

TO: Vermont Attorney General's Office
FROM: Kayley Olson, VPIRG Legal Intern & Paul Burns, VPIRG Director
DATE: August 13, 2019
RE: Glass Dumping with CSWD

INTRODUCTION

Vermont Public Interest Research Group is the state's largest consumer and environmental advocacy group. We have a long record of engagement on matters related to solid waste and recycling, and therefore the recent news reports concerning the Chittenden Solid Waste District's (CSWD) dumping of contaminated glass drew our interest. VPIRG is concerned that CSWD's actions have not only caused harm, but have fostered distrust among Vermonters regarding the viability and utility of recycling programs generally.

We note that the Department of Environmental Conservation has already issued a Notice of Alleged Violation (NOAV) on April 12, 2018. In addition to this apparent environmental violation, we believe that CSWD's actions may constitute violation of the Vermont Consumer Protection Act under 9 V.S.A. § 2453. In this memorandum, we share with you the information that leads us to these conclusions, and we urge the Attorney General to take appropriate corrective action in order to hold CSWD accountable and help restore the public's faith in our important recycling programs.

BACKGROUND

Act 148

In 2012 the Vermont legislature passed unanimously Act 148: Universal Recycling and Composting Law. Act 148 created a timeline that would phase in certain landfill bans by 2020.¹ In 2015, a number of items, including glass, were banned from the landfill.² The law also requires haulers who provide curbside rubbish pick up to provide curbside recycling services.³

CSWD and Handling Glass

CSWD is very involved in Vermont's recycling program and handles the bulk of Vermont's recyclables, including glass at its Material Recovery Facility (MRF). Though representatives of CSWD have been inconsistent over the years in the way they describe what happens to glass delivered to their MRF, they have always suggested that the glass

¹ Vermont's Universal Recycling Law of 2012, 10 V.S.A. § 6602 (2012)

² *Id.*

³ *Id.* at § 6605.

is either recycled or down-cycled.⁴ Consider the following examples of advertisements and statements CSWD has put out over the years detailing how they handle glass:

February 20th, 2012 – CSWD Director of Public Policy and Communications Jen Holliday’s Testimony to the Vermont Senate of Natural Resource Committee on S. 208.⁵

Jen Holliday presented a flowchart breaking down what happens to materials dropped off at the MRF. The flowchart identifies various materials accepted at the MRF including glass. The flowchart indicates that glass, along with the other material, is sorted, baled, and sold so that it can be made into new products.⁶ This would be an example of recycling.

July 21, 2015 – CSWD’s *How Recycling Works: Behind the Scenes at the MRF* YouTube Video⁷

CSWD’s video explains what happens to the recyclable material when it is delivered to the MRF and where the material goes afterwards.⁸ The video explains that once the glass has gone through CSWD’s MRF, the glass of an acceptable quality is used for road construction projects and drainage projects.⁹ This would be an example of down-cycling.

February 25th, 2016 - Jen Holliday's Testimony to the Vermont House Committee on Natural Resources and Energy on H.602

Jen Holliday testified that CSWD intended to move away from using the glass they intake from curbside recycling for road construction projects and intended to get equipment for “processing and not just new construction.”¹⁰ Ms. Holliday indicated the machinery at CSWD MRF’s was not producing marketable glass material and needed to be updated to make their glass more marketable.

December 18th, 2017 and January 23rd, 2018 – Email Correspondence Between VPIRG and Jen Holliday

⁴ See Margaret Rouse, Definition of Downcycling (December 2012), <https://whatis.techtarget.com/definition/downcycling> ([D]owncycling involves breaking down an item into its component elements or materials that are usually reused at a lower-value product).

⁵ Jen Holliday, *Witness Testimony (2) for S.208*, Vermont Senate of Natural Resources and Energy Committee (Feb. 20, 2012), [https://legislature.vermont.gov/Documents/2014/WorkGroups/Senate%20Natural%20Resources/Bills/S.208/Testimony%20and%20Public%20Comment/S.208~Jennifer%20Holliday~Witness%20Testimony%20\(2\)~2-20-2014.pdf](https://legislature.vermont.gov/Documents/2014/WorkGroups/Senate%20Natural%20Resources/Bills/S.208/Testimony%20and%20Public%20Comment/S.208~Jennifer%20Holliday~Witness%20Testimony%20(2)~2-20-2014.pdf).

⁶ *Id.*

⁷ Chittenden Solid Waste District, *How Recycling Works: Behind the Scenes at the MRF* (2015), <https://www.youtube.com/watch?v=NYux4-KIY1o>.

⁸ *Id.*

⁹ *Id.*

¹⁰ Jen Holliday, *Testimony on H.602*, Vermont House Committee on Natural Resources and Energy, (Feb. 25, 2016), <https://legislature.vermont.gov/Documents/2016/WorkGroups/House%20Natural%20Resources/Bills/H.602/Testimony/H.602~Jen%20Holliday~Chittenden%20Solid%20Waste%20District~2-25-2016.pdf>

In email correspondence with an advocate with VPIRG, Jen Holliday responded to a direct question about what CSWD was doing with its glass by stating that “We have mostly been providing glass for free in construction projects and hope to work with the quarries this year with replacing some of the sand they use with glass.”¹¹ No mention was made about dumping contaminated glass near the old Williston landfill.

2019 – CSWD’s Website

CSWD’s website states glass is “crushed to create aggregate that’s available for no charge for civil engineering applications such as sub-base layers, utility trench bedding, or backfill/drainage applications.”¹² This would be another example of down-cycling.

The CSWD website now has a link to the Agency of Natural Resources description of allowable uses for Processed Glass Aggregate (PGA). In order for glass to be considered PGA and thus be suitable for construction projects it must meet the following characteristics:

For the purpose of this document, PGA is mixed glass cullet produced from crushed and screened clean food and beverage containers. China dishes, ceramics, or plate glass shall be limited to 5 percent by mass of glass cullet. Screw tops, plastic rings, paper, labels and other deleterious materials shall be limited to less than 1 percent by mass of the PGA. Cathode ray tubes and fluorescent light bulbs are not allowed as feedstock for PGA. The PGA shall contain no hazardous waste. PGA must be crushed and screened such that 95 percent of the material passes a 25.0 mm screen and not more than three percent of the material passing the 4.75 mm sieve passes the 75 µm sieve.¹³

At various times, CSWD has stated that glass is either processed and shipped to market or it is used for local construction projects so long as it meets the required spec characteristics. In other words, glass entering the MRF is either recycled or down-cycled. But there is now substantial evidence that that’s not CSWD did with a significant quantity of its glass.

Notice of Alleged Violation – April 2018

¹¹ Email from Jen Holiday to VPIRG’s Johanna de Graffenreid (January 23, 2018, 04:24 PM EST).

¹² Chittenden Solid Waste District. *CSWD Materials Recovery Facility (MRF)* <https://cswd.net/chittenden-county-solid-waste-facilities/materials-recovery-facility/> (last visited Aug. 6, 2019).

¹³ Agency of Natural Resources, *Acceptable Uses for Processed Aggregate Glass*, Department of Environmental Conservation (Jan 2002), <https://dec.vermont.gov/sites/dec/files/wmp/SolidWaste/Documents/ProcessedGlassAggregateAcceptableUsePolicy.pdf>.

On April 12, 2018 the Department of Environmental Conservation (DEC) gave CSWD a Notice of Alleged Violation (NOAV). The notice stated CSWD was in violation of two Vermont Solid Waste Management Rules.¹⁴ There was disposal outside a certified facility and a failure to accurately report on the destination of waste.¹⁵ The NOAV detailed the description of the alleged violation. It stated:

On 4/3/18, Agency staff observed fill areas containing thousands of cubic yards of discarded crushed glass at two locations on Redmond Road owned by Chittenden Solid Waste District (adjacent to the closed landfill and the compost facility). District staff stated that the glass was non-marketable recycled glass from the MRF (materials recovery facility) owned by the District and located at 357 Avenue C in Williston. Review of Department records found that no approvals have been issued for the storage or disposal of glass at these locations. Review of quarterly reports submitted by the District found that the destination for the glass has been incorrectly reported as “local projects”.¹⁶

Alleged Violation Becomes Public

The NOAV was given to CSWD in 2018, but it was not until a year later that these allegations against CSWD became public. On May 1, 2019 the Vermont Senate’s Natural Resources and Energy Committee convened to hear testimony about the allegations that CSWD dumped its glass instead of recycling it.¹⁷ During this meeting the committee heard John Brabant, a former DEC employee and a certified environmental analyst testify about what he had found at the site where CSWD allegedly dumped the glass.¹⁸

Vermont Public Radio (VPR) covered this meeting.¹⁹ This led to a follow up committee meeting where more testimony was presented about CSWD’s actions.²⁰ One of those testifying was Pat Austin, a trash hauler who is the president of Austin’s Rubbish and Roll-Off Service, Inc.²¹ He suggested that it was a significant for him that his

¹⁴ Vermont Agency of Natural Resources, *Notice of Alleged Violation to Chittenden Solid Waste District* (April 2018), <https://www.documentcloud.org/documents/6054738-NOAV-CSWDglass-2018-04-12.html#text/p1>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ John Dillon, *Vt. Senate Committee Looks At Allegations That CSWD Dumped Glass Instead of Recycling It*, Vermont Public Radio (May 1, 2019), <https://www.vpr.org/post/vt-senate-committee-looks-allegations-cswd-dumped-glass-instead-recycling-it#stream/0>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ John Dillon, *Newport Mayor Questions If Glass Sent To Chittenden Was Dumped, Not Recycled*, Vermont Public Radio (June 18, 2019), <https://www.vpr.org/post/newport-mayor-questions-if-glass-sent-chittenden-was-dumped-not-recycled#stream/0>.

