

Assessment of State-owned Landfill Management and Oversight

Prepared by the Maine State Planning Office
for the
Joint Standing Committee on Natural Resources
Pursuant to Public Law 2009, Chapter 412
February 5, 2010

Assessment of the Management and Oversight of State-owned Landfills

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for the

Joint Standing Committee on Natural Resources

Pursuant to Public Law 2009, Chapter 412

Prepared by

Maine State Planning Office

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In October 2009, the State Planning Office gave public notice of the Solid Waste Management Advisory Council meeting on Public Law 2009, chapter 412, and in December 2009 issued a written invitation to the City of Old Town, the Old Town-Alton Landfill Advisory Council, and the Town of Norridgewock to provide comments on chapter 412's questions.

The State Planning Office would like to thank the various parties that provided input into the preparation of this report. These include:

Solid Waste Management Advisory Council

The Legislature established the Solid Waste Management Advisory Council in 2007 to assist the State Planning Office in its review of solid waste policy issues. Its members include a broad spectrum of solid waste management interests from across Maine, including municipal government, an environmental organization, public and private recyclers, a waste-to-energy facility owner/operator, a landfill owner/operator, an industrial waste generator, the public, the State Planning Office, and the Department of Environmental Protection. A copy of the council's 2009 annual report, with their discussion on the issues raised in Public Law 2009, chapter 412, may be found in the appendices. A list of council members appears in the appendices. The Department of Environmental Protection and Waste Management, Inc. serve on the Council. The State Planning Office contacted both to inquire if they wished to add further comments beyond the council discussion. Both indicated they may comment directly to the Joint Standing Committee on Natural Resources.

City of Old Town

The Juniper Ridge Landfill is located in the City of Old Town and city officials are well-positioned to comment on management and operational issues at the landfill. The full text of their comments may be found in the appendices.

Old Town-Alton Landfill Advisory Council

The Legislature created the Old Town Landfill Advisory Council to act as a liaison between the public and parties involved with the operation of Juniper Ridge Landfill. The committee is made up of citizens from Old Town, Alton, and Indian Island. The full text of their comments may be found in the appendices.

Town of Norridgewock

The Crossroads Landfill, a commercial landfill operated in the Town of Norridgewock, is of interest to local officials there. The Town will provide comments directly to the Joint Standing Committee on Natural Resources.

Casella Waste Systems, Inc. offered written comments, appearing in the appendices, as did citizens of Norridgewock and Old Town. Finally, William Laubenstein, Chief, General Government Operations Division, Maine Attorney General's Office provided consultation.

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Executive Summary

This report is submitted to the Joint Standing Committee on Natural Resources pursuant to Public Law 2009, chapter 412 (An Act to Improve Landfill Capacity). Among other provisions, it poses five questions to the State Planning Office on the current oversight and management of state-owned landfills. On a separate but related issue, it requires the Office to assess whether certain statutory restrictions on commercial disposal facilities should be amended.

Below is a summary of recommendations by the State Planning Office in response to its charge under chapter 412 organized under the six charges of the Act:

1. Is funding for management and oversight of state-owned landfills sufficient to carry out legislative intent?

- Should the Legislature desire stepped up oversight of landfill operations by the State Planning Office, SPO would need additional staff and other resources. We estimate increased supervision would require an additional full-time staff person and all other funds totaling \$95,000. Based on SPO's working knowledge of the facility's operations and its compliance record, we do not believe we can justify the additional expense of additional supervision at this time.

2. Should management or operational modifications be instituted at the Juniper Ridge Landfill?

- The State Planning Office recommends that it create a Juniper Ridge web site and prepare an annual report for the Governor and Legislature that describes types, amount, and sources of wastes received at the facility, situations encountered or issues raised and how they were addressed, amendments to the Operating Services Agreement (if any), and other information related to the landfill operations. The State Planning Office can implement these steps within current resources.
- The Maine Solid Waste Management Fund is unstable in these economic times. Nevertheless, the Fund should support the planning and development of the State's future solid waste management infrastructure, as advocated by the City of Old Town. The State Planning Office recommends that, at the time the Solid Waste Management Fund stabilizes, the Legislature create a capital account for future siting and development of landfill capacity.
- The State Planning Office recommends that the trigger for recommending new state-owned disposal facilities be lengthened from six to eight years of remaining capacity.

3. Should amendments to the Operating Services Agreement between the State and the operator of the Juniper Ridge Landfill be negotiated to eliminate the fuel service agreement?

- The State Planning Office does not recommend seeking changes to the fuel services agreement with Casella at this time, agreeing with the Solid Waste Advisory Council that the situation surrounding this agreement is in flux.
 - The State Planning Office recommends carefully monitoring landfill space that is consumed by residues from CDD processing. If these processing residues start to rise significantly, the State Planning Office will consult with all affected parties and offer recommendations to the Joint Standing Committee on Natural Resources.
- 4. Should amendments to the Operating Services Agreement between the State and the operator of the Juniper Ridge Landfill be negotiated to eliminate caps on tipping fees at the Juniper Ridge Landfill?**
- The State Planning Office recommends retaining the tipping fee cap in the Operating Services Agreement and monitoring fees statewide to track the impact of the cap on keeping prices competitive.
- 5. Should amendments to the Operating Services Agreement between the State and the operator of the Juniper Ridge Landfill be negotiated to create an annual maximum fill rate at the Juniper Ridge Landfill?**
- The State Planning Office recommends monitoring waste disposal and refining capacity projections in the context of current economic conditions rather than setting a new fill rate in these anomalous times.
- 6. Should the restriction on the expansion of commercial solid waste disposal facilities in the Maine Revised Statutes Annotated, Title 38, section 1310-X, subsection 3, paragraph B be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire?**
- The State Planning Office offers no recommendation on removing the statutory ban that currently prevents expanding Crossroads Landfill. SPO's responsibilities are to do capacity planning, abide by state policy regarding the existence of commercial landfills in Maine, and oversee the Operating Services Agreement for the Juniper Ridge Landfill. SPO concurs that if the Legislature were to change state policy on the expansion of commercial landfills this should be implemented, in the words of the City of Old Town, "in a manner of fairness with all landfills." "Fairness" in SPO's view must include fulfilling the State's responsibility to the public to provide landfill capacity and in the context of an existing Operating Services Agreement for a state-owned landfill operated by a private operator.
 - The Attorney General's Office should offer legal guidance on the Juniper Ridge Landfill Operating Services Agreement to the Joint Standing Committee on

Natural Resources if the committee wishes to further pursue lifting the commercial landfill ban.

I. Introduction

This report is submitted to the Joint Standing Committee on Natural Resources pursuant to Public Law 2009, chapter 412 (An Act to Improve Landfill Capacity). Among other provisions, it requires the State Planning Office (SPO) to assess state solid waste management policy related to the oversight and management of state-owned landfills. Specifically it asks SPO to review whether:

1. funding for management and oversight of state-owned landfills is sufficient to carry out legislative intent;
2. management or operational modifications should be instituted at the Juniper Ridge Landfill;
3. amendments to the Operating Services Agreement between the State and the operator of the Juniper Ridge Landfill should be negotiated to eliminate the fuel service agreement;
4. amendments to the Operating Services Agreement between the State and the operator of the Juniper Ridge Landfill should be negotiated to eliminate caps on tipping fees at the Juniper Ridge Landfill;
5. amendments to the Operating Services Agreement between the State and the operator of the Juniper Ridge Landfill should be negotiated to create an annual maximum fill rate at the Juniper Ridge Landfill; and
6. the restriction on the expansion of commercial solid waste disposal facilities in the Maine Revised Statutes Annotated, Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.

Chapter 412 is included as Appendix A.

This report concludes that there is no urgent need for stepped up oversight of the Juniper Ridge Landfill, but if the Legislature desires increased monitoring, new resources would be needed. It proposes no changes to the fuel services agreement or existing tipping fee cap, and does not recommend a maximum fill rate at this time. It recommends a number of improvements to reporting and monitoring for the Juniper Ridge Landfill. Finally, it provides an assessment of issues related to the expansion of the Crossroads Landfill, but defers the question of expansion to the Legislature and the Department of Environmental Protection. The Department of Environmental Protection has the sole statutory authority to determine if such an expansion—if it were permitted by law—would provide a public benefit to Maine citizens and businesses.

II. Background

In 2003, the Legislature authorized the state acquisition of the generator-owned West Old Town Landfill, later renamed the Juniper Ridge Landfill. Pursuant to the Maine Revised Statutes, Title 38, chapter 24, the Legislature directed the State Planning Office (SPO) to acquire, own, and contract for the operation of this landfill ([Resolve 2003, chapter 93](#)).

To accomplish this, SPO conducted a competitive bid process. It asked for proposals from potential operators to, among other things:

- operate the landfill under contract with the State and in compliance with environmental laws and regulations; and
- provide wood fuel for the existing owner's and any successor's biomass boiler at below-market price.

The State awarded the contract to Casella Waste Systems, Inc. The Operating Services Agreement (OSA) entered into included the fuel supply agreement, a cap on tipping fees, provisions on excluded waste, and a requirement that the operator apply for additional landfill capacity by a date certain.

In 2004, the Department of Environmental Protection (DEP) approved the transfer of the landfill operating license to the State Planning Office. Prior to the acquisition of Juniper Ridge, the State possessed two million cubic yards of permitted capacity at the green field site known as Carpenter Ridge. With the acquisition of the Juniper Ridge Landfill, the State's existing, permitted capacity for land disposal within Maine increased by a factor of five, or 10 million cubic yards.

III. Management and Oversight of State-owned Landfills

Juniper Ridge

The acquisition of the Juniper Ridge Landfill by the State Planning Office and its regulation by the Department of Environmental Protection occurred without the creation of new staff positions for either SPO or the DEP¹. Both agencies provide oversight of the Juniper Ridge Landfill: SPO, as the owner, oversees the Operating Services Agreement; the DEP, as licensor and environmental regulator, oversees license and solid waste regulatory and statutory compliance.

¹ DEP receives permit application and licensing fees from Juniper Ridge. In addition, the Juniper Ridge Landfill pays fees into the Solid Waste Management Fund, which fund staff and operations at both DEP and SPO, but staff and funding remain at the same level as before Juniper Ridge was acquired.

State Planning Office staff monitors the landfill through on-sites visits, frequent communication with landfill staff, and by reviewing reports and manifests. While SPO does not check every manifest and bill of lading, which would be impractical, it does review those on file at the landfill. If questions arise about Operating Service Agreement or License compliance, SPO works with the operator and, if needed, the Attorney General's Office on appropriate responses.

The Old Town-Alton Landfill Advisory Committee meets quarterly to provide area citizens with updated information on landfill activities and operations. The State Planning Office provides the Committee with monthly updates. Both SPO and DEP respond to questions and address concerns from municipal officials and citizens, attend community meetings, and participate in meetings of the advisory committee.

