IT'S TIME TO TAKE OUT THE TRASH: REMOVING BARRIERS TO LANDFILL PROLIFERATION IN MISSOURI

Benjamin Albertson*

INTRODUCTION

Landfills, though maligned, are an integral part of public health and environmental protection infrastructure. They protect us by keeping rotting garbage from leaching poisons into our air and waterways.[1] Preventing this leaching protects both human health and the environment by preventing the spread of disease and limiting the exposure of pollution to the natural environment. Both federal and state governments have created a robust permitting and construction process to ensure that the modern sanitary

* B.S., 2022, Natural Resource Science and Management, University of Missouri, Columbia. J.D., 2026 Vermont Law and Graduate School. Thank you to Professor Grant Smith for his support and proofing while I was writing this Note. Further thanks to my editors Lauren Carita and Laura Arboleda Bowie for guiding me through the Notes process. Finally, much thanks to the *Vermont Journal of Environmental Law* staff for their editing work.

1. Rachael, *Think a Landfill is Just a Dump? Think Again.*, GRANGER WASTE SERVS., (Sept. 28, 2017), https://www.grangerwasteservices.com/think-landfill-just-dump-think/.

landfill accomplishes both objectives.[2] Still, some regard landfills with disdain and distrust. The City of Raymore, Missouri, is no different, and has successfully passed a law extending the jurisdiction of municipalities over potential landfills in its proximity.[3] Missouri only has 17 operating landfills, and they are running out of space.[4] Simply, Missouri needs more. This Note discusses this legislation and explores solutions to ensure that landfills can continue to be built without administrative roadblocks that neither protect public health nor the environment.

Part I explains the historical and legal background of landfills and how roadside dumps turned into the modern sanitary landfill. It will also briefly touch on depictions of landfills by their supporters and detractors, and how these depictions may affect public perceptions when siting new landfills. Part II discusses how the City of Raymore changed state law to prohibit the nearby siting of a landfill. This change can affect landfill proliferation in Missouri and how it may encourage others to lead similar fights resulting in fewer places to site landfills. Part III explains solutions to the Raymore Controversy, primarily taking the form of a repeal of House Bill 1751, which extended the jurisdiction of municipalities over potential landfills in their proximity. Secondarily, this Note proposes a "stop-the-clock" provision to limit changes in regulation and the law affecting landfills during construction. Finally, it explores the potential of granting eminent domain authority to landfills to limit local interference with siting. Landfills are exceedingly difficult to build, which is not a bad thing. The engineering and monitoring requirements make them safe. However, their potential risks do not mean we should pile on limits and regulations for the sake of it. Landfills are necessary for waste management, and we cannot allow municipalities to prevent their construction lest we run out of places to put them.

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2. 42 U.S.C. §§ 6901–6987; *Solid Waste Landfill Permits*, MO. DEP'T NAT. RES., https://dnr.mo.gov/waste-recycling/business-industry/permits-licenses-registrations-fees/solid-waste/landfills (last visited Mar. 27, 2026).

3. *Opposition to Threat of Landfill Development*, RAYMORE, https://www.raymore.com/government/city-departments/communications-public-relations/opposition-to-threat-of-landfill-development (last visited Mar. 27, 2026).

4. Sara Karnes, *As Locals Dump More and More Trash, Springfield's Landfill is Filling up Faster*, SPRINGFIELD NEWS-LEADER, https://www.news-leader.com/story/news/local/ozarks/2023/03/12/where-will-your-trash-go-when-theres-no-room-at-the-local-landfill/69852152007/ (last updated Mar. 12, 2023).

I. A HISTORY OF LANDFILLS

The modern sanitary landfill has only been around for about 33 years.[5] However, waste management has been in place since 3,000 B.C.[6] Archaeologists discovered remaining dump sites around Knossos, Crete, where people dug holes in the ground, filled them with trash, then covered them with dirt.[7] Waste management laws and regulations go as far back as 500 B.C. in Athens, Greece.[8] In Athens, the city forbade the disposal of trash within one mile of the city. This led to the creation of primitive dumps that kept the trash away from the denser population center.[9]

If we jump forward over 2000 years, we enter the so-called "Age of Sanitation" in England, which later spread to the United States.[10] The United Kingdom's Poor Law Commissioners released a study linking disease to unsanitary living conditions.[11] This study led to extensive investment in water treatment and sewage systems in regional facilities to handle the large volume of work required.[12] Waste management, however, did not have access to much of these funds, which led to it becoming a local problem based on municipal dumps.[13] For nearly the next century, these dumps were just holes in the ground filled with trash until they could not hold anymore.[14] Once full, cities would cover the hole and move to the next one.[15] Such municipal dumps were the norm in the United States until 1976 with the passage of the Resource Conservation and Recovery Act (RCRA),

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5. *See* John H. Turner, *Off to A Good Start: The RCRA Subtitle D Program for Municipal Solid Waste Landfills*, 15 TEMP. ENV'T. L. & TECH. J. 1, 16–17, 24, 28–29 (1996) (discussing then-newly published EPA regulations for the construction and operation of landfills).

6. URIARTE A. FILEMON JR. & URIARTE A. FILEMON, SOLID WASTE MANAGEMENT: PRINCIPLES AND PRACTICES: AN INTRODUCTION TO THE BASIC FUNCTIONAL ELEMENTS OF SOLID WASTE MANAGEMENT, WITH SPECIAL EMPHASIS ON THE NEEDS OF DEVELOPING COUNTRIES 4 (2008).

7. *Id.*

8. *Id.*

9. *Id.*

10. Andy Rihn, *A Brief History of Garbage and the Future of Waste Generation*, ROADRUNNER, https://www.roadrunnerwm.com/blog/history-of-garbage (last updated Sept. 2023).

11. POOR LAWS COMMISSIONERS, REPORT ON THE SANITARY CONDITION OF THE LABOURING POPULATION OF GREAT BRITAIN (1842).

12. Garrick E. Louis, *A Historical Context of Municipal Solid Waste Management in the United States*, 22 WASTE MGMT. & RSCH. 306, 306 (2004).

13. *Id.*

14. *The Evolution of Sanitary Landfills*, BTL LINERS, https://www.btlliners.com/the-evolution-of-sanitary-landfills (last visited Mar. 27, 2026).

