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## Sludge provider for biochar plant has history of environmental violations

**HAYLEIGH COLOMBO**

Feb 22, 2023



A Casella Waste Systems building on Route 9 in Moreau is less than 10 miles from the proposed site of the Saratoga Biochar Solutions plant. Its subsidiary Casella Organics has an exclusive contract with Saratoga Biochar Solutions to provide sewage sludge for its Moreau project. The company and its subsidiaries have accrued millions in fines and settlements from alleged environmental violations over the last decade.

Jana DeCamilla, The Post-Star

HAYLEIGH COLOMBO

**M**OREAU — A waste company working with Saratoga Biochar Solutions, which plans to truck sewage sludge into Moreau to use in their fertilizer product, has a history of environmental violations from its operations across the Northeastern U.S.

In the last 10 years, Casella Waste Systems and the businesses it owns have accrued at least \$7.7 million in regulatory fines and lawsuit settlements from a slew of alleged environmental violations in New York, New Hampshire, Pennsylvania and Massachusetts, according to an analysis of reports from government watchdog organizations, civil lawsuits and multiple state agencies by *The Post-Star* and the Lee Enterprises Public Service Journalism Team. The violations range from air quality issues to water pollution.



A Casella Waste Systems building on Route 9 in Moreau is less than 10 miles from the proposed site of the Saratoga Biochar Solutions plant. Its subsidiary Casella Organics has an exclusive contract with Saratoga Biochar Solutions to provide sewage sludge for its Moreau project. The company and its subsidiaries have accrued millions in fines and settlements from alleged environmental violations over the last decade.

Jana DeCamilla

Casella Organics, a **subsidiary of the \$1 billion publicly traded Casella Waste Systems**, is working with Saratoga Biochar Solutions on the Moreau project and has a 10-year, exclusive contract to provide treated human waste from wastewater treatment plants for the plant. Saratoga Biochar wants to turn the waste into a new product it's calling "carbon fertilizer."

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In November, the New York State Department of Environmental Conservation, which is currently reviewing Saratoga Biochar Solutions' application for its proposed facility in Moreau, **ordered a subsidiary of Casella to pay a \$500,000 civil penalty** to address air and water quality and solid waste issues at its landfill in Ontario County in western New York.

The state agency said its action against the Casella landfill "holds the parties responsible for years of violations."

The agency told *The Post-Star* and the Lee Enterprises Public Service Journalism Team that it was "aware of Casella Organics' involvement with this proposed project, specifically supplying biosolids to the facility and marketing the finished biochar product."

"DEC subjects all applications for environmental permits to a transparent and rigorous review process, which includes compliance records, to protect public health and the environment," an agency spokesman said.

The state agency said Saratoga Biochar's application for the fertilizer plant is incomplete and that it is waiting on further information from the company in response to public comments received from residents. Ahead of its decision, local residents are **urging the DEC to deny the permit.**

Tracy Frisch, a local environmental activist who is trying to stop the project, said Casella Organics' involvement as the waste provider concerns her. The company has "violated the public's trust on numerous occasions," she said.

"Why would Moreau residents feel comfortable with a corporation with serious infractions like Casella procuring and trucking hundreds of thousands of tons of sewage sludge per year through their community?" Frisch said.

But Casella's director of communications, Jeff Weld, said in a written response to questions that "our history as environmental stewards has been proven over the last 45 years, especially within the context of the work we are conducting with Saratoga Biochar." Weld said the company's compliance record is in line with its peers.

Saratoga Biochar Solutions CEO Raymond Apy said in a statement that "we have every confidence in Casella Organics and its parent company to deliver on their end of the agreement in a responsible manner that is compliant with all regulations."

## Violations, fines and settlements

Casella and the businesses it owns across the Northeast — which include landfills, composting operations, recycling centers and more — have racked up numerous environmental violations over the last decade alone.

