



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



January 25, 2018

The Honorable Joseph Hagan, Chair
House Judiciary Committee
Legislative Office Building, Room 208
Concord, New Hampshire 03301

RE: HB 1701, An Act making the Coakley Landfill Group subject to the provisions of RSA 91-A

Dear Chair Hagan and Members of the Committee:

Thank you for the opportunity to testify on HB 1701. This bill would require the commissioner of the New Hampshire Department of Environmental Services (NHDES) to require the Coakley Landfill Group to submit all records pertaining to the remediation of the Coakley Landfill. The bill would also make these records subject to RSA 91-A. The intent and impact of this bill are unclear to NHDES. Accordingly, NHDES is not taking a position on the bill, but does wish to express some concerns.

By way of background, the Coakley Landfill is a closed landfill located in Greenland and North Hampton that was operated from 1972 to the early 1980s, and was used by several businesses, the towns of Newington and North Hampton, the City of Portsmouth, the U.S. Air Force and the U.S. Navy. In response to drinking water contamination detected in nearby water supply wells, the site was listed on the Superfund National Priorities List in 1983. Investigations and feasibility studies were subsequently performed to select a remedy, under the direction of the U.S. Environmental Protection Agency (USEPA). The remedy consists of construction of an engineered cap over the landfill (completed in 1998) and long term groundwater monitoring. A group of responsible parties, known as the Coakley Landfill Group is responsible for ongoing investigation and operation of the remedy pursuant to consent decrees entered into with the USEPA in 1990 and 1999. The Coakley Landfill Group includes the City of Portsmouth, the Towns of North Hampton and Newington, and other private entities.

As drafted, HB 1701 requires the commissioner of NHDES to demand that the Coakley Landfill Group submit its records pertaining to the remediation of the Coakley Landfill site, and declares those records subject to RSA 91-A, commonly referred to as New Hampshire's "Right-to-Know law." NHDES's confusion with this bill stems from the fact that voluminous documents that are related to the remediation of the site and that have been prepared and submitted by CLG and its consultants are already public and are available for review at document repositories located at the North Hampton and Greenland public libraries, or on-line at: <https://cumulis.epa.gov/supercpad/cursites/csinfo.cfm?id=0101107>. In addition, all NHDES records related to the site are already subject to RSA 91-A and are available for public review in accordance with the statute.

Given the current broad availability of remedial documents, it is unclear to NHDES what the benefit of this bill would be to the public. To the extent that the bill seeks additional records of the Coakley Landfill Group that

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are not required to be submitted to USEPA or NHDES under the agencies' respective remedial programs, NHDES believes that such records are not relevant to our work, and would not support a requirement that NHDES demand such records.

Thank you again for the opportunity to comment on HB 1701. If you have questions or need additional information, please feel free to contact either Mike Wimsatt, Director of the Waste Management Division (Michael.Wimsatt@des.nh.gov, 271-2905).

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of HB 1701: Representatives Cushing, Bean, McConnell, Messmer, Pantelakos, R. Tilton, Emerick, and Senators Innis, Fuller Clark, Feltes