²¹ *Id.*

customers believed that the material they give to him would be recycled, when it turns out it was not.²² Austin is not the only one deeply concerned with CSWD's actions. The city of Newport is concerned as well because its recyclables are not being handled the way they had expected them to be.²³²⁴ The Mayor of Newport sent a letter to CSWD outlining the city's concerns regarding CSWD handling glass. In part, the letter said:

It is our understanding that the recycling collected by haulers in our area is delivered to your facility for further processing. The City of Newport residents and businesses have been faithfully recycling believing they are making a positive contribution to our environment by lessening the amount of waste, and increasing the amount of recyclables.²⁵

As noted above, CSWD has said repeatedly that glass is either sold to market or used in construction projects so long as it meets the PGA standard. Trash haulers and consumers reasonably believed that this would be the end result for glass delivered to the MRF.

Once these allegations became public, CSWD claimed that it had done nothing wrong. CSWD suggested that it had used glass from the MRF for construction projects at an approved facility, which is allowed by ANR so long as the glass meets certain spec characteristic requirements. A VT Digger article characterizes CSWD's actions as:

[n]ot dumping the glass but rather was using it to line a road along the closed Williston landfill. She (Michelle Morris from CSWD) pointed VTDigger to a 2002 list from ANR of "acceptable uses" for processed glass aggregate, which is glass that has been cleaned and crushed to a certain size. One of the uses of processed glass aggregate is as an "embankment" to fill in a slope.²⁶

However, according to Brabant's testimony and previous statements from CSWD's then-director, Tom Moreau, the glass that was dumped likely did not meet the spec requirement to be used for an "embankment." Brabant, the former DEC employee and certified environmental analyst, included in his testimony pictures of the glass where

²² Pat Austin, *Testimony to the Vermont Senate of Natural Resources Committee*, Vermont Legislature (June 18, 2019).

²³ Jon Dillon, *Newport Mayor Questions if Glass Sent to Chittenden was Dumped, Not Recycled*, Vermont Public Radio (June 18, 2019), <https://www.vpr.org/post/newport-mayor-questions-if-glass-sent-chittenden-was-dumped-not-recycled#stream/0>.

²⁴ Letter from the Honorable Mayor Paul Monette and the City of Newport to Chittiden Solid Waste District. (June 3, 2019) https://www.vpr.org/sites/vpr/files/cswd_june_3_2019.pdf.

²⁵ *Id.*

²⁶ Elizabeth Gribkoff, *Glass dumping violation points to poor glass recycling market*, VT Digger (May 29, 2019), <https://vtdigger.org/2019/05/29/glass-dumping-violation-points-poor-glass-recycling-market/>.

CSWD allegedly dumped it.²⁷ The photos show bits of crushed glass along with contaminants such as plastic.²⁸ Brabant brought samples from the site to show senators as part of his testimony.²⁹ He also said that he tested some of the glass and concluded that it did not meet the spec requirements to be used for road construction projects.³⁰ Brabant believes the glass was dumped and not properly handled by CSWD.³¹

Furthermore, public comments from CSWD's then-director, Moreau suggest the MRF machinery could not produce high enough quality glass to meet the PGA spec requirement to be used for road construction. In a *Seven Days* article written on January 27th, 2016 Moreau and Brian Wright (a facility manager for CSWD) said the glass did not meet the spec requirement for the glass to be used as sub-base for new roads.

Wright further said CSWD could not give the glass to the Vermont Agency of Transportation until CSWD updated its machinery and processed higher end glass for road construction projects.³² CSWD did not update its MRF machinery until December of 2018. This means at the time the NOAV was issued in April 2018, CSWD was likely producing the same contaminated glass that Moreau and Wright had previously spoken about.³³

CSWD also claims the glass was dumped at an approved facility. However, the only place the ANR approved Casella to bring glass for construction projects was to the landfill in Coventry. This was explicitly stated in Vermont's Universal Recycling Laws Status Report from 2019 that ANR published every year. The report said:

ANR approved Casella Waste Management's request to use recycled glass from the Rutland Materials Recovery Facility (MRF) for construction projects at the NEWSVT landfill in Coventry. ANR granted the request for several months in 2018 and required Casella to submit short- and long-term plans for managing recycled glass. Chittenden Solid Waste District invested in glass processing equipment

²⁷ John Brabant, *Glass: Testimony to the Vermont Senate of Natural Resources Committee*, Vermont Legislature (May 1, 2019).

<https://legislature.vermont.gov/Documents/2020/WorkGroups/Senate%20Natural%20Resources/Glass/W~John%20Brabant~Testimony%20~5-1-2019.pdf>

²⁸ *Id.*

²⁹ *Id.*

³⁰ John Dillon, *Vt. Senate Committee Looks At Allegations That CSWD Dumped Glass Instead of Recycling It*, Vermont Public Radio (May 1, 2019), <https://www.vpr.org/post/vt-senate-committee-looks-allegations-cswd-dumped-glass-instead-recycling-it#stream/0>.

³¹ John Brabant, *Glass: Testimony to the Vermont Senate of Natural Resources Committee*, Vermont Legislature (May 1, 2019).

<https://legislature.vermont.gov/Documents/2020/WorkGroups/Senate%20Natural%20Resources/Glass/W~John%20Brabant~Testimony%20~5-1-2019.pdf>

³² Nancy Remsen, *As State Mandated Recycling Kicks in, the Market for Materials Slide*, *Seven Days* (Jan. 27, 2016), <https://www.sevendaysvt.com/vermont/as-state-mandated-recycling-kicks-in-the-market-for-materials-slides/Content?oid=3138390>.

³³ *Id.*

at their Williston MRF so their glass can be used for state and local road projects.³⁴

The DEC's NOAV makes it clear: "Review of department records found that no approvals have been issued for the storage or disposal of glass at these facilities."³⁵

CONSUMER PROTECTION VIOLATION

Vermont's Consumer Protection Laws

Under 9 V.S.A. § 2451, the purpose of Vermont's Consumer Protection Laws is to "complement the enforcement of federal statutes and decisions governing unfair methods of competition, unfair or deceptive acts or practices, and anti-competitive practices in order to protect the public and to encourage fair and honest competition."³⁶ Consumer protection laws state the consumer may sue, under 9 V.S.A. 2453,

[Anyone] who sustains damages or injury as a result of any false or fraudulent representations or practices prohibited by 2453 of this title, or prohibited by any rule or regulation made pursuant to section 2453 of this title may sue for appropriate equitable relief and may sue and recover from the seller, solicitor, or other violator the amount of his or her damages, of the consideration of the value of the consideration given by the consumer, reasonable attorney's fees, and exemplary damages not exceeding three times the value of the consideration given by the consumer.³⁷

In this case, CSWD would be considered an "other violator."³⁸ The Vermont courts lay out principles needed to prove a violation under Vermont's Consumer Protection Laws. In *Poulin v. Ford Motor Co.* the court stated "[g]enerally the courts have required a misrepresentation which has the tendency and capacity to mislead a consumer."³⁹ The Vermont courts borrowed from the Federal Trade Commission general principles to determine whether there is a violation of consumer protection law. The Vermont court states "1) there must be a representation practice or omission likely to mislead consumers, 2) the consumer must be interpreting the message reasonably under

³⁴ Vermont Agency of Natural Resources, *Vermont's Universal Recycling Laws Status Report* (Jan. 2019), <https://dec.vermont.gov/sites/dec/files/wmp/SolidWaste/Documents/Universal-Recycling/2019.Universal.Recycling.Status.Report.pdf>.

³⁵ Vermont Agency of Natural Resources, *Notice of Alleged Violation to Chittenden Solid Waste District* (April 2018), <https://www.documentcloud.org/documents/6054738-NOAV-CSWDglass-2018-04-12.html#text/pl>.

³⁶ 9 V.S.A. § 2451

³⁷ 9 V.S.A § 2453

³⁸ See *Knusten v. Dion*, 90 A. 3d 866, 871 (Vt. 2013) (where the court stated an 'other violator' could be anyone who is engaged in an unfair or deceptive commercial practice in violation of the CFA's prohibition on such activity).