15. *Id.*

which instituted new federal standards for solid waste management and created the systems that became the modern sanitary landfill.[16]

A. The Origin of the Modern Sanitary Landfill: Major Federal Laws

RCRA may have been the foundation of the modern sanitary landfill, but it only came after another major federal law, the Solid Waste Disposal Act of 1965 (SWDA).[17] SWDA provided funds to the states to collect information on their solid waste management situations. These funds also provide for a system wherein state, local, and federal governments cooperate to protect public health and the environment.[18]

In 1976, RCRA passed and established a national framework for solid waste management.[19] RCRA's framework includes defining different types of landfills, how one can be built, where it can be built, how it must be monitored, and more.[20] The most relevant effects of RCRA for this Note are the Subtitle D regulations promulgated by the Environmental Protection Agency (EPA) in 1991.[21] These regulations created significant restrictions on the construction and operation of landfills, which has had widespread effects on the numbers of landfills operating around the country.[22]

Finally, under RCRA, there are two primary types of landfills, Municipal Solid Waste Landfills (MSWLFs) and Industrial Waste Landfills.[23] This Note is concerned with MSWLFs. Additionally, the EPA has defined two important terms relating to solid waste management: (1) solid waste is "garbage, refuse, sludges, and other discarded solid materials," but nothing toxic, and (2) leachate refers to the liquid formed when water is polluted as it moves through a landfill and chemicals and other

16. *History of the Resource Conservation and Recovery Act (RCRA)*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/rcra/history-resource-conservation-and-recovery-act-rcra (last updated Jan. 22, 2026); 42 U.S.C. §§ 6901–6987.

17. *History of the Resource Conservation and Recovery Act (RCRA)*, *supra* note 16.

18. 42 U.S.C. § 6902(a).

19. *Resource Conservation and Recovery Act (RCRA) Overview*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-overview (last updated Sept. 5, 2025).

20. *Id.*

21. *Id.*

22. *See* 40 C.F.R. § 258; David Drilling, Mo. Dep't Nat. Res., Intro to Solid Waste Management 22 (on file with author).

23. Municipal Solid Waste Landfills are "specifically designed" to receive household and other nonhazardous wastes. Their Industrial Waste counterparts, however, focus on commercial and institutional waste and may specialize in processing construction debris or other industry specific wastes. *Basic Information About Landfills*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/landfills/basic-information-about-landfills (last updated June 25, 2025).

materials leach into it.[24] These terms are important to explain what is going into the MSWLFs discussed below, and managing leachate collection is a key aspect of MSWLF construction.

B. The History of Missouri's Solid Waste Management

After SWDA, but before RCRA, Missouri took steps to address the solid waste problem in the state with information gained from surveys done with funds from SWDA.[25] In total, the survey found 2,600 roadside and promiscuous dumps but only 457 *authorized* disposal sites.[26] Of these 457 authorized sites, 97% had polluted land, air, or water; 90% discharged leachate into the environment; 20% were below the groundwater table; 75% had no soil cover; and almost all of them allowed open burning of waste.[27] After accounting for all the compromised authorized sites, only four could be considered sanitary, less than 1% of authorized sites.[28] In response, the General Assembly passed the Missouri Solid Waste Management Law (MSWML) in 1972.[29] MSWML required local governments to "plan and implement sound solid waste management practices."[30] MSWML also required the Missouri Division of Health to engineer, permit, and inspect landfills. In 1974, these duties were taken over by the newly formed Missouri Department of Natural Resources (DNR).[31]

After RCRA passed in 1976, Missouri Senate Bill 475 amended MSWML to meet new standards. The bill also added new requirements for landfills, including, inter alia: requiring baseline groundwater sampling, leachate collection systems in newly constructed landfills, and encouraging recycling.[32] After the EPA finalized Subtitle D regulations in 1991, Missouri implemented further requirements including, inter alia: location and access restrictions, restrictions on the dumping of "bulk liquids" and hazardous

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24. 40 C.F.R. § 243.101(y); *Municipal Solid Waste Landfills*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/landfills/municipal-solid-waste-landfills (last updated Mar. 11, 2025).

25. Drilling, *supra* note 22, at 9.

26. A roadside or promiscuous dump refers to any illegal dumping site. *See* M. A. KRUTH ET AL., U.S. ENV'T PROT. AGENCY, CREATING A COUNTYWIDE SOLID WASTE MANAGEMENT SYSTEM, at v (1972) (developing a solid waste management plan in Tennessee to eliminate promiscuous dumps); Drilling, *supra* note 22, at 9.

27. Drilling, *supra* note 22, at 9.

28. *Id.*

29. SOLID WASTE MANAGEMENT PROGRAM, A SHORT HISTORY OF SOLID WASTE IN MISSOURI 2 (1999).

30. *Id.*

31. Drilling, *supra* note 22, at 14; *History of the Missouri Department of Natural Resources*, MO. DEP'T NAT. RES., https://dnr.mo.gov/about-us/history (last visited Jan. 24, 2026).

32. Drilling, *supra* note 22, at 19; *see, e.g.*, MO. REV. STAT. §§ 37.078, 260.205.14–.15 (1986).

waste, requirements the landfill is covered daily, and monitoring of groundwater.[33]

These Subtitle D requirements had extensive and lasting effects on the State of Missouri.[34] First and foremost, pre-Subtitle D, there were 125 landfills operating within the state.[35] Post-Subtitle D, that number has been reduced to a mere 17 landfills accepting municipal solid waste.[36] This dramatic decrease is largely attributable to increased cost and complexity due to the new regulations.[37] This lack of landfills can cause problems due to extended travel times to transport trash from transfer stations to landfills that are far away from their municipal sources.[38]

C. The Permitting Process in Missouri

The permit process has five steps: (1) a Preliminary Site Investigation; (2) a Detailed Site Investigation Workplan; (3) a Geologic and Hydrologic Site Characterization Report; (4) a Construction Permit; and (5) an Operating Permit.[39] Each of these steps has a specific time frame and require approval before the permit seeker can proceed further.[40] Finally, the DNR is required to issue a permit if "the permit application meets all statutory and regulatory requirements and the local governmental authority confirms the proposed facility meets all local requirements."[41]

The first step is a Preliminary Site Investigation.[42] An applicant can request an investigation and DNR's Geologic Survey Program (GSP) will visit the proposed site. GSP evaluates the site's "soils, geology, and hydro-geology" and look for geologic structures like faults or springs.[43] Essentially, the survey looks to ensure the geology of the site can safely support a landfill. The GSP then has 60 days to approve or reject the preliminary site investigation.[44]

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33. "Bulk liquids" refers to liquids that are not in a container and are prohibited in MSWLFs. 40 C.F.R. § 258.28(a); Drilling, *supra* note 22, at 21.