In December 2009, Governor Baldacci signed an Executive Order permitting 100,000-pound trucks to travel on Interstate 95. Passage by the U.S. Congress of a pilot project permitting trucks of more than 80,000 pounds to travel on the interstate highway made the Executive Order possible. This change will remove solid waste disposal trucks from secondary roads, a source of concern in the area around Juniper Ridge. (The Executive Order can be found at <http://www.maine.gov/tools/whatsnew/index.php?topic=Gov+News&id=86548&v=Article-2006>.)

The City of Old Town states that the management and operation of Juniper Ridge Landfill appears to be satisfactory and the City believes DEP oversight is sufficient. They say that the operator has responded to many issues in the past five years using timely and responsible processes to mitigate problems that are within their control. They have worked with the City with regard to resolving issues of concern in a timely and effective manner. The city suggests several actions related to the State's landfill oversight role, summarized below:

- That, all solid waste processing or disposal facilities should provide an annual report to SPO with the amount, type, source of materials accepted at the facility, how materials are managed and where and how such residue or bypass are disposed². SPO should report this information annually, along with a summary of exported Maine wastes³; and
- Funds from the Solid Waste Management Fund should be allocated to cover the cost of landfill regulatory (DEP) and operational (SPO) oversight, as well as road repair and maintenance (Department of Transportation). Funds should also be set aside to identify and construct future new landfills when needed.⁴

The Old Town-Alton Landfill Advisory Council advocates for considerably more oversight by the State at the landfill to monitor the sources of wastes coming to the landfill to determine that they are legitimate in-state wastes.

² Maine's solid waste disposal facilities do currently report this information annually to DEP.

³ In its annual waste generation and disposal capacity report, SPO reports the types and amounts of waste received at each solid waste disposal facility, along with figures on how much waste is imported and exported each year.

⁴ The Solid Waste Management Fund currently supports approximately 30 positions in DEP's remediation and waste management bureau and SPO's six recycling and technical assistance staff. State law currently provides for the construction and operation of a new landfill to be paid for through revenue bonds. However, the upfront costs to identify and develop any new sites would require state resources.

With new resources, the State Planning Office could increase oversight of the Juniper Ridge Landfill by increasing on-site monitoring, increasing inspections of wastes being delivered, and monitoring facilities that ship waste to the landfill. However, based on SPO's working knowledge of the facility's operations and its compliance record, we do not believe we can justify the additional expense of additional supervision at this time.

Carpenter Ridge

Currently, the state owns a permitted, "greenfield" site, known as Carpenter Ridge, in T2 R8 outside of the Town of Lincoln for future development of a landfill if it is needed. The site remains in abeyance. SPO annually renews its license and submits an annual report to DEP, paying \$11,988 for the annual license fee and \$3,103 for the annual report (2009 costs). In addition, SPO has explored forest management strategies for the site and will continue to do so as resources permit.

At this time there is one management issue of concern, related to the time requirements to develop Carpenter Ridge when it is needed.

Whether it is Carpenter Ridge or another new landfill site, the law requires the State Planning Office to notify the Legislature and to provide recommendations for developing state-owned disposal capacity when it determines there is six years of statewide capacity remaining.

Recognizing that the process to site, permit, license, and bring on line new land disposal capacity has a long lead time, the Legislature changed the time frame for the recommendation of development of a new state disposal facility from four to six years in 2006. At that time, the Legislature had reserved for itself the presumption of public benefit. Now that applications to develop or expand state disposal facilities are subject to DEP's public benefit determination process, the six-year time frame may no longer be adequate.

For the Carpenter Ridge site, we estimate the following timelines:

1 year	for legislative consideration following SPO's recommendation
1 year	to prepare the public benefit determination and expansion applications
2.5 years	for DEP to complete its permit review
1.5 years	for administrative appeals and legal challenges
<u>2 years</u>	<u>to construct the facility</u>
8 years	total process

Six years notice does not allow sufficient time to develop new capacity if Maine faces a disposal capacity shortage.

Recommendations

- Should the Legislature desire stepped up oversight of landfill operations by the State Planning Office, SPO would need additional staff and other resources. We estimate increased supervision would require an additional full-time staff person and all other funds totaling \$95,000. Based on SPO's working knowledge of the facility's operations and its compliance record, we do not believe we can justify the additional expense of additional supervision at this time.
- The State Planning Office recommends that it create a Juniper Ridge web site and prepare an annual report for the Governor and Legislature that describes types, amount, and sources of wastes received at the facility, situations encountered or issues raised and how they were addressed, amendments to the Operating Services Agreement (if any), and other information related to the landfill operations. The State Planning Office can implement these steps within current resources.
- The Maine Solid Waste Management Fund is unstable in these economic times. Nevertheless, the Fund should support the planning and development of the State's future solid waste management infrastructure, as advocated by the City of Old Town. The State Planning Office recommends that, at the time the Solid Waste Management Fund stabilizes, the Legislature create a capital account for future siting and development of landfill capacity.
- The State Planning Office recommends that the trigger for recommending new state-owned disposal facilities be lengthened from six to eight years of remaining capacity.

IV. Juniper Ridge Operating Services Agreement

Fuel Service Agreement

The Operating Services Agreement between the State Planning Office and Casella Waste Systems requires the landfill operator to provide green and processed wood waste at less than market value to the owner of the biomass boiler formerly connected to the generator-owned landfill. The current owner of the boiler is not in need of the fuel offered under the fuel services agreement, however.

The fuel services agreement was a factor in the decision of Casella to seek a DEP permit for construction and demolition debris (CDD) processing facility in Westbrook as an aid in fulfilling their obligation to provide the required processed wood fuel. Casella Waste Systems has received a permit for a CDD processing operation that would accept up to 1,000 tons of CDD per day in Westbrook, although it has not yet been constructed.

Some have concerns that the fuel services agreement will increase the amount of out-of-state CDD imported to Maine for processing. While Casella is currently not supplying CDD derived

wood fuel for the Old Town biomass boiler, there is a potential demand for up to 100,000 tons at this facility. At the current rate of capture and processing of wood waste from CDD, Maine municipal and commercial sources of wood waste could not supply this tonnage. Current economic conditions are likely to drive both the total amount of CDD generated and the recoverable wood fraction downward.

Further, the Legislature recently amended Maine's waste management laws to say that residues produced by processing, recycling, or incineration in Maine of out-of-state waste are considered to be waste generated within the state. This statutory provision helps Maine's waste-to-energy (WTE) facilities, which to operate at full capacity sometimes have to import municipal solid wastes and must dispose of their processing residues. It also means that processing residues from imported CDD may be received by any facility licensed to receive those types of wastes, including the Juniper Ridge Landfill. Casella's CDD processing facility in Westbrook is expected to generate an estimated 150,000 - 300,000 tons per year of processing residues, a portion of which is likely to be disposed of at Juniper Ridge.

The fuel services agreement and related statutes present the Legislature with two policy choices: Does Maine want to support the State's WTE facilities and biomass boilers which provide affordable waste disposal options and an alternative to fossil fuel energy? Alternatively, does Maine want to restrict the disposal of processing residues from WTE facilities at Juniper Ridge? With regard to the fuel services agreement with Casella, does the State want to seek an amendment or elimination of the agreement, recognizing that the fuel services agreement exists within a binding contract and that the contracting parties, including Casella, would have to agree to any change?

The Solid Waste Management Advisory Council considered the above and has these comments:

- Council members feel that the situation is in sufficient flux to prevent it from having any definite opinion at this time because:
 - Casella is currently not supplying fuel to the owners of the Old Town biomass boiler; and
 - New DEP rules for processing facilities are not yet published.
- The Council has these questions:
 - Would seeking a change in the terms of the original fuel services agreement require a public hearing and comments? (Under a rule adopted by the State Planning Office, it would.)
 - Would Casella's acceptance of a change in the fuel services agreement result in some new benefit to the State?

The City of Old Town has these comments:

The City is not sure if the original fuel service agreement should be reviewed and eliminated because we are not sure if this is a major operational concern other than the confusion that is created by its inclusion in the OSA and it should be determined whether undertaking the amendment process will provide a beneficial outcome.

The City believes that encouraging CDD processing is an integral part of our recycling program. CDD from out-of-state and processed in-state should be accepted when it is in the best interest of the State to do so. We should not be encouraging new CDD processing facilities which accepts and processes out-of-state waste unless it compliments, as an accessory to an existing, expanded or new business development in the state. We would need to ensure that a high percentage of the material which comes into the state is recycled and reused with a low percentage of the unusable residue needing to be landfilled.

The Old Town-Alton Landfill Advisory Committee feels the fuel services agreement is unnecessary under the current status of the operation at the mill, which negates the original need for this requirement.

Recommendations

- The State Planning Office does not recommend seeking changes to the fuel services agreement with Casella at this time, agreeing with the Solid Waste Advisory Council that the situation surrounding this agreement is in flux.
- The State Planning Office recommends carefully monitoring landfill space that is consumed by residues from CDD processing. If these processing residues start to rise significantly, the State Planning Office will consult with all affected parties and offer recommendations to the Joint Standing Committee on Natural Resources.

Tipping Fee Cap

The State, in its operating agreement with Casella Waste Systems, already has imposed a cap on tipping fees. Under the current agreement, Casella cannot charge more than \$68 per ton for municipal solid waste and CDD wastes and \$56 per ton for special wastes delivered to the Juniper Ridge Landfill. Because of this cap, Juniper Ridge is perceived by the private and public waste sectors as having an effect on disposal pricing. The cap acts as a check on pricing for the disposal of similar materials at other solid waste facilities.

Solid Waste Management Advisory Council members express these opinions:

- Market forces should be allowed to work, rather than imposing a cap on tipping fees at the state-owned landfill.

- Currently there is considerable downward pressure on tipping fees across the industry. Juniper Ridge is particularly sensitive to the cost of transportation, which cannot be separated from tipping fees as the two are generally quoted as one price.
- The tipping fee question could be revisited if at some future point there are no longer sufficient in-state landfill disposal options to guarantee the level of competition necessary to allow market forces to affect prices.
- Alternatively, since landfilling is the lowest management option on the state waste management hierarchy, it should be more expensive. The State might want to seek an increase of the tipping fee at the Juniper Ridge Landfill to discourage landfilling.
- Tipping fees could be adjusted to properly fund the State's waste management programs.
- Tipping fees could be tied to the market—when tipping fees rise above a certain standard, the cap is triggered.

The City of Old Town has these comments:

The present maximum tipping fee cap should be revisited to enable the operator to operate in the competitive market of waste management. The operator should be allowed to make a profit on the operation of the landfill and not have to rely on other activities to achieve a profit.

