Submission by Interveners
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Regarding

Application of State of Maine and NEWSME Landfill Operations, LLC

For

Amendment to Accept Municipal Solid Waste from Maine Sources,

Juniper Ridge Landfill, Old Town, Maine

Permit # S-020700-WD-N-A

February 25, 2013

Diverting MSW to JRL:

A step forward or step backward, or just more of the same?

Summary Overview:

Waste management in Maine; is there really a clearly defined policy? Or has a clearly defined policy been manipulated, or over looked, or perhaps not even addressed at all?

This report will prove that it is in fact the later. The Legislature of the State of Maine was very clear and succinct in its adoption of this sentence of intent when it passed the solid waste policy and recycling legislation; "*It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which must be based on the following order of priority…*"[1] Title 38 goes on to explain the intent of the Legislature without ambiguity.

So what happened to the intent that the Legislature adopted and who owns the fault for not adhering to those policies and directives? Two state entities appear without much if any competition to shoulder the blame. Those entities are the now defunct Maine State Planning Office and the Maine Department of Environmental Protection. Few will argue that either has a history of more than a weak attempt at following the format of the waste hierarchy the Legislature. The targeted 50% recycling rate set for 2009 is still below 40% even when including MSW buried in landfills under the guise that the use is in fact recycling.

To date, the management of waste in Maine, particularly at JRL has been largely accomplished through the manipulation of definitions. Why? Because the SPO and the Maine DEP has stood by idle while the lobbying firm for the operator of JRL completed all the necessary paperwork, lobbied the legislature to accept their proposals and agreed to make "changes by rule" when legislative approval was not needed.

Do we need to bury MSW? Certainly we do, at least some of it. No one could argue otherwise successfully. However if we do, and we should, start looking at the waste hierarchy; taking MSW from MERC and burying it at JRL should be our last and final option left on the table after all other options are exhausted.

What does the document entitled *"Application of State of Maine and NEWSME Landfill Operations, LLC For Amendment to Accept Municipal Solid Waste from Maine Sources, Juniper Ridge Landfill, Old Town, Maine Permit # S-020700-WD-N-A"* accomplish?

1. It moves much of the Maine generated waste from southern Maine down one category on the waste hierarchy from incinerating at number land filling.

[1] Maine Revised Statutes, Title 38: Waters and Navigation, Chapter 24: Solid Waste Management and Recycling; Subchapter 1; Priorities.

2. It appears from a high level to eliminate out-of-state generated waste but due to Maine definition when that waste is moved to Westbrook where it likely will, based on history, become Maine generated waste and also diverted to JRL.
3. An even more blatant disregard and misrepresentation of the facts is the contract between Casella and PERC for diverting MSW to the PERC facility. While the owner may not have been a signatory to this agreement the owners' representative did sign the amendment to the application and is therefore also implicit in the misrepresentation of facts and submission of misleading data. At face value and based on owner/operator statements the contract appears to move MERC MSW to PERC. However, a careful read reveals that of the 100,000 thousand tons; 20,000 are already delivered to PERC by Casella, 30,000 are MERC diverted MSW and 50,000 are out-of-state waste. And even more blatant is that should PERC require further fuel, Casella will deliver it. But it is contractually mandatory that it be out-of-state waste.
4. Opens JRL to yet another waste stream that was specifically excluded in the operating agreement.

What could the application have accomplished had the owner really looked at the impact of land filling MERC's MSW Juniper Ridge and put forward a solution that actually accomplishes what was purported in the first place? That being the management of truck traffic, reducing the waste stream consistent with the hierarchy and elimination out-of-state waste previously combusted by MERC.

The owner could have accomplished exactly what purported from the start, had the owner focused on options instead of focusing only on land filling. That being that it would take care of the MSW from the decommissioned MERC facility in ways that meet the waste hierarchy policy.

1. The owner could have proposed the diverting of a minimum of 80,000 tons and perhaps as much as 91,000 tons of MERC MSW to PERC. Keeping it at the least, the same level of hierarchy as it was at MERC.
    a. Where it would have created $1.2 Million in additional revenue instead of $450,000 for PERC at 80,000 tons and $1.37 Million in additional revenue for PERC at 91,000 tons.
    b. Where it would have kept 80,000 to 91,000 tons of MSW out of Juniper Ridge.
    c. Where it would have kept 50,000 tons of out-of-state waste where the owner/operator claimed it would be; "beyond Maine's' Borders".
2. Where it would have helped save $125,000,000 in landfill development as the Maine Department of Environmental Protection states if we only recycled more.

We have seen too many secret agreements between the Maine DEP, Casella Waste Systems and the former Maine State Planning Office. We have heard too many times from the State and Casella representatives that we should not expect more only to find out we actually get more. And we have heard too many times that Maine does not have a policy for management of MSW, it has suggestions.

We can think of only a few suggestions that should be helpful and fair to all concerned;

1. Let's get it right this time.
2. Let's do it without fuzzy definitions.
3. Let's do it without fuzzy math.
4. Let's finally do what is right for the environment and the people not the operator of JRL.

Land Filling of Municipal Solid Waste at Juniper Ridge Landfill is a move backward not forward in our management of waste streams. The following quote from an EPA document sums up in simple yet clear words what landfills are.

> *"The basis of a good solid waste management system is the municipal solid waste (MSW) landfill. MSW landfills provide for the environmentally sound disposal of waste that cannot be reduced, recycled, composted, combusted, or processed in some other manner."*[2]

What is the key that opens all the options that may be better than land filling MSW from MERC at JRL? The answer would be transportation. The owner in the initial application and the owner/operator in the amended application (the operator did not sign the initial submission) spend time pointing out two important factors.

1. The volume of out-of-state waste handled by MERC and equal to about 170,000 tons would stay outside the borders of Maine.
2. There would be a zero net increase in truck traffic to JRL.

Both factors appear at face value to be desirable. Leaving 170,000 tons of MSW beyond Maine's borders is certainly good news. No increase in truck traffic is also good news. And then the owner and operator submitted an amendment (both signed the amendment application). Within that document they bring forth that Casella and PERC have entered into an agreement to divert 30,000 tons of MSW that was destined to JRL in the initial application to PERC in the amended application.

The combination of the three documents, the initial application, the amended application and the contract between Casella and PERC allow for measuring the transportation involved. The ability to measure the key performance indicators of transportation as they relate to the application and the alternatives available is made possible because of the data within the three documents. Including the application alternative there are only three plausible alternatives.

[2] Decision Makers' Guide to Solid Waste Management – Volume II – Land Disposal, United States EPA, Office of Resource Conservation and Recovery, chapter 9.

1. As outlined in the initial application, the amended application and the Casella/PERC contract which show:
    a. 93,000 tons of MSW to JRL
    b. 10,000 tons of waste already delivered to PERC by Casella (category 1)
    c. 10,000 tons of waste already delivered to PERC by Casella (category 2)
    d. 30,000 tons of diverted MSW from MERC to PERC (category 3)
    e. 17,500 tons of out-of-state waste delivered by Casella to PERC (category 4)
    f. 32,500 tons of out-of-state waste delivered by Casella to PERC (category 5)
    g. Unspecified tons of "backfill" waste delivered by Casella to PERC should Casella's marketing of ZeroSort to PERC Charter Municipalities cause lower contractual tonnage to PERC. All of this "Backfill" must come from categories 4 and 5.
    h. 193,000 tons is the tonnage the owner/operator express as being involved.
    i. 20,000 tons of that however are already delivered by Casella to PERC and should be subtracted leaving 173,000 tons as the actual tonnage involved.

2. An obvious alternate would be to deliver to PERC, ecoMaine and MMWAC the amount of MERC diverted MSW equivalent to their out-of-state imports. This alternative has some inherent problems in that it requires more negotiations and the assumption that all the entities are willing to negotiate. It would however look as follows:
    a. 91,000 tons of MERC diverted MSW to JRL
    b. 100 tons of MERC diverted MSW to MMWAC
    c. 2,900 tons of MERC diverted MSW to ecoMaine
    d. 29,000 tons of MERC diverted MSW to JRL
    e. 123,000 total tons matches what the owner/operator state is the targeted tonnage.

3. A compromise solution that is somewhere between alternate 1 and alternate 2 affords that all of the 123,000 tons of MERC are taken care of as the owner/operator expressed as their focus in the applications. This alternate would look as follows:
    a. 91,000 tons of MERC diverted MSW to PERC
    b. 32,000 tons of MERC diverted MSW to JRL
    c. 123,000 total tons matches what the owner/operator state is the targeted tonnage.

The third or "Comprise Scenario" pays huge dividends as it not only places the 123,000 tons of MERC MSW in the most advantageous locations, it also has huge impacts on reducing truck traffic, ~~reduces fuel and therefore fuel costs~~, reduces mileage, ~~and reduces the amount of CO_2 emitted into the environment~~. By the numbers the Compromise Scenario accomplishes:

1. Places the 123,000 tons from MERC into the most advantageous locations
2. Eliminates 50,000 tons of out-of-state waste as the application warranted would happen
3. Reduces the annual truck/load count to JRL by 1,818 trucks per year
4. Reduces the annual mileage driven by truck drivers by 700,945 miles
5. ~~Reduces the amount of diesel fuel consumed by trucks by 143,05 gallons per year~~
6. ~~Reduces the cost of diesel fuel truck drivers/owners purchase annually by $599,380~~

7. ~~Reduces the amount of CO2 emitted into the atmosphere by 3,175,712 pounds per year~~
8. Increases the new revenue to PERC from the reported $450,000 annually to $1.2 Million

There is however one loser in this Compromise Scenario. Casella is not afforded the opportunity to bring 50,000 plus tons to PERC. It is important to note that Casella and the owner never claimed in their applications to bring in out-of-state waste. What they did do was promise to leave 170,000 tons beyond Maine's borders. The compromise meets and exceeds everything the owner stated as objectives in their application.

We offer to give the owner and operator exactly what they asked for; addressing 123,000 tons of MERC diverted MSW. And because the owner and the operator failed to address reduction or any other aspects of the hierarchy we also offer reductions in truck traffic, ~~fuel usage, carbon dioxide and cost of fuel~~. An added benefit is that it helps reach that $125,000,000 savings in landfill development the MDEP pointed out in their 2010 annual report.

It is time. It is actually past the time when we should be addressing Maine's waste problems with the thoughts and plans to address it correctly. Simply moving everything down to the very last level of the hierarchy is less than professional and only proves that the State Planning Office, The Department of Environmental Protection, Casella and now the Bureau of General Services are not good stewards and certainly not good managers of the waste stream.