³⁹ *Poulin v. Ford Motor Co.*, 147 Vt. 120, 513 A.2d 1168, 1171 (1986).

the circumstances and 3) the misleading effect must be ‘material’ that is likely to affect consumers conduct or decision in regard to that product.”⁴⁰ The court applied these principles in *Winey v. William E. Dailey Inc.* and said “[the] plaintiff need only show that there was a misrepresentation likely to mislead her, that she interpreted it reasonably under the circumstances and that the misleading nature of the representation was likely to affect her conduct or decision with respect to the contract.”⁴¹

Vermont Consumer Protection Laws are guided by similar construction of the Federal Trade Commission Act.⁴² Vermont Courts have used various factors to determine whether an act or practice is considered, even if not unlawful, possibly unfair.⁴³ The factors are:

(1) [W]hether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise -- whether, in other words, it is within at least the penumbra of some common-law, statutory, or other established concept of unfairness; (2) whether it is immoral, unethical, oppressive or unscrupulous; (3) whether it causes substantial injury to consumers.⁴⁴

Application of Vermont’s Consumer Protection Laws

The actions of CSWD and its misrepresentations to consumers and to trash haulers seem to satisfy the elements needed for a consumer protection violation. CSWD released advertisements like the ones given to the Vermont Senate Natural Resource and Energy Committee for testimony on S.208 as provided by Jen Holliday, as indicated by CSWD on its website under blue-bin recycling, and in a video as provided by CSWD to give more information to the public as to what happens at their MRF with consumers’ curbside recyclables.^{45 46 47} These advertisements reasonably led trash haulers and other consumers who bring their materials to CSWD’s MRF to believe their glass is either

⁴⁰ *Id.* at 124-125, 513 A.2d at 1171-1172.

⁴¹ *Winey v. William E. Daily, Inc.* 161 Vt. 129, 636 A.2d 744, 748 (Vt. 1993).

⁴² *Christie v. Dalming, Inc.*, 136 Vt. 597, 396 A.2d 1385, 1387 (Vt. 1979).

⁴³ *Id.* at 1388.

⁴⁴ *Id.*

⁴⁵ Chittenden Solid Waste District. *CSWD Materials Recovery Facility (MRF)*. <https://cswd.net/chittenden-county-solid-waste-facilities/materials-recovery-facility/>.

⁴⁶ Jen Holliday, *Witness Testimony (2) for S.208*, Vermont Senate of Natural Resources and Energy Committee, (Feb. 20, 2018), [https://legislature.vermont.gov/Documents/2014/WorkGroups/Senate%20Natural%20Resources/Bills/S.208/Testimony%20and%20Public%20Comment/S.208~Jennifer%20Holliday~Witness%20Testimony%20\(2\)~2-20-2014.pdf](https://legislature.vermont.gov/Documents/2014/WorkGroups/Senate%20Natural%20Resources/Bills/S.208/Testimony%20and%20Public%20Comment/S.208~Jennifer%20Holliday~Witness%20Testimony%20(2)~2-20-2014.pdf).

⁴⁷ Chittenden Solid Waste District, *How Recycling Works: Behind the Scenes at the MRF* (2015), <https://www.youtube.com/watch?v=NYux4-KIY1o>.

being sold to market or is used appropriately in construction projects.⁴⁸ The trash haulers and consumers reasonably interpreted the public representations of CSWD under the circumstances. CSWD's advertisements may well have led the trash haulers and consumers to choose CSWD's MRF for their recyclables over another option.

Had consumers and trash haulers known CSWD would dump the glass instead of recycling it as CSWD originally advertised, they may have chosen another place to bring their recyclables. For example, Pat Austin said he would not have taken his materials to the CSWD MRF if he had known materials weren't being recycled.⁴⁹ Trash haulers are not required by law to use CSWD's MRF for recyclables and can bring their material somewhere else if they so choose. The trash haulers suffered a harm by spending their money and their time taking materials to the CSWD MRF when there may have been a better, more cost-effective option in other markets. Other markets that will take glass from trash haulers exist in places like Massachusetts, New York, and Canada.

Consumers may have experienced harm as well. For example, for beverage containers covered by Vermont's bottle redemption law, consumers have the option of returning their containers for redemption or possibly recycling them by placing them in their blue bins or taking them directly to the MRF. We know that many consumers believe that whether their bottles are redeemed or go to the MRF, they are treated the same – that is, they'll be recycled either way. Consumers may have been willing to forego their deposit as long as the glass is being recycled either way. But if consumers knew that glass from the MRF was being dumped instead of recycled by CSWD, they may have returned the containers for redemption.

The Vermont office of the attorney general promulgated a rule to further define what unfair business practices would be considered fraud under 9 V.S.A. § 2543 (c). The rule states:

A solicitation is not bona fide when the seller or illustration in any advertisement which would create in the mind of the consumer a false impression of the grade, quality, quantity, make, value, model, year, size, color, usability or origin of the goods or services in such a manner that, on subsequent disclosure or discovery of the facts, the consumer may be switched from the advertisements goods or services to other goods or services.⁵⁰

The attorney general's rule could apply to CSWD's unfair and deceptive business practices. Consumers and trash haulers were under the impression the glass would be recycled as previously advertised. People would not reasonably be expected to pay

⁴⁸ See Chittenden Solid Waste District. *CSWD Materials Recovery Facility (MRF)*.

<https://cswd.net/chittenden-county-solid-waste-facilities/materials-recovery-facility/> (Where the website makes clear that while usually commercial trash haulers use the MRF, citizens are also allowed to bring their blue box materials to the MRF as well).

⁴⁹ Pat Austin, *Testimony to the Vermont Senate of Natural Resources Committee*, Vermont Legislature (June 18, 2019).

⁵⁰ 9 V.S.A. § 2543 (c)

money to bring their recyclables to the CSWD MRF just to have the glass dumped along the side of a road. Had consumers and trash haulers known this would occur, they may have chosen somewhere else to bring the material so that it would be recycled.⁵¹

Furthermore the courts lay out factors they use to consider whether an act (the dumping of the glass by CSWD) is considered unfair. One of the factors that applies here is “[W]hether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise -- whether, in other words, it is within at least the penumbra of some common-law, statutory, or other established concept of unfairness.”⁵² The actions of CSWD conflict with the purpose of Act 148, Vermont’s Universal Recycling Law. The purpose of Act 148 was to:

[P]romote the following priorities... the greatest feasible reduction in the amount of waste generated, materials management which furthers the development of products that will generate less waste, the reuse and closed-loop recycling of waste to reduce the greatest extent feasible the volume remaining for processing and disposal, the reduction of the state’s reliance on waste disposal to the greatest extent, and the creation of an integrated waste management system that promotes energy conservation, reduces greenhouse gases, and limits adverse environmental impacts.⁵³

CSWD dumping the glass is in direct conflict with the spirit of Act 148. Dumping the glass does not further promote the policy of Act 148 and offends its purpose. Act 148 promotes reuse and recycling. It does not encourage the generation of more waste and most certainly does not condone CSWD dumping glass.

CONCLUSION

There are two distinct issues of concern for CSWD’s actions. First, CSWD broke environmental regulations. As the NOAV describes, CSWD violated Vermont’s Solid Waste Management Rules. CSWD needs to be held accountable for its actions. This is especially important since CSWD is suggesting in public forums that its actions with the glass were lawful.⁵⁴ Further, CSWD has denied any investigation is taking place.⁵⁵

⁵¹ See also *Winey v. William Dailey, Inc.* 161 Vt. 129, 136, 636 A.2d. 744 (Vt. 1993) (describing the ‘classic bait and switch’ technique by which a seller induces a consumers interest with an attractive offer and switches to other merchandise or terms, considerably less advantageous for the consumer).

⁵² *Christie v. Dalming, Inc.*, 136 Vt. 597, 396 A.2d 1385, 1387 (Vt. 1979).

⁵³ Vermont’s Universal Recycling Law of 2012, 10 V.S.A. § 6602 (2012)

⁵⁴ NEK-TV Newport, VT, *Newport City Council Meeting 07-22-19* (July 22, 2019), <https://www.youtube.com/watch?v=Ki68Hh4ZkZs&feature=youtu.be>.