The City believes that Juniper Ridge Landfill should operate as a business to ensure that the operator can successfully operate within the regulations set by the State. Operators may come and go but the landfill operations need to be viable to enable the State to be confident they will be able to attract a new operator in a timely and effective manner. Concerns would arise should the current operator vacate leaving the landfill operations curtailed and local-regional issues unresolved. If this is not allowed to operate as a business venture, it would make it difficult to attract a qualified and capable operator, which poses many, many concerns to the community and the region. Establishing rates without regard to what the market can bear creates an uneven playing field for the Juniper Ridge Landfill and other competitors in the landfill business.

The Old Town-Alton Landfill Advisory Committee also believes there should be no cap on tipping fees because:

[T]he fee needs to follow the marketplace price and not be an incentive for waste producers to avoid recycling or reuse options preferred by the State; also there needs to be sufficient money to allow proper monitoring of the source and type of waste coming to the landfill to be certain it is in-state waste....

Recommendation

- The State Planning Office recommends retaining the tipping fee cap in the Operating Services Agreement and monitoring fees statewide to track the impact of the cap on keeping prices competitive.

Maximum Fill Rate

When the State Planning Office became owner of the Juniper Ridge landfill, it projected the landfill would handle 500,000 tons per year given waste stream projections and other available disposal options. In 2006 and 2007, the Juniper Ridge Landfill accepted just over 470,000 tons of waste in each year. In 2008 and 2009, 617,782 and 528,622⁵ tons were delivered to the facility respectively.

In 2010 following the closure of the Pine Tree Landfill in Hampden, SPO expects the in-state portion of wastes that were being disposed in Hampden will go to Juniper Ridge; that's approximately 150,000 tons per year. Given the downturn in the economy, SPO has revised its previous projections and, for planning purposes, projects conservatively that the Juniper Ridge Landfill will receive 700,000 tons of waste, starting in 2010, including wastes that previously were delivered to the Pine Tree Landfill.

Because environmentally suitable sites for waste disposal are in limited supply, they represent a valuable resource, which should be carefully managed. For this reason the Legislature established a waste management hierarchy and aggressive recycling goals in 1989. A maximum fill rate may help the state conserve its landfill capacity.

With input from interested parties, the State Planning Office identified several ways in which capacity at Juniper Ridge could be extended:

1. A straight cap on the tons of wastes that could be accepted in a 12-month period, with carefully-crafted escape clauses in the event of emergencies such as ice storms, floods, or other catastrophic events;
2. A cap tied to the consumer price index, so that when the economy improves and waste generation grows, the cap could move with it so as not to stifle economic growth;
3. A price-tiered cap, so that tons accepted over a certain amount would be charged a higher fee to encourage recycling and waste reduction;
4. A ban on certain recyclable materials such as organic wastes, paper, and metals, which would encourage greater recycling; or
5. A diversion system where wastes, instead of being delivered directly to Juniper Ridge for disposal, would be diverted to other facilities to capture their highest and best use. For

⁵ preliminary number

example, unprocessed CDD wastes could be diverted to processing facilities, or municipal solid waste could be diverted to WTE plants to keep them operating at full capacity, especially in the winter months.

While these methods would extend the life of the landfill, there are considerations for each.

Options one and two raise questions of fairness. Who gets turned away? If the cap is applied on a first-come, first-served basis, a critical disposal need that occurs late in the year when the facility is reaching its cap may result in turning away a business or municipality causing interruptions in service and higher costs.

Option three may be difficult to implement in today's economy as businesses are fighting to stay alive. Additional waste disposal costs may be too burdensome.

For options three and four, there is also the question of whether available recycling infrastructure is in place to handle extra materials that would be diverted from Juniper Ridge. If the Legislature selects either of these options, it may want to develop a corresponding program to increase recycling capacity in the state.

Option five may be too complex and costly. Before the Legislature considers this option, the State Planning Office should do some additional analysis that is beyond the scope of this review. Questions to be answered include: What materials would be diverted and where? What would be the additional costs to users of diverting wastes? Could the receiving facilities handle the extra wastes? Would the increase in carbon emissions from transporting these wastes a further distance outweigh the environmental benefits of extending the life of the landfill? Who would manage this system and how would that oversight be paid for? Would the diversions be mandatory or voluntary?

The City of Old Town believes that:

[M]aximum fill rates should not be established as there are too many variables related to optimum operations. We believe the market conditions will control the fill rates. A maximum fill rate could adversely impact routine and emergency landfilling needs of communities and businesses in the State and could result in higher fees to tip and transport elsewhere. For instance, the City will be considering demolition of the former Old Town Canoe site in an effort to remediate this site and to make improvements needed in the downtown area. A maximum limit may increase the City's costs significantly depending on trucking and tip costs at another location.

The Old Town-Alton Landfill Advisory Committee suggests a price-tiered approach, charging extra for wastes that exceed a 700,000 ton annual cap in order to compensate the City and the State for the extra costs that result from the increase in daily tonnage.

Recommendation

- The State Planning Office recommends monitoring waste disposal and refining capacity projections in the context of current economic conditions rather than setting a new fill rate in these anomalous times.

V. Expansion of Crossroads Landfill

Maine law currently prohibits the construction of new or expanded commercial solid waste disposal facilities. Public Law 2009, chapter 412 asks the State Planning Office to assess whether this statutory restriction on commercial disposal facilities should be amended, *“to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.”*

The Legislature has created a process to analyze the public benefit of any new or expanded waste disposal facility and directed the Department of Environmental Protection to determine public benefit as part of its licensing authority. A facility may not be licensed in Maine if it does not provide a substantial public benefit. SPO can review the question of modifying the ban on commercial facilities on behalf of the Legislature, but it does not determine public benefit under the law. Any statutory change permitting expansion of a commercial facility as described above would not abrogate the DEP public benefit determination.

Two existing commercial landfills were grandfathered under the 1989 law. They are:

- 1) Crossroads Landfill, located in Norridgewock, owned by Waste Management, Inc.; and
- 2) Pine Tree Landfill, located in Hampden, owned by Casella Waste Systems, Inc.

The Crossroads Landfill is permitted to take special waste, municipal solid waste, and construction and demolition debris. It provides recycling and disposal services on a contract basis for municipalities and businesses. It currently serves over forty Maine communities in Western Maine. In 2008, the Crossroads Landfill accepted 308,000 tons of solid waste. Over three-quarters of their wastes come from Maine, with 20 percent from out-of-state in 2008.

The Pine Tree Landfill was permitted to take special waste, by-pass, municipal solid waste, and construction and demolition debris. In 2008, the Pine Tree Landfill accepted 439,754 tons of solid waste. Roughly, 90 percent of the waste managed at Pine Tree Landfill was generated outside of Maine and 10 percent from within Maine. Through an agreement reached among the Town of Hampden, Department of Environmental Protection, and Casella Waste Systems, the Pine Tree Landfill closed at the end of 2009. The Maine portion of the wastes accepted by that facility (150,000 tons) is likely to be disposed at the Juniper Ridge Landfill.

Because Pine Tree Landfill closed in 2009, the expansion question referenced in chapter 412 would apply solely to the Crossroads Landfill in Norridgewock.

As part of SPO’s review of this expansion question, we consulted the Solid Waste Management Advisory Council, and later checked again with advisory council members DEP and Waste Management Services, Inc. (owner of the Crossroads Landfill) for any final comments. SPO also solicited comments from the Town of Norridgewock. We also reviewed the report of the Blue Ribbon Commission on Solid Waste Management. The City of Old Town, Old Town-Alton

Landfill Advisory Council, Casella Waste Systems, and citizens of Norridgewock and Old Town also provided comments. Finally, we consulted with the Maine Attorney General's Office. SPO's analysis of the Crossroads Landfill expansion question, developed with input from these parties, follows.

Stakeholder Input

In its 2007 report to the Maine Legislature's Joint Standing Committee on Natural Resources, pursuant to Resolve 2005, chapter 207, the Blue Ribbon Commission on Solid Waste Management recommended: "Remove the calendar limitation in 38 MRSA§1310-X(3)(B) related to contiguous property ownership and the expansion of commercial solid waste disposal facilities."

The Maine Solid Waste Management Advisory Council reviewed this issue in October 2009. The council is generally supportive of amending current law to allow for the expansion at the Crossroads Landfill.

The Town of Norridgewock has not yet provided comments. Summarized or excerpted comments by the City of Old Town, the Old Town-Alton Landfill Advisory Committee, Casella Waste Systems, and Norridgewock and Old Town residents appear below. The full text of their comments is provided in the appendices.

Benefits

Stakeholders suggest that an expansion of the Crossroads Landfill could provide Western Maine communities with a waste disposal option. Crossroads currently serves approximately 40 communities from Wayne and Readfield in the south to Rangeley in the west, east to Newport, and north to Jackman. For those communities to use an alternate disposal site would add significantly to their costs for transporting waste. Others believe that competition in this regard is good. Allowing the commercial landfill to expand would increase the total capacity of the State and allow a slower growth for Juniper Ridge. The Old Town-Alton Landfill Advisory Committee feels that, until the State sites another landfill in the southern part of the Maine, an expansion at Norridgewock may be necessary.

Concerns

Expanding Crossroads may run counter to the state waste management hierarchy, which puts land disposal as the least preferred solid waste management option. Members of the Solid Waste Management Advisory Council stress the need to beef up state support of the higher priorities such as waste reduction and recycling. Some residents of Norridgewock question the need for the expansion and raise concerns about lack of planning, lack of incentives to reduce waste, inability to control out-of-state waste, advantaging one corporation, and the need to address pharmaceutical wastes.

The City of Old Town expresses concern that:

As this would be a waiver from the long-standing [law], expansion of the landfill needs to be done in a manner of fairness with all landfills. An expansion at Crossroads needs to comply with all requirements, restrictions, and limitations that apply to Juniper Ridge Landfill currently and as amended from time to time. In addition, the State should continue to identify other sites and other methods of solid waste disposal, as landfills are the least desirable method of solid waste disposal, but still a necessary solution which continues to be relied upon.

Casella Waste Systems expresses a similar point of view:

[I]f – contrary to longstanding state policy and current capacity needs as described by DEP – the restriction on expanding Crossroads is lifted to allow for the expansion onto contiguous land acquired by its owner *any* [italics in original] time, fundamental fairness requires that a level playing field be established between Crossroads and the state-owned Juniper Ridge Landfill, which are the two remaining landfills to manage significant volumes of commercial and municipal solid waste in Maine.

Legal Issues

Even if the statute is changed to permit the expansion, the Department of Environmental Protection must still determine whether the expansion provides a public benefit before it can be licensed.

The Maine Revised Statutes Annotated, Title 38, section 1310-AA requires the Commissioner of the Department of Environmental Protection to determine whether a proposed new or expanded solid waste disposal facility provides a substantial public benefit. The statute provides four tests for public benefit:

1. It meets the immediate, short-term, or long-term capacity needs of the State;
2. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, it is consistent with the state waste management and recycling plan;
3. It is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal; and
4. For publicly-owned facilities, it facilitates the operation of a solid waste disposal facility and the operation of that solid waste disposal facility would be precluded or significantly impaired if the waste is not accepted.

