STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

To: **Board of Environmental Protection**
From: **Patricia W. Aho, Commissioner**
Date: **September 1, 2015**
Subj: **Request for Board Jurisdiction**
Juniper Ridge Landfill Expansion Project
DEP #S-020700-WD-BI-N and #L-024251-TG-C-N

On July 21, 2015, the Department received applications pursuant to the Solid Waste Management Act (38 M.R.S. §§ 1301 through 1310-AA) and the Natural Resources Protection Act (38 M.R.S. § 480-A through 480-FF) by the State of Maine, Bureau of General Services, owner of the Juniper Ridge Landfill in Old Town, Maine, related to a proposed expansion of the landfill. I am requesting that the Board assume jurisdiction of this application as one of statewide significance, and accordingly hold a public hearing.

Facility History and Description

In 2003, the Department issued conditional approval for the transfer of licenses for the West Old Town Landfill, developed and operated by the Georgia-Pacific Corporation, to the Maine State Planning Office (SPO). The transfer became effective when the sale of the landfill to SPO occurred on February 5, 2004. Also in 2004, the Department approved a vertical increase in the final elevation of the landfill resulting in additional disposal capacity, and the disposal of additional waste streams.

The Juniper Ridge Landfill (JRL), located in Old Town, Maine, is now owned by the State of Maine, acting through the Department of Administrative and Financial Services, Bureau of General Services; SPO was abolished in 2012. The landfill is operated by NEWSME Landfill Operations, LLC (NEWSME), a subsidiary of Casella Waste Systems, Inc. (Casella), under the terms of an Operating Services Agreement between the State of Maine and Casella. Since 2004, the landfill has accepted non-hazardous solid waste generated throughout Maine including special waste, construction and demolition debris (CDD), residues from CDD processing, and municipal solid waste bypass from Maine incinerators. In calendar 2014, the landfill received a total 629,021 tons of waste.

JRL is located on a 780 acre parcel in Old Town on the west side of Interstate I-95. Access to the facility is via a 2 mile long access road that joins Route 16 in Alton, Maine. At the end of 2014, the remaining permitted capacity at JRL was approximately 3.9 million cubic yards or about 5 years of disposal capacity at the 2014 disposal rate.

JRL currently holds the following licenses with the Department: Solid Waste #S-02077-WD-N-A; Air Emissions #A-921-70-B-R: and, Multi-Sector General Permit (MSGP) for Stormwater Discharge #MER05B477. The Air Emissions and MSGP licenses do not require modification as a result of the expansion proposal. Revision of the Stormwater Pollution Prevention Plan associated with the MSGP would, however, ultimately be required to reflect any changes made at the facility that have a significant effect on the discharge or potential for discharge of pollutants.

On January 31, 2012, the Department issued a Public Benefit Determination pursuant to the provisions of 38 M.R.S. § 1310-AA, finding that an expansion of JRL would provide a substantial public benefit provided that it was limited to 9.35 million cubic yards, and that a number of conditions were met. The Department further modified the Public Benefit Determination on September 14, 2012. A positive determination of substantial public benefit must be made by the Commissioner prior to the submission of an application for a license for an expanded solid waste disposal facility.

Application Description

Applications have been submitted pursuant to the Solid Waste Management Act (38 M.R.S. §§ 1301 through 1310-AA) and the Natural Resources Protection Act (NRPA) (38 M.R.S. § 480-A through 480-FF). Immediately following the Department's acceptance of the NRPA application as complete for processing, an application was filed with the Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). Consistent with the Department's Rule Concerning the Processing of Applications and other Administrative Matters, 06-096 CMR 2 (last amended August 29, 2013), the applications have been consolidated for purposes of the licensing proceeding.

BGS/NEWSME has applied to expand JRL to increase disposal capacity by 9.35 million cubic yards, thereby extending the life of the facility by approximately 10 to 12 years. The expansion proposal would ultimately extend the solid waste footprint of the landfill by about 54 acres, to 122 acres in total. The expansion also involves an additional 20 acres of infrastructure (including roads, sedimentation ponds, scales, and buildings), and the relocation of the perimeter fence and electrical line. The solid waste application includes information and data addressing the submission requirements of the Solid Waste Management Rules; General Provisions, 06-096 CMR 400 (last amended April 6, 2015), the Solid Waste Management Rules; Landfill Siting, Design and Operation, 06-096 CMR 401 (last amended April 12, 2015), and the Solid Waste

Management Rules; Water Quality Monitoring, Leachate Monitoring and Waste Characterization, 06-096 CMR 405 (last amended April 12, 2015).

