burial solid waste facilities. However, solid waste facilities that do not involve land burial of waste, do not present the same sorts of concerns. These green facilities separate waste streams into such components as municipal solid waste, or what we commonly refer to as household garbage, construction debris, metals, glass, plastics and other recyclables, wood, and other resources.

### ***How solid waste facilities serve the larger community.***

Once separated, these waste streams are sorted and consolidated, their volume is reduced, and they are placed in containers for efficient trans-shipment to a disposal or recycling facility in-state or out-of-state. We *all* generate waste, and we like our garbage taken away, but we don't want this done in our backyards. So we act on our irrational fears and oppose efforts to site these facilities where they are most needed, forcing inefficient and longer distance trans shipment of the larger unconsolidated waste stream through our communities and others people's communities.

***Why DEEP is in the best position to make solid waste siting decisions.***

It is for this reason that Connecticut law rationally places regulatory and siting concerns for these facilities with DEEP which can filter out irrational and unfounded fears and focus on making sure that the facilities proposed are properly conceived, designed, and executed. And make no mistake about it, *when properly designed, solid waste facilities are safe and promote public health, and DEEP has the knowledge and experience to insure these facilities are properly designed.*

I have experience representing clients seeking to establish solid waste facilities that do not involve the land burial of solid waste. Believe me when I tell you that DEEP is careful and thorough in its review of permit applications. Solid waste permit applicants typically spend many tens of thousands of dollars to establish a solid waste facility, including the fees of engineers and design professionals as well as mandatory equipment and design features. They have to run a challenging and lengthy regulatory gauntlet.

***Raised Bill 211 is a seriously flawed departure from good public policy.***

It is precisely because it disturbs this carefully crafted balance, that Raised Bill 211 is a departure from our usual sensible good public policy and is bad public policy. Seemingly simple, it is breathtaking in its scope and has the following major flaws:

It contains no exception for existing permit holders and those who have filed applications for permits. These persons have *played by the rules* and have invested significant time and money in running the regulatory gauntlet, only to have the rules changed in the middle of the game. Far from being a square deal, this is fundamentally unfair.

It extends municipal regulation to not just the location of sites but the authority to regulate waste handling practices. This could place existing operators and permit applicants in the untenable position of having designed a facility in order to facilitate waste handling practices required by DEEP only to have a municipality prohibit those same practices and possibly require a practice which is impractical, unsafe, and in direct violation of state or federal law and regulations. This is an intolerable burden and would make it impossible for DEEP to properly regulate these facilities.

By stating that municipalities may approve or deny such facilities, it would permit the disruption of necessary solid waste facility construction. Recently passed House Bill 5302 does not even go so far.

***Changes that could improve Raised Bill 211***

If you are disposed to permit some municipal regulation of non-disposal solid waste facilities, at the very least, an effective bill would provide that:

No municipal regulation adopted pursuant to section 8-2 shall have the effect of prohibiting the construction, alteration, or operation of solid waste facilities within the limits of a municipality.

Any holder of a permit, or any person or business entity that has filed an application for a permit for a solid waste facility not involving the land burial of solid waste be exempted from municipal zoning and land use regulation.

Municipal regulation be limited to siting and does not extend to waste handling practices which should be the sole province of DEEP.

Thanks you for your time and attention.