The analysis below does not attempt to supplant the DEP's analysis of public benefit.

There is precedent for expanding an existing commercial landfill.

The Legislature banned the development of new commercial solid waste disposal facilities in 1989 as part of the Maine Waste Management Act. At that time there were two commercial landfills operating in the State.

Under the 1989 law, the two existing landfills were grandfathered at the footprint that existed as of the date the ban was enacted. In 1995, the Legislature modified the ban to permit an expansion of the Pine Tree Landfill in Hampden on a property contiguous to the existing landfill site.

The Juniper Ridge Operating Services Agreement is a binding contract.

Currently, the State meets its responsibility for providing landfill capacity through the Juniper Ridge Operating Services Agreement (OSA) entered into by the State Planning Office and Casella Waste Systems, the landfill operator. This contract may be amended by agreement of the parties or terminated under certain conditions. Under certain circumstances, proposed amendments to the OSA are subject to public hearing pursuant to SPO rule (which can be found at <http://www.maine.gov/spo/rightcolumn/sporules.htm>).

If the Legislature were to lift the current ban on commercial landfill expansion at the Crossroads Landfill, the OSA for the Juniper Ridge Landfill may be impacted. It is beyond the scope of this report to present a legal analysis of the relationship between a change in statute and the current Juniper Ridge Landfill OSA. The Maine Attorney General's Office is aware of the question and, upon request, can prepare further information.

Impact on Disposal Capacity

An expansion at Norridgewock would provide the State with additional disposal capacity beyond 2018.

The State Planning Office projects that, not including municipal landfills, Maine had state/private landfill capacity of roughly 12 million tons as of December 31, 2008. This will provide the state sufficient capacity through 2017-2018.

There are a number of potential activities that could affect the consumption of waste disposal capacity in Maine at this time:

1. Increased recycling and waste reduction can extend the life of our State's landfills. Mainers are actively recycling and public education campaigns to promote recycling hold further promise. To achieve a significant increase in the statewide recycling rate⁶ will require an infusion of resources or other actions by the Legislature to achieve greater recycling.

⁶ Maine's statewide recycling rate is 38.7% (2008).

2. A planned construction and demolition debris processing facility in Westbrook, if constructed, would consume capacity. The facility could generate up to 300,000 tons per year of residue, some of which will require landfill disposal.
3. Biddeford city officials continue to work to close or move operations of Maine Energy, which serves 23 municipalities and manages 285,000 tons of municipal solid waste per year. Approximately 140,000 tons of that is generated in-state, by Maine municipalities.
4. Contracts for the Penobscot Energy Recovery Company (PERC) expire in 2018. Two hundred municipalities rely on the facility and are actively planning for the extension of PERC facility operations after 2018.

While we do not yet know whether any of these scenarios will occur, the Legislature directs the State to continue to plan for future disposal capacity needs.

We do know that statewide capacity is most significantly impacted by economic activity. The State of Maine saw an 8.7 percent decrease in waste generation from 2007 to 2008, following a decade of increasing waste averaging four percent per year.

In Appendix H, SPO analyzes the lifespan of existing statewide disposal capacity based on: 1) a no-low growth assumption of 0-1 percent per year; and 2) actual waste growth over the past 14 years of 3.3 percent per year. Under the first assumption, the existing disposal capacity will run out in 2018. In the second, it will be consumed by 2017. The current economic downturn will help extend existing solid waste disposal capacity, although likely only by one to two years.

Still, there is considerable disagreement about the impact of the Maine economy on waste generation projections in the future. We do know, however, that when the economy turns around, waste needing disposal will increase. And while we do not know at this time how much capacity an expansion at Crossroads would provide, we can safely assume it would extend Maine's overall statewide disposal capacity beyond 2018.

Public Benefit Determination

A change in law is only the first step to allowing the Crossroads Landfill to expand. If the Legislature decided to modify the ban in a way that would allow Crossroads to expand, the private owner would need to demonstrate significant public benefit to the Department of Environmental Protection first, then apply for the expansion itself and be granted an environmental permit and operating license for the expansion. DEP has suggested in its recent draft denial of public benefit for the expansion of the Juniper Ridge Landfill, that the State has sufficient current landfill disposal capacity for the next 10 years.

The Legislature has directed the State Planning Office to take a long-term view of the state waste disposal needs and to analyze the expected lifespan of existing disposal capacity in Maine in order to determine future capacity needs. The Maine Revised Statutes Annotated, Title 38, section 2123-A directs SPO in its *State Waste Management and Recycling Plan* to identify the

need in the State for current and future solid waste disposal capacity over 5-year, 10-year and 20-year periods.

In order to advance the State’s environmental goals, the Legislature directs the DEP commissioner to determine the public benefit of new disposal capacity based on capacity needs of the State and consistency with the *State Waste Management and Recycling Plan*.

SPO is required by statute to bring forward recommendations for new landfill disposal capacity (whether it is Carpenter Ridge, Juniper Ridge, or Crossroads if it’s ban on expansion were removed) based on its projections of the rate of capacity consumption. DEP, looking at the same information as required by its public benefit determination statute, may draw a different conclusion.

The Legislature has created a dual system for assessing landfill construction needs that we know it will review over time. The State Planning Office takes seriously its statutory responsibility in its best judgment to “identify the need in the State for current and future solid waste disposal capacity” (38 MRSA §2123-A (4)). SPO’s goal is to provide this information to assist in avoiding constructing landfill capacity in a crisis situation. In the end, the Legislature, in SPO’s understanding, seeks a workable policy that considers both the public benefit to the State and long-term disposal capacity needs and construction timelines, and that is transparent to applicants.

Recommendations

- The State Planning Office offers no recommendation on removing the statutory ban that currently prevents expanding Crossroads Landfill. SPO’s responsibilities are to do capacity planning, abide by state policy regarding the existence of commercial landfills in Maine, and oversee the Operating Services Agreement for the Juniper Ridge Landfill. SPO concurs that if the Legislature were to change state policy on the expansion of commercial landfills this should be implemented, in the words of the City of Old Town, “in a manner of fairness with all landfills.” “Fairness” in SPO’s view must include fulfilling the State’s responsibility to the public to provide landfill capacity and in the context of an existing Operating Services Agreement for a state-owned landfill operated by a private operator.
- The Attorney General’s Office should offer legal guidance on the Juniper Ridge Landfill Operating Services Agreement to the Joint Standing Committee on Natural Resources if the committee wishes to further pursue lifting the commercial landfill ban.

Appendix A: PL 2009, Chapter 412

Sec. B-2. Review and assessment of solid waste management policy; state-owned landfills. The Executive Department, State Planning Office shall work collaboratively with other state agencies and interested parties to conduct a review and assessment of the State's solid waste management policy and submit a report relating to the review and assessment. The review and assessment must include, but is not limited to:

1. Whether funding for management and oversight of state-owned landfills is sufficient to carry out the legislative intent of the Maine Revised Statutes, Title 38, chapter 13;
2. Whether management or operational modifications should be instituted at the state-owned landfill;
3. Whether amendments to the Operating Services Agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel services agreements and caps on tipping fees and to establish annual maximum fill rates; and
4. Whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.

By January 5, 2010, the office shall report its findings and recommendations, including any draft legislation necessary to implement its recommendations, to the Joint Standing Committee on Natural Resources, which is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature.

***Appendix B: Solid Waste Management Advisory Council
Report***

**Annual Report of the
Solid Waste Management Advisory Council⁷**

For Calendar Year 2009

**Prepared for the
Joint Standing Committee on Natural Resources
of the 124th Legislature**

January 2010

⁷ The full report may be found on-line at: <http://www.maine.gov/spo/boards/wastemanagement/index.htm>

Acknowledgements

This report is prepared by the Solid Waste Management Advisory Council (the "Council") in accordance with 38 MRSA §2123-C.

We would like to thank the members of the Council for their participation and support during the past year.

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Waste Management & Recycling Program
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January 2, 2010

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COUNCIL BACKGROUND

The Legislature established the Solid Waste Management Advisory Council in 2007, largely as a result of the Solid Waste Policy Review Task Force that met during the prior year. The task force recommended a standing council to assist the State Planning Office in its review of solid waste policy issues on an 'on-going' basis as preferable to the then existing reviews of policy every five years. The Legislature charged the new council with reviewing state solid waste management policies including:

- timeline and process for developing a state-owned solid waste disposal facility;
- host community benefits;
- development of commercial solid waste facilities and the economic competitiveness of commercial facilities;
- developing regional disposal facilities to better serve municipalities and businesses;
- continued development and expansion of beneficial reuse and recycling;
- role of municipal zoning and other local control in regard to siting, expansion and operation of solid waste disposal facilities; and
- other related matters as considered appropriate and necessary.

The Legislature directed the council to meet at least once a year and to report to the Legislature annually. The council statutory language may be found in Appendix A.

The Governor appointed members to represent the solid waste interests named in the legislation. The council membership may be found in Appendix B. Greg Louder, Executive Director, Municipal Review Committee, chairs the council. The State Planning Office, herein after referred to as "SPO," staffs the council.

COUNCIL ACTIVITIES FOR 2009

The council's work this year focused on long-range planning and on advising on four specific policy issues at the request of the Legislature.

State Waste Management Planning

In January, the council finished its review of the five-year, state *Waste Management and Recycling Plan*, which it had begun in summer 2008. The council's contributions provided SPO with the public input required in the development of the plan.

The council was specifically asked to assess whether the plan provided sufficient guidance to state, regional, and local policymakers and program managers so they are confident their decisions on solid waste are in accordance with state policy.

The council discussed a number of policy issues raised in the plan and provided individual and group comments regarding the content and use of the state plan. Some key points raised include:

- The council recognized the slowing of the State's recycling rate even while Mainers are recycling more materials and discussed options for increasing recycling. The plan spells out a clear choice for policymakers: 1) voluntary, stay the course with a respectable 36% recycling; or go beyond 50% by changing the way we view waste, making new investments, and implementing some mandatory provisions. It's a matter for policymakers to choose. Several members of the council were opposed to mandatory provisions.
- The council noted the lack of state incentives whether grants or other means to grow both business and municipal recycling programs. The council felt that, even in these tough times, the State needs to sustain public education programs and develop new incentives.
- The council restated the known cyclical nature of recycling markets but noted that of the three waste streams targeted in the plan, two are not dependent on markets (construction and demolition debris and leaf and yard waste). The council felt this provided good direction for the State.

The council explored capacity projections recognizing that a slowdown in the economy had caused a drop in waste generation in 2008 in some areas, which would extend existing capacity beyond normal projections. It was the sentiment of the council that a projected 4% growth rate in municipal solid waste as used in the plan may be too aggressive. The council felt that it should be qualified by connecting it with overall state economic growth and with progress in waste reduction and other green efforts to slow or reverse the growth of waste. Thus the 4% rate should be seen as the high case in Maine's municipal solid waste growth rate.