BGS/NEWSME has submitted a Tier 3 NRPA freshwater wetlands application. The expansion proposal would result in the filling of 2.04 acres of freshwater wetlands and clearing in 0.10 acres of freshwater wetlands to relocate the perimeter fence and electrical line. The application states that the impacted wetlands are not designated as Wetlands of Special Significance, as defined by the Department's rules concerning Wetlands and Water Bodies Protection, 06-096 CMR 310.4 (last amended January 26, 2009). A total of 14 vernal pools were identified within and adjacent to the proposed expansion area, one of which meets the criteria to be considered a Significant Vernal Pool and is addressed in the application through a permit-by-rule notification. Of the 14 vernal pools identified, 12 meet the definition of a vernal pool as set forth by the Programmatic General Permit of the U.S. Army Corps of Engineers for Maine; 6 of these 14 vernal pools would be directly impacted as part of the landfill expansion proposal. A compensation plan has been proposed as part of the application.

Requests for Public Hearing

A total of 53 requests for a public hearing were received during the 20 day period following the Department's determination that the application was complete for processing. Among the issues and concerns cited as reasons that a hearing is warranted were those related to increased traffic; out-of-state waste disposal; greenhouse gases; visual impact; odor; and, potential adverse impacts to: wetlands, water quality, the Penobscot River watershed, air quality, roads, property values, quality of life, and the Penobscot Indian Nation's (PIN) traditional and cultural uses of lands and natural resources.

A public hearing in the case of this application is mandatory however, since 38 M.R.S. § 1310-S provides that the Department "shall hold an adjudicatory public hearing on an application for a new or expanded commercial or state-owned solid waste disposal facility that accepts special waste upon request from a resident or a property owner in the municipality in which the proposed facility is located." There were 4 such requests concerning the JRL expansion application from Old Town residents/property owners.

The Department's review of the JRL expansion application is anticipated to be conducted over the course of many months so a public hearing would likely not be scheduled this year. 38 M.R.S. § 341-D(2) provides that: "Prior to holding a hearing on an application over which the board has assumed jurisdiction, the board shall ensure that the department and any outside agency review staff assisting the department in its review of the application have submitted to the applicant and the board their review comments on the application and any additional information requests pertaining to the application and that the applicant has had an opportunity to

respond to those comments and requests." The "guaranteed processing time" for secure landfills established in the Department's application processing time schedule is 18 months. However, 38 M.R.S. § 344-B(3) provides that if the Board assumes jurisdiction over an application, the Board sets a new timetable.

Other Public Participation Provisions

Maine statute establishes other specific public participation provisions applicable in licensing proceedings concerning solid waste disposal facilities that are relevant in the case of the JRL expansion proposal:

- Automatic municipal intervenor status - 38 M.R.S. § 1310-S(3) provides that the municipal officers or their designees, from the municipality in which the facility would be located have intervenor status if they request it within 60 days of the required written notice by the applicant of its intent to file an application.

  The City of Old Town has requested intervenor status in this licensing proceeding in accordance with this provision. As an automatic municipal intervenor, the City is eligible for a grant not to exceed $50,000, paid by the applicant as provided in Department rules, to be used "in support of direct, substantive participation in the proceedings before the department". Resolves 2005 Chapter 74 (Resolve, to Grant the Town of Alton Automatic Municipal Intervenor Status) provides that the Department would grant the Town of Alton automatic intervenor status if an application was filed for expansion at JRL, and if the Town of Alton requested such status. Alton notified the Department that it would not be making this request.
- Automatic abutter intervenor status – 38 M.R.S. § 1310-S(3-A) provides that an abutting property owner has intervenor status if it is requested no later than 10 days following public notice of the hearing. Abutters are not eligible for grant assistance.

Assumption of Jurisdiction by the Board

Maine statute (38 M.R.S. §341-D(2)) establishes the criteria and circumstances under which the Board takes jurisdiction of an application of statewide significance. In the present case, I have made the preliminary determination that the JRL expansion application meets 3 of the 4 criteria for determining whether an application is of statewide significance, and I am requesting that the Board assume jurisdiction over it. Following is information concerning each of the criteria as it relates to this application.

1) *Will the proposed project have an environmental or economic impact in more than one municipality, territory or county?*

Yes. The Juniper Ridge Landfill was planned and is operated as a solid waste disposal facility that serves waste generators statewide. The facility provides a disposal option for Maine waste generators, with maximum waste tipping fees established in the Operating Services Agreement. Municipalities and businesses from all 16 Maine counties send wastes to JRL. A total of 48 municipalities utilize JRL directly for waste disposal services (e.g. a municipal waste water treatment plant that generates sludge for disposal) and 313 municipalities use JRL indirectly (e.g. disposal of bypass waste from the PERC incinerator in Orrington).