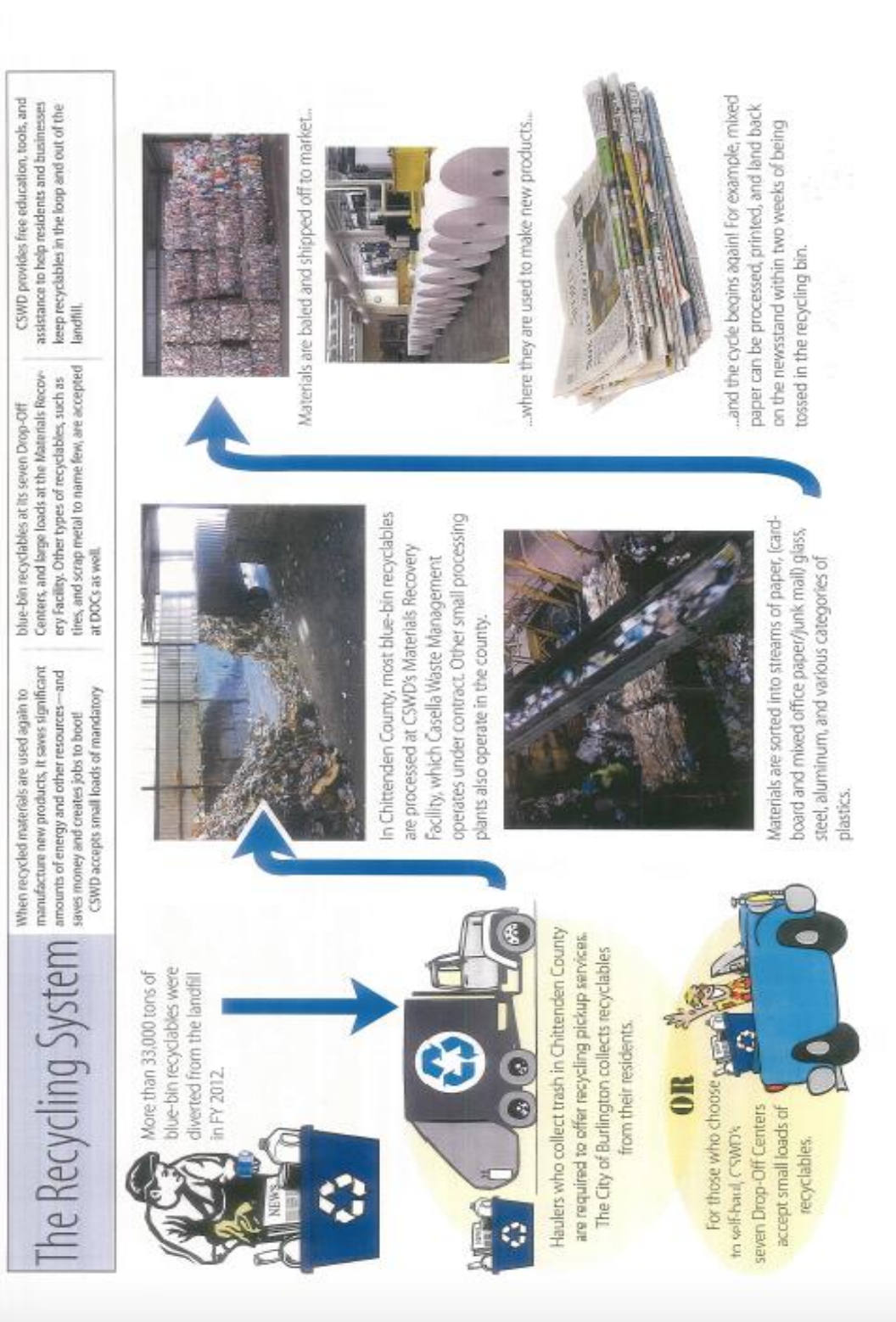
⁵⁵ *Id.*

VPIRG is concerned that without a substantial rebuke of CSWD's actions we can expect a more cynical attitude towards recycling. In other words, if CSWD gets away with dumping recyclable glass, we are concerned there could be an increase in illegal dumping by other citizens and businesses in the state.

VPIRG argues there is a consumer protection issue here as well. VPIRG firmly believes CSWD misled the public and trash haulers about what happens to their curbside recycling materials. It is CSWD's fraudulent claims that may have harmed private citizens, businesses, and trash haulers. Vermonters deserve to know the truth about CSWD's actions and need reassurance that the violations will be addressed. Once again, VPIRG urges the attorney general to pursue appropriate steps to hold CSWD publicly accountable for its actions.

Enclosure

- Jen Holliday's Flowchart presented to Vermont Senate Committee on Natural Resources in 2012 on S. 208
- Jen Holliday's Testimony to the Vermont House Committee on Natural Resources and Energy on H.206
- VPIRG's Email Correspondence with Jen Holliday
- CSWD's Website on "How the MRF Works"
- ANR's Acceptable Uses of PGA from 2001
- ANR's NOAV to CSWD from April 2018
- John Dillon's VPR Article from May 2019
- John Dillon's VPR Article from June 2019
- The City of Newport's Letter to CSWD from 2019
- VT Digger Article on CSWD Dumping Glass from 2019
- Seven Days Article on CSWD and the MRF from 2016
- John Brabant's Pictures from the Williston Landfill presented as testimony to the Vermont Senate Committee on Natural Resources in 2019
- ANR's Universal Recycling Law Report from 2019



Jen Holliday's Testimony to the Vermont House Committee on Natural Resources and Energy on H.206



CHITTENDEN SOLID WASTE DISTRICT
1021 Redmond Road • Williston, VT 05495-7729
802-872-8100 • Fax: 802-878-5787 • Web: www.cswd.net

Testimony on H.602

Provided by Jennifer Holliday, Chittenden Solid Waste District

Submitted to the Vermont House Committee on Natural Resources and Energy

February 25, 2016

Chairman Klein and Committee Members,

Thank you for providing this opportunity to discuss H.602

CSWD supports H.602 but would like to see the bill allow for grants to include capital investments made since January 1, 2015. Several major provisions of the law including mandatory recycling, kicked in on July 1, 2015. Regional solid waste planning entities, transfer stations and haulers had to make investments to comply. Six months prior to the requirement of this first major milestone is a reasonable starting date to fund capital projects. Entities that invested early or on-time to comply should benefit from grant money and not be penalized by the delay in available funding. Let me be transparent about this request. CSWD intends to invest in glass processing equipment at our MRF this June. The equipment will hopefully make this problematic material less contaminated and more marketable. CSWD estimates we process approximately 60% of the blue bin glass collected in the State. Grant funding will help keep our tipping fees down at the MRF which will help keep curbside collection costs down.

The second request that we have is the following changes to the language on page 4 line 17: to construct, **upgrade or purchase equipment for** solid waste management facilities to accept, process or recycle mandated recyclables, leaf and yard residuals, food residuals or **architectural waste**.

This change will support equipment necessary for processing and not just new construction. SWIAC specifically recommended administering grants or loans to existing processing facilities to increase their capacity before investments are made in new facilities. The current language only allows for funding of construction and not equipment or upgrades to existing solid waste facilities that might be necessary to implement Act 148.

The third request we have is to include architectural waste processing facilities and equipment eligible for grant funding. Architectural waste makes up a considerable portion of the waste stream and facilities and equipment that increases its diversion should be supported with funding. There is currently not enough infrastructure in the state. Also, solid waste districts may apply for funding for equipment such as a grinder for clean wood that could be portable and moved around the State and shared. The current language would not allow this. Architectural waste, which by definition, includes clean wood as well as other materials that are banned from disposal if there are facilities that accept the material nearby.

The fourth request is to authorize the Agency to establish a set of specific criteria for grant funding with input from the Solid Waste Infrastructure Advisory Committee that includes criteria developed by the SWIAC committee on page 27 of the SWIAC report 2/2015.

The rest of the testimony on Solid Waste Management Fees and roles of solid waste district vs. private sector.

VPIRG's Email Correspondence with CSWD's Jen Holliday

-----Original Message-----

From: Johanna deGraffenreid
Sent: Monday, December 18, 2017 1:27 PM
To: jholliday@cswd.net
Cc: Sam Hurt
Subject: Follow-Up from Meeting

Jen,

As a follow up to the conversation, we'd really appreciate her help in gathering some specific data points on material that has been handled by CSWD over the past 10 years. We're trying to better understand trends in recycling and markets for recyclable material.

Is it possible to provide us with data that show what the average annual price per recyclable material that CSWD has received over the past 10 years? To be clear, we're looking for data on paper (perhaps multiple grades of paper), glass, aluminum, other metals, PET, HDPE, other plastics.

For these same materials, we're interested in knowing where the materials go now (what vendor is contracted to receive them), where they've gone in the past, and what ultimately happens to those materials (and what has happened to them over the past ten years). In other words, we want to know if these materials are recycled into new substances or products that consumers might be familiar with. And has there been a shift in this activity over the last decade. We'd be interested in as detailed information as you can provide here, including contact information for vendors.

...

Thanks again for meeting with us,

Johanna de Graffenreid

Environmental Advocate
Vermont Public Interest Research Group (VPIRG) johanna@vpirg.org

-----Original Message-----

From: Jen Holliday <jholliday@cswd.net>

Sent: Tuesday, January 23, 2018 4:25 PM

To: Johanna deGraffenreid <jdegraffenreid@vpirg.org>

Cc: Sam Hurt <shurt@vpirg.org>; Paul Burns <pburns@vpirg.org>; JOSH TYLER <jtyler@cswd.net>

Subject: RE: Follow-Up from Meeting

Hi Johanna,

Sorry that it has taken me a while to respond to your request. This is a lot of information that you are looking for and much of it we either don't have the resources here to compile it or we don't have the information at all.

Our MRF is operated by Casella who is responsible under contract for processing and brokering the material at the CSWD MRF. We pay a processing fee and they share the revenue on material sales with CSWD. Therefore it is in their best interest to get the best market price that they can. We are not involved with brokering the material at all and therefore can't provide you with end market information. The only exception to this is glass which Casella is not responsible for marketing due to its low value. We have mostly been providing glass for free in construction projects and hope to work with the quarries this year with replacing some of the sand that they use for glass.

