

Water Front- Peter Mantius

*Environmental politics in New York's Finger Lakes*

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# Danks Burke Blasts O'Mara for Voting Against Hazardous Waste Bill; But Law May Not Block 'Drill Cutting' Imports

Peter Mantius / August 7, 2020August 10, 2020 / Uncategorized





PAINTED POST, Aug. 7, 2020 — Leslie Danks Burke, the Democratic challenger to state Sen. Tom O'Mara (R-Big Flats), lashed out at her opponent Thursday for voting against a new state law that ends the oil and gas industry's special exemption from regulation of hazardous waste.

Danks Burke (<https://waterfrontonline.files.wordpress.com/2020/08/lesliepr.pdf>) was joined at separate press conferences at two landfills in the contested state Senate District 58 by Tracy Mitrano, Democratic challenger to Rep. Tom Reed (R-Corning). Mitrano (<https://waterfrontonline.files.wordpress.com/2020/08/tracypr.pdf>) called for greater federal oversight of five landfills in the 23rd Congressional District she's vying for.

Because of the new state legislation signed by Gov. Andrew Cuomo Monday, Danks Burke took the lead at events at the Chemung County Landfill in Loman and the Hakes Landfill in Painted Post (at right), which she described as dumping grounds from carcinogenic waste from Pennsylvania gas drilling operations.

"As a senator since 2011, Mr. O'Mara voted over and over to kill the bill to ban companies from dumping fracking waste here," Danks Burke said. "Just weeks ago, he was the sole vote against this bill."

The bill, which requires oil and gas wastes to be tested for hazardous characteristics before they are sent to New York landfills, passed the state Senate 46-14, with O'Mara among the 'no' votes. Earlier in the session he had been the lone 'no' in a vote by the Senate's Environmental Conservation Committee.

Danks Burke also criticized O'Mara for conflicts of interest due to his "side job" working for Syracuse-based Barclay Damon, "a law and lobbying firm with a history of working for corporate polluters."

Casella Waste Systems, which operates both the Chemung and Hakes landfill and owns Hakes, has been a Barclay Damon client, she said.

“Back in 2005, when now-Senator Tom O'Mara was Chemung County Attorney, his law firm's client, Casella Waste Systems, through its subsidiary, was granted a deal to lease the landfill here from the county,” Danks Burke said in prepared remarks



(<https://waterfrontonline.files.wordpress.com/2020/08/lesliestatementaug6.pdf>). “Over the years, the company has received permission to exponentially increase the volume of waste imported from Pennsylvania.”



She said that neighbors of the Chemung landfill had “suffered terribly from cancer,” but she did not provide data or examples. She also distributed a flier critical of O'Mara (above).

O'Mara did not return phone calls or respond to questions emailed Thursday afternoon. In the past, the senator has defended the legality and propriety of his acceptance of “outside” compensation as controversies have arisen.

Various news organizations, including Gannett

(<https://waterfrontonline.files.wordpress.com/2018/11/19omarabarclaydclients2015news.pdf>), The New York Times

(<https://waterfrontonline.files.wordpress.com/2018/11/20lulusnyt4gopsenators.pdf>) and USA Today

(<https://waterfrontonline.files.wordpress.com/2018/11/21usatodayaug2018.pdf>) have

written articles about O'Mara's pay from Barclay Damon. The websites DCBureau

(<https://waterfrontonline.files.wordpress.com/2017/08/44dcbureau10112016omaraprotectsnysfrackwasteloophole.pdf>) and WaterFront (<https://waterfrontonline.blog/2018/11/13/cuomo-administration-rushed-greenidges-restart-but-was-it-legal/>) have also reported on the issue.

Danks Burke used the landfill press conferences to weigh in on the outside pay issue.

While she and Mitrano (below, right) had scheduled the press conferences before Cuomo signed S3392 (<https://waterfrontonline.files.wordpress.com/2020/08/s3392.pdf>), the new law may have given the events more immediacy.

For many years, federal law has explicitly exempted oil and gas wastes from regulation as hazardous waste, even if they would fit that definition by any objective measure. New York is the first state in the nation to close that pro-industry loophole.

