
Black Dirt Farm

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Vermont Senate
Natural Resources Committee
Re: Comments of S.285 and S.287

January 10, 2018

Take-Home Message for Committee – *Relieve haulers, but don't remove materials from ban*

Fundamentally, it is important that any changes to the Universal Recycling Law do not undermine the intent or goals of the law. While, for instance, it would not impact the law adversely to eliminate hauler requirements for collection of organics, it would undermine the intent of the law if the ban on these materials in the landfill were lifted. No materials should be removed from the list of banned items, however we need to take a more strategic approach to building the markets and infrastructure to support the implementation of more challenging products, namely organics and glass. We need to further support the Agency of Natural Resources' efforts and encourage them to take a more assertive role in sorting through the challenges of implementation.

Background

Black Dirt Farm is a family farm that collects discarded food from the southern Northeast Kingdom and northern Lamoille County. We collect roughly 27 tons per week from approximately 60 businesses, institutions, and residential drop off locations. Roughly 40% of the food scraps we collect are delivered to Tamarlane Farm in Lyndonville for making compost. The other 60% is delivered to our own farm where it is utilized in a series of dovetailed enterprises. Incoming food scraps are blended into a compost mix and fed to laying hens. The rejected feed – the portion of the mix the hens do not consume – is then turned into compost. Seasonally, some batches of compost are processed in our Aerated Static Pile composting system that diverts pile heat into our 3000 square foot greenhouse. A portion of the compost is fed to worms each week to make worm castings, which is sold in bags to the Northeast retail market, adding further value to it.

We have been in business for three years and employ a total of five people. We recently consolidated our collection routes into a smaller geographic area. While this resulted in an overall loss of collection services in one region, it has allowed us to increase our overall collection by roughly 5 tons per week, and decrease our labor, fuel and repair costs. We have two primary competitors, and both are expanding operations. We anticipate constructing a new barn for laying hens, which will allow us to increase our flock size and, correspondingly, increase the food scraps we receive on the farm by 100-300%. Additionally, with the recent opening on a new composting facility in Hyde Park, there is additional capacity in our region to enable further expansion of collection within the existing geography in which we are operating, and we intend to make use of it.

In addition to owning and operating Black Dirt Farm, I serve as the Town of Stannard's Supervisor for the Northeast Kingdom Waste Management, and am a founding and current Board Member of the Center for an Agricultural Economy in Hardwick.

Reflections on the Universal Recycling Law – Update the approach but ensure fundamental integrity

The Universal Recycling Law (URL) is an exciting and ambitious piece of legislation that has and will continue to change the landscape and outcomes of Vermont's waste and resource management system. No law of this scope and scale, especially in a small state with a limited tax base, would be easy to implement and this is why many of the provisions for implementing the Organics section of the law have been paired with infrastructure triggers. While in many cases I believe the legislature provided the state with adequate flexibility to implement the law sensibly, there are certainly opportunities to learn from the last several years and make modest changes to update and improve the legislation. None of these adjustments should undermine the fundamental resource recovery and waste mitigation goals of the legislation. In order to address recalcitrant challenges, we should be focusing on innovating solutions rather than scaling back our ambitions. There has been inadequate investment in strategic planning, new market development, market research, and business incubation for a system overhaul of this scope, and this must be remedied for us to successfully implement this law in its totality. Additionally, if items are removed from the landfill ban, they will be harder to re-introduce them later. If we are concerned about our capacity to successfully handle a given material, such as organics or glass, we should not strike them from the law, but adjust structural components of the law, such as timelines and triggers.

Comments on S.285

Many of the proposed amendments to the Universal Recycling Law in this bill undermine the intent of the Law. The reasonable suggestions for change within this bill are largely mirrored in S.287, making this version of the bill less useful for consideration.

Relieving Hauler Organics Requirements – Let the market decide who provides services

It is appropriate to relieve haulers of the requirement to provide organics collection services. Organics collection is a specialized market that is not as easily integrated into a trash collection business the way recycling is. The participation of every trash hauler in organics collection is not necessary for the provision of such services across the state. The mandate on generators provides sufficient market stimulation beyond the hauler requirement, making the hauler requirement an un-necessary burden on individual businesses. However, if you do this and drop the generator mandate, you will entirely undermine the Law and conditions for resource management will be back to where they were prior to the Law. To be clear, this is not a recommendation to lift the requirement for haulers to collect mandated recyclables other than organics – parallel collection of other mandated recyclables is necessary.