The landfill is located in Old Town but lies directly adjacent to the Town of Alton. A section of the JRL access road is located in Alton. A number of both Alton and Old Town residents in the immediate vicinity of the landfill have historically expressed their concerns about potential environmental impacts by JRL including those related to water quality, odor/gas, and traffic. The Legislature recognized Alton's direct interest in JRL due to the proximity of the landfill and its operations to Alton and its residents, when it passed Resolves 2005 Chapter 74 (Resolve, to Grant the Town of Alton Automatic Municipal Intervenor Status). The Town of Alton and the City of Old Town have both entered into community benefits agreements with the State of Maine/NEWSME, LLC.

2) *Does the proposed project involve an activity not previously permitted or licensed in the State?*

No.

3) *Is the proposed project likely to come under significant public scrutiny?*

JRL has been the subject of a number of licensing proceedings since 2004. Many of these have resulted in substantial involvement by numerous interested parties from both within the immediate region and from other parts of the state. The often complex nature of the issues presented in landfill applications has resulted in lengthy and in-depth reviews on the part of many interested parties. Extensive, detailed comments and questions have often been submitted on various JRL proposals. Appeals of the Department's decisions were filed on a number of occasions. Given the nature and significance of the landfill expansion application currently before the Department, it is expected that this robust, in-depth participation will continue.

There are numerous technical considerations associated with an application for landfill expansion that will likely be scrutinized by the public during review. The role that the state-owned JRL plays in Maine's solid waste management system however, also gives

rise to a different level of scrutiny related to matters such as the appropriate implementation of Maine's solid waste management hierarchy.

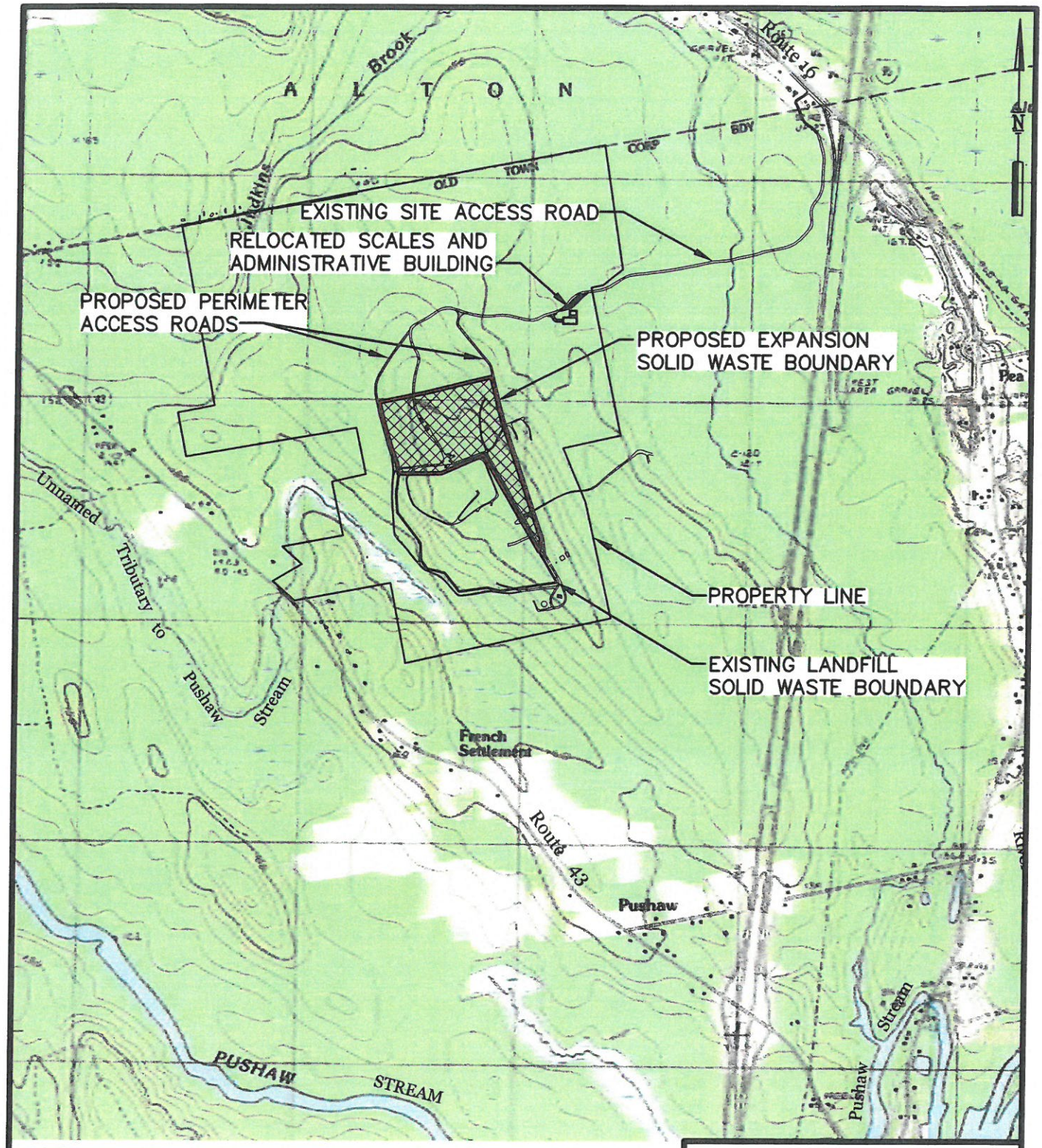
The public benefit determination proceeding in 2012 for the proposed JRL expansion was closely followed and participated in by a range of interested parties. Given the nature of the JRL expansion proposal and also current ongoing planning efforts and potential shifts with respect to waste disposal options in Maine, it is anticipated that this application will draw very significant public interest and scrutiny.

