



**Testimony by William Norbert  
Governmental Affairs and Communications Manager**

**In Support of**

*An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2021*

**Joint Standing Committee on Appropriations and Financial Affairs**

**Joint Standing Committee on Environment and Natural Resources**

**January 28, 2021**

Senators Breen and Brenner, Representatives Pierce and Tucker, and Distinguished Members of the Joint Standing Committees on Appropriations and Financial Affairs and Environment and Natural Resources:

My name is Bill Norbert. I am the Governmental Affairs and Communications Manager at the Finance Authority of Maine (FAME). I live in Brunswick and am here to testify in support of the Governor's two initiatives related to the Waste Motor Oil Disposal Site Remediation Program, which are found on **Page A-36** of the budget document and in **Part M** (Pages 16-18) of the language section of the document.

The Waste Motor Oil Disposal Site Remediation Program (the "Program") was enacted by the 123rd Maine Legislature to provide financial assistance to eligible parties for response costs at waste motor oil disposal sites in Plymouth, Casco, Ellsworth, and Presque Isle. The Program authorized FAME to issue bonds supported by the moral obligation of the state towards payment of such costs, and FAME issued \$14,495,000 in bonds, which since have been paid back. The revenues to pay debt service on the bonds were originally generated by a fee on motor vehicle oil changes, and later, by premiums on the sale and distribution of certain motor vehicle oils. The bonds were issued in September 2009, and after ten years of paying down the bonds, all remaining outstanding maturities were redeemed early in October, 2019. The Program was very successful in our view. All costs directed to be paid under the Program to date have been paid.

First, with respect to the initiative on **Page A-36**: it adjusts funding to reflect the termination of the Program. The premiums formerly imposed on sales of certain motor oil in the state have been discontinued by operation of law, and there is thus no longer a need for this line

of the budget, which reflected the premiums collected by the state and directed to FAME to help pay off the bonds that been issued under this Program.

Second, the initiative set forth in the language in **Part M** of the budget directs all remaining funds (approx. \$4.3 million) in the Waste Motor Oil Revenue Fund at FAME to the Department of Environmental Protection, and repeals the laws governing the Program. This language mirrors FAME's bill, LD 1998, *An Act to Amend the Waste Motor Oil Disposal Site Remediation Program*, from the Second Session of the 129<sup>th</sup> Legislature. That bill was on its way to enactment when the Legislature adjourned abruptly in mid-March of 2020 due to the COVID pandemic. Except for the statutory provision regarding the premium imposed on the sale or distribution of motor vehicle oil (which terminated when the bonds were paid off), the laws governing the Program will be repealed September 30, 2021. The language also amends other sections of law by correcting cross-references and making technical changes resulting from the repeal of the laws governing the Program.

I have attached to the end of this testimony (pages 3-4) a history of the Waste Motor Oil Disposal Site Remediation Program and its predecessor programs if you care to learn more.

Thank you for your time and I would be happy to answer any questions.

**Addendum to FAME Testimony:**  
**A Brief History of the Waste Motor Oil Disposal Site Remediation Program**

Beginning in 1951, George West (now deceased) began operating a waste oil recycling business known as the Portland-Bangor Waste Oil Company (PBWO). The company initially disposed of motor oil sludge in a gravel pit in Wells, Maine. The business then expanded into collecting used motor oil from military bases, auto dealerships, municipalities, government agencies, local garages, industries, school districts, and utility companies throughout Maine and other parts of New England. The waste oil was stored in tanks in Wells, and then the operation expanded to at least four other locations in Maine: Casco, Ellsworth (known as the Robbins property), Plymouth (later known as the West Site/How's Corner Superfund Site), and Presque Isle. Sometimes the waste-oil was contaminated with used solvents. PBWO used settling tanks to stratify the used oil, decanting the lighter oil and selling it as a fuel supplement, while selling the heavier oils as dust suppressant on dirt roads. However, some of the waste oil and solvents were spilled or disposed at the five sites, contaminating soil and groundwater. George West ceased active operations of the PBWO in 1980.

