

Testimony Supporting HB438 / SB560
House Economic Matters Committee / Senate Finance Committee
February 20, 2020 / February 25, 2020

Position: SUPPORT

My name is Bruce Holstein, and I am a resident of Carroll County. I was asked by supporters of this bill to provide financial data to the Committee about the joint Frederick County Carroll County incinerator / WTE project finances. The financial data was taken from Government records during the period 2010 to 2014 which is the year when the incinerator contracts were terminated. This project would have cost about \$3 billion over 30 years; \$1 billion in financing charges and \$2 billion in operating charges. The project contracts were terminated because of financial and environmental issues that were identified by concerned citizen groups in both Counties and provided to County decision makers. The citizen group findings were so compelling that County officials who signed the original contracts changed their minds.

I do not believe trash incineration should be subsidized through the Renewable Portfolio Standard. The trash incinerator proposed by the Authority for Frederick and Carroll Counties would have been a bad deal for those counties, regardless of the subsidies it would have received under the Renewable Portfolio Standard. And even if those subsidies had made up the shortfall, Maryland ratepayers should not have to subsidize expensive and polluting trash incinerators in our communities.

In my former life, I was the Director of Audits at the U.S. Government Printing Office for 4 years and also served as their Comptroller for 11 years before I retired. From its formation until recently, I served on the Solid Waste Advisory Council for Carroll County. When I use the word government, I am referring to the Northeast Maryland Waste Disposal Authority, Frederick County, and Carroll County officials who were involved with this project.

Background

The Northeast Maryland Waste Disposal Authority (Authority) wrote all the contracts governing this project. The Authority is a self-supporting public corporation of the State of Maryland and does not receive appropriations for their daily operations. They fund their operations by charging fees for their services. The Authority would have earned about \$25 million in fees over the life of the 30 year service contract. The Authority also charges Counties annual membership fees.

If built, the incinerator would have been owned by the Authority for 30 years and then transferred to the Counties after the bonds had been paid off. Construction would have been financed by revenue bonds issued by the Authority. Both Frederick and Carroll Counties were contractually required to pay off the debt over 30 years.

The incinerator would have a capacity of 1,500 tons per day or 547,500 tons per year. The guaranteed throughput was 503,700 tons per year.

The Authority planned to import about 350,000 tons of trash per year from unidentified jurisdictions into Frederick County for burning at this facility because the volume of trash generated by Carroll and Frederick was insufficient to meet required plant capacity.

The Authority was working under contracts on behalf of Frederick and Carroll County and was the contracting officer for the incinerator project.

Wheelabrator was the successful bidder on the contract and was supposed to build the facility and operate it for 20 years with two 5-year options under the Service Contract, i.e. the contract between the Authority and Wheelabrator.

County taxpayers would have been a significant part of the plant revenue funding source via System Benefit Charges on County tax bills if the projected plant revenues failed to materialize.

There were other contracts between the Authority and the Counties: the Project site Lease Agreement with Frederick only; the Energy Recovery Agreements; and the Memorandum of Understanding.

The Authority's financial plan consisted of several pages of spreadsheets showing their estimated revenue and cost projections. The financial spreadsheet plan is identified as Conservative Electric Full Plant.

The most significant issues regarding this project were the financing, disposal of incinerator ash, premature plant obsolescence, and inflated savings estimates attributed to incineration. There are other issues but these are the core issues.

Decision makers in both counties terminated their contracts after they were provided data developed by the citizen groups.

Bonds and other Financing

According to Section 6.3 of the Service agreement, the parties acknowledged their mutual expectation that the cost of the Design-Build work will exceed the Design-Build Price and that the Company will be required to provide all funds above the Design-Build Price necessary to complete the Design-Build Work. The Authority was supposed to issue revenue bonds in the

amount of the Design- Build price. The initial Design-Build price was \$332 million. However, the Authority provided a table showing they intended to issue \$401.8 million in bonds for construction. The planned bond issuance was \$70 million higher than the Design-Build price. The excessive amount of Authority bonds reduced risk that the company would have to spend very much for cost overruns.

Technically, the debt belongs to the Authority because they issued the bonds. However, the Counties were required by the billing formula in Section 4.1 of the Energy Recovery Agreement to make debt service payments. Therefore, the Counties would be paying off debt incurred by the Authority.

Government officials asserted that the contractor was going to contribute \$73 million to the project. That assertion was incorrect as the contractor was going to obtain a letter of credit for \$73 million. Section 6.3 (B) of the Service Contract identified the \$73 million construction commitment as project security to be used in event of a default by Wheelabrator. Section 6.3 (C) states the Authority shall not make any drawings upon the \$73 million until it has paid the Company the full Design-Build Price. Drawings were permitted if the Company defaulted during construction. According to Section 6.3 of the Service Contract, the Authority could release or return any unused portion of the Company's Construction Commitment. Nevertheless, the Counties were required to reimburse the Authority as if the entire amount had been spent. The total reimbursement according to Authority spreadsheets was \$111.8 million for this item even if there was no default by the contractor.

Ash

Government officials asserted that the incinerator would save landfill space and that outside jurisdictions bringing trash to the incinerator would have to backhaul their own ash. Those assertions were not supported by existing contracts. The contracts committed both counties to dispose of ash, including ash from imported trash, in their existing landfills without receiving a tip fee. The Authority was supposed to develop a landfill contract but that was not done prior to project termination.

