

**JEA P. STREET
COUNCILMAN, TENTH DISTRICT**



COUNCIL

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June 19, 2019

Honorable Franklin Cooke
State Representative
Legislative Hall
Box 1401 Dover De 19903

Re: House Bill 212

Dear Representative Cooke

I write to thank you for sponsoring House Bill 212 prohibiting any industrial landfill from being higher than 130 feet above sea level. I whole heartedly support this very important legislation.

The harsh fact of the matter is that the landfall in Minquadale represents the epitome of environmental injustice that warrants legislative action. It is located within my Council district which has the highest cancer cluster in the state and is now labeled as a cancer hot spot. In my view, the land fill in conjunction with other heavy industry in the district have collectively caused this dangerous health issue and should not be allowed to continue.

In 2015, the owners of the landfill (over the objection of me, other elected officials and community residents) received a 10 year permit from DNREC that enabled the land fill to increase its height to 130 feet. At that time, it was understood that that would be the maximum height and the permit made clear what the process for capping the landfill would be. Now, four years later, they have the unmitigated gall to come forward and ask for an additional sixty feet. In my view, this is fundamentally unfair and should not be allowed. Residents living next to the landfill are inundated constantly with dust from the landfill. In addition, the landfill is next to New Castle Counties Public Safety building. The constant dust has a devastating impact on the building and I have good cause to be concerned about the health risk to all of our public safety employee's that work there.

Most recently at the public hearing held by DNREC on May 29, 2019 representatives from Artesian Water expressed their grave concern about the impact of the landfill on the water that they provide to residents throughout New Castle County.

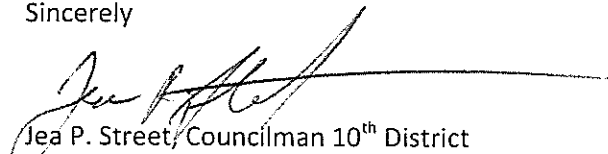
The fact is that the land fill poses a health risk to residents from the top with constant dust to the bottom with its negative impact on our ground water.

It is my understanding that the majority of the industrial waste being accepted at the landfill is coming from Pennsylvania and New Jersey. In my view, there is no reason for Delawarean's to continue to suffer as a result of industrial waste from other States.

Finally, I have sponsored legislation consistent with House Bill 212 capping an industrial landfill at 140 feet. It is my fervent hope that this environmental injustice will be stopped via legislation.

I thank you for your consideration.

Sincerely



Jea P. Street, Councilman 10th District
New Castle County Council

Artesian Water Company's Public Comment on HB212

I. General Statement of Support

Good afternoon. My name is Michael Bard. I am the External Affairs Coordinator at Artesian Water Company, Inc., and I appear this afternoon on behalf of Artesian in support of HB 212.

Artesian supports HB 212, which establishes a height restriction, or vertical limit, for any industrial landfill within the State, at 130 feet above the mean sea level of the area. As the State of Delaware's largest supplier of public drinking water, Artesian is concerned about any operations that potentially threaten groundwater and public drinking water supply.

Artesian is currently working through the regulatory process on a relevant matter. In that case, expansion beyond 130 feet could potentially increase the risk of contamination of the aquifer below the landfill, which serves as a source of public drinking water for thousands and thousands of Artesian's water customers. In that instance, we are concerned about compaction of lower layers of industrial waste, and how the compaction may impact the site's liners and leachate system. We want comfort the valuable aquifer is protected.

For nearly 115 years, we've been dedicated to delivering high quality water and reliable service to our customers, and go above and beyond regulatory requirements to ensure the safety of our tap water. That being said, Artesian must remove emerging sources of contamination at great expense – an expense which is borne by Artesian's customers. The best path, of course, is to prevent discharges of contaminants into the environment.

We support any initiative that would forestall or prevent a future risk to our water supply, as this legislation would.

Thank you.

Good Evening

My name is Penny Dryden. I am the executive director of CHEC Inc. Tonight, I am here speaking on behalf of the Delaware EJ Community Partnerships-DEJCP, which include: Minority Workforce Development Coalition -MWDC, Sussex Health Environmental Outreach Program-SHEOP, Delaware Concerned Residents 4 EJ -DCR4EJ, NAACP State Health Committee, Sierra Club – Delaware Chapter and CHEC Inc.

We SUPPORT HB 212 WHICH establishes a height restriction, or vertical limit, for an industrial landfill at 130 feet above the mean sea level of the area.

Health and Safety must come first.