A reduction in truck traffic is not only important to the citizens of Maine and Maine's environment. We see and hear every truck entering and leaving JRL. Many with loud exhaust systems. Many using engine retarder systems, even on up-shifting. Seven days a week starting as early as 3:00 to 4:00 AM and continuing through to as late as 11:00 PM to 12:00 AM. We have lived with the noise, lived with the nuisance, lived with the landfill machinery noise, lived with the smell and lived with the disregard for neighbors and community for years. It is time to get it right.

We ask that you measure it accurately so that you can manage it properly. There are only two alternatives in regard to this application; 1) withdraw it, fix it and resubmit it and 2) negotiate an alternative that does meet policies and hierarchy and treats all parties fairly and equatibly.

Understanding the State of Maine's MSW Management Intentions

There can be little, if any argument or debate that the State of Maine most certainly intended to properly and adequately manage its own and others imported waste. However there can be and has been much argument and debate over the interpretation of Maine's regulations and the many decisions made by the State of Maine, particularly those decisions made by the State Planning Office and the Department of Environmental Protection that few will argue meet the intent of the Legislative waste policy and hierarchy.

The basic understanding of Maine's waste policy although seemingly complex based solely on debate and past practice can be easily understood within only two specific parts of Maine Revised Statutes Title 38. There are unquestionably only two positions on the hierarchy. One position believes that the hierarchy is an integral part of the Legislative waste policy. The second position believes that the hierarchy is merely suggestions offered by the Legislature and not policy at all but a guide that should be applied to overall state policy. Perhaps not very hard to comprehend is that those exposing the later are those that wish to landfill as much as possible. Don Meagher the Manager for Planning and Development for Casella demonstrates the second position regarding the hierarchy when he stated in the Bangor Daily news that "the state's hierarchy is meant to guide overall state policy, not to be used as a standard to evaluate individual applications"[3]. Such statements should muse most readers to question that if the state does not apply the hierarchy and waste policies to each application how could the state possible guide overall state policy?

Casella, the former State Planning Office and to some degree of participation the Maine Department of Environmental Protection all conveniently appear to fail to acknowledge that the Legislature gives further specific direction when it included the following edict in the Legislative declaration of policy in the last paragraph where it offers that; "The Legislature finally declares that the provisions of this chapter shall be construed liberally to address the findings and accomplish the policies in this section.[4]

The Legislative intent gives little leeway for debate by closing their degree of policy with the declaration that the provisions of the chapter should be construed liberally to address the findings and accomplish the policies of this section.

The often talked about hierarchy itself is addressed in Maine Statutes under Title 38, Chapter 24. It is inserted directly following:

[3] Application to bring southern Maine trash north would change little at landfill, Casella says, Bangor Daily News, Nick McCrea, October 6, 2012.

[4] Maine Revised Statutes, Title 38: WATERS AND NAVIGATION, Chapter 13: WASTE MANAGEMENT: PL 1987, C. 517, §4 (RPR); Subchapter 1: GENERAL PROVISIONS HEADING: PL 1987, C. 517, §4 (RPR) §1302. Declaration of Policy.

Title 38: WATERS AND NAVIGATION
Chapter 24: SOLID WASTE MANAGEMENT AND RECYCLING
HEADING: PL 1995, C. 465, PT. A, §26

Subchapter 1: GENERAL PROVISIONS HEADING: §2101. Solid waste management hierarchy

1. Priorities: (**Bold added for emphasis)**

It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which must be based on the following order of priority:

A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
B. Reuse of waste;
C. Recycling of waste
D. Composting of biodegradable waste;
E. Waste processing that reduces the volume of waste needing land disposal, including incineration; and
F. Land disposal of waste.

It is the policy of the State to use the order of priority in this subsection as a guiding principle in making decisions related to solid waste management.

2. Waste reduction and diversion:

It is the policy of the State to actively promote and encourage waste reduction measures from all sources and maximize waste diversion efforts by encouraging new and expanded uses of solid waste generated in this State as a resource.[5]
The State of Maine Legislative intent toward waste management is addressed in Maine Statutes under Title 38, Chapter 13[6]. (Inserted following)

[5] Maine Revised Statutes, Title 38: WATERS AND NAVIGATION Chapter 24: SOLID WASTE MANAGEMENT AND RECYCLING

[6] Maine Revised Statutes, Title 38, Waters and Navigation; Chapter 13:Waste Management, Subchapter 13, General Provisions, Declaration of Policy.

Title 38: WATERS AND NAVIGATION
Chapter 13: WASTE MANAGEMENT
Subchapter 1: GENERAL PROVISIONS
§1302. Declaration of policy
(Bold added for emphasis)

For the purposes of this chapter and chapter 24, the Legislature finds and declares it to be the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources and prevent air, water and land pollution, to establish a coordinated statewide waste reduction, recycling and management program.

The Legislature finds and declares that it is the policy of the State to pursue and implement an integrated approach to hazardous and solid waste management, which shall be based on the following priorities: reduction of waste generated at the source, including both the amount and toxicity of waste; waste reuse; waste recycling; waste composting; waste processing which reduces the volume of waste needing disposal, including waste-to-energy technology; and land disposal.

The Legislature finds that it is in the best interests of the State to prefer waste management options with lower health and environmental risk and to ensure that such options are neither foreclosed nor limited by the State's commitment to disposal methods. **The Legislature declares that it is in the public interest to aggressively promote waste reduction, reuse and recycling as the preferred methods of waste management.**

The Legislature finds that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource. At the same time, new technologies and industrial developments are making recycling and reuse of waste an increasingly viable and economically attractive option which carries minimal risk to the State and the environment and an option which allows the conservation of the State's limited disposal capacity.

The Legislature further finds that needed municipal waste recycling and disposal facilities have not been developed in a timely and environmentally sound manner because of diffused responsibility for municipal waste planning, processing and disposal among numerous and overlapping units of local government. **The Legislature also finds that direct state action is needed to assist municipalities in separating; collecting, recycling and disposing of solid waste, and that sound environmental policy and economics of scale dictate a preference for public solid waste management planning and implementation on a regional and state level.**

The Legislature finally declares that the provisions of this chapter shall be construed liberally to address the findings and accomplish the policies in this section.[7]

[7] Maine Revised Statutes, Title 38: WATERS AND NAVIGATION, Chapter 13: WASTE MANAGEMENT: PL 1987, C. 517, §4 (RPR); Subchapter 1: GENERAL PROVISIONS HEADING: PL 1987, C. 517, §4 (RPR) §1302. Declaration of Policy.

Of particular interest is that the Legislature had the foresight to include the last declaration sentence citing specifically that the *"provisions of this chapter shall be construed liberally to address the findings and accomplish the policies in this section"*. Meaning that any actions should be broadly applied to effect the intended purposes, rather than restrictively or technically applied according to its strict terms.

The legislature was leaving no doubt of its intentions by signaling that when anyone comes to interpret the statute, there should be no difficulty, no ambiguity or any conflict in interpreting the Legislative intent. The resolve should be addressed according to the general principles and policies the Legislature was addressing with the legislation.

The Legislature clearly stated and left no doubt that land filling is at the very bottom of the waste hierarchy with waste to energy, composting, recycling, reuse and reduction in order from bottom to top as least desirable to most desirable.

Clearly there seems little doubt and/or no ambiguity that the State of Maine Legislature did establish a Policy and did establish a preferred hierarchy.

Understanding the Application by State of Maine and NEWSME Landfill Operations, LLC:

While the intent of Permit # S-020700-WD-D-A at a high level appears simplistic in appearance, the request is much broader and much deeper.

NEWSME desires to shutter the MERC facility in Biddeford and transfer the MSW that is combusted at that facility for the purpose of generating electricity to JRL where it will be land filled.

Before a studied approach to Permit # S-020700-WD-D-A is addressed it is important to understand two important sets of data:

1. Current and historical data as related to MSW in Maine and
2. Current and historical data related to the MERC facility.

Current and historical data as related to MSW in Maine

The former Maine State Planning Office categorized waste into five distinct categories. Only two enumerate "Maine In-State Generated Waste" while two of the other three enumerate combined waste and the fifth enumerates only "Out-of-State Waste". The five categories are:

1. Maine In-state generated solid waste.
2. Maine In-state recyclables.
3. Combined In-state and Out-of-state Combustion at Waste-to-energy facilities.
4. Out-of-state wastes (MSW & CDD only).

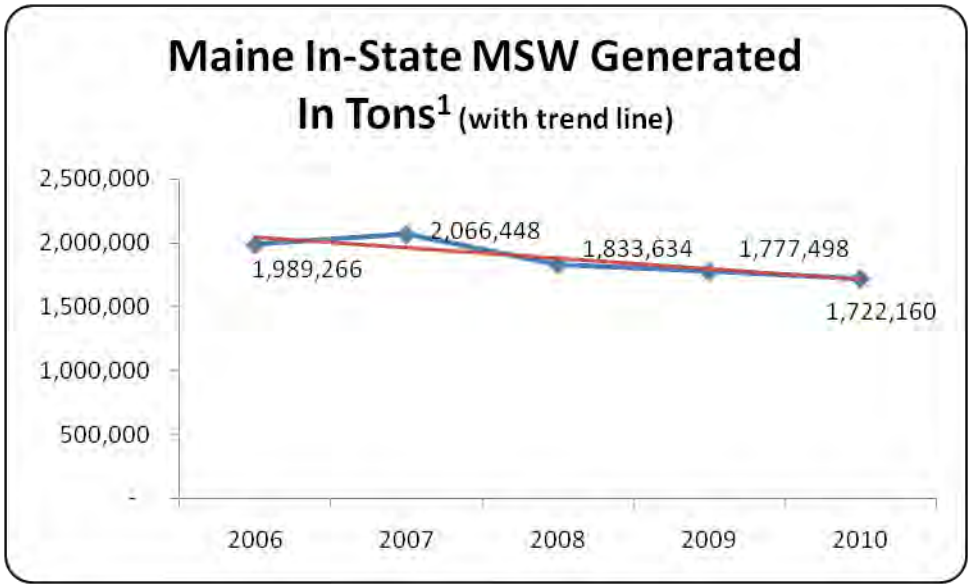
5. Combined In-state MSW and non-special waste processing residues land filled.

It is important to note that while the former SPO was required to author and issue an annual report to the Maine Legislature and has done so. The SPO office has however never offered any accumulative years of data in any of the four existing reports that cover five calendar years. The SPO chose rather to only summarize the "current calendar year to the immediately previous calendar year". Following are those five years of accumulated data from SPO condensed into one five calendar year calculation. All figures and key performance indicators are taken directly from the annual reports to the Joint Standing Committee on the Environment and Natural Resources.

Maine In-State MSW and Maine Recyclables Generated.