Although the bill goes into effect immediately, it's not clear whether it will halt the flow of wastes from Pennsylvania drilling operations, and if so, when.

Five landfills in upstate New York, led by Chemung, have been importing drilling wastes during the past decade. Three of those are operated by Casella (Chemung, Hakes and the Hyland Landfill in Angelica).



They are permitted by the state Department of Environmental Conservation to accept “drill cuttings” from the Pennsylvania wells. The company and the DEC insist that the material is produced drilling the hole before the shale fracking process begins and that the rock chips are not highly radioactive.

But environmental groups, skeptical of the rigor of the DEC's analysis and regulation, have sued the two landfills and the agency. So far, the landfills and the agency have prevailed in court.

In a Hakes lawsuit dismissed last month, experts for the Sierra Club that claimed evidence from Casella's own leachate tests pointed to very high levels of radium and radon.



Casella and the DEC argued that they were misinterpreting the data. The Sierra Club experts said the simplest way to settle the dispute would be to test widely for Radon-222 in the landfill's leachate and

vented gas. Of all the isotopes in the uranium/radium decay chain, radon is the most dangerous to human health.

But Larry Shilling, a Casella vice president who supervises Chemung, Hakes and other area landfills, said increased radon testing is not a good idea “because people don't understand the science behind it.”

Shilling attended both the Danks Burke/Mitrano press conferences Thursday, and he agreed to an interview with WaterFront.

He said he expects Chemung to continue to accept Pennsylvania drill cuttings, albeit at a reduced rate because the pace of drilling there has slowed.

“The law that was signed a few days ago actually replicates a policy we've been operating under for 10 years,” said Shilling, at right. “(The new law) really has no impact on what Casella does because long ago we said we're going to ignore the federal exemption (from the hazardous waste classification).”

Shilling said Casella has long required drillers to “prove to us it is not hazardous” before they ship it to a company landfill in New York.

“The generator (driller) is responsible for characterizing the waste,” he added. “The driller sends it to a (certified) lab. They produce results that get sent directly to us before anything comes to the landfill. We've got mounds of data on drill cuttings that we've accepted.”

Danks Burke told the press conference audience that it was her “understanding that those drill cuttings will now be classified as hazardous waste” — and therefore banned from local landfills — as a result of the new law.

But Shilling disagreed.

"We don't take fracking waste," he said. "We take drill cuttings. Drill cuttings are done long before the fracking is done and has nothing to do with the (fracking) chemicals that go down in the well."

Danks Burke said that any decision to halt the import of drill cuttings would be made by state "regulatory officials." She acknowledged that it's "very possible" that the new law "does not actually stop waste from coming here."

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**Leslie Danks Burke is challenging Sen. Tom O'Mara (R-Big Flats) to represent the 58th District in the NYS Senate.**

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Bills similar to the one that Cuomo signed had been introduced in most of the legislative sessions over the past decade, only to die in the Senate, where O'Mara chaired the Environmental Conservation Committee from 2015-2018.

Prospects for the legislation improved after Democrats took control of the Senate in the November 2018 election and O'Mara was obliged to surrender his post as committee chair. The following year, the bill passed the Senate, but got stuck in the Assembly.

This year's bill passed the Senate 46-14 and the state Assembly 110-31.

The Assembly members who represent the Chemung Landfill's district, Christopher Friend (R-Big Flats), and the Hakes Landfill's district, Philip Palmesano (R-Corning), both voted against the bill Cuomo signed into law.



## Published by Peter Mantius

I am a journalist who lives in Watkins Glen, NY. I write about the environment and politics on my website, [Waterfrontonline.blog](http://Waterfrontonline.blog). For more detail on my background, see the "Peter's Bio" section on that site. [View all posts by Peter Mantius](#)

## 1 Comment

1. **mkowalski** says: August 7, 2020 at 5:55 pm  
Here are all the Senators who voted against this bill:

SENATE NAY (14)

Amedore Borrello Funke Gallivan Griffo Helming Jordan O'Mara Ortt Ranzenhofer Ritchie Robach Seward Tedisco

Interesting that many of these Senators have large landfills in their districts.

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