The council recognized that capacity planning has its ups and downs and is impacted by many factors. In that the plan takes a long-range view, short-term spikes and drops would average out over 20 years. Some council members felt that the planning horizon should be extended further than the current 20 years.

SPO submitted the five-year plan to the Governor and the Legislature's Joint Standing Committee on Natural Resources in January 2009. It is available on SPO's website at: <http://www.maine.gov/spo/recycle/publications.htm>.

State Solid Waste Management Policy

In October 2009, the council met to review solid waste management policy issues raised in the Legislature's LD 760. The bill, enacted as Public Law 2009, chapter 412, asked the State Planning Office to conduct a review and assessment of state solid waste management policy as it relates to the state-owned landfill and to the ban on commercial solid waste disposal facilities. Specifically, the Legislature asked:

- whether amendments to the operating services agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel services agreements and caps on tipping fees and to establish annual maximum fill rates; and

- whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.

SPO asked the council as interested parties to offer their insights on these four policy issues.⁸

1. Fuel Services Agreement

The State's operating services agreement between the State and the contracted landfill operator requires the operator to provide green wood and processed wood waste at less than market value to Patriarch Partners, the owner of the former Georgia Pacific Paper Company, to fuel the mill's boiler.

The council agreed that too much is unknown to allow for any opinion at this point:

1. Casella is currently not supplying fuel to the new owners of the mill, Patriarch Partners under the terms of the agreement.
2. The new Department of Environmental Protection (DEP) rules for processing facilities are not yet published.
3. Would changing the terms from what the original RFP required pose any legal issues (i.e., some companies chose not to bid on the operating services agreement because of this provision)?
4. Could the state get a better deal on the service agreement if this provision were removed?

2. Tipping Fee Cap

The council expressed the opinion that the tipping fee cap should be left in place for now, but that in reality, current market forces are imposing their own cap on tipping fees at the state-owned landfill. They noted that there is considerable downward pressure on tipping fees across the industry and Juniper Ridge is particularly sensitive to the cost of transportation, which cannot be separated from tipping fees as the two are generally quoted as one price. The council felt this question should be revisited in the future if there a significant change in the market effecting in-state land fill disposal options.

Several council members suggested the cap should be looked at in a different context. Since landfilling is the lowest management option on the State's waste management hierarchy, it should be more expensive. The State might want to increase the tipping fee at the Juniper Ridge Landfill to discourage landfilling. In addition the tipping fees should be adjusted to properly fund the State's waste management programs. Another suggested that the tipping fee be tied to the market: when tipping fees rise above a certain standard, the cap is triggered.

⁸ Public Law 2009, Chapter 412 also asked SPO to look at questions related to the management and oversight of the State-owned Juniper Ridge Landfill. SPO did not request the Council to review these items because they do not rise to the level of policy review and would necessitate a day-day working knowledge of the state landfill operations and budgets. SPO will address these items its report to the Legislature in January 2010.

3. Maximum Fill Rate

A wide majority of the council opposed establishing maximum fill rates at the state-owned landfill for a variety of reasons:

- Rather than an absolute maximum, the State could set a limit and assess a surcharge for waste accepted over that limit.
- A maximum fill rate may cause disruptions in operations for facilities that need to send ash or bypass to the landfill, or in the case of emergencies such an increase in debris from hurricanes or ice storms.
- Fill rates should be tied to the operation of the facility, through its license agreement.
- There are better ways of preserving capacity; diverting wastes to existing waste-to-energy plants to keep them operating at full capacity, for example.

4. Commercial Facility Ban

The council was generally supportive of amending current law to allow for the expansion at Crossroads Landfill, increasing support for priorities of the waste hierarchy, and maintaining the ban on new disposal facilities.

Council members noted that the Department of Environmental Protection would determine the public benefit of expanding the facility if the law change is enacted. While the council was generally supportive of a measure that would allow for potential expansion at the landfill in Norridgewock, it offered a number of factors both pro and con to consider:

- There is precedent for creating a change in law to allow for the expansion of an existing commercial landfill.
- Given the State's continuing reliance on waste-to-energy facilities, there are benefits to Maine generally from added disposal capacity.
- Concern about the impact of creating new disposal capacity without a complimentary effort to reduce waste and recover more material through recycling and composting on fostering Maine's waste management hierarchy.
- Benefits to Maine communities as a regional disposal option.
- Concern about a law to benefit a single facility.

The council's input will be used by SPO in preparing its report for the Legislature in January 2010.

Copies of each of the 2009 council meetings agendas and minutes of those meetings follow in Appendix D of this report.

ISSUES FOR COUNCIL DISCUSSION ANTICIPATED IN 2010

It is anticipated that the council will meet at least once in 2010. Potential issues for council consideration include:

- reviewing relevant and timely items within the council's statutory charge;
- analyzing solid waste legislation before the Second Regular Session of the 124th Legislature; specifically legislation the Natural Resources Committee may report out regarding the duties and responsibilities for managing solid waste (PL 2009, chapter 412, section 10);
- maintaining the momentum of the statewide recycling public awareness campaign; and
- reviewing waste generation and disposal capacity projections, which will be part of the SPO's annual waste generation report to the Governor and Legislature.

CONCLUSION

The council continues to provide a stakeholder-level forum for reviewing state solid waste policy issues. Their ability to meet at least annually and as questions arise provides an ongoing review that is much improved over the five-year cycle.

The council's participation has provided the State Planning Office an active forum to discuss relevant and timely issues. It has served as a sounding board and has helped to inform and enlighten SPO's view on these issues.

APPENDICES TO SWMAC ANNUAL REPORT

SWMAC APPENDIX A: Council's Statutory Language

38 MRSA §2123-C. Solid Waste Management Advisory Council

1. Solid Waste Management Advisory Council. The Solid Waste Management Advisory Council, referred to in this section as "the council," is established to advise and assist the office in reviewing, as may be appropriate:

- A. State solid waste management policy, including the timeline and establishment process for the development of a state-owned solid waste disposal facility;
- B. Host community benefits;
- C. The development of commercial solid waste facilities and the economic competitiveness of commercial facilities;
- D. The appropriateness of developing regional disposal facilities to better serve municipalities and businesses;
- E. The continued development and expansion of beneficial reuse and recycling;
- F. The proper role of municipal zoning and other local control in regard to siting, expansion and operation of solid waste disposal facilities; and
- G. Other related matters as considered appropriate and necessary.

2. Membership. The Governor shall appoint 14 members of the council as follows:

- A. Three members from the general public;
- B. Two members from each of the following:
 - (1) Municipal government;
 - (2) Statewide and local environmental organizations;
 - (3) The recycling industry;
 - (4) Waste-to-energy facility owners or operators; and
 - (5) Landfill owners or operators; and
- C. One member representing industrial waste generators.

The Director of the State Planning Office, or the director's designee, serves as a nonvoting, ex officio member of the council. The commissioner, or the commissioner's designee, serves as a nonvoting, ex officio member of the council.

3. Terms. All members, except the Director of the State Planning Office and the commissioner, are appointed for staggered terms of 3 years. A vacancy must be filled by the Governor for the unexpired portion of the term. The council shall annually elect a chair from its membership.

4. Quorum. A quorum is a majority of the members of the council. An affirmative vote of the majority of the members present at a meeting is required for any action. An action may not be considered unless a quorum is present.

5. Compensation; meetings. Members are entitled to compensation according to Title 5, section 12004-I, subsection 68-B. The council shall meet at least once a year and at any time upon the call of the chair upon written request to the chair by 5 of the members.

6. Report. The council shall report annually to the Governor and to the Legislature on its activity during the past year.

7. Staff. The office shall provide the council with all necessary staff.

SWMAC APPENDIX B: Council Membership

Affiliation	Organization - Facility - Company	First Name	Last Name	Term
General Public				
	Belgrade Recycling Committee	Gregory	Keene	3 years
	Private citizen	Carol	Fuller	2 years
	Auburn Recycling Committee	Jackie	Conway	1 year
Municipal Government				
	Town of Rockport	Robert	Peabody	1 year
	City of Biddeford	John	Bubier	2 years
Statewide and local environmental organizations				
	Androscoggin Valley COG	Fergus	Lea	2 years
	The Chewonki Foundation	Don	Hudson	3 years
Recycling Industry				
	eco-maine	Kevin	Roche	3 years
	FCR - Goodman Recycling	Sue	Millett	1 year
Waste to Energy facility owners or operators				
Public/Private W-T-E (PERC)	Municipal Review Committee	Greg	Louder	3 years
Public W-T-E	Mid Maine Waste Action Corp	Joseph	Kazar	1 years
Landfill Owners or Operators				
Publicly owned landfill	Tri-Community Landfill	Mark	Draper	2 years
Privately owned landfill	Waste Management Inc.	Jeff	McGown	1 year
Industrial Waste Generators representative				
	Maine Pulp & Paper Association	Mike	Barden	3 years
State Planning Office Director (or designee) & Department of Environmental Protection Commissioner (or designee)				
	State Planning Office	Martha (Jody)	Freeman (Harris)	
	Department of Environmental Protection	David (Paula)	Littell (Clark)	

Appendix C: Letter from City of Old Town



City of Old Town

January 21, 2010

Ms. Martha Freeman, Director
Maine State Planning Office
38 State House Station
Augusta, ME 04333

Re: LD-760

Dear Ms. Freeman:

The City of Old Town has reviewed this proposed legislation as well as reviewed several other related documents.

1. *Whether funding for management and oversight of state-owned landfills is sufficient to carry out the legislative intent of the Maine Revised Statutes, Title 38, Chapter 13; and*
2. *Whether management or operational modifications should be instituted at the state-owned landfill.*

At the present time, the management and operation of Juniper Ridge Landfill appears to be satisfactory and the City believes the DEP oversight is sufficient. There are concerns about how future operations will be managed in light of reduced State resources. Some issues related to statewide truck traffic, such as increased number of trucks and their odors should be mitigated with the implementation of higher weights allowed on I-95 that will now be able to travel directly to the landfill from their source of origin.

The City has not observed where the DEP's regulatory oversight of this facility has been hampered because it is a State (SPO) owned facility. We would expect the clear separation between SPO and DEP to continue into the future to ensure proper oversight is not compromised. That will be the challenge going forward for regulatory oversight.

If not already being done so, we would propose that all facilities that process or accept waste of any type compile an annual report that includes the amount, type, source of all materials and disposition of the materials to SPO. Processing facilities should also be required to report what is taken in, sorted and recycled and any residue landfilled and

where as well as any other disposition of products or by-products. The SPO should annually report this information along with a summary of what wastes generated in Maine are exported for out-of-state disposal. This information would be a good first step toward flow control at the point of origin rather than expecting the landfill destination become the controlling factor.