In New Hampshire, for example, the company **had to pay a \$50,000 settlement** in 2022 after a federal Clean Water Act lawsuit over pollution at one of its landfills was resolved. In 2021, regulators said Casella didn't do enough to prevent a spill of leachate, a liquid byproduct from landfills, at the facility after **154,000 gallons overflowed there.**

“Our particular issue is that we discovered there was an unpermitted drainage channel that ran ... into the Ammonoosuc River,” said Josh Kratka, **senior attorney with the National Environmental Law Center**, who brought the lawsuit against Casella. “It was highly contaminated with levels of volatile organic compounds, including 1,4-Dioxane, a potential carcinogen.”

In Massachusetts, Casella’s Southbridge Recycling and Disposal Park Inc. was fined hundreds of thousands of dollars by the state between 2014 and 2021 for **various violations of solid waste and air pollution rules**, including discharging pollutants to waters, **maintenance issues** and violating **administrative consent orders**.

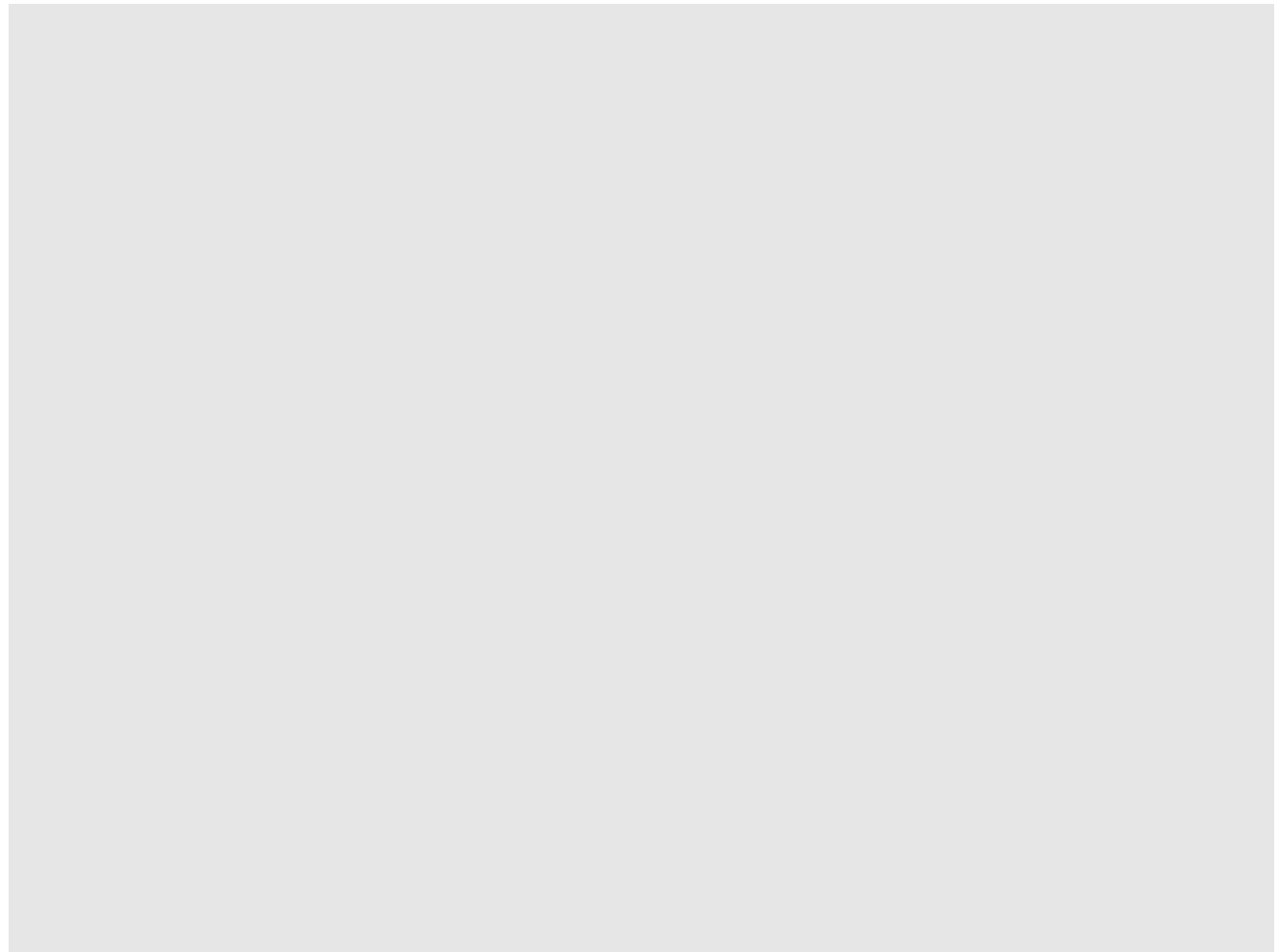
Kratka’s group also **brought another civil case against Casella** and the town of Southbridge over Clean Water Act issues involving the Massachusetts facility after 80 residential wells near the landfill tested positive for lead and other harmful compounds.