Authority spreadsheets clearly showed Frederick County paying for and transporting 90,666 tons of ash which is 60% of the total ash to their own landfill. Carroll was assigned 60,444 tons of ash which is 40% of total ash.

The Memorandum of Understanding assigned ash disposal to Frederick and Carroll based on plant capacity including marketed capacity. There was nothing shown on Authority spreadsheets for other jurisdictions back hauling their own ash. The contracts required Frederick and Carroll to pay for transportation and disposal of out of county ash in their own landfills. In the alternative, the Counties could have paid to have the ash hauled out of state.

Premature Obsolescence

Prior to issuing the permits, MDE required \$25 million in additional air quality control equipment above and beyond the original proposal.

Savings did not exist

The estimated savings projected by the government included excessively optimistic revenue estimates for electricity and omission of ash disposal cost; compared to inflated cost of hauling trash to out of state landfills.

Electricity revenue at the Frederick plant was projected at \$33 million with 2% increases annually. Montgomery County was selling electricity to the grid from their incinerator so there were real numbers to compare to the overly optimistic electricity revenues projected by the government. The Authority projection for electricity prices was more than double existing prices. I compared real energy revenue at Montgomery County's incinerator of \$15.8 million at June 30, 2013 to the Authority's estimate of \$33 million from electricity sales at the Frederick plant in 2015 and their estimated 2% increases every year for the next 30 years and concluded their electricity revenue projections were not realistic. According to Authority spreadsheets, the Frederick Plant was projected to generate 377,775 megawatt hours per year based on 750 kilowatts per ton of trash. The Authority was asked to provide the name of one plant in the world that obtains 750 kilowatts per ton. I did not receive a reply to my request. The Montgomery County plant, which is rated at 1,800 tons per day is 300 tons per day higher than the proposed Frederick plant, actually produced 361,529 megawatt hours of electricity last year.

Cost of Incinerator vs out of state landfilling

A significant part of the justification for building the Frederick incinerator was the projected cost savings of burning trash over hauling it to out of state landfills. In order to create projected savings, the government overstated plant revenue and understated operating costs. Electricity revenue was inflated and the cost of ash disposal was omitted.

In a letter to me dated July 23, 2010, Frederick County provided a table which showed Carroll County would save \$229 million by using the Authority's incinerator. That assertion is false. The government almost tripled the Carrol County's out of state hauling actual cost in order to develop projected savings. A reasonable estimate showed that it would have cost Carroll County at least \$100 million more to use the incinerator. That is a change of more than \$300 million.

Conclusion

Claims made about the cost effectiveness of incineration should be scrutinized very closely by independent people to ascertain their reasonableness.

I read the fiscal notes for this bill and noticed the small amount of Renewable Energy Credits (REC) revenue that would be lost if incineration is removed from Tier 1 subsidies.

When making your decision to vote, I urge you to consider the amount of damage done to the environment by burning trash. Also please consider the impact of very expensive incineration that prevents communities from adopting Zero Waste which is much cleaner and far less costly than incineration. Copied below are my recommendations to Carroll County to save money and improve the environment by developing zero waste infrastructure in our county.

Because of my experience giving such scrutiny to the incinerator proposed by the Northeast Maryland Waste Disposal Authority to Frederick and Carroll Counties, I urge you to vote yes on HB961 and SB548 and end the practice of subsidizing trash incineration as clean energy under Maryland's Renewable Portfolio Standard.

Bruce Holstein

Recommended for Carroll County
Long Range Strategic Plan for Solid Waste

November 2019

Carroll County has a significant opportunity to leverage its membership in the Northeast Maryland Waste Disposal Authority (NEA) by creating a REGIONAL Resource Recovery Park with manufacturing jobs located within the County.

Step 1 – Jack Lyburn suggested that you have Industrial Development Authority (IDA) hire a Zero waste Contractor to develop a plan for facilities similar to those located in California. Gary Liss and Neil Seldman could develop the plan – contact information for them is gary@garyliss.com and nseldman@ilsr.org Estimated cost for plan is \$100,000.

Step 2 – contact Montgomery County Executive Marc Elrich to discuss sharing cost of developing plan. Neil Seldman should be able to discuss cost sharing with him. Elrich wants to close the Dickerson incinerator but needs a plan for solid waste disposal and disposal of recyclables.

Step 3 – Purchase Walter Kennel’s 330 acres to provide space for manufacturing plants, at least one future landfill cell and future construction of rail access. Jeff Castonguay could approach adjacent NEA member counties and request NEA bonding the construction of a Resource Park on the adjacent land to Northern Landfill (Kennel Property) or IDA property in Mt. Airy. Estimated cost \$15 million for land and \$50 million for construction of the park. The alternative is to use other IDA property for the Manufacturing operations.

The Resource Recovery Park will be supported by citizens because it will produce local jobs without high levels of pollution.

Step 4 – use the PAYT trash bag program to generate more recyclables and additional revenue to pay for ongoing operations. The pilot program in New Windsor proved that it works as trash was reduced by 40%. PAYT needs to be a top down County initiative. It can be implemented County-wide by changing the rules at the County landfill for residential trash. County can require residential trash be delivered in County approved trash bags. Waste Zero working for Carroll County successfully completed a pilot program in New Windsor. Carroll County could issue an RFB for PAYT trash bags. This can be done NOW to create a new revenue stream for solid waste enterprise fund.