Dropping Generator Organics Requirements – Do not change mandate for generators

It would be entirely counter-productive to the intent of the law to remove the requirements for generators to source separate food scraps for collection. While dropping the hauler requirement is a reasonable expression of practicality and respect for individual operators, the generator requirements

are the backbone of this part of the legislation. This requirement is what establishes a market for the capture of these materials and is only triggered when adequate infrastructure exists in a region to ensure access to services. While it is reasonable to argue that we should let the market drive how services are delivered to the market, we cannot rely on market forces to drive diversion at generators. These market forces are unable to account for many non-economic factors the State is trying to address, and the URL is the legislative fix to this issue. Therefore, dropping the generator requirements for organics diversion would entirely undermine the fundamental goals of this legislation. Specifically, it would be a mistake to cut the requirements in Subsection C for 26 tons (2016), 18 tons (2017), and any amount of food residuals (2020), and food residuals should remain in the list of materials banned from the landfill.

Hauler Pricing

While one could argue that the hauler pricing structure requirements of this Law are purely semantical, that may not be a reason to drop it. This pricing structure is designed to be a communication tool that establishes trash as a common measure and provides consumers with direct feedback. There may be however, good reasons to re-evaluate this for private transfer stations since at times these operators have, not unreasonably, been known to turn people away who show up only with recyclables and no trash. In the past some municipalities have, for instance, allowed pricing on recyclables but mandated that they be established in proportion to trash fees, ensuring recycling remains cheaper.

Municipal Pricing

Variable rate pricing – pricing based on a unit of measure, either weight or volume – is an important feedback loop for consumers and helps them leverage the laws of the market – more is more expensive, less is less expensive – to reflect changes in behavior (there is a reward for waste reduction, you pay less). Striking variable pricing in any form, including for municipal services, would be poor policy, and like the removal of materials from the landfill ban, would fundamentally undermine the intent of the law, and the practical mechanisms available for its implementation.

Clarification on the testimony of Pat Austin, January 12, 2018

During his testimony last Friday, Mr. Austin of Austin's Rubbish made several false assertions on important issues that he has previously been made aware of as untrue and yet continues to repeat. I thought I would offer some fact checking on those topics.

1. Loss of organics processing capacity in the NEK – Mr. Austin asserted that we have lost processing capacity for organics in the NEK. This is untrue. We have in fact increased overall processing capacity.
2. Organics operations are all subsidized. While some operators have or do receive grants, and in cases of municipally-operated facilities, subsidies, private operators are not subsidized. Black Dirt Farm, for instance, is not subsidized and has never received a subsidy. We have received a USDA SARE grant to study and advance the practice of feeding hens in a composting system, but our operations are funded through revenues they generate.
3. Methane Recovery – Mr. Austin continued to state that collecting organics was not an energy and emissions efficient strategy compared to landfill methane recovery. There is adequate science to dispute this, however I would specifically point the committee to a life cycle analysis of rural food scrap collection funded by the USDA and performed by the

Alliance for Climate Action. This study found that even with above average methane recovery credited and energy accounting for operations or materials not included to the landfill, and with full accounting of the energy required for composting (including energy imbued in plastic collection containers and hot water used for container washing), the emissions mitigation for rural, NEK food scrap collection and composting was roughly the equivalent to not burning 1 gallon of gas for every five gallons of food scraps collected.

Comments on S.287

Of the two bills, this is the better version. Generally this version reflects practical changes in the Law and would not undermine its fundamental goals. Further reflection on some of the proposed language is however worthwhile.

Glass Recycling

Glass should not be removed from the list of mandated recyclables. If glass is removed now, it will be much harder to reintroduce its inclusion later. Possibly extend the timeline for implementation and use the intervening time to focus Agency attention on new market development.