Health and safety concerns were identified through the assessment of risks associated with exposure to contaminants, transportation of contaminants and site safety. Increased exposure to hazardous contaminants can lead to injury, illness, or death of the recipients. Therefore, our communities want to consider the principal contaminants associated with the site, human risks associated with exposure to the contaminants, how the modification will address site contamination, the possibility of an accidental spill, emergency procedures needed to prevent, alert and address a harmful accidental release and the cost of developing and implementing such procedures. Additionally, communities must consider the extent to which the request to heighten requires the transportation of wastes, how the wastes will be transported, whether the transportation route is through populated areas and the capability of emergency response procedures to address accidents along the transportation route. Immediate and long-term site safety concerns and hazards associated with the height increase also need to be assessed, including safety standards and procedures such as fencing, sign postings, security measures, containment structures, etc.

Should this bill not move out of committee, please be assured that DEJCP will continue to advocate the need for procedures and facilities to ensure the life-long process of health screening and monitoring of workers are not only considered, but mandated.

AGAIN, WE, DEJCP SUPPORT HB 212 WHICH establishes a height restriction, or vertical limit, for an industrial landfill at 130 feet above the mean sea level of the area. WE ALSO THANK REP. COOKE FOR HIS LEADERSHIP IN SPONSORING THIS BILL.

PENNY DRYDEN



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LIMITING HEIGHT OF INDUSTRIAL LANDFILLS Support for HB 212 June 2019

The League of Women Voters of Delaware supports HB 212.

A landfill owner neighboring West Minquadales wants to increase the height of an industrial landfill from the currently allowed 160 feet, to 190 feet. Sixty to seventy percent of the waste that goes into this landfill is not even from Delaware but from neighboring states. An article published by *Environment Victoria* says that the three problems with landfills, not even counting the ugliness factor, are toxins, leachates, and greenhouse gases.¹ The toxins leach into the water, and of course the methane generated by the landfill escapes into the air. Community members add that there is a constant layer of landfill dust over their homes and their porches and their play equipment,

The average incomes of the residents in this area are from \$12-\$42,000/year,² so this is a serious issue of environmental injustice. The residents who live near the landfill must not only look at the ugliness of the current landfill, but they must smell and breathe, and possibly even drink the ugliness. Yet the owners want to increase the height beyond that which is currently allowed.

In fairness to our people, the League urges passage of this important bill to limit industrial landfill height.

¹ "The Problem with Landfill," *Environment Victoria*, June, 2013 <https://environmentvictoria.org.au/resource/problem-landfill/>

² "New Castle County, Delaware" Data U.S.A. <https://datausa.io/profile/geo/new-castle-county-de>

Dora Williams Comment to DNREC on the proposed landfill increase

I believe most of us missed the fact a proposed 140 feet was offered by New Castle County Council instead of the 190 feet. Which means a 10-foot increase instead of a 60-foot increase. The 140 feet is a compromise that maybe the community could accept. Even at its current height the landfill is a detriment to our quality of life, but 140 feet would be much more livable than 190. Dialog is about what's doable for all involved. The Delaware General Assembly has introduced legislation for 130 foot cap, which I strongly support.

Gases given off from the landfills are mainly methane, carbon dioxide, nitrogen, oxygen, ammonia, sulfide, and hydrogen. Odors usually come from the hydrogen, sulfide and ammonia in construction and demolition debris of drywall and gypsum board which causes breathing problems as well as Asthma. The contamination moves laterally into the homes and buildings nearby.

Landfill pollution to air and water and soil can last decades, even after the landfill has been long closed. It doesn't stop once the cap is reached. This is long enough to affect our grandchildren and generations to come.

Take into consideration a bit of history. The communities along Route 9 live about one mile from the Delaware memorial Bridge which runs across a Dupont chemical plant, is near the Cherry Island Landfill and Croda Atlas Point as well as Brown Fields and Superfund Sites. Some of which are listed in the EPA's Toxic Release Inventory and Risk Management Program.

In 2017 the Union of Concerned Scientist along with the Delaware Concerned Residents for Environmental Justice and Environmental Justice Health Alliance for Chemical Policy Reform released *Environmental Justice in Delaware*. The report demonstrates that seven New Castle Communities, including several of those near the landfill, have an elevated risk for cancer, respiratory illness. It goes on to state that "people in the seven communities face a substantial cumulative health risk from exposure to toxic air pollution and their proximity to polluting industrial facilities, hazardous chemical

facilities, and contaminated waste sites.” The data for the report were sourced from the US Census Bureau, EPA and the National Center for Education Statistics.

The report speaks to the legacy of why certain communities live in the places and the conditions they do, and references back to the 1940s and 1950s when black residents were steered toward housing in areas where “buildings including public housing were on top of a filled marsh; where chronic flooding and mold still remain issues today. The houses were built with substandard and cheap materials; and lead paint was used on the interior walls”. The legacy of segregation and environmental racism live on today in the disproportionate number of industrial facilities and increased health risk faced by Route 9 communities. It is necessary for DNREC to take proactively engage and protect these communities to correct this legacy; a key first step in this is for no new or expanded polluting operations to be approved near already overburdened communities.