“People basically could no longer use their tap water,” Kratka said. “Casella ended up paying \$5 million toward construction of a pipeline to provide town water ... to all these people who lost their private well water and paid a monetary settlement to additionally compensate people who had been harmed.”

Along with the \$5 million to fund the water pipeline, Casella also paid a “substantial financial payment” to residents impacted by the situation, **according to NELC**.

Casella’s past violations raised concerns for members of the Moreau community, including Mary Clear, a resident who lives near the Moreau Industrial Park, where the new facility is proposed. She said she considered moving away if the Saratoga Biochar plant is approved by the state. She fears odors and harmful air emissions could impact her family.

“Already, I had a bad taste in my mouth about Casella,” Clear said. “That’s definitely a concern. It’s literally making me ill to know it’s (going to be) so close to my home.”



The entrance to the Moreau Industrial Park, site of the proposed Saratoga Biochar Solutions facility. Casella Organics has an exclusive contract with Saratoga Biochar Solutions to provide sewage sludge for its Moreau project.

Alex Portal, The Post-Star

But Apy, the Saratoga Biochar Solutions CEO, said the company is confident in Casella's track record. It "fully vetted a number of waste hauling companies" before choosing Casella, Apy said.

"We stand behind our record," the Casella spokesperson said. The company operates nearly 150 facilities from landfills to recycling centers across seven Northeastern states.

"Within the correct context, our overall compliance record is in line with our industry peers, and our organics operations have been exemplary for decades," Weld, the Casella spokesman, said in an email. "This is not to say that we don't take violations

seriously. On the contrary, any time we incur a violation with any of our operations we evaluate the cause, address it in a manner that aligns with the regulation and learn from it so that we do not repeat it.”

Weld said that Moreau residents should not conflate “the regulatory realities of operating a landfill with those of our Organics operations. ... the two lines of business are distinctly different.”

However, Casella has not just run into violations as a result of running its landfills. The company’s various businesses have also settled cases involving **anti-competitive business practices in upstate New York** and incurred numerous safety-related fines from the federal **Occupational Safety and Health Administration**.

Good Jobs First, a watchdog group focused on corporate accountability, cataloged some of Casella’s environmental and workplace safety fines on its **online Violation Tracker**.

“Our view is that anytime a company has multiple violations, that's something to be concerned about,” said Philip Mattera, research director at the group.

Mattera noted Casella was far from unique among waste companies in having accrued environmental violations. For example, Waste Management Inc. entities have amassed a total of \$7.2 million in environmental violations in the last decade, according to the Good Jobs First tracker. But it’s difficult to compare the track records since Waste Management’s annual revenue is 15 times higher than Casella’s.

Cole Rosengren, lead editor for **Waste Dive, a waste industry-focused publication**, said Casella has a unique reputation in the Northeastern region. The company is known to both clash with environmental groups and yet also is seen as an early adopter of more environmentally friendly policies than their competitors in the waste industry.

“They were talking about greenhouse gases earlier than other companies, but on the other hand, these violations are real, there’s no way around it,” Rosengren said.

Rosengren said it's important to realize that permit violations and lawsuits are a somewhat normal course of business in the highly regulated waste industry, even though "any violation, any issue, is something that should not be happening."

Frisch, the environmental activist, noted that Casella's own revenue, which **topped \$1 billion last year**, dwarfs the size of the fines, fees and settlements it has incurred over these issues.