Chart 1 demonstrates the five years of legacy data of all reported Maine In-State MSW Generation. The results can perhaps best described as "declining annually at a slight rate". The chart compares graphically data from calendar years 2006 – 2010. 2010 is the last year data is available from the Maine DEP. Of immediate observation is the five year decline is equal to a reduction of 13% or approximately a 2.6% average reduction per year. The decline from 2008 through 2010 may be linked to the economic downturn beginning in 2008. A statement that is difficult to determine but arguable. A trend line has been inserted to emphasize the annual decline. The trend line is down slopping albeit at a slight trend it is however indicating the generation of Waste originating from within the state is declining at a steady rate.

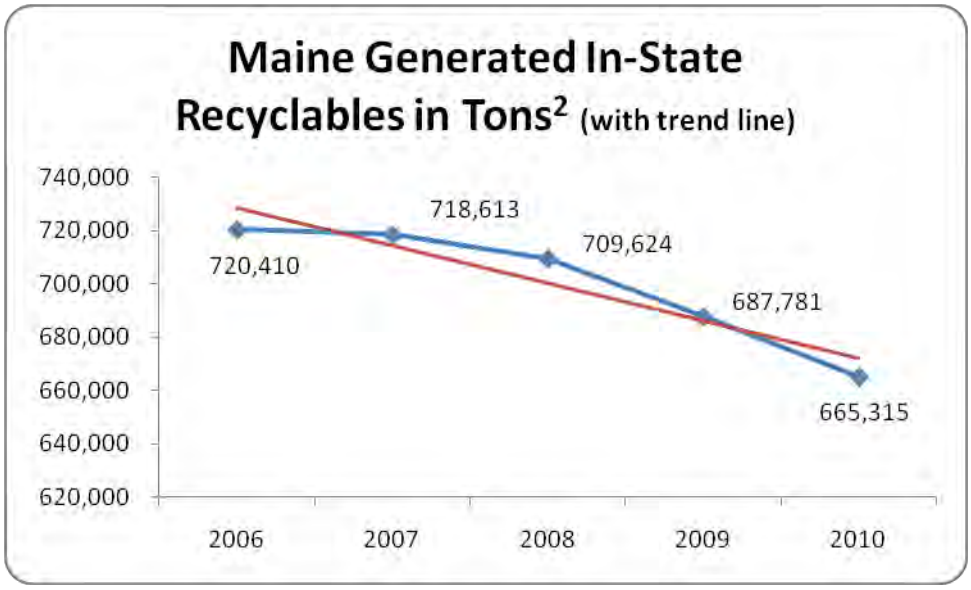
Chart 1: Maine In-State MSW Generated Waste In Tons[8]



[8] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Chart 2 demonstrates "Maine Generated In-State Recyclables in Tons". Chart 2 demonstrates the five years of legacy data of all reported Maine In-State Recyclables In Tons of Generation. Chart 2 can also be described as "declining annually at a slight rate". The chart compares graphically the data from calendar years 2006 – 2010. 2010 is the last year data is available from the Maine DEP. Of immediate observation is the five year decline equal to a reduction of 7% or approximately 1.4% average per year. The decline from 2008 through 2010 may also be linked to the economic downturn beginning in 2008. A statement that is difficult to determine but arguable. A trend line has been inserted to emphasize the annual decline. The trend line is down slopping albeit at a slight declining trend it is however indicating that Recycling of Waste originating from within the state is declining at a steady rate.

Chart 2: Maine Generated In-State Recyclables in Tons[9]



Combusting at Waste To Energy Facilities:

The former SPO categorized combusted waste into two specific groupings. Consequently the first category amounts representing in-state and out-of-state cannot be separated. The two combined categories are:

1. Combined In-State and Out-of-State tonnages combusted at WTE facilities and
2. Out-of-State Waste (MSW and CDD only).

Looking at a set of data for the five years 2006 -2010 provides a glimpse of where we were and where we are as related to the last data set available from SPO which is calendar year 2010.

[9] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Charts 3 and 4 are actually the total volume of combusted materials related to category 1 immediately above. Understanding the categories of combusted materials is important because the derived residuals must be dealt with in differing ways.

Chart 3 demonstrates for 2010 the volume combusted but illustrated into the various combustion and after combustion groupings or categories. The SPO tracked combustion at WTE facilities through the following five groupings:

1. Combusted
2. By-pass (land filled)
3. FEPR (Front End Process Residue) (land filled)
4. Metal (recycled)
5. Ash (land filled)

Of an interesting note is that three of the four categories of WTE facilities are land filled, the fourth (metals) can be and likely is recycled.

Chart 3: What Happened To 2010's Combusted Waste[10]

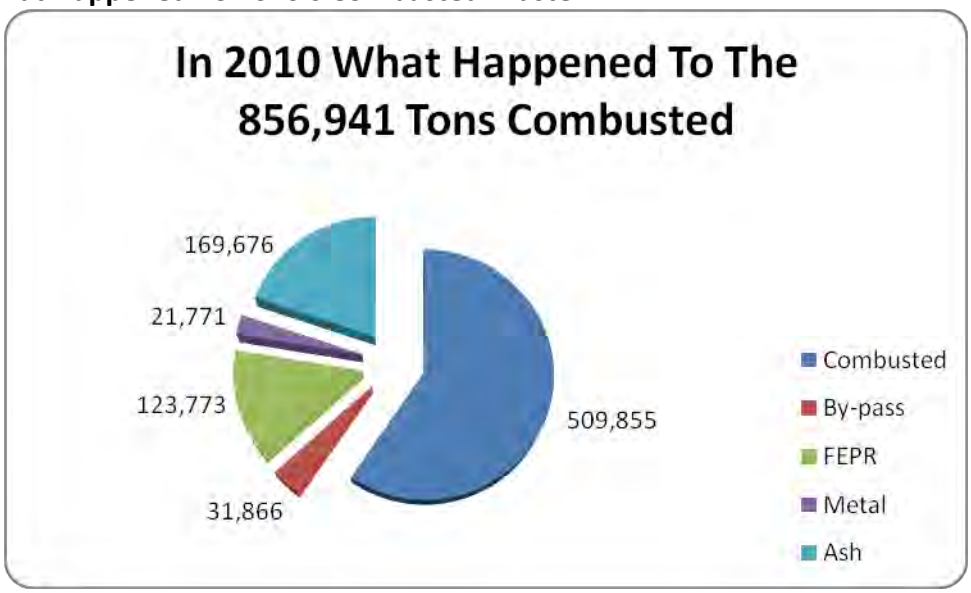
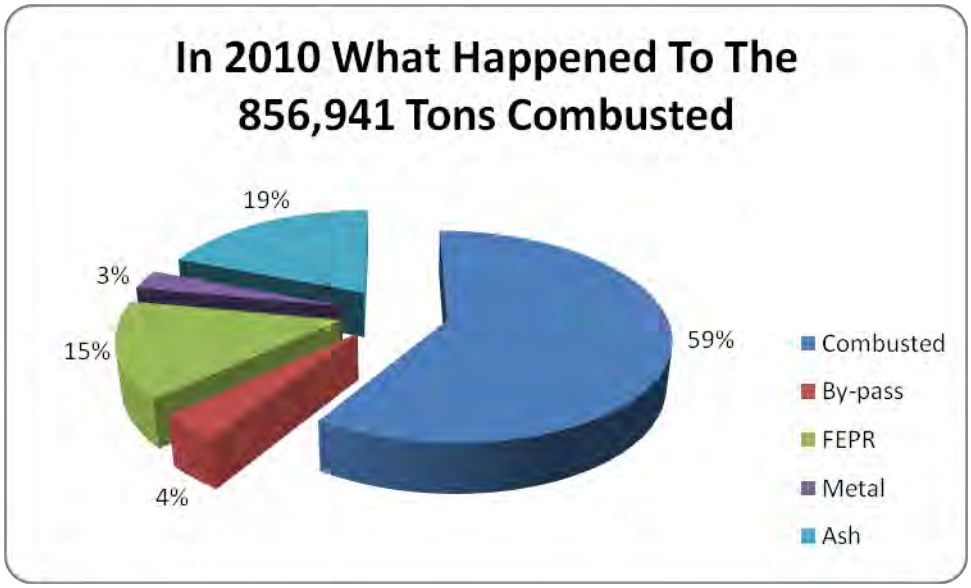


Chart 4 represents the same data as demonstrated in Chart 3 except that it is shown in percentages instead of tons. A review of percentages reveals interesting observations. While 59% of the total tonnage is combusted and 3% is metal is recycled, 38% is land filled. One could easily argue that the rate of reduction from combusting is really 62% not the 66% the DEP suggests. The exercise of that argument with declining trends may not provide appreciable results.

[10] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Chart 4: What Happened To 2010's Combusted Waste In Tons[11]



The trends of WTE from 2006 through 2010:

Chart 5 demonstrates the nearly static levels when comparing each of the five combusted categories of WTE over the years 2006 through 2010. One would expect static levels of combusting since all WTE facilities attempt as a good business practice meeting their maximum volume levels. That same business practice is also utilized by operators of landfills as they to attain to meet their maximum volume levels.

[11] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Chart 5: Combusted Waste Category Trends Over Five Years[12]