If you want more information on markets for the other materials processed at the MRF you can try contacting Casella.

As far as analyzing the recycling stream coming into the MRF, it is impossible to do this for glass. Glass containers are intentionally crushed in the beginning of the process and removed. We could possibly look at glass containers coming in on the tipping floor but have never had a reason to do this. If you're looking for what is headed to the landfill I would use the ANR 2012 Waste Composition Study. There were many categories, glass is likely one of them.

I have attached information on tonnage of various materials processed at the MRF that might be helpful. One is for materials managed in FY17, and the other is materials managed over the past 5 years.

Sorry I can't be of more help.

Jen

CSWD's Website on "How the MRF Works"

CSWD Materials Recovery Facility (MRF)

[Jump to tour information](#)

[Jump to funding information](#)

Location: 357 Avenue C, Williston, VT 05495

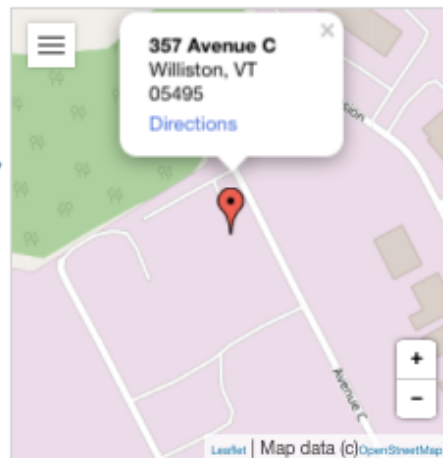
Hours: Monday through Friday 6:00 a.m. – 3:30 p.m. Certain holidays may affect hours of operation.

Phone: (802) 651-5481

Fee: \$65/ton

About the Materials Recovery Facility

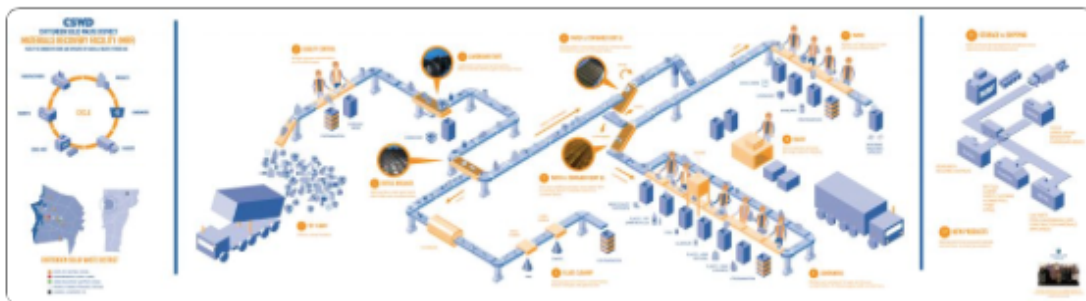
The Materials Recovery Facility, or MRF (rhymes with "smurf"), is where large loads of [blue bin recycling](#) are sorted and prepared for market. The MRF is owned by Chittenden Solid Waste District and operated under contract by Casella Waste Management. Although primarily used by licensed commercial haulers, the MRF also accepts large loads from residents and businesses who want to haul recyclables themselves (minimum 1 cubic yard).



Commercial haulers must have a current [CSWD Hauler License](#) to bring materials to the MRF.

How the MRF works

The MRF is engineered to mechanically separate bottles, cans and other containers from mixed paper and cardboard. After the initial sort, workers manually separate recyclables (with the exception of glass) into different material types. After sorting, like materials are compacted into bales and shipped to market to be made into recycled products.



[Enlarge](#)

ANR's Acceptable Uses of PGA from 2001



State of Vermont

Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation
State Geologist
RELAY SERVICE FOR THE HEARING IMPAIRED
1-800-253-0191 TDD-Voice
1-800-253-0195 Voice-TDD

AGENCY OF NATURAL RESOURCES
Department of Environmental Conservation

Waste Management Division
103 South Main Street/West Building
Waterbury, VT 05671-0404
(802) 241-3888
Fax: (802) 241-3296

Acceptable Uses for Processed Glass Aggregate

Original: August 1994,
Revised: July 1996
Revised: January 2002

Introduction:

Glass collected through community recycling programs consists primarily of clear, green, and brown food or beverage containers. Color-sorted glass has the highest resale value in glass container markets, however some glass is broken during transportation or sorting, resulting in a lower value mixed glass cullet. Further, the market price for recycled glass as cullet has decreased in recent years, a trend that is not expected to reverse in the foreseeable future. The Agency of Natural Resources encourages safe and credible alternative uses of recycled glass.

This acceptable use paper, issued by the Solid Waste Management Program, outlines the requirements for the acceptable use of uncontaminated, mixed color, processed glass aggregate (PGA) as a replacement for other natural aggregate materials (gravel, crushed gravel, or crushed stone). Public and private entities can use PGA for the applications listed below without prior authorization from the Solid Waste Management Program.

Definition of Processed Glass Aggregate (PGA):

For the purpose of this document, PGA is mixed glass cullet produced from crushed and screened clean food and beverage containers. China dishes, ceramics, or plate glass shall be limited to 5 percent by mass of glass cullet. Screw tops, plastic rings, paper, labels and other deleterious materials shall be limited to less than 1 percent by mass of the PGA. Cathode ray tubes and fluorescent light bulbs are not allowed as feedstock for PGA. The PGA shall contain no hazardous waste. PGA must be crushed and screened such that 95 percent of the material passes a 25.0 mm screen and not more than three percent of the material passing the 4.75 mm sieve passes the 75 μ m sieve.

Processed Glass Aggregate Policy, January 2002

Allowable Applications:

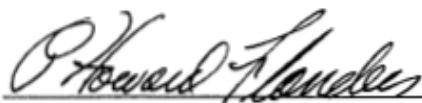
PGA is exempt from the provisions of the Solid Waste Management Rules under Section 6-301(b)(4), and will not be considered solid waste when used for the following applications:

1. Roadway, Trail, Parking Lot, Sidewalk Applications:
 - a. Base course: layer(s) of specified material supporting a surface course
 - b. Subbase: layer(s) of specified material placed on a subgrade to support a base or surface course.
 - c. Embankments: a portion of a fill section situated between the existing ground and the subgrade.
2. Utility Trench Bedding and Backfill Applications:
 - a. Backfill material for underground utilities: sewer and water pipes, electrical conduit, and fiber optic line
3. Drainage Applications:
 - a. Free draining backfill behind retaining walls.
 - b. Foundations drains, drainage blankets, French drains.
4. Filter media for wastewater treatment systems.
5. Landfill cover. (Requires Solid Waste Management Program pre-approval.)
6. Bulking agent for compost. (For certified facilities, this requires Solid Waste Management Program pre-approval.)

Processed Glass Aggregate Policy, January 2002

The technical suitability of PGA in the listed applications must be determined by the user. Conformance with this policy does not provide authorization of any activity in lieu other state or local laws or specifications which may also govern.

For a resource list of PGA-related publications that include specifications, contact a staff person in the Recycling Section. For authorization for other applications not listed in this document contact a staff person in the Solid Waste Management Program. Both can be reached at (802) 241-3444.



P. Howard Flanders, Director, Waste Management Division

Date

ANR's NOAV to CSWD from April 2018



Agency of Natural Resources
Department of Environmental Conservation
Waste Management & Prevention Division
1 National Life Drive, Davis 1
Montpelier, VT 05620-33704

NOTICE OF ALLEGED VIOLATION ("NOAV")
10 V.S.A. § 8006(b)

Alleged Violator (Respondent): Chittenden Solid Waste District
Sarah Reeves, General Manager
1021 Redmond Rd
Williston VT 05495

CERTIFIED MAIL#
7015 3010 0001 4961 0435

You are hereby put on notice that the Agency of Natural Resources believes that you are in violation of the Vermont Statutes, Regulations, and Permits noted below:

1. *Vermont Solid Waste Management Rules §6-302(d) - Disposal outside a certified facility*
2. *Vermont Solid Waste Management Rules §6-1208 (a) - Failures to accurately report on the destination of waste.*

Description of Alleged Violations:

On 4/3/18, Agency staff observed fill areas containing thousands of cubic yards of discarded crushed glass at two locations on Redmond Road owned by Chittenden Solid Waste District (adjacent to the closed landfill and the compost facility). District staff stated that the glass was non-marketable recycled glass from the MRF (materials recovery facility) owned by the District and located at 357 Avenue C in Williston. Review of Department records found that no approvals have been issued for the storage or disposal of glass at these locations. Review of quarterly reports submitted by the District found that the destination for the glass has been incorrectly reported as "local projects".