The City has enacted a new landfill ordinance that will become effective when the expansion becomes operational and will become an additional regulatory partner with DEP. Since 2004, the City has taken all the monthly reports and compiled them into various spreadsheets that are posted to the City website, www.old-town.org. These reports include tracking the tonnage landfilled which has been tracked by type of material since 2007. In addition to this document, we track the total wastes landfilled since 2004 by monthly total, trucks per month and the amount overweight, complaints by month and type, leachate generated and most recently, landfill gas generated and flared. This website also includes information on the Juniper Ridge Landfill Advisory Committee, all minutes of their meetings, a mission statement and a fact sheet on odor control. The home page lists the contact information for lodging complaints to the operator.

In addition, State Planning Office provides monthly updates to inform the City and the Landfill Advisory Committee, along with others, of construction activities underway and anticipated, license-permits-approvals applied for, received or renewed and any associated fees paid, leachate volume, gas extraction and total quantity of wastes landfilled. There should not be any issues with not knowing what is happening at the landfill due to the volume of information provided by the operator, the owner and the City and the City's effort to make this information available to the public.

Whereas this landfill is the first of its kind in the State, we believe the operator fully understands that many critical eyes are upon the operation which will continue well into the future. We know that the operator has responded to many issues in the past 5 years using timely and responsible processes to mitigate problems that are within their control. They have constructed each cell to collect and flare off landfill gasses with the hope to use those gasses in a higher and better end use and have taken financial and operational strides to achieve efficiencies with that by-product. As an example, the operator mitigated the concern of the former mill sludge waste creating an unstable base and dealt with landfill odors that occurred as a result of excavating into the landfill in 2004-2005. They stabilized the slopes and constructed enclosures to their on-site leachate ponds to significantly reduce odors in the area. They have worked with the City with regard to resolving issues of concern in a timely and effective manner.

Currently, the Landfill is in the process of an expansion application and they are certainly doing their due diligence to see that this facility operates pursuant to the regulations. In addition to DEP's efforts, the City of Old Town has retained the services of an attorney and will hire a qualified engineer who will follow the expansion process on behalf of the City and will advise the City Council on issues and concerns that arise. As of December 31, 2009, the City has spent \$330,451.55 since 2004 in landfill oversight and consulting costs.

It appears that the State receives funds from the landfill operations called “Special Waste Fee”. As of November 2009, the State has received \$3,246,890 since 2004. Without knowing how those funds are used, it is difficult to say if funding is adequate for oversight. The City does not know how these State fees are calculated, whether it is a percentage of the tip fees or a dollar per ton cost. In hindsight, it would seem reasonable that the State’s fees should be sufficient to cover the cost of landfill regulatory (DEP) and operation (SPO) oversight as well as a funding mechanism for some road (DOT) reconstruction, repair and maintenance. It might also be recommended that a portion of State fees should be set aside for the cost to identify and construct new landfills pursuant to expectations of siting three state-owned landfills in Maine.

Currently, the Operating Services Agreement limits the City’s regulatory oversight until the Landfill expands its operations and footprint. Once the expansion of the Landfill is approved and operating, the City will be able to participate more on regulatory oversight along with the State DEP.

The City believes that Juniper Ridge Landfill should operate as a business to ensure that the operator can successfully operate within the regulations set by the State. The operator should be able to off-set increased trucking costs by offering a lower tip fee when it makes sense to do so as well as being able to set a higher price within the competitive market. Operators may come and go but the landfill operations need to be viable to enable the State to be confident they will be able to attract a new operator in a timely and effective manner. Concerns would arise should the current operator vacate leaving the landfill operations curtailed and local-regional issues unresolved. If this is not allowed to operate as a business venture, it would make it difficult to attract a qualified and capable operator, which poses many, many concerns to the community and the region. Establishing rates without regard to what the market can bear creates an uneven playing field for the Juniper Ridge Landfill and other competitors in the landfill business.

3. *Whether amendments to the operating services agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel services agreements and caps on tipping fees and to establish annual maximum fill rates?*

Old Town Fuel and Fiber, (Red Shield Environmental, LLC) is not using CDD in their process, which was specifically mentioned as part of the original Operating Services Agreement in 2004 and was modified in section 6; subsections a, b, c and d of the second amendment to the OSA dated Nov. 2, 2006. If the fuel service agreement is reviewed and possibly eliminated the City would expect the public hearing process would be utilized. The City is not sure if the original fuel service agreement should be reviewed and eliminated because we are not sure if this is a major operational concern other than the confusion that is created by its inclusion in the OSA and it should be determined whether undertaking the amendment process will provide a beneficial outcome. The City believes that encouraging CDD processing is an integral part of our recycling program. CDD from out-of-state and processed in-state should be accepted when it is in the best interest of the State to do so. We should not be encouraging new CDD

processing facilities which accepts and processes out-of- state waste unless it compliments, as an accessory to an existing, expanded or new business development in the state. We would need to ensure that a high percentage of the material which comes into the state is recycled and reused with a low percentage of the unusable residue needing to be landfilled.

The present maximum tipping fee cap should be revisited to enable the operator to operate in the competitive market of waste management. The operator should be allowed to make a profit on the operation of the landfill and not have to rely on other activities to achieve a profit.

As stated above, the City believes that Juniper Ridge Landfill should operate as a business to ensure that the operator can successfully operate within the regulations set by the State. Operators may come and go but the landfill operations need to be viable to enable the State to be confident they will be able to attract a new operator in a timely and effective manner. Concerns would arise should the current operator vacate leaving the landfill operations curtailed and local-regional issues unresolved. If this is not allowed to operate as a business venture, it would make it difficult to attract a qualified and capable operator, which poses many, many concerns to the community and the region. Establishing rates without regard to what the market can bear creates an uneven playing field for the Juniper Ridge Landfill and other competitors in the landfill business.

The City believes that maximum fill rates should not be established as there are too many variables related to optimum operations. We believe the market conditions will control the fill rates. A maximum fill rate could adversely impact routine and emergency landfilling needs of communities and businesses in the State and could result in higher fees to tip and transport elsewhere. For instance, the City will be considering demolition of the former Old Town Canoe site in an effort to remediate this site and to make improvements needed in the downtown area. A maximum limit may increase the City's costs significantly depending on trucking and tip costs at another location.

There is a belief that if a maximum fill rate is determined, it should determined using the exact method that determines other commercial landfill maximum fill rates. This will provide consistency and fairness in the regulations for these facilities to compete within this market. The fill rate should not exceed the facilities capacity to safely manage the truck traffic and tipping flow efficiently to avoid delays that ultimately result in complaints of noise and odor along with increasing regulatory oversight costs.

4. *Whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.*

In reviewing LD 760, it appears that the legislature also asked if other commercial landfills should be allowed to expand. The City believes that competition in this regard is good. If the landfill can be expanded in an environmentally sound manner and does not

result in inconsistencies at the regulatory level, the landfill should be allowed to expand. However, as this appears to be a waiver from the long standing rule and if the expansion is approved, the City would respectfully request that these expanded landfills comply with all requirements, restrictions and limitations that apply to Juniper Ridge Landfill currently and as amended from time to time.

Allowing commercial landfills to expand will increase the total capacity of the state and allow a slower growth for Juniper Ridge, but it needs to be done in a manner of fairness with all landfills so as to keep the playing field level. In addition, the State should continue to identify other sites and other methods of solid waste disposal, as landfills are the least desirable method of solid waste disposal, but still a necessary solution which continues to be relied upon.

We hope that the City's position on these issues will be of assistance as you and the Legislature proceeds with its deliberations. If we can be of further assistance, please let us know. Both Charlie Heinonen and I stand ready as a resource to you or the Committee.

Respectfully,

Margaret N. Daigle
City Manager

Cc: Old Town City Council
Natural Resource Committee Chairmen
Senator E. Schneider
Rep. Dick Blanchard
Juniper Ridge Landfill Advisory Committee



Appendix D: Letters from Old Town Landfill Advisory Committee

January 19, 2010

Sam Morris
State Planning Office
38 State House Station
Augusta, ME 04333

Dear Mr. Morris:

The Old Town Landfill Advisory Council would like to respond to your request for input on the following questions related to the Juniper Ridge Landfill operation.

1. Management or operational modifications should be instituted at the state-owned landfill

We feel that there should be considerably more oversight by the State at the landfill to determine that the waste coming to the landfill be “legitimate in-state waste” and that CDD waste be monitored from the source to be certain it is meeting the requirement of MRS, Title 38, Chapter 13 as amended and therefore is (at least by definition)” in- state waste”. This will require more state personnel assigned to that responsibility. If this is not possible because of funding, then a determination of the allocation of the state Special Waste Fund should be made to allow the State Planning Office funds to accomplish this.

2. The fuel services agreement should be eliminated

The Committee feels that this requirement has been unnecessary under the current status of the operation at the former Georgia Pacific mill and therefore negates the original need for this requirement.

3. A cap on tipping fees should be established

We feel that there should be no cap on tipping fees because the fee needs to follow the market place price and not be an incentive for waste producers to avoid recycling or reuse options preferred by the State; also there needs to be sufficient money to allow proper monitoring of the source and type of waste coming to the landfill to be certain it is “in-state waste” and meets state criteria (50% rule).

4. A maximum annual fill rate should be established

The Committee agrees with this. We definitely feel there should be at least one other state owned landfill in the southern area of the State to cut down on transportation costs and congestion on routes to the landfill. We further feel that there should be an extra charge for tipping fees on waste exceeding 700,000 ton annual rate. This is needed to compensate the

City and the State for the extra costs that result from the increase in daily tonnage. Specifically controlling odor, truck traffic, noise and properly monitoring source and type of waste all becomes more difficult and costly with increased tonnage per day. Although not asked, we would like to comment on the request for an amendment to allow expansion at the Norridgewock landfill. We feel that until the State sites another landfill in the southern part of the State, this may be necessary.

We would also suggest that your office seriously consider most of the material for denial in the recent DEP report regarding a Public Benefit Determination hearing for JRL supervision. (1/5/10)

Peter Dufour, Chair
Old Town, Alton, Indian Island
Land Fill Advisory Committee
230 West Old Town Road
Old Town, ME 04468
Ph: 207-827-2751

Jan. 28, 2010

Jodi Harris
State Planning Office
38 State House Station
Augusta, ME 04333

Dear Mr. Harris,

Please consider the following concerns of the Old Town Advisory Council relative to LD760 in your presentation to the Natural Resources Committee.