34. *See* Drilling, *supra* note 22, at 22 (detailing Subtitle D's effects on Missouri landfills); A SHORT HISTORY OF SOLID WASTE IN MISSOURI, *supra* note 29, at 29 (showing that Subtitle D lead many landfills to close after re-evaluating the cost of doing business in a post-Subtitle D world).

35. Drilling, *supra* note 22.

36. *Id.*

37. *Id.*

38. *Id.* at 29.

39. *Solid Waste Landfill Permits*, *supra* note 2.

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

Next, the applicant must create a Detailed Site Investigation Workplan, which shows how the applicant intends to "thoroughly and adequately characterize the site for hydrologic and geologic interpretations."[45] The Detailed Site Investigation Workplan explains the steps the applicant will actually take to determine whether the site's geology and hydrology can support a landfill.[46] The GSP has 30 days to approve or reject of the workplan.[47]

Subsequently, the applicant must create a Geologic and Hydrologic Site Characteristic Report, which will implement the previously approved workplan.[48] All geologic and hydrologic data collected and interpreted for this report must be done under the supervision of a geologist registered with the State of Missouri.[49] The report is then submitted to the GSP, which has 60 days to approve or reject of the report.[50]

After, the applicant must apply for a Construction Permit, which the applicant must obtain before any construction begins, including "clearing vegetation or earth work."[51] The applicant must also schedule a meeting with DNR's Waste Management Program before submitting the application.[52] The application includes a permit application fee, the completed application form, engineering plans and specifications for the facility, evidence of compliance with local zoning rules, documentation of financial responsibility, a copy of the approved site investigation report, plans for closure and post-closure, and the "[n]ames and addresses of all recorded owners of real property" within 1,000 feet of the proposed disposal area.[53]

Before the DNR can approve this application, the local municipality or jurisdiction must verify the facility meets "all applicable zoning, building, and health codes, ordinances and orders" relating to the waste disposal.[54] The DNR is legally obligated to request this verification before it issues a permit.[55] Prior to the Raymore Controversy discussed below, landfills required approval from the governing body of any municipality within one-

45. *Id.*
46. MO. CODE REGS. ANN. tit. 10, § 80-2 App'x 1 (2018).
47. *Solid Waste Landfill Permits*, *supra* note 2.
48. *Id.*
49. *Id.*
50. *Id.*
51. *Id.*
52. *Id.*
53. *Id.* (The engineering plans and facility specificiation must be approved by a Missouri registered professional engineer).
54. *Id.*
55. *Id.*

half mile of the landfill.[56] This setback was increased to one mile due to the Raymore Controversy.

Finally, the applicant must seek an Operating Permit after building all pre-operational features.[57] The operating permit is necessary before the landfill can accept any waste.[58] The operating permit includes a letter, "sent by certified mail and signed by the owner/operator and a professional engineer."[59] The letter states the pre-operational features have been completed in line with the construction permit.[60] The permit also includes any "necessary as-built drawings."[61] Before issuing the permit, the DNR will inspect the site once more to ensure construction was in line with the approved plans and permits.[62] If the permit is issued, it lasts for the life of the landfill.[63]

There are additional requirements at each of these steps relating to public awareness and involvement, but these five requirements are the most important and sufficient to show the comprehensiveness of these regulations. Building a landfill is a labor-intensive process, whose application process alone can last five years.[64] Further, Missouri's landfills are running out of space.[65] Ten of Missouri's 17 landfills are projected to be full within the next 20 years.[66] With the timescales necessary for landfill creation, 20 years is not a long time.[67] With this understanding of the difficulty involved in building a landfill, this Note will briefly touch on the public perception of landfills.

D. Public Perception of Landfills

If you search"landfill" and click on a search browser, you will see a litany of pictures depicting open air piles of garbage and refuse. As explained

56. MO. REV. STAT. § 260.205.9 (2022); *Opposition to Threat of Landfill Development*, *supra* note 3.

57. *Solid Waste Landfill Permits*, *supra* note 2.

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

64. Matt Flener, *Developer Confirms Plans for South Kansas City Landfill Near Jackson, Cass County Border Line*, KMBC (Feb. 14, 2023), https://www.kmbc.com/article/developer-confirms-south-kansas-city-landfill/42891654.

65. Karnes, *supra* note 4.

66. Charlene S. Fitch, Mo. Dep't Nat. Res., Remaining Airspace in Missouri Sanitary Landfills 2 (2023).

67. *Id.*

above, these depictions are outdated and misleading at best.[68] The influence these depictions have on public perception can be seen in how both supporters and detractors of landfills choose the images they use to represent landfills.[69] Still, even landfill detractors acknowledge how the development of the modern sanitary landfill offers a marked improvement over older trash dumps.[70]

Unfortunately, surveys have shown that some still view landfills as open-air piles of garbage.[71] The public's perception of landfills may be due to a lack of education or simply a lack of interest, but it might also have to do with a lack of experience.[72] If the only experience a person has with waste management in their day-to-day life is a garbage truck, they may not care how the whole process works.[73] Afterall, if it is out of sight—it is out of mind.[74] These false public perceptions animated much of the Raymore Controversy.

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68. *See* Part I.B–C (explaining the Missouri's requirements for constructing and operating a landfill); Rachael, *supra* note 1; *Dump or Landfill? Is There a Difference? A Resounding Yes!*, CANYONLANDS SOLID WASTE AUTH. (Dec. 8, 2017), https://swssd1.org/dump-or-landfill-is-there-a-difference-a-resounding-yes/ [https://web.archive.org/web/20240606042705/https://swssd1.org/dump-or-landfill-is-there-a-difference-a-resounding-yes/] (explaining the differences between landfills and dumps, including what the monitoring requirements of running a landfill).