Compliance Directives:

1. Immediately cease the storage or disposal of glass outside of certified facilities and provide accurate quarterly reports.
2. Within 14 days of receipt of this notice, submit all records related to the material, including dates of delivery, volume, gradation analyses, and percent deleterious content analyses.
3. Within 120 days of receipt of this notice, either:
 - a. Remove all glass from the two locations to a certified recycling or disposal facility(ies) permitted to accept the material. Disposal at any location requires prior written approval of the Secretary in accordance with Condition #11 of the MRF certification (SWF ID#CH954); or
 - b. Obtain solid waste certification for the disposal area and comply with all conditions of the certification. If a certification is not issued, removal (per 3a) is required.
4. If the material is removed as described in 3a above, notify the Agency upon the start and the completion of the cleanup, and allow Agency staff to inspect the site.
5. If the material is removed as described in 3a above, within 14 days of delivery of the glass, submit tipping receipts from the receiving facility(ies) to the Agency.

In response to the alleged violation(s), the Agency may issue a Civil Complaint pursuant to 10 V.S.A. Section 8019 which would assess a penalty. The Agency may also issue an Administrative Order pursuant to 10 V.S.A. Section 8008 which would require full compliance with all applicable statutes, rules, and/or permits; assess penalties; and if necessary, require corrective/restorative action and any other measures deemed appropriate. Prompt correction of the alleged violation(s) may lessen the possibility or severity of any enforcement action taken by the Agency. We request a written response within 14 days of receipt of this NOAV, which sets forth the reasons for the existence of the alleged violation and your intentions with respect to prompt correction.

If you have any questions about this notice, call Barb Schwendtner, Solid Waste Compliance Chief, at 802-249-5904. This NOAV was served on the above-designated Respondent by certified mail.

Cathy Jamieson Solid Waste Program Manager
Waste Management & Prevention Division

Dated: April 12, 2018

John Dillon's VPR Article on Vt. Senate Committee First Look at CSWD's Actions and John Brabant Testifying from May 2019

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Vt. Senate Committee Looks At Allegations That CSWD Dumped Glass Instead Of Recycling It

By JOHN DILLON (/PEOPLE/JOHN-DILLON) · MAY 1, 2019

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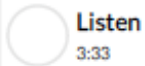
[u=http%3A%2F%2Fwww.tinyurl.com%2Fy2dgek3d&t=Vt.%20Senate%20Committee%20Looks%20At%20Allegations%20That%20](http://www.tinyurl.com/2Fy2dgek3d&t=Vt.%20Senate%20Committee%20Looks%20At%20Allegations%20That%20)



(//www.vpr.org/sites/vpr/files/styles/x_large/public/201905/GlassIssue-SenateCommittee_Dillon_0501.jpg)

Sen. Christopher Bray, the chairman of the Senate Natural Resources Committee, examines a jar of crushed glass allegedly dumped at an unlicensed facility in Williston.

JOHN DILLON / VPR



The state is investigating the Chittenden Solid Waste District for allegedly dumping glass it collects from northern Vermont instead of recycling the material as required.

The state put the district on notice (https://www.vpr.org/sites/vpr/files/noav.cswdglass.2018.04.12_1_.pdf) last year that it had allegedly violated environmental laws. The allegations resurfaced Wednesday in a Senate committee; Chittenden Solid Waste District officials say they have not done anything wrong.

John Brabant was a state regulator on waste issues for 25 years and now works for Vermonters for a Clean Environment, an activist group.

Earlier this week, Brabant tapped into his expertise and explored a closed landfill in Williston. He said he found an unlicensed dump, piled with thousands of tons of crushed glass that was supposedly recycled.

The former regulator brought back photos and videos of the site, plus a little show-and-tell for the Senate Natural Resources Committee: large Mason jars full of crushed glass and chunks of plastic.

The Chittenden Solid Waste District owns the site. Brabant said the district apparently dumped truckloads of the material over a steep bank.

"It's an amazingly large dump," Brabant said. "This stuff, because it does not meet the exemption provided under the PGA – the processed glass aggregate exemption policy – it is then regulated as a solid waste. It must therefore go to a solid waste management facility that is certified. This is not one that's certified."

"It's an amazingly large dump." – John Brabant, Vermonters for a Clean Environment

Here's the thing about glass: It's an inert waste, meaning it doesn't break down into anything nasty or poisonous. It's heavy, so it's expensive to truck and store. Finally, there's not much of a market these days for that empty wine bottle you toss into your recycling bin.

Most glass that gets recycled doesn't get made into new glass containers. It's often crushed and used as sand in construction projects.

Essex-Orleans Sen. John Rodgers said the state policy around glass disposal doesn't make sense. He argued the glass should be landfilled until recycling markets improve. Instead, he said, haulers in the Northeast Kingdom are required to truck it to Chittenden County and pay the district to dispose of it.

"So not only are we driving huge amounts of miles and burning fuel that we shouldn't be burning, but we're also having to pay the tipping fee, and then Chittenden County Solid Waste was illegally dumping it," Rodgers said.

Solid waste district officials disagree with the allegations of wrongdoing. When pressed by Rodgers, Jennifer Holliday – the district's director of public policy – told the committee that she could not comment on the notice of alleged violation, known as an NOAV, that the state issued last April.

"So why was the stuff dumped?" Rodgers asked. "Was there just no market for it at that time?"

"I don't want to comment on that current NOAV right now," Holliday told him. "We disagree with the NOAV. It would take a lot of in-depth conversation, and I don't want to get into that."

"I don't want to comment on that current NOAV [notice of alleged violation] right now. We disagree with the NOAV." – Jennifer Holliday, Chittenden Solid Waste District

Chittenden Solid Waste District executive director Sarah Reeves said her staff is working with the state to resolve the issue. In an email, she said, "it's not accurate to describe the discussions we're having with them as an investigation."

The notice of alleged violation says the district has dumped thousands of cubic yards of crushed glass at two locations on the district's property. The document says the district did not have approval to put it there, and that quarterly reports filed with the state incorrectly stated that the material has been used for "local projects."

The district was also ordered to either remove the glass or obtain the proper approval from the state to put it there.

The issue is not resolved. An Agency of Natural Resources official told senators that the case has been referred to the Attorney General's Office.

TAGS: [ENERGY & ENVIRONMENT \(/TERM/ENERGY-ENVIRONMENT\)](#) [RECYCLING \(/TERM/RECYCLING\)](#)

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John Dillon's VPR Article on CSWD Dumping Glass with Pat Austin Testifying from June 2019

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Newport Mayor Questions If Glass Sent To Chittenden Was Dumped, Not Recycled

By JOHN DILLON (/PEOPLE/JOHN-DILLON) • JUN 18, 2019

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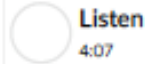
[u=http%3A%2F%2Fwww.tinyurl.com%2Fy2hnmnx&t=Newport%20Mayor%20Questions%20If%20Glass%20Sent%20To%20Chitte](http://facebook.com/sharer.php?u=http%3A%2F%2Fwww.tinyurl.com%2Fy2hnmnx&t=Newport%20Mayor%20Questions%20If%20Glass%20Sent%20To%20Chitte)



(//www.vpr.org/sites/vpr/files/styles/x_large/public/201906/JD-NEKGlass-PatAustin-0618.JPG)

Northeast Kingdom trash hauler Pat Austin brought his concerns about glass recycling to a meeting of the Senate Natural Resources Committee in May.

JOHN DILLON / VPR



The city of Newport and a Northeast Kingdom trash hauler have raised concerns that the glass they paid to recycle was dumped instead.

The mayor of Newport has complained (https://www.vpr.org/sites/vpr/files/cswd_june_3_2019.pdf) to the Chittenden Solid Waste District about the issue. But the district says the trash glass is being handled correctly.

Northeast Kingdom trash hauler Pat Austin vented his frustration in early May at a state Senate Natural Resources Committee hearing called to discuss glass recycling. (<https://www.vpr.org/post/vt-senate-committee-looks-allegations-cswd-dumped-glass-instead-recycling-it#stream/6>)

He said Act 148, Vermont's mandatory recycling law (<https://cswd.net/about-cswd/universal-recycling-law-act-148/>), is outdated because of upheavals in the global market. Over the last several years, China, once the world's largest buyer, has rejected recyclable products from North America.

"You should be really concerned about what's happening with the recycle stream, because this law was put into play when China would take anything," Austin said.

China's decision was a game-changer in the regional recycling market. But glass recycling has been problematic for years. There just isn't much demand for discarded wine bottles and jelly jars.

Austin also brought up more local concerns. He told the Senate panel that, under the law that bans glass from landfills, he has to pay to ship his glass to a recycling center like the Chittenden Solid Waste District.

He added that the glass was not recycled, but was improperly dumped for a time at an old landfill owned by the district.

"The people pushing that policy - I'm not accusing anybody - but the people pushing that policy were making my customers think that it was being re-used," Austin said. "And that's a problem for me."

The state is investigating the allegations, and the case was referred to the Vermont attorney general's office.

Austin's concerns are shared by the city of Newport. Mayor Paul Monette recently wrote the Chittenden Solid Waste District to ask for a full accounting of how it handles the glass that Newport sends.