Ensure easy permitting of residential drop off locations –

Section 4. 10 V.S.A. §6602(10) – “Facility” – describes a variety of ‘fast trash’ and drop off scenarios that will now be considered ‘facilities’ and therefore subject to permitting. While permitting is not in and of itself a concern, it would be important to ensure a nimble permitting approach that would allow for creative solutions. Collection of household organics is a challenging proposition in a rural state. Unlike other recyclables, organics are perishable and heavy. It is therefore important to ensure the convenience of drop off locations if we expect households to collect and transport these materials. It is important therefore that create a permitting approach to these locations that allows them in non-traditional solid waste collection locations, like places of business (for their employees) or convenient locations in village downtowns.

Strengthening the URL and its Implementation

If we were looking at the URL at this time out of concern for our ability to execute it, it would be important to take a look at some of the other provisions that impact the Law’s leverage, especially with some of the new changes proposed.

Organics Diversion Triggers – **Expand mileage and end use triggers**

Presently the trigger for mandated organics recycling is the generator being within 20 miles of a certified composting facility. This was a reasonable effort to pair the mandate with the infrastructure capable of supporting it. However, this trigger only reflects one aspect of diversion, which itself is rather low on the State’s hierarchy of highest and best use of organics. For instance, there is no reason why waste reduction should wait for infrastructure development before it is triggered, because it will in fact reduce the requirement for infrastructure. Similarly, we have identified ‘food rescue’ – the diversion of discarded food for human consumption – and agricultural uses to be more valuable than composting, and therefore we would want to ensure triggers for these rather than wait for

comparatively expensive composting infrastructure to be constructed. These are both considerably more cost effective options.

Agency Leadership Role - Innovation through Cross-Sector & Inter-Agency Collaboration

In drafting and approving the URL, it was understood among all stake holders that we were utilizing a legislative fix for something the market alone could not entirely correct. We went into the implementation of this law understanding that, for instance, organics and glass would be particularly challenging materials to implement. Yet, over the last several years of its implementation, very little strategic planning and development has been done to illuminate opportunities and strategies to overcome barriers. We know these two products to have challenging business models and inadequate markets, and yet we have not done anything to assess current and future markets, especially new markets ripe for new development opportunity. Other sectors in Vermont are expanding because they are innovating into new markets, not trying to do more of the same. In agriculture we see significant changes in markets in the last 15 years and more producers able to sustain business models that were inconceivable prior to new markets opening up in direct sales, organic, and value-added products. If we cannot envision a new approach, how can we conceive we can achieve new outcomes?

The State should be using its collective resources to not only implement this law, but to do so in such a way as to leverage as much benefit and outcome from it as possible. This law is not in and of itself a burden, but rather, an opportunity. We need to convene all of the State's Agencies that have potential overlap on this law and begin to deploy a broader group of Agency staff, and their respective areas of expertise, to strategize around how best to leverage this Law. Three examples:

1. Economic Development – It is hard to understand why the Department of Commerce and the various economic development agencies are not at the table, and why we are not deploying lessons learned from how to incubate other sectors, like agriculture. We are stuck about what to do with all the glass we are collecting and yet we continue to only imagine the commodity glass market. With the Department of Commerce at the table we could be evaluating new, value-added markets for glass that would create in-state manufacturing jobs and repurpose existing, vacant, industrial infrastructure to do it. Surely we can learn from the agricultural sector that there are new, higher-value markets that products, such as milk, which were previously stuck solely in the commodity market (in which producers remain price takers), can expand into with the right development.
2. Agricultural Development – The hierarchy clearly establishes the use of organics for livestock feeding, and yet, the Agency of Agriculture is not an active partner in helping to develop related business opportunities for these materials in the farm sector. We have promising work being done to develop effective methods for feeding poultry on compost made with food scraps, and yet it is entirely producer-led. The Agency has been entirely without presence in this development.
3. Human Services Support – There does appear to be an increasing presence from those working in human services to support advancing food rescue efforts, however this is still mostly concentrated by non-state entities. While we do need practitioners on the ground

to implement this practice, there are real challenges in developing large scale models, and there are opportunities for the state to play more of a catalyst role.

If we are serious about implementing this law successfully, we need the State Agencies to play a greater leadership role in problem-solving and innovating. It was wonderful to hear Governor Scott mention in his State of the State address that various agencies and departments are using Lean principles to both root out waste, but also opportunity. Encouraging a culture of innovation and entrepreneurship within the Agencies around the URL will help to ensure our success and accelerate our outcomes.