69. *See* Andrea Davis, *5 Things You Never Knew About Today's Landfills*, GRANGER WASTE SERVS. (May 15, 2019), https://www.grangerwasteservices.com/5-things-you-never-knew-about-todays-landfills/ (same); *Landfills*, N.C. ENV'T JUST. NETWORK, https://ncejn.org/injustice/landfills [https://web.archive.org/web/20241108215535/https://ncejn.org/injustice/landfills/#whowearemenu] (last visited Feb 6, 2025) (highlighting a banner depicting a compactor on a large open-air garbage pile); Pam Reynolds, *Talking Trash: The Truth About Landfills*, CONSERVATION L. FOUND. (June 13, 2024), https://www.clf.org/blog/talking-trash-the-truth-about-landfills (depicting the uncovered working face of a landfill full of waste).

70. Reynolds, *supra* note 69.

71. Leslie Jones, *Open Dumps...A Thing of the Past. Landfills vs Open Dumps, Part 1*, WASTE AWAY GRP. (Nov. 22, 2013), https://wasteawaygroup.com/blog/open-dumps/.

72. *See* Reynolds, *supra* note 69 (noting that for many "landfills are an abstract concept," in part due to the public's experience with waste management being limited to trash trucks).

73. *Id.*

74. My own perception of landfills was that of open-air piles of garbage until I toured one during Summer of 2024. I did not care about waste management at all, and it never crossed my mind in an environmental context unless it involved recycling. It was simply a blind spot that I am not alone in having.

E. The Raymore Controversy

The City of Raymore is a 3rd Class municipality[75] with a population of 24,164 when this controversy started.[76] In 2024, Raymore's demographics are like those of the State at-large being 78.1% white, 8.8% Black, 1.1% Asian, 6.9% Latino, and 9.9% mixed.[77] Turning to Raymore's economy, things look different. Raymore's median income is over 140% that of the State at large and Raymore's poverty rate is less than half that of the State at large.[78]

In July of 2022, the mayor of Raymore learned of the intention to build a landfill in southeast Kansas City, Missouri.[79] The mayor began contacting city officials to meet and discuss the potential landfill.[80] Come November, Raymore's mayor was contacted by an attorney representing Aden Monheiser, the landfills decloper.[81] In December of 2022, Raymore passed a resolution formally opposing siting a landfill near the city.[82] During January of 2023, nearby cities, counties, and schools passed similar resolutions in opposition to the proposed landfill.[83] On January 23, State Representative Mike Haffner introduced House Bill 909 (H.B. 909), which would increase the current landfill setback requiring local approval for landfills from one-half mile to one mile.[84] H.B. 909 passed the House and was introduced in the Senate on March 22.[85] Due to opposition in the Senate, H.B. 909 failed to pass during the 2023 session.[86] Although, an amendment was added to another bill preventing the landfill from being permitted until DNR completed a one-year health, safety, and welfare study in the area

75. Missouri divides municipalities into one of five categories: village, 4th Class, 3rd Class, Constitutional Charter/Home Rule, and Special Charter. The classification is based on population and limits what form of government a municipality can have. Special Charters are an antiquated category that stopped being granted in 1875, though seven Missouri municipalities still operate under them. As for Raymore, 3rd Class municipalities have 3,000–29,999 people and can be governed by different combinations of Mayors, Managers, Councils, and Commissions. MO. SEC'Y OF STATE, 2023-2034 OFFICIAL MANUAL 803, 818 (2024).

76. *Id.*

77. *City of Raymore*, U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/fact/table/MO,raymorecitymissouri/INC110224 (last visited Jan. 24, 2026) [hereinafter *Missouri-Raymore Census*].

78. *Id.*

79. *Opposition to Threat of Landfill Development*, *supra* note 3.

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

surrounding Raymore.[87] However, Governor Parsons vetoed it "in an effort to help ensure the financial stability of Missouri beyond [his] Administration and the current General Assembly. Further, [the landfill] is a local responsibility with minimal statewide impact."[88]

This veto did not discourage the people of Raymore, and they redoubled their efforts to stop the fill.[89] In December of 2023, three bills were pre-filed in the House and Senate to increase the municipality setback to one mile, including House Bill 1751 (H.B. 1751).[90] In January 2024, the bills were formerly introduced and referred to the committee.[91] On March 7, the House passed H.B. 1751, which was then introduced in the Senate.[92] The Senate passed H.B. 1751 on April 17, and Governor Parsons signed it on May 6.[93] After 651 days, Raymore had stopped the fill, adding yet another hurdle for managing solid waste disposal in Missouri.[94]

II. THE DANGERS OF THE RAYMORE CONTROVERSY

The Raymore Controversy may seem relatively innocuous. After all, H.B. 1751 only changed 12 words, and what difference does an additional half-mile setback really make?[95] On its face, H.B. 1751 does not do much, but it sends a message, and it killed the proposed landfill south of Kansas City, Missouri. H.B. 1751 plays at being harmless, but in reality, it codifies and legitimizes NIMBYism despite the problems a landfill could solve.[96] As a term, NIMBY derogatorily implies opponents of local siting proposals are "selfish and short-sighted."[97] Others have found so-called NIMBYs to have

87. *Id.*
88. *Id.*
89. *Id.*
90. *Id.*
91. *Id.*
92. *Id.*
93. *Id.; Governor Parson Signs HB 1751 into Law*, MO. GOVERNOR MICHAEL L. PARSON, https://governor.mo.gov/press-releases/archive/governor-parson-signs-hb-1751-law (last visited Mar. 31, 2026) [https://web.archive.org/web/20250102190951/https://governor.mo.gov/press-releases/archive/governor-parson-signs-hb-1751-law].
94. *Opposition to Threat of Landfill Development*, *supra* note 3; H.B. 1751, 102nd Gen. Assemb., 2nd Reg. Sess. (Mo. 2024); MO. REV. STAT. § 260.205.9 (2022).
95. *Compare* H.B. 1751, 102nd Gen. Assemb., 2nd Reg. Sess. (Mo. 2024), *with* H.B. 909, 102 Gen. Assemb., 1st Reg. Sess. (Mo. 2023). MO. REV. STAT. § 260.205.9 (2022).
96. Emeka Duruigbo, *Fracking and the NIMBY Syndrome*, 26 N.Y.U. ENV'T L.J. 227, 232, 239–40 (2018) (exaplaining that NIMBYism (an abbreviation of Not In My Back Yard) is a phenomenon wherein landowners and host communities will act to prevent potential controversial industrial or non-industrial projects the landowners or communities deem undesirable).
97. Gary A. Abraham, *Fanning the Flames of NIMBY: A Book Review of the Promise and Peril of Environmental Justice*, 6 BUFF. ENV'T L.J. 115, 117 (1998).