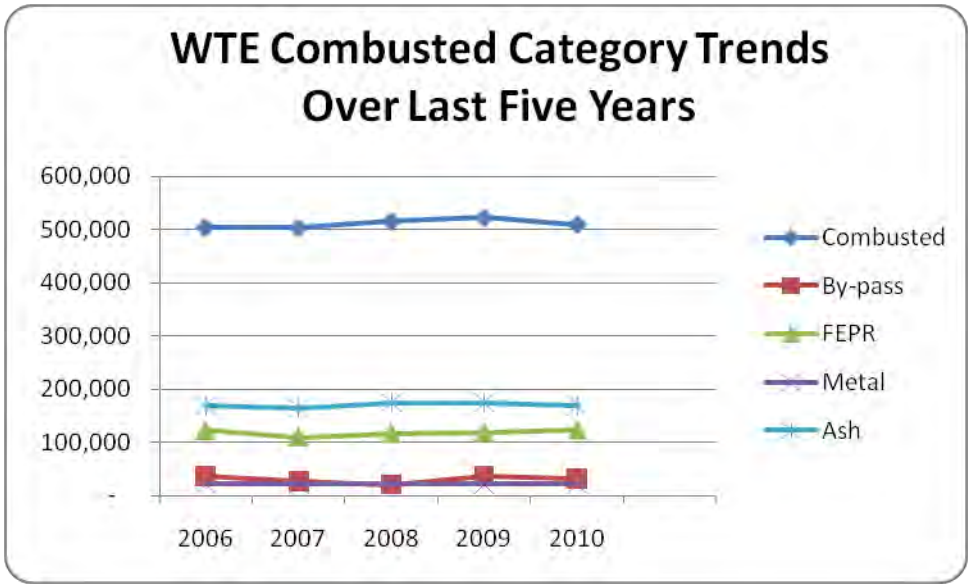
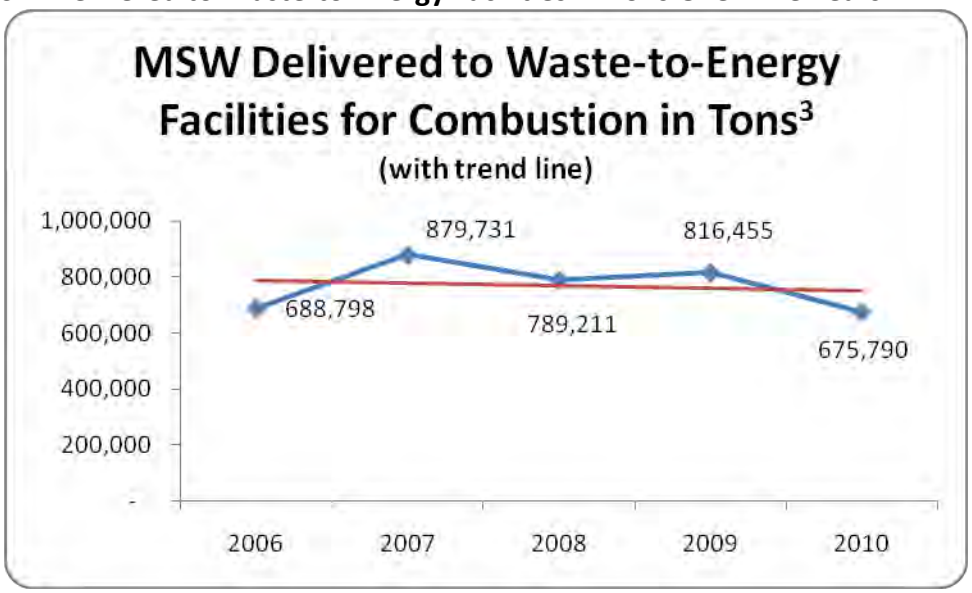


Chart 6 demonstrates that when WTE is looked at in total tons delivered over the years 2006 through 2010 the trend is also declining at a steady rate.

Chart 6: MSW Delivered to Waste-to-Energy Facilities in Tons Over Five Years[13]



[12] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

[13] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Out-of-state wastes - MSW & CDD only:

Chart 7 demonstrates the importation of Out-of-State MSW/CDD over the years 2006 through 2010. Of note is the dramatic decrease in 2010. This decrease coincides with the closure of the Pine Tree Landfill in Hampden. As predicted in the 2009 report of the SPO there would "decline sharply" in 2010.[14] Chart 7 as do all the preceding Charts demonstrates that yet another category of declining waste.

Chart 7: Out-of-State MSW/CDD Received at Disposal Facilities Over Five Years[15]

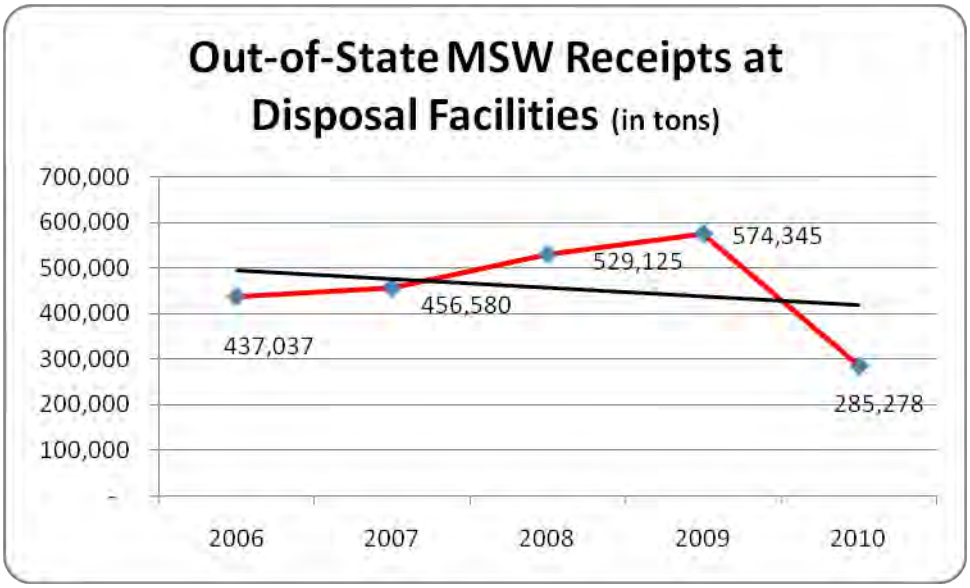


Chart 8 demonstrates exactly the same data as offered in Chart 7 with the exception of the 2010 decline in tonnage. Albeit for that down turn, the trend line would be nearly an exact opposite; increasing annually at nearly the same rate. Only a single adjustment needs to be made in the JRL operating agreement to regain the upward slopping trend line, that being to allow more MSW into JRL. The definitions are already in place. That out-of-state amount of tonnage that is suggested in the application will become instantly "in-state" waste once it is dumped on the ground in Maine and handled in any way. It will ultimately be delivered to JRL as it will "fit" into already in place regulations and definitions of managing Maine's waste.

[14] Solid Waste Generation & Disposal Capacity Report for calendar year 2009, Maine State Planning Office, page 5.
[15] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Chart 8: Out-of-State MSW Received at Disposal Facilities 2006 - 2009[16]

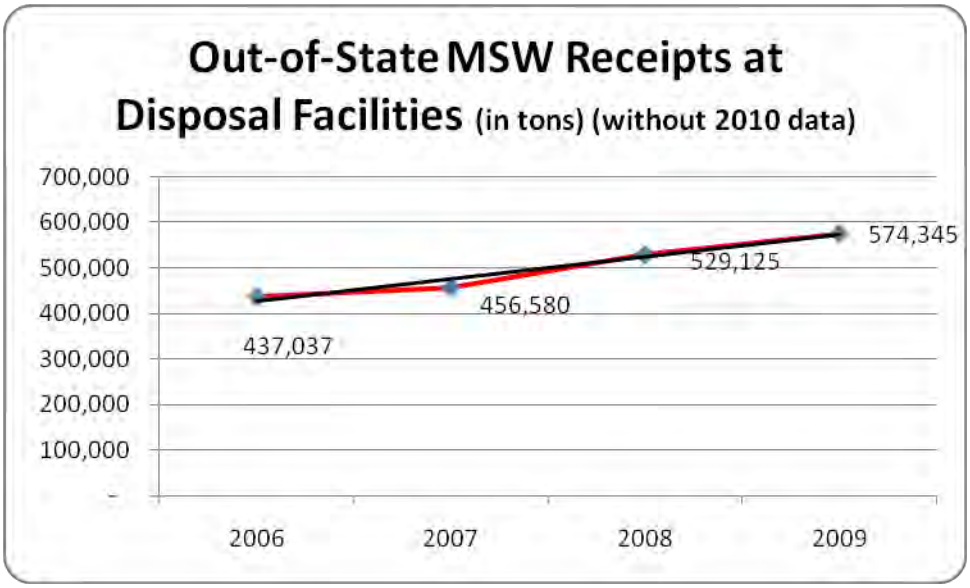
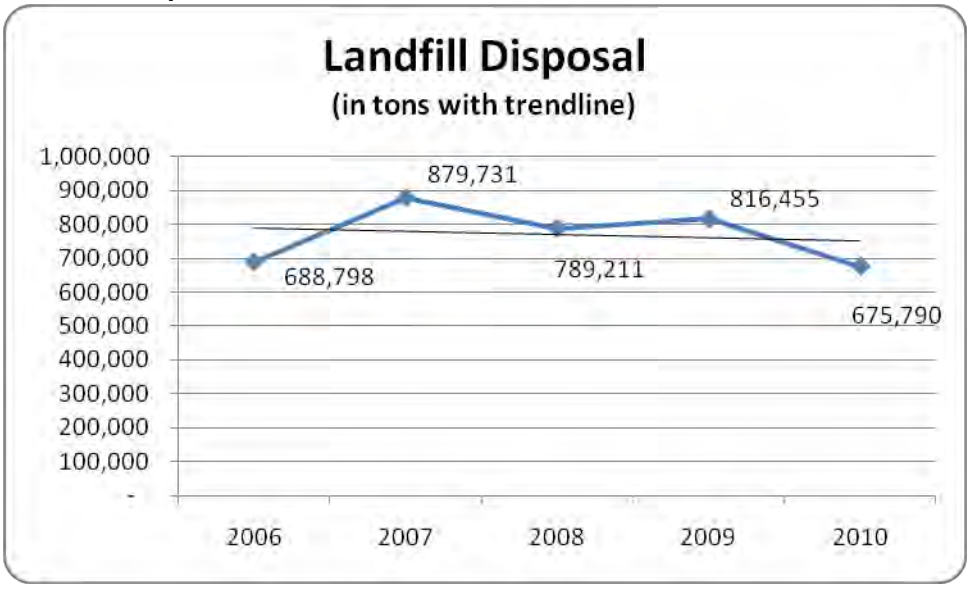


Chart 9 represents the fifth and final category of waste as determined by the former SPO. The fifth category is Landfill Disposal. It too demonstrates a declining trend over the five year period 2006 through 2010. Interestingly 2010 Landfill Disposal was below 2006 landfill disposal.

Chart 9: Total Landfill Disposal Over Five Years[17]



[16] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

[17] Solid Waste Generation & Disposal Capacity Reports, Prepared by SPO for the Joint Standing Committee on the Environment and Natural Resources, 2010, 2009, 2008, 2007.

Five years of data from the Maine State Planning Office demonstrates that not only is landfill disposal down but so are each of the other four categories. The application if approved will reverse the declining trend away from land filling as mandated by the Maine State Legislature. We should not be exploring ways to bring previously combusted MSW downward in the waste hierarchy. We should be exploring ways to move it upward into higher and preferred methods of the waste hierarchy.

Maine Section, American Society of Civil Engineers Grades Maine With A C-:

On December 6, 2012 the Maine Section of the American Society of Civil Engineers (ASCE) gave the State of Maine a grade of C- for their Solid Waste Infrastructure. While the report is not exclusively negative as it does commend the State of Maine for developing a waste hierarchy and also cites the former SPO and the MDEP for publishing a five year plan and annual reports.

However the ASCE is critical that the State of Maine failed to act on any of those reports thereby taking the correct steps toward meeting the hierarchy and goals of the Legislature. Failing to attain the specific goal of reaching a Maine's Legislative goal of a 50% recycling level by January 1, 2009 was specifically pointed out as one reason why the grade was so low.