The Maine Department of Environmental Protection (DEP) was able to obtain all of the business records of the PBWO, and identified hundreds of former customers as Potentially Responsible Parties (PRPs) for the purpose of recovering its cleanup costs. In response, many of the Maine-based PRPs sought relief from the financial burdens of their share of those costs.

In 1999, FAME was authorized to administer a grant program to assist the PRPs at Wells, and later, a 0% interest, deferred payment loan program to assist the PRPs at Plymouth. The Plymouth program was modified many times over the next decade to address each remediation related expense as it arose. When it neared time to implement permanent remediation at Plymouth, it was apparent that the remaining funds available to make loans for this purpose would be inadequate.

In 2007, the Maine Legislature thus established the Waste Motor Oil Disposal Site Remediation Program. The law, as subsequently amended, was intended to help eligible PRPs pay their share of response costs associated with cleanup, including reimbursement for costs already paid. To do so, the program authorized FAME to issue up to \$30,000,000 in revenue obligation bonds supported by the state's moral obligation to fund the response costs of eligible PRPs. FAME was also authorized to issue up to \$5,000,000 in bonds as capital reserve funds for the bonds issued to pay response costs. The bond payments were to be made with revenues collected originally from a premium on motor oil changes (effective from October 1, 2007 until July 31, 2008); then from a premium collected on the sale of bulk motor vehicle oil (beginning August 1, 2008); then (from October 1, 2009 until June 30, 2011) from a premium on the first sale or distribution of bulk motor vehicle oil plus a premium on the sale of pre-packaged motor oil; and finally (since July 1, 2011), from premiums imposed on motor vehicle oil that was either diesel engine crankcase oil, gasoline engine crankcase oil sold or distributed in a container with a volume of five gallons or less, gasoline engine crankcase oil sold or distributed in a container with a volume of more than five gallons, or any other motor vehicle oil sold or distributed in a container with a volume of sixteen gallons or less.

The total response costs of the Plymouth PRPs alone was determined to be over \$21,000,000, but at the time of bond issuance in 2009, the premiums were not generating, and were not projected to generate, revenues sufficient to issue bonds in that amount, or more. FAME issued its \$14,495,000 Finance Authority of Maine Waste Motor Oil Revenue Bonds 2009 Series A (Federally Taxable) (2009 Bonds), of which \$14,467,117.50 was made available for the benefit of the Plymouth site.

During the 124th Maine Legislature (First Regular Session), several parties sought further amendments to the program. Rather than enact piecemeal reforms, the then-titled Joint Standing Committee on Natural Resources approved (subsequently enacted by the full Legislature) a *Resolve to Review the Waste Motor Oil Disposal Site Remediation Program* dated April 13, 2010, mandating that the DEP coordinate a review of the program, invite the participation of stakeholders with interests in the program, and report the findings of the review to the committee together with any proposed legislation. That process took place beginning in May 2010 and culminated in the DEP's report dated December 1, 2010, which recommended changes to the program and to the Plymouth loan program administered by FAME. The recommendations and proposed legislation were designed to make resources available to complete payment of the unpaid Plymouth response costs and to provide reimbursement to the DEP for response costs at other sites. The recommendations and proposed legislation did not propose to fundamentally alter the revenue stream, only to make changes designed to close an apparent loophole in collections. On June 3, 2011, the 124th Legislature (Second Session) enacted Public Law 2011, chapter 211, amending the program with varying effective dates. The modifications included changes to the basis of collection of the premiums effective July 1, 2011 and to the annual application of receipts of such premiums, to the extent in excess of the annual amounts necessary to fund debt service on the 2009 Bonds. Subsequent to the enactment of Public Law 2011, chapter 211, the program was modified again by Public Law 2011, chapter 548 to make clarifications to the "reimbursement program."

In October 2019, FAME redeemed the remaining outstanding bonds as permitted by the bond documents. By law, the premiums terminated following payment in full of the bonds.