understandable and even positive concerns justifying their resistance to projects such as fracking.[98]

The communities in Duruigbo's article faced development of a local fracking operation that carries a host of environmental concerns with it.[99] These concerns were largely born by residents who would not receive the economic benefits of such development.[100] Unlike those communities, the people of Raymore are not fighting against a potentially environmentally disastrous fracking operation that would benefit only a few. They are fighting against a necessary public health infrastructure project with widespread benefits and minimal local costs, and they are doing so because they feel somebody else should deal with it. Much of Missouri may be geologically unfit for landfills due to the increased difficulty of maintaining a safe, sanitary landfill in certain regions.[101] H.B. 1751 increases the amount of land unfit for landfills but due to political, not geological reasons.[102]

There are 1,268 sub-county governments in Missouri that would be able to enforce the one-mile setback.[103] These sub-county governments cover 4.8% of Missouri's total land area.[104] The average size of a municipality in Missouri is 3.18 square miles.[105] The original half-mile setback prevented landfills from being placed in an additional 1,579 square miles. By increasing the setback to a full mile, an additional 2,095 square miles that would have been available to landfills is now potentially closed off to them.[106] This area amounts to an additional 5.3% of Missouri's land area closed off to landfills, removing a total of 10.1% of the State's area just due to municipalities and

98. Duruigbo, *supra* note 96, at 239–40.

99. *Id.* at 240–41.

100. *See id.* at 233, 240–41 (exploring the distribution of the benefits and dangers of fracking and how it affects local opposition to fracking development).

101. *See* MO. GEOLOGICAL SURV. & WATER RES., SANITARY LANDFILLS 3 (describing important factors to consider when siting a landfill, particularly regarding site geology and explaining that siting a landfill in the southeastern quarter of the state may require extensive remedial work) (on file with author).

102. *Opposition to Threat of Landfill Development*, *supra* note 3.

103. U.S. DEP'T OF COM.: U.S. CENSUS BUREAU, G22-CG-ISD, INDIVIDUAL STATE DESCRIPTIONS 2022, at 176 (2022).

104. This was calculated using a list of Missouri's cities and their land area, which was added together and divided by Missouri's total land area from the U.S. Census. *Missouri Land Area City Rank*, USA.COM, http://www.usa.com/rank/missouri-state--land-area--city-rank.htm (last visited Mar. 25, 2025) [https://web.archive.org/web/20240727161547/http://www.usa.com/rank/missouri-state--land-area--city-rank.htm]; *Missouri-Raymore Census*, *supra* note 77.

105. This was calculated using the same data set as the area coverage from the previous footnote. *See Missouri Land Area City Rank*, *supra* note 104.

106. These areas were calculated assuming the footprint of all cities was a square. This assumption is likely to lead to an underestimate as opposed to more irregular or circular shapes. Because this assumption will likely result in an underestimate, it should result in making the problem appear less severe than it actually is.

their setbacks.[107] Because the City of Raymore wanted to push the necessary infrastructure of a landfill on somebody else, there has been a major decrease in available land. Further, the setback is particularly dangerous because it arbitrarily limits possible siting locations and increases the difficulty of siting landfills without good cause. More than that, it is plainly unfair to allow an affluent community to buy its way out of the potential negative externalities of necessary public infrastructure. This unfairness is especially poignant when the community goes outside the proper channels of public participation by changing state law solely for their benefit.

Statewide laws should serve the people of the State broadly—H.B. 1751 does not. It may appear to apply broadly, but its most sinister effect is empowering other municipalities to try to recreate the Raymore Controversy. Raymore is an affluent municipality, but it is not even in the top 50 richest municipalities in Missouri.[108] However, it could still leverage enough political capital to fight the landfill. Raymore's success may inspire other more affluent municipalities to similarly fight landfills. Such behavior needs to be nipped in the bud. Missouri has a duty to its people to provide for safe, efficient waste management, but Missourians also have a duty to each other not to act as a roadblock to safe, efficient waste management. The City of Raymore has failed to live up to that duty.

III. SOLUTIONS TO THE RAYMORE CONTROVERSY

To address the potential procedural quagmire associated with House Bill 1751 (H.B. 1751), and any future bills inspired by its success, three solutions are proposed: the repeal of H.B. 1751; a "stop-the-clock" law; and applying eminent domain-like power to waste management companies. The repeal of H.B. 1751 is rather straightforward. Reverting the law to its pre-2024 state would address the immediate concern of allowing municipalities to have an outsized influence on the siting of landfills necessary to meet local need. Also, it may have a discouraging effect on other municipalities seeking to try the same thing were a landfill proposed at the setback limit near them. The "stop-the-clock" law is intended to not just resolve the Raymore Controversy, but to stymie potential future Raymore Controversies. The law would require that a potential landfill only comply with those laws and regulations in place when the landfill begins the

107. This was calculated with an increase to account for the additional setback. It used the same data set as the initial area calculation. *Missouri Land Area City Rank*, *supra* note 104.

108. *Missouri-Raymore* Census, *supra* note 77; Andrew DePietro, *Here Are the Richest Cities in Missouri, From the Latest Census Data*, FORBES (Oct. 18, 2023), https://www.forbes.com/sites/andrewdepietro/2023/10/18/here-are-the-richest-cities-in-missouri-from-the-latest-census-data/.

permitting process. The eminent domain-like power is intended to put a hard limit on a local municipality's ability to interfere with the construction of a landfill. Subpart A of this Part explores potential environmental justice and other consequences that may arise if H.B. 1751 is repealed. Subpart B explores what consequences may arise if a "stop-the-clock" law is passed to protect a landfill from laws or regulations put in place during its permitting process. Subpart C explores the potential of granting landfills eminent domain authority to prevent local interference with landfills.