ASCE goes further by citing that in 2010 the MERC WTE accepted 284,718 tons of waste that included 98,758 tons of in-state waste and 185,960 tons of imported waste.[18] This number becomes notable in that the Applicant states that in 2011 there were 170,000 tons of wastes were imported into the MERC WTE facility indicating that the importation of waste may also be declining as are the five categories outlined earlier. Also so of interest is that the applicant while wishing to transfer 123,000 tons may have actually taken in 98,758 tons of MSW at the MERC WTE facility.

The applicant proposes to send an amount of MSW not to exceed 123,000 tons annually. That amount perhaps should be closer to 99,000 tons than to 123,000 tons based on the figures reported by the ASCE in their report. WTE facilities cite a volume reduction rate of 66%[19] in volume through incineration. Using 66% as the delta rate that 123,000 tons would be 41,820 tons and that 99,000 tons would be 33,660 tons in need of land filling at JRL.

This reduction is not only one step up in the hierarchy it also helps reduce the amount of landfill space needed. The SPO stated in its 2009 annual report to the Joint Standing Committee on Environment and Natural Resources that increasing the recycling rate to meet the 50% level would reduce by $125,000,000 the amount needed for landfill development.[20] Further, under

[18] Maine Section, American Society of Civil Engineers, 2012 Report Card for Maine's Infrastructure, P.O. Box 66752, Falmouth, ME 04105, December 2012.
[19] Solid Waste Generation & Disposal Capacity Report, Calendar Year 2009, Maine State Planning Office for the Joint Standing Committee on Environment and Natural Resources of the 125th Legislature, page 6, January 2011.
[20] Solid Waste Generation & Disposal Capacity Report, Calendar Year 2009, Maine State Planning Office for the Joint Standing Committee on Environment and Natural Resources of the 125th Legislature, page 6, January 2011.

current definitions and regulations the three categories on land filled waste from WTE facilities are classified as recycling if used for daily cover and other acceptable applications.

It would appear to be an accurate statement that should Casella cause to be diverted to the three (3) remaining WTE facilities there would be little if any need for those facilities to import any further out-of-state waste to meet their maximum volume levels. And at the same time increase their revenues as all WTE facilities currently offer out-of-state MSW generators a discount in order to attract their business in order to meet maximum combustion levels and maintain a maximized energy producing WTE facility.

An also interesting statement the SPO 2009 report is that the SPO was charged with looking at the impact on disposal capacity on tipping fees with an eye to monitoring collusion or other forms of monopolistic, oppressive practices[21]. Yet since its inception Juniper Ridge has been at the crux of secret amendments and agreements to close or sell one entity only if that waste stream was able to move to JRL. Additionally the JRL operator Casella Waste through it legal counsel/lobbyist has maneuvered the change in classifications, change in definitions so as to make the waste stream going into JRL increase while the fees paid to Old Town, Alton, and the State of Maine decrease.

Of further interest that demonstrates without possible debate the intent of the State of Maine regarding MSW management is found in Maine DEP report issued in 1009;

> *"It is the goal of the State to recycle or compost, by January 1, 2009, 50% of the municipal solid waste tonnage generated each year within the state." The law further provides that municipalities are not required to meet the state recycling goal, but must demonstrate "reasonable progress" toward that goal. The State Planning Office is currently responsible for measuring reasonable progress and for providing recycling assistance to municipalities.*
>
> *Current statute (38 MRSA subsection1310-N(5-A) also requires that applicants for new or expanded solid waste disposal facilities demonstrate that: "The proposed solid waste disposal facility will accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by this chapter and other provisions of state law." It also requires that applicants show consistency with the recycling provisions of the State Solid Waste Management and Recycling Plan. During the last session of the Legislature, the law was amended to also require certain recycling and reuse demonstrations by solid waste processing facilities. Specifically, it is required that; "A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the*

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[21] Solid Waste Generation & Disposal Capacity Report, Calendar Year 2009, Maine State Planning Office for the Joint Standing Committee on Environment and Natural Resources of the 125th Legislature, page 6, January 2011.

maximum extent practicable, but in no case less than 50%". It further requires these facilities to demonstrate consistency with the recycling provisions of the State Plan.[22]

Some could argue that the several Maine Municipalities (the Applicant warrants in the application that out-of-state MSW is not included in the application) who contracted with the MERC facility many years ago were perhaps "reducing" their MSW by incinerating it at MERC, thereby meeting a hierarchy level closer to the top. It would be a stretch of an argument but none the less arguable. Eliminating the MERC facility and directly land filling the Maine generated MSW from those municipalities cannot possible exclude the contractor Casella from the requirement that "A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the maximum extent practicable, but in no case less than 50%". It further requires these facilities to demonstrate consistency with the recycling provisions of the State Plan."

The collection and transportation of MSW does not qualify as a substitute for the physical "bricks and mortar" MERC facility. Moving 123,000 tons of MSW from WTE combustion to JRL land filling is not "reasonable progress".

Understanding Truck Traffic, Mileage and Placement of MSW

It is necessary to understand the impact of diesel engines because of the nature of the business of operating landfills. Landfill operators have one asset more valuable than equipment or other hard assets, that being empty landfill capacity. The one necessary aspect of filling that empty capacity is trucks. Nothing or very little can move into or out of landfills unless it is carried by trucks. The same is true for just about every single commodity in our lives today.

The Applicant purports that there will be no increase in truck traffic at JRL. To date that promise has been broken consistently each time it was made since the inception of JRL. It is to be expected as a means to fulfill a business model, that being to fill empty landfill space as quickly as possible. Very little need to debate the business model, it is used by every landfill operator in the world. John Casella assists in supporting the statement in the Annual Report for Casella Waste Systems says,

1. "We remain focused on increasing free cash flow and generating an enhanced return on invested capital at the landfill sites by maximizing annual permitted capacity and optimizing flow of waste across the northeast to obtain better integrations and asset profitability."[23]
2. "There are no annual tonnage limitations at Juniper Ridge landfill."[24]
3. "Over the past eight years we have invested significant resources to develop our network of 10 landfills in the Northeast. Increasing cash flows is key to our long-term

[22] Report: Proposal to Strengthen Maine's Recycling Effort, Maine Department of Environmental Protection, Augusta, Maine, January 2009, Paula Clark, Director Division of Solid Waste Management, Section II, Background, page 1.
[23] 2012 Annual Report, Casella Waste Systems, Inc. page 6.
[24] 2012 Annual Report, Casella Waste Systems, Inc. page 9.

growth and, at our landfills, annual permit increases, increased internalization of collection volumes, and aggressive sales efforts are all crucial to this effort."[25]

4. "We have made great strides in executing the landfill development growth strategy by adding significant total and annual permitted disposal capacity within our solid waste footprint, primarily through operating contracts for publicly-owned landfills."[26]

Before looking at the volume of truck traffic lets first look at the miles driven and the impact on the environment of this miles driven in order to deliver the MSW that is to be diverted from Biddeford to JRL. It is first important to understand that should the applicant be correct in the amount of truck traffic, these proposed MSW trucks entering and leaving JRL are at a static level between Biddeford and JRL or 91 loads per six day week just as currently being experienced.[27] Or as the Applicant purports there will be no increase in truck traffic.

~~Truck traffic helps produce Green House Gas; as outlined and categorized in the The Fourth Biennial Report on Progress Toward Greenhouse Gas Reduction Goals to the Joint Standing Committee on Natural Resources offers analysis on truck traffic by the Maine DEP:~~

1. ~~89% of GHG emissions in Maine are the result of energy consumption, largely produced by combustion of petroleum products.~~
2. ~~From 1990 to 2009, total energy consumption in Maine declined 7% while total GHG emissions only declined 2.5%.~~
3. ~~The Transportation sector produces almost half of all CO_2 emissions in Maine.~~[28]

~~The report further states in the Executive Summary that "The Department (sic DEP) further recommends that future GHG emission reduction programs in Maine should focus on reducing petroleum consumption in the residential, commercial and transportation sectors."~~[29]

~~In 2003, Maine's Act to Provide Leadership in Addressing the Threat of Climate Change (2003 Public Law Chapter 237) established greenhouse gas (GHG) reduction goals for 1010, 2020, and beyond.~~[30] ~~It of significant importance that he report in the very next sentence says, The Maine Department of Environmental Protection (the Department) is submitting this Report to the Joint Standing Committee on Natural Resources pursuant to Chapter 38 subsection 578, which requires the Department to evaluate the State's progress toward meeting its reduction goals~~

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[25] 2012 Annual Report, Casella Waste Systems, Inc., Message to Shareholders, no page number posted.
[26] 2012 Annual Report, Casella Waste Systems, Inc. page 6.
[27] Amendment Application to Accept Municipal Solid Waste from Maine Sources, Submitted by the State of Maine bureau of General Services and NEWSME Landfill Operators, LLC as owner, September 2012, section 2-5.
[28] ~~Fourth Biennial Report on Progress toward Greenhouse Gas Reduction Goals, Maine Department of Environmental Protection, January 2012, Heather Parent, Policy Director, Melanie Loyzim, Director of the Bureau of Air Quality, page 3.~~
[29] ~~Fourth Biennial Report on Progress toward Greenhouse Gas Reduction Goals, Maine Department of Environmental Protection, January 2012, Heather Parent, Policy Director, Melanie Loyzim, Director of the Bureau of Air Quality, page 3.~~
[30] ~~Fourth Biennial Report on Progress toward Greenhouse Gas Reduction Goals, Maine Department of Environmental Protection, January 2012, Heather Parent, Policy Director, Melanie Loyzim, Director of the Bureau of Air Quality, page 4.~~

and submit a report of its evaluation by January 1, 2006 and by that date every two years thereafter.[31]

The aforementioned becomes important because as diesel engines in trucks consume diesel fuel they also emit large volumes of CO_2. Additionally, the Applicant purports little or no increase in truck traffic entering and leaving JRL. What the Applicant does not explain is that the shift in truck traffic taken for face value may offer static load counts the application does not explain that the substitution of truck loads traverse more miles than the current model. Until recently the truck traffic travelled Route 9 not the Interstate 95 corridor. The Route 9 corridor is shorter in length than the Interstate 95 corridor.

Mileage is of paramount importance when considering this application. The United States Environmental Protection Agency states that for every gallon of diesel fuel burned a diesel engine introduces into the atmosphere 22.2 pounds of CO_2.[32] The Maine Department of Transportation contracted for a study of truck traffic on Interstate 95 versus Route 9. That study matches the amount of pounds of CO_2 per gallon of diesel fuel burned by a Class 8, 6-Axle truck at 22.232.[33] Additionally in the same document provided to the MDOT was a delta MPG figure determined as appropriate representation of fuel consumption in a widely used 485 HP Cummins diesel engine. That MPG figure is 4.99 MPG.[34] Simple math demonstrates that for every 5 miles travel the vehicle represented as average within the report would introduce into the atmosphere 110.93768 pounds of CO_2.