"It appears that Casella absorbs these fines and settlements as the cost of doing business," Frisch said.

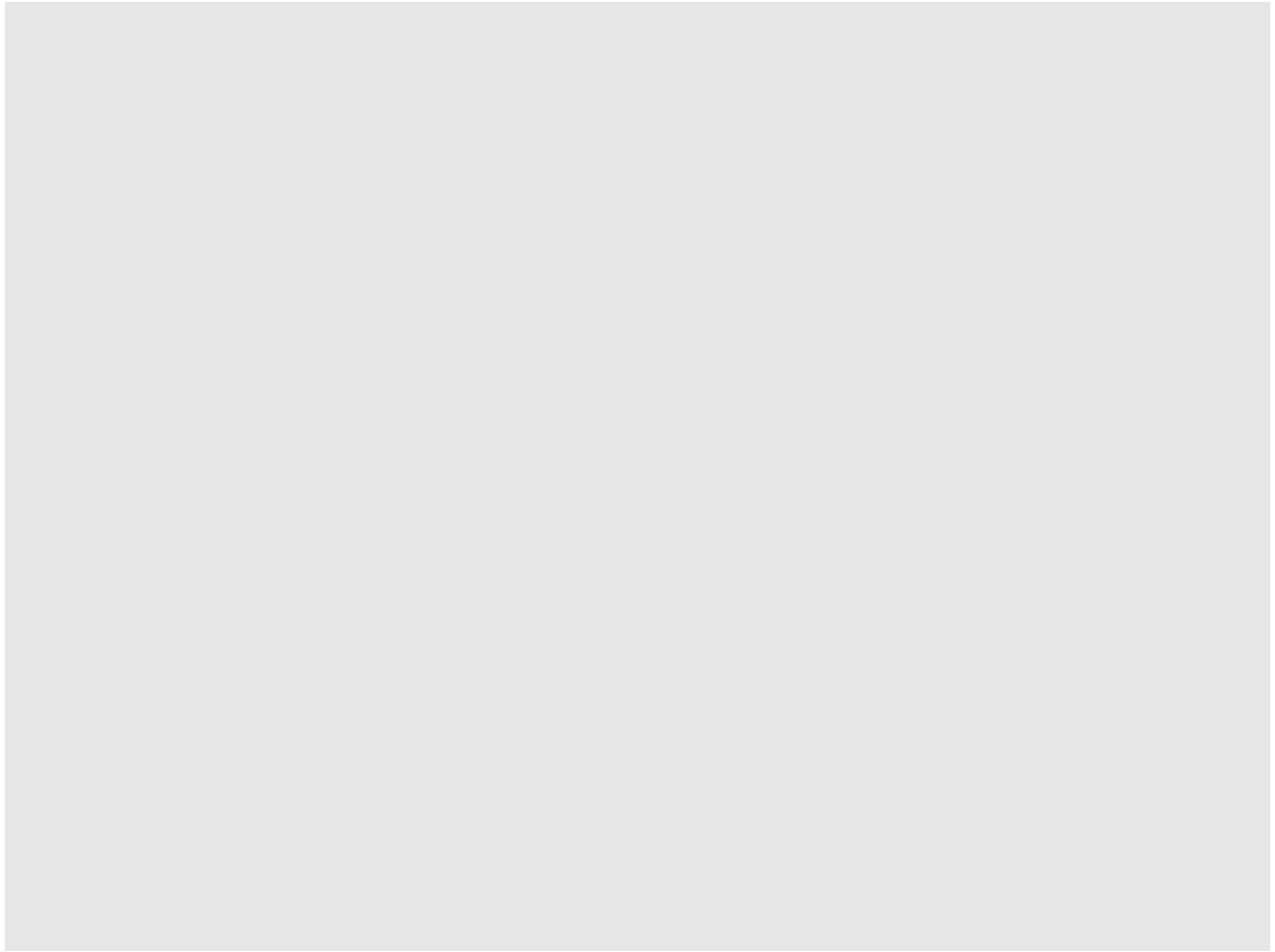
### 'Nourishing the land' or 'dangerous'?