A. Repealing H.B. 1751 and Potential Consequences for Environmental Justice

The basic premise of repealing H.B. 1751 is quite simple; H.B. 1751 added an additional hurdle to the proliferation of landfills, and the legislature should remove that hurdle. Raymore officials based their opposition to the landfill on potential harm to public health, the economy, and the environment.[109] H.B. 1751 does not address these harms; it merely allows Raymore to push them off on somebody else, someone who likely lacks the resources to change the law in their favor. Further, the requirements of Subtitle D and Missouri's own regulations promulgated pursuant to Subtitle D already address these harms.[110]

H.B. 1751 is not the result of a sincere desire to ensure that landfills are safe for human health and the environment. It merely exists to prevent the City of Raymore from having to live near a landfill. Raymore's insincerity is evident because H.B. 1751 does not address any of the harms Raymore names. It seems to fail to achieve its objective as a result, but that is not the case. H.B. 1751 accomplishes the true objective of Raymore mentioned above, killing the landfill.[111] Therefore, H.B. 1751 should be repealed because it fails to accomplish its named objective and serves only to impede landfill proliferation.

A potential repeal of H.B. 1751 does raise some concerns, most notably potential environmental justice concerns.[112] Environmental justice is founded on the principle that efforts should be made to ensure that communities and populations are not disproportionately exposed to environmental harms.[113]

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109. *Opposition to Threat of Landfill Development*, *supra* note 3.

110. Drilling, *supra* note 22, at 21.

111. *See* Section I.E.

112. Emily Sims, *Backyards to Junkyards: Exposing Alabama's Environmental Injustice*, 14 ALA. C.R. & C.L. L. REV. 27, 27–28, 51–53 (2023).

113. *See* DAVID SCHLOSBERG, DEFINING ENVIRONMENTAL JUSTICE: THEORIES, MOVEMENTS, AND NATURE 4–5 (2007) (exploring the gap between environmental justice theories and movements due to disparate definitions and concepts of justice).

Environmental justice issues affect communities, which includes low-income and minority populations.[114] Unfortunately, environmental justice issues are not foreign to landfill siting concerns.[115] Alabama has had multiple civil actions raised alleging the Alabama Department of Environmental Management discriminated based on race in its failure to act on environmental justice concerns during siting decisions.[116]

A key aspect to addressing potential environmental justice concerns is engaging with the affected communities.[117] The Environmental Protection Agency's strategy for working with these communities is ensuring there is *meaningful engagement*. This includes timely opportunities for community engagement, seeking and encouraging involvement by potentially affected persons, and providing technical assistance to ensure *meaningful and informed* participation.[118] Frankly, this proposal seems to fly in the face of meaningful and information participation because repealing H.B. 1751 appears to tell the people of Raymore that their input and concerns do not matter. It could be, except for one key detail. Restoring the half-mile setback to landfills does not inhibit the public from participating in the landfill process. A key part of the required process is multiple public meetings allowing members of the public to voice concerns or seek information about the nature of the landfill—a process Raymore officials did not allow to take place.[119]

There is an additional aspect of environmental justice the Missouri Department of Natural Resources (DNR) should implement to make the current public participation more effective: the DNR should provide education opportunities on landfills to residents as part of the permitting process.[120] Additional educational opportunities could help people to understand what is involved in the landfill permitting process. It would also allow for more well-informed feedback, which furthers the goals of

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114. *Id.* at 4.

115. Sims, *supra* note 112, at 27–28.

116. *Id.* at 31–47.

117. *Learn About Environmental Justice*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/environmentaljustice/learn-about-environmental-justice (last visited Mar. 31, 2026) [https://web.archive.org/web/20250109224510/https://www.epa.gov/environmentaljustice/learn-about-environmental-justice].

118. *Id.*

119. *See Solid Waste Landfill Permits*, *supra* note 2.

120. *Environmental Justice in Your Community*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/environmentaljustice/environmental-justice-your-community (last visited Mar. 31, 2026)[https://web.archive.org/web/20250123034801/https://www.epa.gov/environmentaljustice/environmental-justice-your-community].

environmental justice by ensuring that residents are not facing down corporate interests with as much of an information asymmetry.[121]

Still, repealing H.B. 1751 seems to remove local input, and removing local input is contrary to the very essence of environmental justice. These proposed solutions do not remove the input during the DNR's landfill permitting process. It merely prohibits cities who have the money and political power to do so from forcing necessary, if unattractive, infrastructure onto those without the resources to fight. Someone must live near the landfill. Affluent cities should not be allowed to use their wealth to push the perceived negative externalities of landfills on those less fortunate. By ensuring that wealthier communities are not able to skirt the system of public participation that is already in place, it levels the playing field for those communities without the resources to push necessary infrastructure onto someone else. Though it may seem counterintuitive, the proposed solutions are better for environmental justice concerns by requiring everyone to voice their opinion on a proposed landfill in the same way; by using the public participation systems built into the permitting process.

Thus, while environmental justice concerns appear to be implicated by repealing H.B. 1751, the laws and regulations currently in place provide multiple opportunities for concerned members of the public to voice their concerns.[122] Although this is beneficial, providing additional education opportunities would help make public participation more effective. The Raymore Controversy did not expose a major flaw in the permitting process that Raymore's officials were able to exploit. Instead, it showed that some actors can circumvent the public participation process built into the permitting process, undermining Missouri's waste management system.

B. A "Stop-the-Clock" Law Prevents Mid-Construction Interference with Landfills

Just reinstating the old law is not enough. Additional laws should be put in place to protect landfills from the interference of new, unexpected procedures during the permitting process. The proposed "stop-the-clock" law is quite similar to "grandfathering" provisions found in many statutes. "Grandfathering" provisions let someone continue to act even if a new law says it cannot be done anymore.[123] "Grandfathering" does not accurately

121. *See* Subodh P. Kulkarni, *Environmental Ethics and Information Asymmetry Among Organizational Stakeholders*, 27 J. BUS. ETHICS 215, 224–25 (2000) (exploring how information asymmetry can influence firms to act in environmentally unjust ways).

122. *Solid Waste Landfill Permits*, *supra* note 2.

123. Heidi Gorovitz Robertson, *If Your Grandfather Could Pollute, So Can You: Environmental "Grandfather Clauses" and Their Role in Environmental Inequity*, 45 CATH. U. L. REV. 131, 131–32

communicate the purpose of the proposed "stop-the-clock" provision, hence the new terminology.