**"If you look at all the information and the violation, it appears they [Chittenden Solid Waste District] have just been dumping it into their old closed landfill, which to me is not acceptable."
— Newport Mayor Paul Monette**

"Basically, all of our glass, since we started recycling, hasn't been recycled," Monette said. "If you look at all the information and the violation, it appears they've just been dumping it into their old closed landfill, which to me is not acceptable, especially since we just received a letter from the district increasing our fee by \$10 a ton."

Michele Morris, the district's director of outreach and communications, said the crushed glass was used for a time to stabilize a road and a bank at the old landfill. But she added that the practice was stopped more than a year ago after the district got the notice from the state about an alleged violation.

Now the crushed and cleaned glass is mixed with material from a local quarry for use in construction and road projects, Morris said. Some of the glass is also shipped to Canada for further processing.

The district has to pay to get rid of the glass, and both methods are approved by the state, Morris said. She added that the environmental enforcement case is still unresolved, but that the attorney general is not investigating.

The attorney general confirmed that it has the case, though did not say when it would be resolved.

"The agency [of Natural Resources] is the one coming onsite, and looking at everything and interviewing staff," Morris said. "The AG's office just has more flexibility in how they can determine an end result."

Meanwhile, she said the district has responded (https://www.vpr.org/sites/vpr/files/newport_itr_06172019.pdf) to Newport's concerns with a letter that spells out how the glass is being handled.

"We just want to assure them, assure Mayor Monette and the residents of Newport and anybody up in that area, that we have been using this material appropriately." — Michele Morris, Chittenden Solid Waste District

"We just want to assure them, assure Mayor Monette and the residents of Newport and anybody up in that area, that we have been using this material appropriately, and we're describing ... how we've used it," Morris said. "And we recognize that everybody that uses our material recovery facility is concerned about increasing tip fees."

She added that there's a common misunderstanding that glass sent to a single stream recycling center like the one in Chittenden County gets made into new glass bottles or containers. That rarely happens.

Morris said that glass beer bottles have a better chance of being turned into new bottles, because these containers are separated by color and are easier to process.

TAGS: [RECYCLING \(/TERM/RECYCLING\)](#) [ENERGY & ENVIRONMENT \(/TERM/ENERGY-ENVIRONMENT\)](#)

[THE VERMONT LEGISLATURE \(/TERM/VERMONT-LEGISLATURE-0\)](#)

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Mayor of Newport Letter to CSWD

City Manager..... (802) 334-5136
City Clerk / Treasurer..... 334-2112
Public Works..... 334-2124
Zoning Adm. / Assessor..... 334-6992
Recreation / Parks..... 334-6345
Fax..... 334-5632

June 3, 2019



City of Newport
222 Main Street
Newport, Vermont 05855
www.newportvermont.org

Chittenden Solid Waste District (CSWD)
1021 Redmond Road
Williston, Vt. 05495-7729

Dear Sarah

The City of Newport has read with interest the article that appeared on Vermont Public Radio's web page on May 1, 2019, attached, and the article and copy of the NOAV dated April 12, 2018, that appeared in Vermont Digger on May 29, 2019, also attached.

As you know, Act 148 requires haulers who provide curbside rubbish pick up also provide curbside recycling services. It is our understanding that the recycling collected by haulers in our area is delivered to your facility for further processing. The City of Newport residents and businesses have been faithfully recycling believing they are making a positive contribution to our environment by lessening the amount of waste and increasing the amount of recyclables. The City has also encouraged recycling and waste diversion through the educational and outreach requirements of our SWIP.

The NOAV and recent articles are concerning, and we are unclear how storing recycled glass or utilizing glass to stabilize an embankment at your closed landfill facility would constitute as recycling. It is also unclear to us why your District reported the destination of the glass to ANR as used in "local projects" in lieu of its actual use and destination.

We would like to continue to emphasize to our residents and businesses the importance of recycling and justify the costs they are incurring (especially with the recent increases in tip fees at your facility) to ensure their items are being recycled. We are formally requesting an explanation and confirmation from CSWD that the recycling, mainly glass, collected from the City of Newport is and has been recycled.

We look forward to your response. Thank you for your time and consideration.

Sincerely

Paul L. Morlette, Mayor
City of Newport

Cc: Agency of Natural Resources, CSWD Board Members, Senate Natural Resources Committee, Coventry, Vt., Derby, Vt., Governor Phil Scott, T.J. Donovan, Attorney General, Senator Robert Starr, Senator John Rodgers, Representative Mike Marcotte, Representative Woodman Page, Northeast Kingdom Waste Management District board

VT Digger Article on CSWD Dumping Glass from 2019

8/8/2019

Glass dumping violation points to poor glass recycling market - VTDigger



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ENERGY & ENVIRONMENT

Glass dumping violation points to poor glass recycling market

By **Elizabeth Gribkoff**

May 29 2019 | 6 reader footnotes



Employees of Casella Waste Systems sort recyclables at the Chittenden Solid Waste District's material recovery facility in Williston. Photo by Elizabeth Gribkoff/VTDigger

The Chittenden Solid Waste District may have violated state law when it crushed and spread glass brought to its Williston facility for recycling.

The state has cited the facility and another waste district is threatening legal action.

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<https://vtdigger.org/2019/05/29/glass-dumping-violation-points-poor-glass-recycling-market/>

1/10



News in pursuit of truth

In April 2018, the ANR sent the Chittenden district a Notice of Alleged Violation for disposing of glass outside a certified facility and for failing to accurately report the disposal to the state. The district contends that it was using the crushed glass as an embankment — a use allowed by the state.

Vermont has 16 [solid waste districts](#) that work to reduce waste and ensure adequate regional access to recycling, composting and trash disposal facilities. CSWD owns one of the state's two material recovery facilities, also referred to as a MRF, in Williston. The MRF sorts most of northern Vermont's single stream, or "blue bin," recyclables.

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COMPLAINT SECTION CHIEF FOR ANR'S WASTE MANAGEMENT DIVISION, SAID SHE COULD NOT COMMENT ON THE SPECIFICS OF THE ALLEGED VIOLATIONS WHILE THEY WERE STILL BEING REVIEWED BY THE ATTORNEY GENERAL'S OFFICE.

"I can tell you that they've stopped adding to it," she said of the disposal sites. She added that "all sites look the same" as when the state sent the alleged violation notice.

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The allegations resurfaced at a Senate Natural Resources and Energy Committee [meeting earlier this month](#). John Brabant, regulatory affairs director for the nonprofit Vermonters for a Clean Environment, [testified](#) that CSWD, unable to recycle glass received at the MRF, had dumped crushed glass at a closed landfill.

Northeast Kingdom Waste Management District executive director Paul Tomasi sent a video of that meeting to NEKWMD board members.

At a May 14 meeting, the board voted to have Tomasi see what sort of legal recourse, if any, the district could take against CSWD for the alleged glass dumping. Tomasi expressed concerns that actions like this could tarnish the reputation of recycling facilities, according to the [meeting minutes](#).

The 49-town NEKWMD, which operates a source-separated recycling center in Lyndonville, sends glass to a Canadian company to be turned into fiberglass, said Tomasi in an interview Tuesday. But private waste haulers and four towns — Corinth, Kirby, Topsham and Westmore — within the district have sent glass to the Williston MRF, he said, and paid the Williston facility a tipping fee.

Tomasi said that for now, the NEK district's plan is to wait and see what the Attorney General's Office does. Rob McDougall, chief of the environmental protection division for the attorney general, said that the division is reviewing the case, but would not comment further.

"The more I look into this, the more I think, maybe we're jumping the gun a little bit and that the (Attorney General's) Office's ... inquiry should really be brought to a conclusion before anything else happens," said Tomasi.

Michele Morris, outreach and communications director for CSWD, did not deny that the district had put crushed glass at those sites but disagrees with the state's assertion that doing so was illegal.

Glass is heavy, made from a relatively inexpensive source material (sand), and has to be sorted by color, she said. So recycling glass "requires a lot of work and cleaning for a material that basically doesn't have much value in the markets," she said.

A [2018 survey](#) of Northeast MRFs found that 54% of reported glass is sent to processors for further cleaning, 38.37% is used at landfills and .02% is sent directly to container manufacturers. Respondents cited challenges of recycling glass as being wear and tear on equipment, contamination, lack of markets and cost.

Morris said that CSWD had not been dumping the glass but rather was using it to line a road along the closed Williston landfill. She pointed VTDigger [to a 2002 list from ANR](#) of "acceptable uses" for processed glass aggregate, which is glass that has been cleaned and crushed to a certain size. One of the uses of processed glass aggregate is as an "embankment" to fill in a slope.

"In our point of view, it was an approved, allowable application," said Morris.

CSWD stopped putting processed glass aggregate around the closed landfill as soon as it received the notice of alleged violation from the state, she said. The district now pays around \$5 a ton to send the crushed glass to the F.W. Whitcomb quarry in Colchester.



News in pursuit of truth

bottles — and getting the money back when they return empty containers to retailers or redemption centers.