Using the location of the MERC WTE facility in Biddeford as a starting point and the location of JRL as an ending point Google Maps calculates that the trip to JRL is 163 miles and takes 2 hours and 40 minutes. Therefore, for every truck round trip to JRL and back a truck would consume 65.3 gallons of diesel fuel and introduce into the atmosphere 1,452.4 pounds of CO_2. Given that the Application pins the weekly truck count for incoming MSW at 91 per six day week, simple math would again show that each week diesel trucks would be responsible for emitting into the atmosphere 132,168.4 pounds of CO_2 or 6,872,756.8 pounds per year.

Might it be possible to redirect those trucks to other WTE facilities

What if those WTE facilities were closer to the decommissioned MERC facility? If so there would be a significant reduction in the volume of the MSW, power would be generated as a value added component and the greatly residual could then be deposited into JRL. Table 1 demonstrates that the MERC facility was responsible for importing 65% of all MSW from out-of-state sources all by itself.

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[31] Fourth Biennial Report on Progress toward Greenhouse Gas Reduction Goals, Maine Department of Environmental Protection, January 2012, Heather Parent, Policy Director, Melanie Loyzim, Director of the Bureau of Air Quality, page 4.

[32] U.S. Environmental Protection Agency, "Emission Facts: Average Carbon Dioxide Emissions Resulting from Gasoline and Diesel Fuel," February 2009. http://www1.eere.energy.gov/vehiclesandfuels/facts/2009_fotw576.html

[33] Estimating Truck-Related Fuel Consumption and Emissions in Maine: A comparative Analysis for a 6-Axle, 100,000 Pound Vehicle Configuration, American Transportation Research Institute, September 2009, page 7.

[34] Estimating Truck-Related Fuel Consumption and Emissions in Maine: A comparative Analysis for a 6-Axle, 100,000 Pound Vehicle Configuration, American Transportation Research Institute, September 2009, page 12.

Table 1: Disposal of out-of-state waste at WTE facilities:

Combustion at WTE Facilities Less Out-of-State Deliveries In Tons[35]					
	2010	2009	2008	2007	2006
Total Combusted at all WTE Facilities	856,941	874,862	850,860	826,292	867606
MERC Out-of-State	185,960	175,962	160,118	117,320	136,472
PERC Out-of-State	87,338	92,010	80,343	37,148	29,323
ecoMaine Out-of-State	11,869	16,514	2,826	0	-
MMWAC Out-of-State	111	110	110	0	-
Total Out-of-State	285,270	284,596	243,397	154,468	165,795

Total Imported Without MERC in 2010	99,310				
MERC Alone Imported Approximately in 2010	185,960				

A closer look at Table 1 offers some interesting hints that would bring both the first Application and the second Amended Application into what the owner claimed was happening in the first and second Application. It is of important note that Form B was apparently not included in the MERC 2011 Annual Report of WTE Facilities as mandated. Consequently from state documents it is only reasonable to say that MERC imported from out-of-state 185,960 tons, not the 170,000 ton claim that it would be left beyond the borders of Maine.

Using the reported numbers from the recently released contract between PERC and Casella, it is very possible and a plausible solution to duplicate the tonnage numbers within the contract.

[35] WTE Facility Annual Reports submitted to the Maine DEP by ecoMaine (2010 and 2011), MERC (2010 and 1011), MMWAC (2010 and 2011), and PERC (2010 and 2011).

Table 2 demonstrates the contract tonnage and origin.

Table 2: PERC/Casella Tonnage and Origin of MSW to JRL & Impact on JRL

Category 1 – Is in-state historical MSW that Casella delivers to PERC.	10,000 tons
Category 2 – Is MSW from within MRC communities that Casella delivers to PERC.	10,000 tons
Category 3 – Is MERC charter community MSW that will be diverted to PERC.	30,000 tons
Category 4 – Is Out-of-State MSW that Casella will deliver to PERC.	17,500 tons
Category 5 – is Out-of-State MSW that Casella will deliver to PERC.	32,500 tons
A clause also stipulates that any additional MSW needed by PERC must be from category 4 or 5 and will be delivered to PERC by Casella.	Unknown tonnage

Because of the PERC/Casella contract, the amount of former MERC MSW diverted to JRL would be.	93,000 tons
The owner in the Amended Application reports that the 30,000 tons of MERC diverted to JRL would result in an additional $450,000 to PERC.	$450,000 To PERC

The scenario demonstrated in Table 3 is what the owner offers as the result if the Application is granted as written and amended. The owner purports a reduction in truck traffic to JRL in this scenario. Mr. Donald J. McCormack the Director of the Bureau of General Services states in the cover letter for the amended application that the 30,000 ton reduction in the tonnage proposed to be delivered to JRL is equal to 1,100 truckloads of MSW and extends the life of JRL by approximately three months and generates for PERC an additional $450,000 annually.[36]

[36] Department of Administrative & Financial Services, Bureau of General Services, Cover Letter for Amended Application #S-20700-WD-BC-A, to Mr. Michael T Parker, December 20, 2012.

Table 3 offers a common sense no fuzzy math approaches to handling the MERC MSW that needs to be diverted to another location.

Table 3: An alternate to the proposed diversion of MERC MSW to JRL

Category 1 – Is in-state historical MSW that Casella delivers to PERC.	10,000 tons
Category 2 – Is MSW from within MRC communities that Casella delivers to PERC.	10,000 tons
Category 3 – Is MERC charter community MSW that will be diverted to PERC.	80,000 tons
MERC MSW diverted to JRL	43,000 tons
Should PERC need additional tonnage it would be diverted from JRL to PERC or imported from out-of-state.	Unknown tonnage

Because of the PERC/Casella contract outlined just previous, the amount of former MERC MSW diverted to JRL would be.	43,000 tons
The owner in the Amended Application reports that the 30,000 tons of MERC diverted to JRL would result in an additional $450,000 to PERC. Therefore 80,000 tons would represent an additional $1,200,000 to PERC.	$1,200,000 To PERC

The alternate in Table 3 accomplishes much more than just leaving the out-of-state waste where the owner said it was going to be; "beyond the borders of Maine". By the Key Performance Indicators (KPI's) a look at the alternate solution in Table 3 shows or works because:

1. The distance between MERC and PERC is 155 miles one way according to Google Maps.
2. The distance between MERC and JRL is 163 miles one way according to Google Maps.
3. Therefore on each round trip diverted to PERC instead of JRL the mileage reduction is sixteen miles (16).
4. The owner represents that each load is equal to an average of 27.5 tons per load.[37]
5. Therefore the 80,000 tons is equal to 2,888 truck loads diverted away from JRL at a saving of sixteen miles (16) per trip or 46,208 miles.
6. ~~As noted previously in this document the burn rate for a standard diesel engine is 4.9 miles per gallon. This represents a savings of 9,430 gallons of diesel fuel.~~
7. ~~At a pump cost of $4.25 per gallon this represents a savings of $40,077 to trucking firms.~~

[37] Department of Administrative & Financial Services, Bureau of General Services, Cover Letter for Amended Application #S-20700-WD-BC-A, to Mr. Michael T Parker, December 20, 2012.

8. ~~Also as noted previously, for every gallon of diesel fuel burned the engine releases into the atmosphere 22.2 pounds of CO_2. The alternate in Table 2 would therefore offer a reduction of 209,346 pounds of CO_2 released into the atmosphere.~~
9. The minority owners in PERC are direct recipients and the municipalities that make up the MRC are indirect recipients of the increase in revenue to $1,200,000 instead of only $450,000 as the recently negotiated contract states.

It is worth noting that the contract between Casella and PERC contains a "Force Majeure Clause". Therefore should any section or subsection be changed or found to be unenforceable or in contradiction to any current or future regulations the entire rest of the contract remains in force.

The Table 3 Alternate offers a fair and equitable option for all concerned. No one loses in the Table 3 Alternate. The difference between the recently released contract between Casella and PERC demonstrated in Table 1 and the Table 3 Alternate is that Casella does not win as usual. Casella is however afforded the opportunity to stay "whole" and be able to fulfill their contracts with MERC participating communities through to their expiration dates. What Casella does lose is the ability to funnel 50,000 tons of out-of-state MSW to PERC in spite of the fact that Casella and the owner both stated that 170,000 tons of out-of-state waste would stay beyond Maine's borders.

The Amended Application Regarding 3 S-20700-/WD-BC-A With PERC/Casella Contract Implications

A careful read of the PERC/Casella contract indicates a substantial error of substance and not format in both the original (first) application and the amended (second) application. The error itself is so inaccurate it should have caused the owner reason for withdrawing the application in its entirety until such times as the owner can without any occurrence of doubt report that the application represents factual, true and indisputable data representations.

- We believe and suggest that the owner's representative Mr. Donald J. McCormack the Director of the Bureaus of General Services should have reasonably known that the statement that 170,000 tons of out-of-state waste would be removed beyond the Maine borders in the initial application was not in fact representative of factually accurate data known at the time of submission of the first application.
- Mr. McCormack as representing the owner should have been reasonably aware that the state's partner at JRL, the operator at JRL had at the time of the first filing was in negotiations with the majority owners of the PERC facility to move not only MERC diverted MSW to PERC but also out-of-state MSW to PERC in spite of the espousal of Mr. McCormack in the first application that out-of-state MSW would be left outside the borders of Maine.
- Mr. McCormack as representing the owner should have been reasonably aware that the state's partner the operator of JRL was in fact attempting to deceive the owner during its negotiations with PERC that Casella would include a portion the 170,000 tons out-of-state

waste specifically stated to be left out side Maine's borders by including 50,000 tons of out-of-state waste in the Casella/PERC contract.