The proposed "stop-the-clock" provisions would require landfills to only follow the regulations and laws governing construction that were in place at the time the permitting began. That is not to say when the landfill breaks ground, but when it begins the permitting or surveying process with DNR. If it were limited to landfills that had already broken ground, it would not have protected the landfill at issue in the Raymore Controversy. Essentially, all permitting and construction requirements would be "frozen" in time at the time the process begins. The "stop-the-clock" provision would provide stability to those seeking to construct and operate a landfill and could encourage additional investment and proliferation of landfills around the state. Knowing that a landfill will not be randomly halted due to new regulations or laws brought about by an unhappy local municipality would make these investments more secure. After all, it takes years just to get through the permitting process, which provides ample opportunity for municipalities to interfere.[124]

One could argue that this proposal is nothing more than a normal "grandfathering" provision, but that misunderstands the purpose and effect of the proposed law. A "grandfathering" provision allows an entity that is already doing something to continue to do so, which implies the pre-existence of said entity when the law is made. The provision could be included in any future law affecting landfill development, which allowed landfills currently under construction to only comply with current law. That provision could and likely would be left out, however, because cities trying to replicate the Raymore Controversy's success will not want to exclude the proposed landfill from the new laws they are proposing. Also, if the "stop-the-clock" provision is its own law, it could provide a kind of inertia against repeal, even in future legislative efforts by municipalities just by virtue of being existing law.[125] It is one thing to change the law, and an entirely different question to repeal complete sections of it altogether.

Some concerns may arise due to this proposed legislation. Chief among them is that it could allow harmful practices to persist if new data or regulations show that the current methods of landfill construction are

(1995) (explaining that "grandfathering" comes from laws limiting voting in the wake of the Civil War to only those whose grandfathers had been allowed to vote.).

124. Flener, *supra* note 64.

125. *See* Michael J. Klarman, *Majoritarian Judicial Review: The Entrenchment Problem*, 85 GEO. L.J. 491, 505 n.66 (1997) (explaining how the difficulty of passing legislation increases when that legislation repeals existing law).

inadequate to prevent environmental harm.[126] For example, if the proposed "stop-the-clock" law was in place in 1994, when Missouri fully implemented requirements of Subtitle D, then a landfill that began the permitting process in 1993 would have avoided the "dry tomb" requirements of Subtitle D. This would have posed a major risk to public health and the environment in the vicinity.[127] Entrenching such harm would obviously be disastrous. Subtitle D and Missouri regulations promulgated pursuant to it were vital for creating the modern sanitary landfills that exist today.

The year is not, however, 1994. While new methods may emerge, modern sanitary landfills are engineering marvels with many systems in place to prevent harm to human health and the environment.[128] Simply put, the risk posed by a modern sanitary landfill only following current regulations seems miniscule.

Limiting how new laws can affect a landfill during construction could also discourage other municipalities from trying to recreate the Raymore Controversy. Knowing new laws cannot directly affect the permitting process may encourage disgruntled municipalities to attempt a more diplomatic approach through the public participation activities required under the landfill permitting process.[129]

C. Giving Landfills Eminent Domain Will Limit Local Interference with Landfill Siting

A third option lies in giving landfills the power of eminent domain, also known as expropriation.[130] Eminent domain is "the power of a governmental entity to take private property for a public use without the owner's consent."[131] Historically, eminent domain has been used to "facilitate

126. *See* Robertson, *supra* note 123, at 134–35 (exploring how grandfather clauses allowing existing polluters to continue do so to the detriment of effective environmental action).

127. Subtitle D's "dry tomb" approach required landfills to be lined with plastic sheeting and compacted soil to prevent leachate from reaching and harming the environment. Protected from the "dry tomb" requirements, a pre-Subtitle D landfill would be much more likely to leach pollutants into the surrounding environment. This leaching could pose major public health effects if the leachate reached groundwater. *See* Drilling, *supra* note 22, at 21 (listing some of Subtitle D's requirements); G. FRED LEE & ANNE JONES-LEE, IMPACT OF MUNICIPAL AND INDUSTRIAL NON-HAZARDOUS WASTE LANDFILLS ON PUBLIC HEALTH AND THE ENVIRONMENT 2 (1994) (explaining the "dry tomb" approach of Subtitle D regulations).

128. Drilling, *supra* note 22, at 20–21.

129. *Solid Waste Landfill Permits*, *supra* note 2.

130. Christopher Serkin, *Exacting Assessments: Sheetz and the Problem of Stategraft*, 2024 WIS. L. REV. 641, 644 (2024) (arguing that legislative exactions, "obligations imposed on property owners as a condition for developing their property," should not be subject a heightened constitutional review).

131. Rex Realty Co. v. City of Cedar Rapids, 322 F.3d 526, 528 (8th Cir. 2003) (quoting ACCO Unlimited Corp. v. City of Johnston, 611 N.W.2d 506, 528 (Iowa 2000) (citation omitted)).

transportation, supply water, construct public buildings, and aid in defense readiness."[132] The power of eminent domain, however, does not solely belong to the government.[133] As far back as the 1890s, private companies have been legislatively endowed with eminent domain authority.[134] Originally, this authority was given to common carriers like railroads.[135] In the 20th Century, this authority was extended to natural gas companies allowing them to build pipelines by acquiring easements with eminent domain granted to them by the Federal Energy Regulatory Commission (FERC).[136] Essentially, there is a long history of allowing the taking of private property for public use, even if the land is being given to a private company to develop.[137]

In Missouri, eminent domain has been used to allow local governments to use land for public services, such as landfills.[138] In *Appelbaum*, the Missouri Supreme Court held that "a body with the power of eminent domain is not subject to the zoning regulations of another body."[139] In *Appelbaum*, St. Louis County approved a trash incinerator and landfill in the Village of Bel-Ridge.[140] Multiple residents sued, alleging the incinerator and landfill violated Bel-Ridge's "zoning ordinance and residential character."[141] Under Article VI, Section 18 of the Missouri Constitution, St. Louis County was authorized to acquire land by eminent domain to build an incinerator if it was "found necessary for the protection of public health."[142] Simply put, the Village of Bel-Ridge lacked the power to enforce their zoning ordinances against St. Louis County.[143] A new law could give waste management companies that same power.