Morris suggested the bottle bill could be expanded to cover wine bottles and other types of glass jars.

"That's a better stream for glass," she said. "Let's get it where it has the best likelihood of having its value retained and being made back into new glass."

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JANUARY 27, 2016

As State-Mandated Recycling Kicks In, the Market for Materials Slides

By NANCY REMSEN



MICHAEL TONN

Members of the executive board and staff of the **Chittenden Solid Waste District** sat around a table, their documents scattered among three pizzas and an assortment of soft drinks. Most everyone ignored the snacks, but in fact their business is all about the materials in which they were delivered: paper, pizza boxes and aluminum cans.

As of last July, the state of Vermont mandates recycling aluminum and steel cans, foil and pie pans, glass, certain plastic containers, corrugated cardboard, office paper, and other fiber products such as packaging and egg cartons, newspapers, magazines, boxboard and paper bags.

The market for most of those materials was strong when the legislature passed the **Universal Recycling Law in 2012**. But that has changed, acknowledged Cathy Jamieson, solid waste program manager at the **Vermont Department of Environmental Conservation**. Contributing to the drop: cheap oil and an economic downturn that has slowed manufacturing.

While "the timing of it was not ideal," Jamieson said, the market decline "is not preventing implementation of universal recycling." There is a cost to converting waste into reusable materials, "but even with the depressed market, it is still less than landfilling," she said.

In the **Northeast Kingdom Waste Management District**, which serves 49 rural communities, the money from selling recycled materials used to cover nearly one-third of the district's \$700,000 annual budget.

"We were riding a nice wave up until last spring," said executive director Paul Tomasi, and the district still has markets for all the materials it collects at 28 facilities scattered across northeastern Vermont. Most of it is reused in New York, New Hampshire, Canada and the mid-Atlantic states.

But even with that business, reduced revenue has forced "drastic measures to lower our costs," Tomasi said. The district no longer provides health insurance for the seven employees in its main office.

At CSWD, general manager Tom Moreau offered an example to illustrate how the recycling market has flipped in the past few years. He said that in 2012, when the Universal Recycling Law passed, he was paying haulers \$10 a ton for the recycling material that they delivered. Now he charges them \$21 a ton.

The CSWD processes 44,000 tons of recycling annually. In some years, Moreau said, the money raised from recycling sales has covered the district's entire budget. This year, recycling revenue is expected to cover only a portion of projected costs — \$1.4 million of the nearly \$2.1 million operating budget.

Global forces influence prices, and the price of oil has plummeted. That affects the market for recycled plastics, which are made from petroleum. "When [manufacturers] can get virgin material cheaper than recycling, they buy virgin," Moreau said.

Plastics still have value, but prices have dropped more than 20 percent during the past six months. For example, the clear plastic used for beverage bottles dropped from \$287 a ton a year ago to \$205.

Moreau also cited the slowdown of the Chinese economy, which affects the market for materials such as steel. The district used to receive more than \$150 a ton for steel but now gets half that amount, \$76.

The market for newsprint has also shrunk, but so has the amount being recycled as readers migrate to the internet, Moreau said. The closure of a paper mill in Québec in 2014 dramatically changed the district's strategy and revenues for newsprint. "They were picking it up and paying \$73 a ton," he said. "We now ship to China and went from getting \$73 to \$47."

Cardboard pizza boxes like the ones on the board's table last week fetch \$96 a ton, a price that, unlike others, has held over the past year. You can't recycle greasy pizza boxes, but boxes that don't have food on them are acceptable. *

Aluminum soft-drink cans sell for \$1,095 a ton — down more than 20 percent from the \$1,478 a year ago. Smelting aluminum ore requires a lot of energy, so depressed energy prices make recycled cans less valuable.

The price often goes up in the spring when soft-drink and beer manufacturers gear up for summer beverage consumption, Moreau said. He noted that CSWD only sees a portion of the aluminum cans that are recycled because the state's bottle and can redemption law sends many of those through another pipeline.

Glass — the subject of the recent executive board meeting — has always been a challenge, Moreau said. Chittenden County residents supply the district's recycling facility with 7,000 tons of wine bottles, pickle jars and assorted glass a year. But there aren't many markets for it, facilities manager Brian Wright said.

The district used to separate clear glass from colored because clear had greater value. Beer bottle companies would take brown, but green and blue had no value. When a glass plant closed in New York some 15 years ago, the district decided that it would be cheaper to abandon separation and instead crush all the glass for use in construction.

That has been a hit-or-miss remedy. Moreau lists the price per ton as a negative number — minus \$1.21, plus shipping.

"Pike Industries normally takes around 1,500 tons of our clean 'fines' per year and pays us \$4 per ton," Moreau explained. "We never charge for our coarse glass aggregate, sometimes get contractors to haul it away for free, sometimes pay a trucking company to move it to a private or to a CSWD job, and sometimes store it off-site on CSWD property."

Currently, Wright said, the best opportunity is to provide the recycled glass in sand-like form to the **Vermont Agency of Transportation**, for use as a base for new roads. There's a problem, though: The district's crushed-glass product today, pulverized in a "hammer mill," Wright said, is too "dirty." Too many label scraps and bits of plastic and metal end up in the product.

That New Hampshire has lower road aggregate standards has benefited Tomasi. His Northeast Kingdom Waste Management District has a steady market in the neighboring state, but it collects just 380 tons annually compared to CSWD's 7,000.

CSWD's challenge: "We really need to clean up our glass to get it consistently used by VTTrans," Wright said.

After two years of research — including trips to other recycling facilities and equipment tests in Williston — Wright and general manager Moreau found three pieces of equipment that they believe could better clean the glass. They briefed the executive board on the proposal in hopes of getting the green light to propose the half million dollar purchase to the full board at a later date.

Glass isn't the only challenging material. Jeff Myers, president of **Myers Waste and Recycling**, briefed the House Transportation Committee last week on a process he has been developing for three years to divert asphalt shingles from landfills. "It's finally all falling together," he said in a telephone interview.

Myers has developed a system to remove nails and debris from the shingles before grinding them into small bits. He takes the ground shingles to an asphalt plant where they are added to the hot mix. He noted that it has been essential to figure out the correct ratio of each to ensure the pavement holds up.

House Transportation Committee chair Patrick Brennan (R-Colchester) has helped Myers connect with VTTrans to discuss establishing a standard for asphalt containing ground shingles. "There is a pilot project in Burlington we are watching," Brennan said. Last summer some shingle and asphalt mix was used to pave a section of road. "It is holding up well, so far," he said.

"We are working on the specifications now," Transportation Secretary Chris Cole confirmed. "We aren't opposed to trying things out."

Cole said the agency is also working with CSWD on its new glass-processing system. If the district can meet the state's specifications for glass aggregate, Cole said, "We are pretty confident we could use the supply."

At the executive board meeting, Allen Nye, representing Essex and Essex Junction, said he needed more detailed cost comparisons before he would vote for the purchase.

Board chair Paul Stabler of South Burlington wondered whether beverage manufacturers might shift from glass to aluminum in the next decade. Wright, the district's facilities engineer, said he expected to continue to see glass containers, noting that he didn't think wine would end up in cans.

Chapin Spencer, representing Burlington, asked Wright how sure he was that the equipment could produce glass aggregate that would meet the state's specifications.

"I am confident we have a good chance of getting under 1 percent," Wright said, referring to the maximum amount of contamination VTTrans would allow. "I feel pretty good."

John Brabant's Pictures from the Williston Landfill presented as testimony to the Vermont Senate Committee on Natural Resources in 2019









Vermont's Universal Recycling Law Report from 2019

Vermont's Universal Recycling law Status Report | January 2019

"Forging recycled aluminum products... uses 95% less energy than creating them from virgin materials... If the average worldwide recycling rate increases to 65% of total recyclable waste, household recycling could avoid 2.8 gigatons of carbon dioxide emissions by 2050."⁵ - Drawdown

Mixed Paper and Glass in 2018

Mixed Paper: In spring 2018, the Legislature authorized the ANR Secretary to issue a waiver allowing mixed paper disposal if insufficient recycling markets exist. This provision expires July 1, 2019. To date, no waivers have been requested. Creating domestic markets for recycled materials will help sustain recycling and retain recycling jobs in Vermont and the United States.

Glass: ANR approved Casella Waste Management's request to use recycled glass from the Rutland Materials Recovery Facility (MRF) for construction projects at the NEWSVT landfill in Coventry. ANR granted the request for several months in 2018 and required Casella to submit short- and long-term plans for managing recycled glass. Chittenden Solid Waste District invested in glass processing equipment at their Williston MRF so their glass can be used for state and local road projects.

Bales of cardboard and mixed paper at the Williston Materials Recovery Facility.



⁵ Drawdown: The Most Comprehensive Plan Ever Proposed to Reverse Global Warming ranks 100 solutions that could reverse global warming. Solutions #55, #56, and #70 are all forms of recycling. www.drawdown.org Citation. From <https://www.drawdown.org/solutions/materials/household-recycling>: November 5, 2018.