4) *Is the proposed project located in more than one municipality, territory or county?*

Yes. The JRL facility is primarily located in Old Town but is immediately adjacent to the Town of Alton, with a section of its access road falling within Alton's border.

Conclusion

My determination is that 3 of the 4 criteria established by law at 38 M.R.S. § 341-D(2) for determining whether a proposed project is one of "statewide significance" have been met. I am requesting that the Board of Environmental Protection assume jurisdiction of the application submitted by BGS for the expansion of JRL, and that the Board hold a public hearing.



NOTE:

BASE MAP ADAPTED FROM 7.5 MIN USGS TOPOGRAPHIC QUADRANGLE OLD TOWN, MAINE–1988

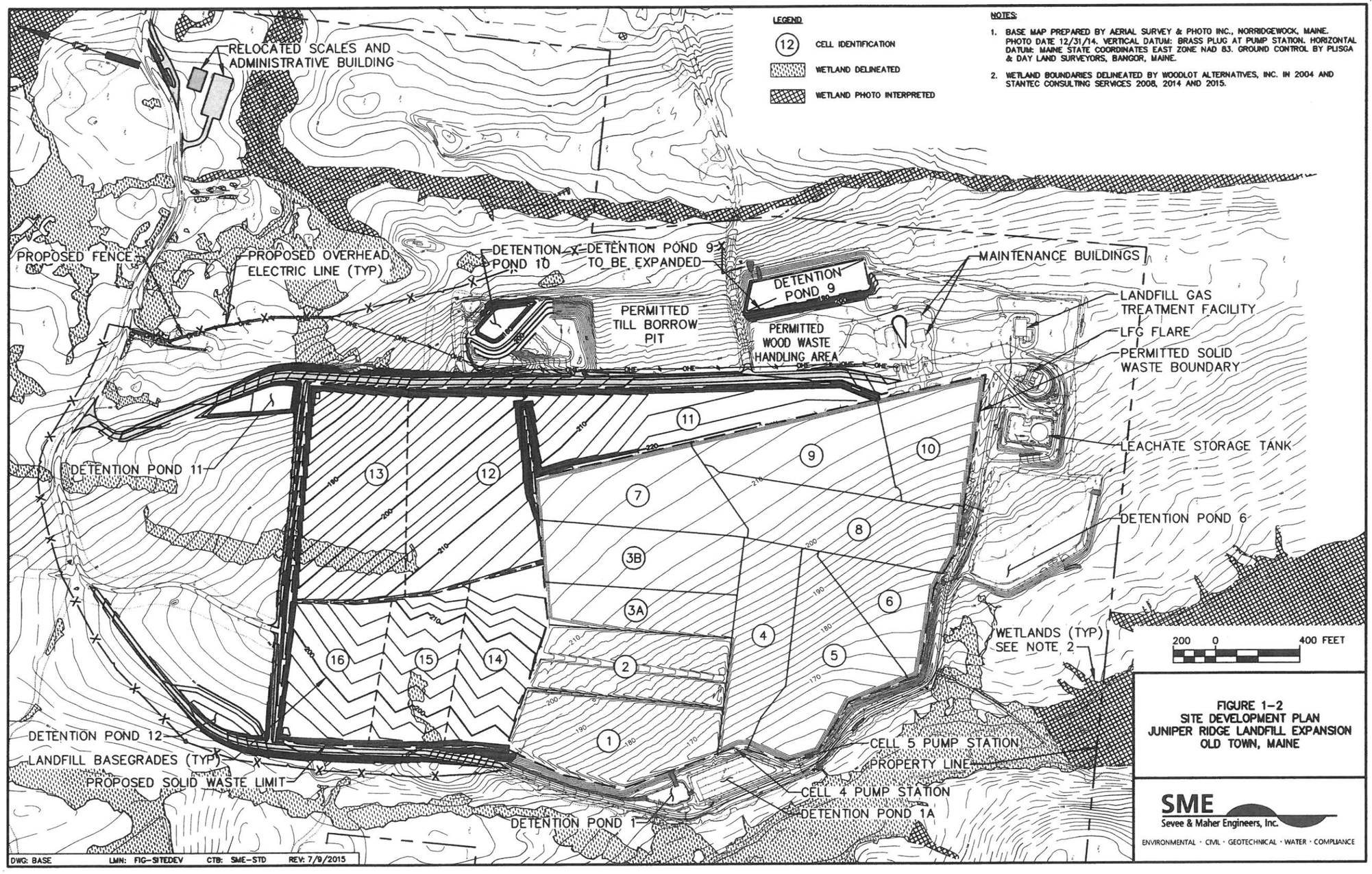
1000 0 2000 4000 FEET

DWG: SITELOC LMN: SITELOC CTB: SME-STD REV: 6/9/2015

FIGURE 1–1
SITE LOCATION MAP
JUNIPER RIDGE LANDFILL EXPANSION
OLD TOWN, MAINE

SME
Sevee & Maher Engineers, Inc.
ENVIRONMENTAL • CIVIL • GEOTECHNICAL • WATER • COMPLIANCE

\\Nserver\CFS\Casella\OldTownLandfillExpansion\9.35MCY-Expansion\Acad\Figures\SITELOC.dwg, 6/9/2015 11:31:08 AM, paf


LEGEND
12 CELL IDENTIFICATION
WETLAND DELINEATED
WETLAND PHOTO INTERPRETED
NOTES:
1. BASE MAP PREPARED BY AERIAL SURVEY & PHOTO INC., NORRIDGEWOCK, MAINE. PHOTO DATE 12/31/14. VERTICAL DATUM: BRASS PLUG AT PUMP STATION. HORIZONTAL DATUM: MAINE STATE COORDINATES EAST ZONE NAD 83. GROUND CONTROL BY PLISGA & DAY LAND SURVEYORS, BANGOR, MAINE.
2. WETLAND BOUNDARIES DELINEATED BY WOODLOT ALTERNATIVES, INC. IN 2004 AND STANTEC CONSULTING SERVICES 2008, 2014 AND 2015.
RELOCATED SCALES AND ADMINISTRATIVE BUILDING
PROPOSED FENCE
PROPOSED OVERHEAD ELECTRIC LINE (TYP)
DETENTION POND 10
DETENTION POND 9 TO BE EXPANDED
DETENTION POND 9
PERMITTED TILL BORROW PIT
PERMITTED WOOD WASTE HANDLING AREA
MAINTENANCE BUILDINGS
LANDFILL GAS TREATMENT FACILITY
LFG FLARE
PERMITTED SOLID WASTE BOUNDARY
LEACHATE STORAGE TANK
DETENTION POND 6
DETENTION POND 11
DETENTION POND 12
LANDFILL BASEGRADES (TYP)
PROPOSED SOLID WASTE LIMIT
WETLANDS (TYP) SEE NOTE 2
CELL 5 PUMP STATION
PROPERTY LINE
CELL 4 PUMP STATION
DETENTION POND 1A
DETENTION POND 1
200 0 400 FEET
FIGURE 1-2
SITE DEVELOPMENT PLAN
JUNIPER RIDGE LANDFILL EXPANSION
OLD TOWN, MAINE
SME
Sevee & Maher Engineers, Inc.
ENVIRONMENTAL · CIVIL · GEOTECHNICAL · WATER · COMPLIANCE
DWG: BASE LMN: FIG-SITEDEV CTB: SME-STD REV: 7/9/2015
\\server\cts\Casella\OldTown\Landfill\Expansion\9.35MCY-Expansion\Acad\Plans\BASE.dwg, 7/9/2015 1:44:16 PM, pat