Still, the relationship between the companies has alarmed local residents. Along with the environmental violations, some are concerned about another controversial practice that Casella is engaged in: spreading biosolids on farmland.

Saratoga Biochar Solutions leaders have **previously said** spreading biosolids on farmland is harmful for the environment due to PFAS contamination. And land application of sludge has been **banned in Maine** due to concerns about contamination from PFAS, the so-called "forever chemicals" known as per- and polyfluoroalkyl substances. **According to the EPA**, "current scientific research suggests that exposure to high levels of certain PFAS may lead to adverse health outcomes."

"We're wholly opposed to that practice," Saratoga Biochar Solutions CEO Ray Apy previously said. "It's dangerous."





Meanwhile, Casella **describes land application as** “nourishing the land.”

Frisch, the local activist, said “using highly contaminated waste materials such as sewage sludge on farmland threatens the safety of our food supply and the future livelihood of farmers.”

“It’s ironic that Saratoga Biochar has been very critical of the land application of sewage sludge, given the resulting contamination of the soil and water with PFAS ‘forever chemicals’ — yet Saratoga Biochar selected Casella, a corporation that’s heavily into that business, as its exclusive sewage sludge contractor,” Frisch said.

The Casella spokesman said that “the solution that Saratoga Biochar is developing could be an important step in the future of biosolids management.”

“While land application of biosolids is legal, SBS seeks to provide a better alternative with our Biochar thermal treatment methodology which will help end the spread of contaminants, including PFA ‘forever chemicals,’” Apy said.

## **Casella contract means ‘pure profit’ for Saratoga Biochar Solutions**

Details of Saratoga Biochar’s contract with Casella Organics, which was submitted to the state of New York as part of its permit application process, show the two firms’ relationship is critical to the Moreau facility’s financial viability.

The contract gives Casella Organics exclusive rights to supply Saratoga Biochar Solutions with sewage sludge for 10 years — in addition to two extensions.

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### FEEDSTOCK SUPPLY AGREEMENT

THIS FEEDSTOCK SUPPLY AGREEMENT (“Agreement”) is made and entered into as of the 17th day of December, 2021 (the “Effective Date”), between Saratoga Biochar Solutions LLC, a New York limited liability company (the “Company”), and New England Waste Services of ME, Inc. d/b/a Casella Organics a Maine corporation (“Casella”). Company and Casella are each referred to as a “Party” and, together, as the “Parties”.

#### RECITALS:

WHEREAS, Company is in the business of building and operating waste conversion facilities using pyrolysis-based solutions;

WHEREAS, Company intends to construct and operate a Facility in the Town of Moreau, NY, at the Facility Location;

WHEREAS, Casella is in the business of providing Feedstock supply services within the Moreau, NY, region;

WHEREAS, Company and Casella desire to enter into this Agreement under which Casella shall supply and deliver, and Company shall accept, specified quantities of Feedstock to the Facility; and

WHEREAS, Casella may assist in the management of the Processed Materials produced at the Facility, all in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement and other good and valuable consideration, the Parties agree as follows:

#### **ARTICLE I DEFINITIONS AND INTERPRETATION**

1.1 Definitions. Initially capitalized terms used herein shall have the meanings set forth below:

“Adjustment” has the meaning set forth in Section 3.1(f).

“Agreement” means this Feedstock Supply Agreement, including all Exhibits hereto, as amended from time to time.

“Applicable Law” means any law, statute, ordinance, rule or regulation, and any ruling, judgment, order, decree, permit or other requirement having the force of law, including any official interpretation of any of the foregoing, of or by any Governmental Authority, as in effect from time to time, which is applicable to any Party, its respective properties and businesses or the transactions contemplated by this Agreement.

Feedstock Supply Agreement between Casella and Saratoga Biochar Solutions

Page 1 of 26

Once the Moreau plant converts that sludge into fertilizer, Saratoga Biochar Solutions hopes to sell it to farmers or other customers.

The deal guarantees, though, that the facility can be successful even if Saratoga Biochar Solutions can't find customers for the product. Casella is required to take back any unsold biochar at no cost.