- Mr. McCormack as representing the owner should have been reasonably aware at the time of filing of the second amendment application that a contract had been signed that included language refuting statements made in the first and second application submission and that the state's partner at JRL as operator (Casella) had negotiated that not only were 50,000 tons of out-of-state waste included in the contract between Casella and PERC but that should PERC find itself in need of extra tonnage that Casella would furnish such tonnage but stipulated that it must be out-of-state waste.
- Mr. McCormack as representing the owner should have been reasonably aware that when he signed the cover letter (12/20/2013) for the amended application submission that he was agreeing to conditions that did not meet the representation he also agreed to in the initial submission.
- Mr. McCormack as representing the owner should have recognized that the language of the contact between Casella and PERC revealed that of the 100,000 contracted tons:
    - 20,000 tons of the 100,000 tons was already in the waste stream from Casella to PERC.
    - 10,000 tons of the 100,000 tons was already in the waste stream from Casella to PERC and being that of the charter member towns of the MRC.
    - 30,000 tons of the 100,000 tons was diverted MSW from MERC to PERC through Casella as purported as the need for the Application in the first place.
    - 50,000 tons of the 100,000 tons was out-of-state waste, very likely part of the 170,000 tons warranted to be left out side of Maine's borders.
    - it was divided into five categories with two categories including MSW already being delivered to PERC by Casella, two categories exclusive to only out-of-state waste and only one addressing the MERC MSW.
- Mr. McCormack as representing the owner should have also recognized that the metrics represented and that he agreed to revealed an even more advantageous agreement that would have benefited PERC, the MRC member communities and the State of Maine; all to a greater degree.
    - Specifically;
        - If 30,000 tons of MERC MSW diverted to PERC represents an additional $450,000 for PERC then the diversion of the possible 80,000 tons of MERC diverted to PERC would have represented an additional $1.2 Million to PERC.
        - If the diverted 30,000 tons represents 1,100 truck load reduction then the possible 80,000 tons diverted represents 2,180 truckload reduction.
        - If the diverted 30,000 tons diverted represents an additional $450,000 additional revenue for PERC than the possible 80,000 tons diverted to PERC represents an additional $1,200,000.
- Mr. McCormack as representing the owner represents in the cover letter that a robust recycling opportunity in that should any PERC charter community member or members reduce their tonnage that Casella will "backfill" PERC. Mr. McCormack failed to further explain that those "backfilled" tons would be exclusive only to categories 4 and 5 of the contract which are both out-of-state MSW.

- Mr. McCormack either failed to completely read and understand the contract or relied on the accurateness of the letter put in front of him by the operator, not realizing that the Casella/PERC contract benefitted Casella exclusively. In either case Mr. McCormack for the second time has signed and submitted documents that are not representative of the facts.

For reason of any one of the above either individually or all collectively or for any evidence presented elsewhere in this document we ask that the owner immediately withdraw the application, fix the errors and resubmit when it is complete. Should the owner choose not to withdraw the application and modify it to meet their intentions as presented in the application, we demand that the Application in its entirety be dismissed as being without merit.

What works and meets what the Applicant says is intended in their submission?

Only three scenarios are plausible that meet what the owner/operator said was the purpose of applying for the addition of MSW to waste streams allowed into JRL. Each of the three (3) only addresses the 123,000 tons of waste generated within the State of Maine as the Applicant stated as the reason for applying for MSW being added to the JRL waste stream.

1. The least favorable scenario is as presented by the Owner. There are two reasons why this scenario is the least favorable. Both have to do with a subsequent side contract that the owner and operator site as their definition of a favorable contract.
    a. It addresses only 30,000 tons and
    b. It reintroduces 50,000 tons of the promised 170,000 ton decrease of out-of-state waste as presented in the application.
2. The most favorable scenario is to transfer all of the 123,000 tons of MERC waste to the other WTE facilities operating within the State of Maine. This scenario while the most favorable assumes that Casella as the "guardian" of the MERC waste could reasonably negotiate contracts with ecoMaine and MMWAC to accept MERC's Maine derived MSW waste. This may be a long and protracted process so while it is the most favorable it also is not likely due to the mechanics of negotiations involved.
3. In between scenario 1 and scenario 2 is an acceptable compromise that not only holds the owner/operator of JRL to their promise of leaving out-of-state waste beyond Maine's borders it also increases revenue for PERC, ~~saves fuel,~~ reduces mileage, ~~and reduces the amount of CO_2 emitted into the atmosphere by diesel trucks~~.

The following tables demonstrate the merit or lack of merit of each of the three scenarios.

Table 4 demonstrates the performance of the Application as it was submitted and later impacted due to a side contract between Casella and PERC by measuring certain key performance indicators. Since the owner and operator in the amended application bring light to the previously unknown contract between Casella and PERC, it becomes pertinent to demonstrate the key performance as they impact the application process and the resulting impact on JRL should the application be approved.

Table 4: The Least Favorable Case Scenario

As Applied For - Least Favorable Case Scenario							
Destination	**Tons**	**RT/Miles**	**Loads at 27.5T Per Load**	**Total Annual Miles**	**~~Annual Fuel at 4.9 MPG~~**	**~~Cost of Annual Fuel At $4.19~~**	**~~Total Annual CO2 Into Atmosphere At 22.2 Lbs / Gallon~~**
MERC-PERC	30,000	310	1,091	338,182	~~69,017~~	~~$289,180~~	~~1,532,171~~
MERC_MMWA	0	92	0	0	~~0~~	~~$0~~	~~0~~
MERC-ecoMai	0	30	0	0	~~0~~	~~$0~~	~~0~~
MERC-JRL	93,000	326	3,382	1,102,473	~~224,994~~	~~$942,727~~	~~4,994,876~~
Kittery-PERC Out-of State	50,000	366	1,818	665,455	~~135,807~~	~~569,032~~	~~3,014,917~~
Totals	**173,000**		**6,291**	**2,106,109**	**~~429,818~~**	**~~$1,800,938~~**	**~~9,541,964~~**

Table 5 demonstrates the performance of what is very likely the most favorable scenario available, that being to divide the 123,000 tons of MERC MSW waste amongst the other current WTE facilities operating within the State of Maine; PERC, MMWAC and ecoMaine. The tonnage amounts for each of these three are taken directly from their annual WTE reports submitted to the MDEP as required and available online at http://www.maine.gov/spo/recycle/publications.htm. While the most favorable this scenario is based on the premise that Casella, MMWAC and ecoMaine could complete negotiations in a reasonable amount of time so that the WTE facilities could/would accept the MERC MSW. Perhaps this is not a likely scenario considering the competiveness of the market and the market participants.

Table 5: The Most Favorable Case Scenario

Transferring All MERC Waste To Other WTE Facilities - Most Favorable Case Scenario							
Destination	**Tons**	**RT/Miles**	**Loads at 27.5T Per Load**	**Total Annual Miles**	**~~Annual Fuel at 4.9 MPG~~**	**~~Cost of Annual Fuel At $4.19~~**	**~~Total Annual CO2 Into Atmosphere At 22.2 Lbs / Gallon~~**
MERC-PERC	91,000	310	3,309	1,025,818	~~209,351~~	~~$877,179~~	~~4,647,584~~
MERC_MMWAC	100	92	4	335	~~68~~	~~$286~~	~~1,516~~
MERC-ecoMaine	2,900	30	105	3,164	~~646~~	~~$2,705~~	~~14,333~~
MERC-JRL	29,000	326	1,055	343,782	~~70,160~~	~~$293,969~~	~~1,557,542~~
Kittery-PERC Out-of State	0	366	0	0	~~0~~	~~0~~	~~0~~
Totals	**123,000**		**4,473**	**1,373,098**	**~~280,224~~**	**~~$1,174,139~~**	**~~6,220,975~~**

Table 6 demonstrates that somewhere between the most favorable and the least favorable is a compromise that meets three important criteria:

1. It meets the intentions purported by the owner/operator that MERC MSW needs to be addressed. We do not oppose addressing the need to take care of MERC MSW from charter/participating Maine communities.
2. It meets the intentions purported by the owner/operator that out-of-state waste stays beyond Maine's border. We believe that Casella has or will endure no financial impact since the application states that out-of-state waste would stay outside of Maine's borders.
3. There is a significant reduction in every single key performance indicator (KPI);
    a. Truck mileage is reduced.
    b. Fuel consumption is reduced.
    c. Costs to operate trucks are reduced.
    d. The amount of CO2 introduced into the atmosphere is reduced.
    e. The amount of out-of-state waste is as the owner said it would be – zero.
    f. Reduces truck traffic to JRL by over 2,200 trucks per year.

Table 6: A Compromise Case Scenario That Meets/Exceeds All Intentions

No Out-of-State Waste - Compromise Case Scenario							
Destination	**Tons**	**RT/Miles**	**Loads at 27.5T Per Load**	**Total Annual Miles**	**~~Annual Fuel at 4.9 MPG~~**	**~~Cost of Annual Fuel At $4.19~~**	**~~Total Annual CO2 Into Atmosphere At 22.2 Lbs / Gallon~~**
MERC-PERC	91,000	310	3,309	1,025,818	~~209,351~~	~~$877,179~~	~~4,647,584~~
MERC_MMWAC	0	92	0	0	~~0~~	~~$0~~	~~0~~
MERC-ecoMaine	0	30	0	0	~~0~~	~~$0~~	~~0~~
MERC-JRL	32,000	326	1,164	379,345	~~77,417~~	~~$324,379~~	~~1,718,667~~
Kittery-PERC Out-of State	0	366	0	0	~~0~~	~~0~~	~~0~~
Totals	**123,000**		**4,473**	**1,405,164**	**~~286,768~~**	**~~$1,201,558~~**	**~~6,366,252~~**

Table 7 demonstrates the total realized savings and reductions as a result of data offered in Table 4 (as submitted in application) as a compared to the data offered in Table 6 (compromise scenario).