The report identified 10 chemicals affecting the seven communities: “Formaldehyde commonly emitted from cars, trucks and incinerators- contributed most to the cancer risk. Other toxic chemicals included benzene, acetaldehyde, carbon tetra chloride and 1.3-butadiene. The five chemicals associated with respiratory hazard are acrolein, acetaldehyde, formaldehyde, diesel particulate matter and chlorine. My community and others within a few miles of the DPI industrial landfill are coping with the cumulative impacts of all these chemicals and health impacts, yet it feels like DNREC is constantly ignoring this fact when making permitting decisions.

At the end of the article the groups made recommendations. “Marshallton faces the highest risk of health issues. The chances of the neighborhood’s residents being diagnosed with cancer or a respiratory illness is 33 and 71 percent than in Greenville. Dunleith, Oakmont and Southbridge have cancer risks that are 19 to 23 percent higher than Greenville. The respiratory risks are 32 to 43 percent higher. Newport, Belvedere and Cedar Heights have cancer risks 21, 15 and 12 percent higher than Greenville. And respiratory risks 44, 30 and 24 percent higher than Greenville. These are the conditions

that exist. Instead of using large census tracts where smaller communities can get lost these groups compare the seven communities to Greenville the white wealthy affluent community to show the disparities that exist.

After hearing the testimony of Artesian water at the Minquadale Landfill meeting I decided to do a bit of research on my own and this is what I came away with. According to epa.gov/privatewells/potentialwell-water-contaminants; well water contaminants may cause acute and chronic toxicity, liver, kidney and intestinal damage, anemia and cancer.

I ask DNREC to carefully consider the cap for the Waste Management Landfill for 130 feet, and to consider our quality of life and health when making this decision.

- Testimony on HB 212

Mary Jane Elliott of New Castle County

Members of the Committee and Madam Chair, thank you for the opportunity to ~~to~~ testify. I ask for your support of HB 212 which would limit landfills in Delaware no more than ~~to~~ 130 feet of height.

I support this legislation as necessity to keep New Castle County's aquifers and drinking water as safe as possible. There is a proposal to increase the height of a landfill in Minquadale, currently permitted for 130 feet, to 190 feet, or another 6 stories of demolition and construction debris.. DENREC needs to oppose any additional permitting on this site as the landfill sits on the Potomac aquifer. When first utilized, the landfill consisted of a quarry with no appropriate liners and chemical waste was deposited at the site. Later layers of waste and construction debris from out of state sites has been brought in and a liner has been put in place, but this does nothing to solve the waste lying below the liner. The aquifer which supplies drinking water in New Castle County is compromised. To add more weight, on top of the currently permitted 130 feet would greatly aggravate the situation and further endanger residents drinking water.

As a Delaware citizen I oppose any company bringing in waste from other states and using our Delaware sites as a dumping ground. But specifically, this landfill in Minquadale, that has all ready compromised our water sources, definitely should not be allowed to expand and further degrade the water supply.

Approving HB 212 will minimize the degradation at the Potomac aquifer. Thank you for your consideration.

House Natural Resources Committee Testimony
In Support of HB 212

June 19, 2019

Landfills are short term solutions that become lasting sources of pollution. They create risks to water and air quality for many, and negatively affect the health and quality of life for those living near them. And with more than 90% of our rivers, streams, ponds and bays polluted, and having one of the highest rates of cancer in the country according to the CDC, Delaware must focus on efforts to improve rather than continue to aggravate those conditions.

Case in point is Waste Management's DRPI industrial waste landfill in New Castle, where the owners are requesting a modification of their environmental permit to allow expanding the landfill to 190 feet in height. In this case, the first three cells of the landfill were originally a quarry, later a chemical dump site, and now have a nearly 130 foot mound of construction and demolition waste added atop what has become a toxic sandwich. There is no liner to serve as a barrier between the chemicals in the bottom of that section and the soil on which they rest.

And below that sandy soil lays the Potomac Aquifer, which provides water to 20,000 residents. According to scientists at Artesian Water, the pressure created by adding another 60 feet of waste to the pile would likely force those chemicals into the aquifer below. Much like Flint, Michigan, this would become yet another gross example of the pursuit of economic gain at the expense of the health of citizens and the environment.

The majority of construction and demolition waste can be recycled, as the Delaware Solid Waste Authority is demonstrating. However, DRPI recycles little, if any, of the material entering their site. By placing a limit on landfill height in Delaware, HB 212 would provide an incentive for private companies to seek sustainable solutions, and reduce the risks of pollution now and into the future.

I urge the Committee to favor this bill and move it forward for approval.

Thank You,

Willie V. Scott

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