- A. Every effort should be made to minimize out-of-state CDD. To accomplish this all CDD entering the state must be accounted for by Transporter Trip Tickets stating Point of Origin and Destination Landfill/Recycling Facility—and should be in response to an authorized need in the state.
- B. Recycling facilities must be accountable for records of retrievable materials and method of disposal—i.e. currently vast amounts of CDD bio-mass wood chips are being produced yet no facilities within the state are using them due to their poor emission qualities.
- C. The moratorium of Recycling Facilities and Biomass Burners should remain in effect indefinitely.
- D. Under the definition of Recycled Materials/Use, we believe this should be redefined with specific limitations on amounts of cover materials allowed at landfills as well as other uses such as landscaping, mulch bedding, etc. consistent with and not exceeding the actual need in the state.
- E. It is essential at this time that the State Planning Office establish better procedures to monitor the waste in this state. It is very evident that the state has no handle on actual volumes of in-state or out-of-state waste being processed at this time. Until this is accomplished there is no way to predict the future landfill needs for the state.

Peter Dufour, Ch.
Old Town, Alton, Indian Island
Landfill Advisory Committee
230 West Old Town Rd.
Old Town, ME 04468
Ph: 207-827-2751

Appendix E: Letter from Casella Waste Systems, Inc.

North Eastern Region
110 Main Street, Suite 1308
Saco, Maine 04072
Phone: (207) 286-1668

casella
waste systems, inc.

January 27, 2010

Martha Freeman
Director
Maine State Planning Office
38 State House Station
Augusta, Maine 04333-0038

RE: Public Law 2009, Chapter 412, Sec. B-2 Issues

Dear Ms. Freeman:

Casella Waste Systems, Inc. ("Casella") offers the following comments on the four questions set forth in Section B-2 of the above-referenced law, which was enacted last session.

1. *Whether funding for management and oversight of state-owned landfills is sufficient to carry out the legislative intent of Maine Revised Statutes, Title 38, chapter 13.*

Management and oversight of the State's only owned landfill, Juniper Ridge Landfill, is conducted by the Department of Environmental Protection, the State Planning Office, the City of Old Town, and the Landfill Advisory Committee. An extensive amount of reporting on the operations of the Juniper Ridge Landfill is provided to these entities by Casella, which has operated the facility since 2004.

Casella is not aware that the State Planning Office, the Department of Environmental Protection, or the City of Old Town has identified the management and oversight of the Juniper Ridge Landfill as inadequate.

2. *Whether management or operational modifications should be initiated at the state-owned landfill.*

As explained in response to Item 1 above, neither the State Planning Office, the Department of Environmental Protection, nor the City of Old Town has identified the need for management or operational modifications at the Juniper Ridge Landfill.

3. *Whether amendments to the operating services agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel service agreements and caps on tipping fees and to establish annual maximum fill rates.*

There are a number of requirements, restrictions, and obligations on the Juniper Ridge Landfill, both in the Operating Services Agreement and in the facility license that was issued by the Department of Environmental Protection, that are unique to this facility.

www.casella.com

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The fuel supply agreement was a requirement that Georgia-Pacific placed on the sale of its landfill to the State. Casella had the unilateral right to terminate the fuel supply agreement when the ownership of the Old Town Mill changed, but at the request of the State did not do so, in order to continue to provide this service to the Old Town Mill under new ownership. Although the Old Town Mill is not currently using construction and demolition debris wood fuel in its biomass boiler, it is unlikely that the mill owner would agree to terminate the fuel supply agreement with Casella because it provides the opportunity for the mill to obtain significantly below market rate boiler fuel for the entire remaining life of the Juniper Ridge Landfill.

The tipping fee cap was placed in the Operating Services Agreement in response to the concern about lack of competition. It is the controlling influence on prices when existing commercial landfills (of which only one remains) reach the end of their life during the 30 year term of the Operating Services Agreement. The tipping fee caps, set at rates when full competition was present, assured that Maine customers would still pay competitive rates when Juniper Ridge was the only available landfill to serve State-wide needs.

The annual fill rate of Juniper Ridge is determined by waste generation in the State of Maine. An artificial and arbitrary cap would simply force Maine generators using Juniper Ridge to another disposal site, despite the distance or cost involved in that change.

4. *Whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.*

The State has had a goal in statute since 1989 to eliminate commercial landfills, as a way of prohibiting the direct landfilling of out-of-state waste without violating the Commerce Clause of the U.S. Constitution. This has been a public policy goal, in fact, the principal tenet of Maine's solid waste management policy, for more than 20 years. It was always understood that this would be a gradual, phased process. Over time (initially with the creation of the Maine Waste Management Agency and the charge to establish a state-owned landfill), commercially-owned landfills would be replaced with publicly-owned landfills.

Licensing the Carpenter Ridge Landfill in 1995 was the first step in this transition, although this landfill has not yet been authorized to be constructed. Establishing a state-owned Juniper Ridge Landfill in 2004 was the second step in this transition. The Operating Services Agreement for JRL established, for the first time in Maine history, a long term plan for 30 years of landfill disposal capacity.

Closing the Pine Tree Landfill was the third step in the transition away from commercial landfills in Maine. The closure of the Crossroads Landfill in Norridgewock, when it reaches capacity under the terms of the commercial ban, is the final step. However, now that this goal is within sight, the Legislature is considering the abandonment of over 20 years of

Maine solid waste management policy, without any clear or compelling reason, to benefit only one facility – Waste Management’s Crossroads Landfill.

In 1995, the commercial ban was amended to extend the deadline for ownership of contiguous land on which an existing commercial landfill could expand. The extension changed the deadline from the effective date of non-emergency legislation passed in 1989 to the end of that calendar year, a minor change of less than four months.

The scope and implications of the change described in Question 4 are far greater. The 1995 change in the commercial ban kept the deadline for land ownership in the same year that the ban was enacted (1989). The proposed change would essentially eliminate the land ownership deadline entirely, leaving the ownership issue completely open-ended.

This proposed legislative change is especially galling to Casella, because one of the two commercial landfills in Maine that continued to operate under the commercial ban—Pine Tree Landfill—was required by the State to close at the end of 2009. In fact, this was a direct result of the DEP decided – as recently as 2006 – that further disposal capacity was not needed at the Pine Tree Landfill, because there was sufficient capacity available at other landfills, including the Juniper Ridge Landfill.

Despite the fact that there was significant remaining capacity at Pine Tree Landfill under the current statutes and rules for commercial landfills, Casella “played by the rules” and walked away from a considerable economic asset. In light of the requirement that Casella close Pine Tree, Casella is hard pressed to understand what rational basis could possibly exist for the State to change the statutes and rules, based on 20 years of settled policy, to benefit only one company – Waste Management.

Furthermore, recent policy statements by the State make this proposed legislative change even more shocking. In its recent draft decision on the Public Benefit Determination application for the Juniper Ridge Landfill submitted by SPO and Casella, the Department of Environmental Protection made a number of findings that seem to militate directly against the proposed changes, most notably that (1) the Crossroads Landfill has at least 12 years of disposal capacity and that (2) there was no need for an expansion of any commercial or State-owned landfill capacity at the current time. Given this, and the longstanding policy of the State to prohibit any increase in commercial disposal capacity beyond land owned by commercial landfill entities in 1989, one has to question what the rush is to alter this policy now?

Finally, if – contrary to longstanding State policy and current capacity needs as described by DEP -- the restriction on expanding Crossroads is lifted to allow for expansion onto contiguous land acquired by its owner at *any* time, fundamental fairness requires that a level playing field be established between Crossroads and the State-owned Juniper Ridge Landfill, which are the two remaining landfills to manage significant volumes of commercial and municipal solid waste in Maine. This would mean, at Juniper Ridge, all price caps should be eliminated and any ban on disposal of out-of-state waste should be lifted, as is the case for

Martha Freeman
January 27, 2010
Page 4

Crossroads. Under such circumstances, principles of fair play and open markets require that the State-owned landfill not continue to operate at a disadvantage. The attached table summarizes the many ways in which the Juniper Ride Landfill is regulated more restrictively than Crossroads.

Thank you for your consideration of these comments.

Sincerely,



Brian Oliver
Vice President
Northeast Region
Casella Waste Systems, Inc.



How the Juniper Ridge and Crossroads Landfills Are Regulated Differently

	Juniper Ridge	Crossroads
1. Takes out-of-state waste.	No	Yes
2. Takes municipal solid waste	only bypass	Yes
3. Cap on tipping fees.	Yes	No
4. No discrimination on tipping fee or entry requirement.	Yes	No
5. Below market tipping fees for designated third party customers requirement.	Yes	No
6. Capacity reserved for a designated third party customer requirement.	Yes	No
7. Performance guarantee in addition to closure/post-closure funding.	Yes	No
8. Other services at below market prices (e.g. fuel supply)	Yes	No

Appendix F: Comments from Old Town Resident

February 02, 2010

Dear Sam Morris,

Please consider these comments regarding LD760 and your report to the Natural Resources Committee. I am writing in support of Landfill Advisory Committee Chairman Peter Dufour's letter of Jan. 28th, 2010. Under A, it bears noting that Maine Forest Service has been requiring Trip Tickets to be included with every delivery of wood in Maine for about ten years. There was huge opposition to this at the beginning, but currently when a logging trucker shows up at my woodyard, the first thing he does is make sure the Notification Number and Landowner's name are correct, as well as the logger's name and information. It might take a minute each trip and very little time to comply on an annual basis. Surely this would not be a burden to haulers to our State Landfill.

One of my primary concerns, aside from the extremely flawed and questionably legal RFP process that ended up with Casella as Operator of our State-owned Juniper Ridge Landfill, is that Casella and SPO promised that there would be cheap, clean-burning Fuel derived from CDD delivered to our Mill in Old Town (and by the way, Only to the Old Town Mill according to our Host Community Agreement). When fuel was finally burned in Old Town, this resulted in Hazardous Waste being produced and then deposited in JRL, which violated their license. This Defective Fuel from Casella was a significant cost to Red Shield, and certainly a factor in their bankruptcy, contrary to promises from Casella.

Moving ahead to the present, I think that it is true (at least as of October 2009) that Casella is providing Zero CDD Fuel to any boiler in Maine. Mr. Dufour mentioned this under section B of his letter. I would like to remind SPO that Casella was granted special exemption to import CDD from out of State to fulfill their commitments to the Old Town Mill. Casella continues to import CDD to Maine but provides Zero Fuel. The waste stream remains flowing into Maine but no Public Benefit results. DEP did a very thorough job in denying Casella and SPO's application for Public Benefits Determination.

As far as Old Town's City Manager's letter, there seems to be some disconnect between her concerns and our citizens' in this matter. She starts off saying SPO and Casella have done a satisfactory job managing and overseeing JRL, but at the City Council Meeting last night I said that DEP's oversight has been adequate and promises to become exponentially more stringent when new Rules are adopted later this month, but that if SPO had exercised any less oversight and attention to Dump details, they would have provided no management whatsoever, having served primarily as an official State letterhead for Casella. If Ms. Daigle would listen more to citizens' calls to include Landfill concerns and include the City Council she would be better serving her taxpayers. That being said, I agree with part of her statements.