Table 7: Demonstration of the Savings Realized in the Compromise Case Scenario

Comparison of Application Scenario with PERC Contract Compared to Compromise Scenario							
Destination	**Tons**	**RT/Miles**	**Loads at 27.5T Per Load**	**Total Annual Miles**	**~~Annual Fuel at 4.9 MPG~~**	**~~Cost of Annual Fuel At $4.19~~**	**~~Total Annual CO2 Into Atmosphere At 22.2 Lbs / Gallon~~**
Application w/PERC (Table 4)	**173,000**	**-**	**6,291**	**2,106,109**	**~~429,818~~**	**~~$1,800,938~~**	**~~9,541,964~~**
Compromise Scenario (Table 6	**123,000**	**-**	**4,473**	**1,405,164**	**~~286,768~~**	**~~$1,201,558~~**	**~~6,366,252~~**
Total Reductions	**50,000**		**1,818**	**700,945**	**~~143,050~~**	**~~$599,380~~**	**~~3,175,712~~**
Total Loads and Tons To JRL Per Application	**93,000**		**3,382**				
Total Tons and Loads To JRL Per Compromise	**32,000**		**1164**				
Reduction of Tons and of Truck Traffic To JRL	**61,000**		**2,218**				

Appendix A

Links to referenced footnoted documents

1 http://law.justia.com/codes/maine/2012/title38/chapter24/section2101/

2 http://www.smallbiz-enviroweb.org/Resources/sbopubs/cdocs/c70.pdf

3 http://bangordailynews.com/2012/10/06/news/bangor/application-to-bring-southern-maine-trash-north-would-change-little-at-landfill-casella-says/

4 http://www.mainelegislature.org/legis/statutes/38/title38sec1302.html

5 http://www.mainelegislature.org/legis/statutes/38/title38sec1302.html

6 http://www.mainelegislature.org/legis/statutes/38/title38sec1302.html

7 http://www.mainelegislature.org/legis/statutes/38/title38sec1302.html

8 http://www.maine.gov/spo/recycle/publications.htm

9 http://www.maine.gov/spo/recycle/publications.htm

10 http://www.maine.gov/spo/recycle/publications.htm

11 http://www.maine.gov/spo/recycle/publications.htm

12 http://www.maine.gov/spo/recycle/publications.htm

13 http://www.maine.gov/spo/recycle/publications.htm

14 http://www.maine.gov/spo/recycle/publications.htm

15 http://www.maine.gov/spo/recycle/publications.htm

16 http://www.maine.gov/spo/recycle/publications.htm

17 http://www.maine.gov/spo/recycle/publications.htm

18 http://www.maineasce.org/MaineRC/2012MaineReportCardSummary.pdf

19 http://www.maine.gov/spo/recycle/publications.htm

20 http://www.maine.gov/spo/recycle/publications.htm

21 http://www.maine.gov/spo/recycle/publications.htm

22 http://www.maine.gov/tools/whatsnew/attach.php?id=365208&an=1

23 http://files.shareholder.com/downloads/CWST/2313576546x0x601024/AB348655-4FB0-4395-ADA6-F5C99A1C04DE/Casella-AnnualReport-2012.pdf

24 http://files.shareholder.com/downloads/CWST/2313576546x0x601024/AB348655-4FB0-4395-ADA6-F5C99A1C04DE/Casella-AnnualReport-2012.pdf

25 http://files.shareholder.com/downloads/CWST/2313576546x0x601024/AB348655-4FB0-4395-ADA6-F5C99A1C04DE/Casella-AnnualReport-2012.pdf

26 http://files.shareholder.com/downloads/CWST/2313576546x0x601024/AB348655-4FB0-4395-ADA6-F5C99A1C04DE/Casella-AnnualReport-2012.pdf

27 Amendment Application to Accept Municipal Solid Waste from Maine Sources, Submitted by the State of Maine bureau of General Services and NEWSME Landfill Operators, LLC as owner, September 2012, section 2-5.

~~28~~ ~~http://www.maine.gov/tools/whatsnew/attach.php?id=357826&an=1~~

~~29~~ ~~http://www.maine.gov/tools/whatsnew/attach.php?id=357826&an=1~~

~~30~~ ~~http://www.maine.gov/tools/whatsnew/attach.php?id=357826&an=1~~

~~31~~ ~~http://www.maine.gov/tools/whatsnew/attach.php?id=357826&an=1~~

~~32~~ ~~http://www.y12sweis.com/draftrefpdfs/RM%20273%20-%20EPA%202009.pdf~~

~~33~~ ~~http://www.maine.gov/mdot/ofbs/documents/pdf/atrimainereport.pdf~~

~~34~~ ~~http://www.maine.gov/mdot/ofbs/documents/pdf/atrimainereport.pdf~~

35 Annual Waste To Energy Facility Annual Reports, See Appendix B

36 Department of Administrative & Financial Services, Bureau of General Services, Cover Letter for Amended Application #S-20700-WD-BC-A, to Mr. Michael T Parker, December 20, 2012

37 Department of Administrative & Financial Services, Bureau of General Services, Cover Letter for Amended Application #S-20700-WD-BC-A, to Mr. Michael T Parker, December 20, 2012

Appendix B

Annual Waste To Energy Facility Reports

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	167,594	94%
Massachusetts	11,858	6%
New Hampshire	11	<.01%
Other state/province (fill in name):		
Other state/province (fill in name):		
Total	179,463	100%

Amount of RDF Produced: None

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR	None	N/A
Bypass	3912	ecomaine Landfill/Ashfill (MSW direct to landfill temporarily cashed & brought back to WTE to burn)
Recovered Metal	2420	(Post-burn recovered sent to) wTe Recycling, Greenfield, MA
Non-Processible/OBW	104	(loose-metal recovered sent) Schnitzer Recycling, Portland, ME
Other (describe waste stream): eWaste Recovered from Tipping Hall & recycled	5.2	Universal Recycling Technologies, Dover, NH

Date: April 2012
Annual WTE Incinerator Report for **ecomaine**

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	174,312	98.3 %
Massachusetts	2966	1.7 %
New Hampshire	0	
Other state/province (fill in name):_____	0	
Other state/province (fill in name):_____	0	
Total	177,278	100 %

Amount of RDF Produced:	None

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR	None	N/A
Bypass	874	ecomaine Landfill/Ashfill (temporary cache msw at landfill)
Recovered Metal - ferrous	2437	Post-burn metal recovered from ash at WTE, sent to wTe Recycling in Greenfield, MA
Recovered Metal - other	713	Metal recovered from ash metal mining project, sent RMG Solon OH
Recovered Metal – non-ferrous	None	N/A
Non-Processible/OBW	151	Loose-metal recovered WTE tipping floor and sent Schnitzer Recycling in Portland, ME
Other (describe waste stream):	*Please see Attachment:	Universal Waste Handling Activities
Ash	41,891	ecomaine Landfill/Ashfill WTE ash residue, sent ecomaine ashfill

Attachment to Form B Waste Handling Summary

Date:
Annual WTE Incinerator Report for **Error! Reference source not found.**

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	121,156	99.9 %
Massachusetts		
New Hampshire	111	0.1 %
Other state/province (fill in name):_____		
Other state/province (fill in name):_____		
Total	121,267	100.0%

Amount of RDF Produced:	**0**

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR		
Bypass	**2,552**	**WMI, Norridgewock, Maine**
Recovered Metal	**1,847.35**	**Auburn, Maine**
Non-Processible/OBW	**10,537.76**	**WMI, Norridgewock, Maine**
Other (describe waste stream):		
Ash	**17,749.62**	**Lewiston, Maine**

MMWAC Incinerator Report 2010

2/7/13
2 of 2

Date:

Annual WTE Incinerator Report for **Error! Reference source not found.**

FORM B - Amended

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	71,644	99.8%
Massachusetts		
New Hampshire	111	0.2%
Other state/province (fill in name):		
Other state/province (fill in name):		
Total	71,755	100.0%

Amount of RDF Produced:	

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR		
Bypass	2,551.63	Norridgewock, Maine
Recovered Metal	1,847.35	Auburn, Maine
Non-Processible/OBW	7,986.13	Norridgewock, Maine
Other (describe waste stream):		
Ash	17,749.62	Lewiston, Maine

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	71,409.88	99.5%
Massachusetts		
New Hampshire (Chatham, NH)	118.50	0.5%
Other state/province (fill in name):_____		
Other state/province (fill in name):_____		
Total	71,528.38	100%

Amount of RDF Produced:	

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR		
Bypass (Diverted MSW)	2,625.37	Norridgewock, Maine
Recovered Metal – ferrous (Post Burn Ferrous)	1,700.65	Auburn, Maine
Recovered Metal – non-ferrous		
Non-Processible/OBW (Transfer Station, not Incinerator)	7,946.81	Norridgewock, Maine
Other (describe waste stream): Recyclables	376.59	Varies Markets
Ash	17,624.18	Lewiston, Maine

FORM B

WASTE HANDLING SUMMARY

MSW <u>received</u> by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	**224358**	**72**
Massachusetts	**78828**	**25**
New Hampshire	**8510**	**3**
Other state/province (fill in name):		
Other state/province (fill in name):		
Total	**311696**	**100**

Amount of RDF Produced:238384

Materials <u>disposition</u> by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR	**62950**	**Juniper Ridge Landfill, OT**
Bypass	**1988**	**Juniper Ridge Landfill, OT**
Recovered Metal	**10377**	**WTE Recycling Greenfield, MA**
Non-Processible/OBW	**32**	**Juniper Ridge Landfill, OT**
Other (describe waste stream):		
Ash	**56917**	**Juniper Ridge Landfill, OT**

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	222,813	71
Massachusetts	81,352	26
New Hampshire	9,810	3
Other state/province (fill in name):_____		
Other state/province (fill in name):_____		
Total	313,975	100

Amount of RDF Produced:	

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR	60,524	Juniper Ridge Landfill, OT
Bypass	-0-	
Recovered Metal - ferrous	9,152	WTE Recycling Greenfield, MA
Recovered Metal – non-ferrous	-0-	
Non-Processible/OBW	164	Juniper Ridge Landfill, OT
Other (describe waste stream):	-0-	
Ash	55,565	Juniper Ridge Landfill, OT

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	89,970.21	32.61 %
Massachusetts	135,596.51	49.14 %
New Hampshire	50,363.20	18.25 %
Other state/province (fill in name):		
Other state/province (fill in name):		
Total	275,929.92	100.00 %

Amount of RDF Produced:	**201,928.07**

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR	60,791.44	Juniper Ridge – W Old Town
Bypass - MSW Ship off Floor	3,554.30	Juniper Ridge – W Old Town
Bypass - Fluff Layer off Floor	1,367.71	Juniper Ridge – W Old Town
Recovered Metal	737.17 Picked Steel/Alum	470.72 Picked Steel – Industrial Metal (ME) 266.45 Alum – Casella (MA)
	6,389.72 Ferrous	WTE Greenfield MA
Non-Processible/OBW	1,319.28	Juniper Ridge – W Old Town
Other (describe waste stream): RDF Shipped	1,654.65	Juniper Ridge – W Old Town
Ash	47,942.95	Juniper Ridge – W Old Town

FORM B

WASTE HANDLING SUMMARY

MSW received by state/province of origin (tons)

State/Province of Origin	Amount (tons)	Percent of Total
Maine	89384.89	34.47%
Massachusetts	119508.42	46.09%
New Hampshire	50382.82	19.43%
Other state/province (fill in name):_____		
Other state/province (fill in name):_____		
Total	259276.13	100.00%

Amount of RDF Produced:	205,887.43 Tons

Materials disposition by facility shipped to (tons):

Material	Tons	Receiving Facility
FEPR	42690.44	Juniper Ridge Landfill
Bypass	2131.52	Juniper Ridge Landfill
Recovered Metal - ferrous	5424.86	WTE Greenfield MA
Recovered Metal – non-ferrous	267.12 Aluminum	Casella MA (Jan - Aug) Schnitzer Steel (Sept - Dec)
	512.31 Picked Steel	CIA Salvage - Limerick
Non-Processible/OBW	1129.29	Juniper Ridge Landfill
Other (describe waste stream): Recycled OCC	21.85	FCR - Scarborough
Ash	50050.86	Juniper Ridge Landfill