

THE SOLID WASTE CRISIS

*by James J. Florio**

New Jersey is in a state of chaos over its growing solid waste crisis. From Gloucester and Camden Counties in my Congressional District, to Hunterdon, Mercer, Morris, Sussex, Cape May and other counties across our state, officials and citizens are going through a great trauma as they confront the dilemma of whether to site new sanitary landfills or build costly garbage-burning resource recovery plants.

This chaos, and the subsequent turmoil inflicted on county and local officials and residents, is the direct result of the failure by the state to take a leadership role in developing a coordinated solution to the solid waste crisis. The Department of Environmental Protection (DEP) has failed its mandated responsibility to create a comprehensive solid waste management plan. Such a plan could provide the overall direction needed by county and municipal officials as they struggle with the complicated problems of devising systems to dispose of their garbage.

The 1976 Resource Conservation and Recovery Act¹ (RCRA), which I helped formulate in Congress, entrusted the federal government with the responsibility for hazardous waste management while state governments were made primarily responsible for solid waste management. Under RCRA, all states were directed to develop comprehensive solid waste management plans and to submit them to the Environmental Protection Agency (EPA) for approval.

New Jersey enacted the Solid Waste Management Act² to provide a framework for the coordination of solid waste collection, disposal and use in resource recovery plants, which burn garbage to produce energy. The Act also set forth a structure to integrate planning at the local, county, regional and state levels.

The planning role of the DEP was central to the state Act.

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¹ 42 U.S.C. §§ 6901-6974 (1982).

² N.J. STAT. ANN. §§ 13:1E-1 to -37 (West 1979 and Supp. 1985).

That agency was directed to formulate a statewide solid waste management plan. The entire process, aimed at formulating a coherent and coordinated statewide strategy, was to culminate in the submission of separate management plans by each of the state's 22 solid waste districts.³ The DEP commissioner would then judge how the plans would fit into the statewide strategy devised by the DEP. The commissioner retained the option to approve, reject or modify each county's plan.

Unfortunately, the system has not worked as envisioned. Instead, the state has erroneously interpreted the Solid Waste Management Act to mean that the counties, not the state, are the major determinants of solid waste policy in New Jersey. Simply put, the state has evaded its responsibility to provide the necessary statewide planning to solve the solid waste crisis.

County governments and local Solid Waste Advisory Councils have neither the experience nor the expertise to make solid waste siting decisions. The final arbiters of many solid waste disputes have been the courts, which often have the least amount of expertise in environmental matters. The state becomes involved in the process, if at all, in the final stages. This is after counties and municipalities have spent countless hours and scarce dollars on consultants to arrive at a siting decision — a decision that can still be overturned by the courts or rejected by the DEP commissioner.

Clearly, the DEP, the only government agency with the necessary environmental expertise, should be assisting the counties from the outset. The failure to do so represents a lack of leadership and an unwillingness to make the difficult planning decisions that are necessary for the efficient, effective operation of our state. The failure by the state has forced each county to endure much aggravation while attempting to site landfills and resource recovery facilities. This situation is highlighted by the ludicrous fact that if a county does not site a landfill or a resource recovery facility, the DEP, which offered no assistance, can haul the county into court for failing to abide by the Solid Waste Management Act.⁴

³ "Every county in the State of New Jersey [21] and the Hackensack Meadowlands District is hereby designated a Solid Waste Management district." N.J. STAT. ANN. §13:1E-19 (West 1979 and Supp. 1985).

⁴ See *supra* note 2.

The lack of central leadership has balkanized the state. Instead of the counties working together for a joint solution, they have been divided and set against each other.

When I travel throughout New Jersey to talk to residents and officials about the solid waste crisis, I find that many of these concerned people are unaware that they are grappling with the same problems afflicting their fellow citizens in other towns and counties. A sadly ironic example of the failed policy is that, in my Congressional District, officials in both Gloucester and Camden counties have sited resource recovery facilities. The facilities are located a mere ten miles apart, but are separated by county lines and the absurd wall erected by the DEP that prevents regional solutions.

The DEP has submitted the state's "comprehensive" Solid Waste Management Plan to the EPA as required under RCRA.⁵ The plan is little more than a compilation of uncoordinated county plans. Not surprisingly, the EPA has never granted approval. It should also be noted that \$10 million per year in federal grant funding has been made available to help states develop and implement their solid waste management plans and that New Jersey does not qualify for that funding because the plan has not been approved.

For the past several years, I have been calling for counties to engage in regional solutions to the solid waste crisis. Instead of allowing the failed policies to divide the state into separate, quarrelling jurisdictions, it is time to start back on the road to becoming a unified state in order to effectively deal with the solid waste crisis.

Regionalization will enable two or more counties to engage in agreements to share both the resources and the responsibility for solid waste management. It will enable counties to take advantage of economies of scale in the construction and operation of resource recovery plants. We should avoid siting landfills which, for environmental, health and economic reasons, are the least desirable of all solid waste options. Regionalization will also enable counties to engage in vigorous source separation and recycling programs.

The state can no longer shirk its responsibilities. It must

⁵ See *supra* note 1.

provide solutions to this statewide crisis, and can no longer hide behind an erroneous interpretation of the Solid Waste Management Act. The State government must provide the leadership we need to end the chaos of the solid waste crisis.