The agreement with Casella was "negotiated specifically with the intent of providing a disposal pathway in the event Carbon Fertilizer™ cannot be marketed at any time of the year," according to Saratoga Biochar Solutions' marketing plan, which was submitted to the New York State DEC as part of its permit approval process.

Since the plant's operations and debt service will be covered by guaranteed revenue from Casella, any sales of biochar will be "pure profit," according to Saratoga Biochar Solutions.

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biochar solutions

*Providing Essential Services – Manufacturing Carbon Fertilizer – Benefiting Host Communities & Environment*

## Carbon Fertilizer™

### Marketing & Distribution Plan

March 17, 2022

#### Casella Organics

Carbon Fertilizer™ is a byproduct produced by the Carbon Manufacturing Facility (the “Facility”) that Saratoga Biochar Solutions, LLC (“SBS”) is building in Moreau, NY. SBS derives 69% of its revenues on average (78% in 2024) from biosolids tip fees which is sufficient to operate and finance the Facility. Biosolids revenue is guaranteed by Casella Organics. A copy of the redacted Biosolids Supply Agreement (the “Agreement”) has been provided to the NYSDEC. As part of the Agreement, Casella is obligated to receive any unmarketable Carbon Fertilizer™ at no charge provided SBS provides transportation to their designated “beneficial use” facility. The Agreement with Casella Organics was negotiated specifically with the intent of providing a disposal pathway in the event Carbon Fertilizer™ cannot be marketed at any time of the year.

Casella Organics operates numerous composting facilities throughout the region. Using Carbon Fertilizer™ in compost production should qualify as a “beneficial use” of the material. “Beneficial use” is a requirement that Casella Organics is motivated to maintain as they typically receive a premium tip fee if a “beneficial use” of biosolids can be determined. “Beneficial use” is also a requirement that SBS is motivated to maintain as any “beneficial use” of Carbon Fertilizer™ ensures the carbon sequestration potential of the material is also achieved. In this respect, SBS is also submitting a BUD petition to the NYSDEC.

#### Carbon Fertilizer™ Revenues

Carbon Fertilizer™ net revenues are pure profit as operations and debt servicing are covered by guaranteed revenue from the Agreement with Casella Organics. Carbon Fertilizer™ generates revenue for SBS in two ways which ensure revenues even when “giving” the product away to Casella Organics.

- “Carbon Credit Sales” – SBS is marketing voluntary carbon credits that are conservatively estimated at \$59/ton based on carbon sequestration value only.
- “Fertilizer Sales” – SBS is conservatively marketing Carbon Fertilizer™ at \$92/ton (i.e., introductory pricing) based on its projected “guaranteed” or “minimum” nutrient content.

The disposal pathway provided by Casella Organics ensures that SBS generates net revenues (i.e., profits) from carbon credit sales even when the Carbon Fertilizer™ is “given” to Casella Organics for use in their compost operations, or other “beneficial uses”. In this respect, a beneficial use determination (a “BUD”) is highly desired, but not required as SBS does not rely on profit from Carbon Fertilizer™ sales for operating and financing the Facility.

#### “Carbon Credit Sales”

Voluntary carbon credit markets have developed significantly over the past decade. The market is driven by large corporations (i.e., Microsoft, Spotify, etc.) that purchase voluntary carbon credits based on verified GHG emission

Saratoga Biochar Solutions also plans to earn a profit by selling voluntary carbon credits to large corporations such as Microsoft or Spotify that are hoping to offset their greenhouse gas emissions. No fertilizer even has to change hands.

“The disposal pathway provided by Casella Organics ensures that SBS generates net revenues (i.e., profits) from carbon credit sales even when the Carbon Fertilizer™ is ‘given’ to Casella Organics for use in their compost operations,” according to SBS.

Meanwhile, Casella Organics could earn a premium tip fee from the municipalities that pay it to haul the sludge away if the end-use biochar product receives a “beneficial use determination” from the state of New York. The state DEC said that the petition is “currently under review” pending a “vigorous review process.”

However, Frisch said the benefits to the two firms don’t outweigh the environmental risks she believes are posed by the plant.

“Casella would be charged with quality control of the sewage sludge it delivers,” Frisch said. “What could possibly go wrong?”