While eminent domain normally broadcasts the image of a government seizing an unwilling landowner's land, this proposal restricts such a broad use of that power.[144] Waste management companies should not be able to

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132. *History of the Federal Use of Eminent Domain*, U.S. DEP'T JUST., https://www.justice.gov/enrd/condemnation/land-acquisition-section/history-federal-use-eminent-domain (last visited Mar. 31, 2026).

133. *Id.*

134. Roberts v. N. Pac. R. Co., 158 U.S. 1, 17 (1895).

135. *Id.*

136. FEDERAL ENERGY REGULATORY COMMISSION, AN INTERSTATE NATURAL GAS FACILITY ON MY LAND? WHAT DO I NEED TO KNOW? 8 (2015).

137. *History of the Federal Use of Eminent Domain*, *supra* note 132.

138. Appelbaum v. St. Louis Cnty., 451 S.W.2d 107, 113 (Mo. 1970).

139. Anthony P. Farrell, *Obstacles to the Formation of Solid Waste Landfills in Missouri*, 2 MO. ENV'T. L. & POL'Y REV. 134, 136 (1995); *Appelbaum*, 451 S.W.2d at 113.

140. *Appelbaum*, 451 S.W.2d at 108–09.

141. *Id.* at 109.

142. *Id.*

143. *Id.* at 112–13.

144. *History of the Federal Use of Eminent Domain*, *supra* note 132.

declare an area a landfill and exercise unrestricted eminent domain. These companies should be able to use a form of eminent domain like natural gas pipelines can use pursuant to an action authorized by FERC.[145]

FERC allows natural gas companies to acquire right-of-way easements for pipelines, compressor stations, and storage field locations.[146] The landowner still owns the land, and the landowner is compensated for the easement with a court-determined payment.[147] A major difference between eminent domain power given to these pipelines and what is proposed here is the consent of the landowner. If FERC determines the best route is through your backyard, you will be compensated, but you still lose some control over your land.[148] Waste management companies should not wield such broad power, but they should be able to acquire land from willing landowners even if a nearby municipality does not like it. Thus, eminent domain authority would allow landfills to be placed where there are landowners willing to sell without interference from local municipalities.

Giving waste management companies a form of eminent domain allows them to place a landfill where landowners are willing to sell. Regardless of the municipality's resistance, this would once again remove a barrier to landfill proliferation. Further, this proposal has support from Missouri's own legal past due to cases like *Appelbaum*.[149] Essentially, the proposed legislation would codify *Appelbaum* in such a way as to remove local municipalities' ability to interfere with the proliferation of landfills. As with the repeal of H.B. 1751, this proposal would not remove the requirements of public engagement from the permitting process, it would merely remove the "veto" local municipalities have for adjacent landfills. The mere repeal of H.B. 1751 and this proposed eminent domain law may have some conflict, but the municipal "veto" can still exist if it were limited to the original half-mile setback. Further, this proposal is not wholly unique or even novel. It is rooted in the long history of eminent domain allowing even private companies to use eminent domain to put land to public use.[150]

Finally, this third proposal may raise similar environmental justice concerns as the proposed repeal of H.B. 1751. These concerns are real, but if the half-mile setback and its functional "veto" are maintained, the communities would still have a strong and effective voice to ensure their concerns are heard. Also, drawing a hardline at the half-mile setback and not

145. FEDERAL ENERGY REGULATORY COMMISSION, *supra* note 136, at 8.

146. *Id.*

147. *Id.*

148. *Id.*

149. Appelbaum v. St. Louis Cnty., 451 S.W.2d 107, 113 (Mo. 1970).

150. FEDERAL ENERGY REGULATORY COMMISSION, *supra* note 136; Roberts v. N. Pac. R. Co., 158 U.S. 1, 17 (1895).

allowing the veto to extend beyond it would appear to limit the community's voice. Still, this hardline should be maintained, but so should the public participation requirements already built into the permitting process. Ensuring the public participation requirements are followed would provide meaningful engagement, even if the end result is not necessarily what the community would want.

Overall, these three proposals—the repeal of H.B. 1751; a "stop-the-clock law"; and the application of a modified eminent domain for waste management companies—could help ensure Missouri has the proper infrastructure as more landfills fill up. These proposals would remove the roadblocks to landfill proliferation and would stymie future roadblocks before they arise. There are some environmental justice concerns, but these can be accounted for by robustly applying the currently required public participation in the permitting process. Thus, these proposals can go far in ensuring Missouri's waste management infrastructure will meet the needs of the state as it continues to grow.

CONCLUSION

Landfills are an extremely important piece of public health infrastructure, which are unfairly maligned in the media and by public officials. Unfortunately, the State of Missouri only has 17 landfills, and they are running out of space. Modern sanitary landfills are highly regulated engineering marvels that protect human health and the environment through strict requirements for those who construct, operate, and monitor them. The last thing landfills need is additional construction requirements that do nothing to make landfills safer. H.B. 1751 does nothing to make landfills safer; it only creates additional roadblocks to their construction based on Raymore's NIMBYist fears of having to bear the burden of modern infrastructure. Local municipalities cannot be allowed to change the law to prevent landfills from being built nearby. Thus, H.B. 1751 should be repealed, and the half-mile setback should be reinstated.

However, just repealing one bad law is not enough. Additional protections for landfills must be put in place. The "stop-the-clock" provision would protect landfills from onerous or changing regulations and laws meant purely to delay or prevent construction such as in the case of the Raymore Controversy. Additionally, giving landfills a form of eminent domain, overseen by the Missouri Department of Natural Resources (DNR), would allow them to build landfills where they are needed, even if a particular city does not support it. Together, these additional policies would prevent interference with partially constructed landfills outside of the public

participation requirements. This ensures that landfills can be built as needed without hurdles.

These policies do raise some environmental justice concerns, but the proposed solutions do not remove any of the public participation required by the DNR's current permitting process. State laws should apply broadly to ensure everyone has a voice. The proposed solutions do nothing to take that away and ensure that affluent communities cannot use their wealth to tip the scale.

Landfills need to be built. Missouri's legislature must repeal H.B. 1751 and institute the proposed solutions to protect landfills in their design and construction phase. These proposed solutions will ensure that a vital piece of public health infrastructure can continue to serve as our need for landfills continues to grow.