Finally, you would be making a huge mistake in allowing expansion of the commercial landfill in Norridgewock. If the intent is to level the playing field and giving Casella's Old Town monopoly some competition, citizens of Maine would be far better served by increasing scrutiny and surveillance at JRL than by eliminating our long-standing ban on new or expanded Commercial Landfills. There is also talk of allowing higher tipping fees at JRL. You should bear in mind that probably at least 80% of waste at JRL came from a

Casella subsidiary. Casella already has the huge competitive advantage in their option to charge themselves Nothing for a tipping Fee. Rather than allowing higher tipping fees at JRL, the State should impose Minimum Fees for every Waste left at JRL, and all landfills in Maine.

If the State is looking for a way to raise revenue and discourage out of state waste, there should be a mandatory Fee of at least \$20 a ton on all Waste, without exception. Maybe then people would recycle more.

We would be well-served by increasing DEP oversight of all Waste Streams in Maine as they have advocated in their Draft Denial to Casella/SPO concerning Public Benefits Determination. My personal opinion is that SPO as owner and overseer of our first state-owned Landfill has been a colossal failure, and that other options of ownership and operation should be considered.

Ed Spencer
P.O. Box 12
Stillwater, Maine 04489

Appendix G: Comments from Norridgewock Residents

February 1, 2010

Mr. Sam Morris
Recycling & Waste Management Program
38 State House Station
Augusta, ME 04333-0038

Dear Mr. Morris:

As an abutter to the Crossroads Landfill here in Norridgewock, we have the following concerns regarding the changing of the 1989 law, which states that commercial landfills cannot expand onto land they did not own prior to 1989. We are by no means newcomers to this issue, having been involved since the very beginning and live with it twenty-four hours a day, seven days a week, three hundred sixty-five days a year. We were involved when the 1989 law became a statute.

1. This law made National attention, that the State of Maine was taking the one step they could to prohibit land filling of out-of-state waste. This was the one thing our state could do without violating the interstate commerce law in the United States Constitution. Maine was looking out for its own. If there is a need for more solid waste disposal for our waste, why would you change this law and open the floodgate for out-of state waste to come into Maine and take up space needed by the people of the State of Maine. (THE VERY PEOPLE WHO HAVE PUT YOU HERE TO LOOK AFTER THE BEAUTIFUL STATE OF MAINE – NOT JUST ONE BIG CORPORATION) This statute has been the goal for the State of Maine solid waste issue for 20 years.

2. We have carefully watched over the last 20 years the progression of the State's goal unfold, with the purchasing and licensing of the Carpenter Ridge Landfill in 1995, although it has yet to be developed, even though our tax paying money was spent. We have seen the establishing of a state-owned facility, Juniper Ridge in 2004 with a long term capacity plan of 30 years, and the closing of the Pine Tree Landfill in Hampden.

Why is the legislature spending taxpayer's money in these hard economic times to even discuss this issue when the State is so close to reaching its goal regarding the solid waste issue?

According to the Waterville Morning Sentinel, Monday, February 1st, House Speaker Hannah Pingree, D-North Haven cancelled a Legislative Session, Wednesday, January 27th because the legislative budget committee is working actively on finding \$2 million dollars of savings in the legislative budget, and rightfully so. The state needs to live within their budget as each of us individual tax payers are required too. Why are you spending our money to appease one large corporation?

3. DEP Commissioner David Littell said in the Public Benefit determination on the expansion at the state owned facility, Juniper Ridge, that too many questions remain about the way solid

waste is manage in Maine. He also said, “Based on current projections, there is enough long term and medium term capacity. There is no need to move forward with a substantial expansion.”
TELL US WHAT THE STATE OF MAINE IS GAINING BY CHANGING THIS STATUE THAT HAS BEEN IN PLACE FOR TWENTY YEARS; AND CHANGING IT ONLY FOR ONE LARGE CORPORATION?

We would close with this question, Why are we fighting two wars to keep our freedoms and you folks are attempting to take them away by creating a monopoly for one large corporation? Please, please, let’s all work together on this issue of Solid Waste. If this is all the State Planning Office and legislature can come up with for a solution to the solid waste issue in the past twenty years, it is time to bring everyone involved to the table and do what is best for the State of Maine. As abutters who live with the landfill on a daily basis we should have a strong seat at the table and not be used as a footstool.

Thank You,

Edward & Gloria Frederick
362 Mercer Road
Norridgewock, ME 04957
Telephone 207-634-4962
(gramfred@tds.net)

February 2, 2010

Mr. Sam Morris
Recycling & Waste Management Program
38 State House Station
Augusta, ME 04333-0038

Comments for Natural Resources Committee on law regarding commercial landfills expanding on land not owned prior to 1989.

Dear Mr. Morris:

First; what problem is being solved by the proposed special exemption to the Statute to benefit one Company? This step, if not precedent setting, should probably only be done as a last resort; to what purpose and for whose benefit? Why would there be any effort to change the 1989 law on the expansion of commercial landfills in the State of Maine?

Landfills are at the bottom of the Waste Hierarchy list; the very bottom. Landfills are the worst solution to the waste problem. Expanding the worst waste solution should not be an option. To quote Albert Einstein, "Insanity: doing the same thing over and over and expecting different results."

When the Solid Waste Management Advisory Council met to give their recommendation on this expansion, one of the first opinions given in a whole list was, "Amending the law buys us more time to work on alternatives..." The State Planning Office has had 20 years since 1989 to put forward better waste solutions than landfills and now, in 2010, ends up only advising more of the same.

The Waste Management landfill at Norridgewock has 10-12 or more years (up to 14 years according to Jeff McGown) to capacity and 6 or so, before it could start asking for another expansion on the same footprint - this time up, presumably. Why are they seeking a change in the law now? Why would there be any necessity for any change in the law NOW?

For some reason, WMI says it needs the law to change before it buys two contiguous properties; about 175 acres in all. WMI says that it does not know what the expansion probabilities of these two properties are and so cannot say how large an expansion is contemplated and yet, expects the State to allow the change of law. There is a connection between one of the Crossroads Managers and a relative who owns one of the properties. This is troubling, to say the least.

More troubling is the State's fiction that out-of-State-waste which comes into any Maine facility (incinerator, boiler, medical sanitizer, etc) then becomes Maine waste. The landfills can then say that they do not take out-of-state waste, which is simply not the case. It is in the interest of the State to reduce the waste stream, not encourage it and more land filling.

We can and should deal with our own waste and we have the ability to do so. Commercial companies like Cassella and Waste Management have absolutely no incentive to cut down on the waste stream. They must ever expand for more and more profit. That is their sole reason for existence. A forward looking waste plan for the State of Maine has to be committed to reducing the waste stream. Expanding commercial landfills is not the way to go.

DEP Commissioner David Littell commented in the Bangor Daily News on the denial of expansion for the Juniper Ridge Landfill, "that there were too many questions...about the way solid waste is managed...and that there is enough existing landfill capacity for at least 10 years and probably longer...based on current projections, there is enough long term and medium term capacity...there is no need to move forward with a substantial expansion." If the DEP does not see the need for more capacity at the State owned landfill, why in the world would the legislature be considering a bill to allow expansion at a commercial landfill?

According to the overall State Plan, the State will own its own landfills and be able to control out-of-state waste. It has started the process with Juniper Ridge. It has closed down Pine Tree although there was still capacity available, and the last commercial landfill, Norridgewock's Crossroads, should be closed down in 10-12 years when it is at capacity. Why would the State close down Pine Tree, which had existing capacity and then immediately look to expand another commercial landfill? Is there any overall plan operating here at all?

Another landfill problem which is just being recognized is the presence of pharmaceuticals in the rivers. The leachate from landfills is not treated to remove pharmaceuticals so they pass into the rivers to the detriment of aquatic life, and eventually to our detriment. **Expanding Crossroads is not to our benefit!**

We would appreciate confirmation of this e-mail. Thank You (aewilder@tdstelme.net)
(snowbook@kynd.com)

Sincerely,

Marla Bottesch (207-634-4398)
Arthur & Sallie Wilder (207-634-2215)
499 Wilder Hill Road
Norridgewock, Me 04957

Appendix H: Year-to-year Projection of Statewide Disposal Capacity

Scenario 1 - No or Low Growth in Waste Generation

Waste Disposal Capacity Available (in cubic yards)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
		est. -3%	0 growth	0 growth	1% growth	1% growth	1% growth	1% growth	1% growth	1% growth	1% growth	1% growth	1% growth
Facility													
Juniper Ridge	7,735,357	6,945,777	6,156,197	5,366,617	4,569,142	3,763,691	2,950,186	2,128,546	1,298,689	460,534	0	0	0
Crossroads	4,098,599	3,807,599	3,516,599	3,225,599	2,931,689	2,634,840	2,335,022	2,032,206	1,726,363	1,417,461	1,105,470	790,359	472,097
Pine Tree	395,000	0	0	0	0	0	0	0	0	0	0	0	0
Total Statewide Capacity	12,228,956	10,753,376	9,672,796	8,592,216	7,500,831	6,398,531	5,285,208	4,160,752	3,025,052	1,877,995	1,105,470	790,359	472,097

Scenario 2 – Waste Generation Growth Rates Projected based on 14-year Trend of Actual Generation

Waste Disposal Capacity Available (in cubic yards)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
		est. -3%	0 growth	0 growth	3.3% growth	3.3% growth	3.3% growth	3.3% growth	3.3% growth	3.3% growth	3.3% growth	3.3% growth	3.3% growth
Facility													
Juniper Ridge	7,735,357	6,945,777	6,156,197	5,366,617	4,550,981	3,708,429	2,838,073	1,938,995	1,010,247	50,851	0	0	0
Crossroads	4,098,599	3,807,599	3,516,599	3,225,599	2,924,996	2,614,473	2,293,703	1,962,347	1,620,057	1,266,471	901,217	523,909	134,150
Pine Tree	395,000	0	0	0	0	0	0	0	0	0	0	0	0
Total Statewide Capacity	12,228,956	10,753,376	9,672,796	8,592,216	7,475,977	6,322,902	5,131,776	3,901,342	2,630,304	1,317,322	901,217	523,909	134,150

Data Notes

2008 capacity and annual tonnages are based on data from reports submitted to DEP by disposal facilities

Tons have been converted to cubic yards for consistency, based on actual compaction rates at each facility

Assumes JRL receives 550,000 tons per year plus 150,000 tons per year previously going to Pine Tree, or 700,000 tons per year, or 814,000 cubic yards per year (1 cy = 0.86 tons)

Assumes Crossroads receives 300,000 tons per year or 300,000 cubic yards (1 cy = 1 ton)

2008 is the most recent complete data set available

References

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Proposal to Consolidate Maine's Solid Waste Management Program, Department of Environmental Protection and State Planning Office, January 2009

Waste Management and Recycling Plan, State Planning Office, January 2009

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