

**Comments for the Public Record  
Asking the Commissioner to  
DENY APPROVAL  
July 26, 2024 | Jacquelyn Elliott**

**In the Matter of:**

**Application for a Public Benefit Determination pursuant to 38 M.R.S. § 1310-N(3-A) and 1310-AA, and Chapter 400, Section 5 MEDEP Solid Waste Management Rules for the Proposed Expansion of Juniper Ridge Landfill in Old Town owned by the Maine Department of Administrative and Financial Services' Bureau of General Services and operated by NEWSME Landfill Operations, LLC under a 30-year Operating Services Agreement, dated February 5, 2004**

Commissioner Loyzim:

Thank you for the opportunity to submit written comments. Please let me begin with expressing my appreciation for the many cordial and helpful interactions I have had with Maine Department of Environmental Protection (MEDEP) staff members over the recent years. However, I **strongly oppose the decision made by MEDEP to preclude impacted and interested citizens from providing oral testimony virtually at the July 16, 2024 public meetings held relative to the Public Benefit Determination for the proposed expansion of the Juniper Ridge Landfill.** The “view only” option infringed on the rights of Maine citizens to fully participate during those public meetings.

Maine is a state with extensive geography. The July 16<sup>th</sup> public meetings were rightly held in the proximity of those most impacted by **NEWSME Landfill Operations, LLC** (subsidiary of Casella Waste Systems) management of the Juniper Ridge Landfill and MEDEP’s decisions for the proposed expansion of the landfill. As Maine’s statutorily mandated disposal capacity for Maine waste, **Juniper Ridge’s operations impact the entire state and its citizens.** The State as landfill owner contracted with Casella as operator, has **misused the landfill’s disposal capacity** resulting in **needless expansions** which is a matter of considerable importance for many members of the public. **Every Maine citizen** with the interest, **had a right to fully participate in the July 16<sup>th</sup> public meetings and be heard** on the matter at that time.

There are many reasons that a Maine citizen could not attend the meetings in person which were well iterated in the request<sup>1</sup> from Conservation Law Foundation seeking an option for citizens to participate remotely. Engaging in the “view only” option, it appeared that the

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<sup>1</sup> July 5, 2024 letter directed to Commissioner Loyzim from Alexandra St. Pierre, Director of Communities and Toxics, Conservation Law Foundation, and Suhasini Ghosh, Staff Attorney, Environmental justice Program, Conservation Law Foundation.

technical capacity for full participation should have been available. Maine transformed the experience of COVID and has done an outstanding job of providing access to the Legislature and the capability for citizens to take part remotely in committee hearings. That has continued as in-person opportunities have returned. Because there now is ability to provide such access, it is an infringement on citizens' rights to withhold it. **Going forward, I urge MEDEP to make the necessary investments to honor citizens' rights and assure full remote participation in public meetings and hearings at the time those events are held.** The offer to provide a virtual opportunity for oral comments on July 26, 2024 from 9:00 am – 11:00 a.m., though appreciated, does not completely rescind the disenfranchisement of the rights of citizens excluded from full participation in the July 16<sup>th</sup> meetings.

**Environmental Justice:**

- **Environmental Justice must be the prominent consideration of the Public Benefit Determination** for Casella's proposed expansion of Juniper Ridge.

**Casella is asserting:**

*"The proposed Expansion is not inconsistent with ensuring environmental justice for the community in which the facility is proposed pursuant to 38 M.R.S. § 1310-AA(3)(E) in accordance with Chapter 400 Section 5.E.(5)."*

**The law states:**

*E. For a proposed facility or the expansion of a facility, is not inconsistent with ensuring environmental justice for the community in which the facility or expansion is proposed. As used in this paragraph, "environmental justice" means the right to be protected from environmental pollution and to live in and enjoy a clean and healthful environment regardless of ancestry, class, disability, ethnicity, income, national origin, or religion. "Environmental justice" includes the equal protection and meaningful involvement of all people with respect to the development, implementation, and enforcement of waste management laws, rules, regulations, and licensing decisions<sup>2</sup>. (Emphasis added)*

- **The PBD application does not meet Environmental Justice criteria and MUST BE DENIED TO AVOID PROLONGING ENVIRONMENTAL INJUSTICE.**

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<sup>2</sup> <https://legislature.maine.gov/bills/getPDF.asp?paper=SP0523&item=7&snum=130>

### Some History:

*“[A] PBD was submitted in 2011 to expand JRL an additional 115 acres. At that time, however, MEDEP determined that the entire 115-acre footprint was not yet necessary to meet the solid waste disposal needs of the State of Maine and in 2012 the MEDEP Commissioner granted a partial approval PBD (provided in Appendix E) for only 54 acres. The most recent expansion at the Site pursuant to that PBD was then approved in 2017 to provide an additional 9.35 MCY of disposal capacity to meet the State of Maine’s long-term solid waste disposal needs. This increased JRL’s permitted solid waste footprint by 54 acres to 121.5 acres. The facility’s solid waste license is provided in Appendix F. The proposed Expansion that is the subject of this application is now intended to complete the full build-out initially sought in 2011 at JRL by approving the remaining 61 acres of landfill footprint.”* JRL PBD Sevee & Maher Engineers, Inc. June 2024 Page 1-10

This statement denotes the exercise of the MEDEP Commissioner’s discretion to make a partial determination on a previous Public Benefit Determination for expansion of Juniper Ridge. The outcome of that partial determination has provided for **“built in Juniper Ridge Casella creep”** under the auspices of meeting long-term disposal needs for Maine waste. This provision for those expansions, assisted by legislation and regulation, outlines **how environmental injustice has prevailed**.

Much of Juniper Ridge’s disposal capacity has been consumed with out-of-state Construction and Demolition Debris (CDD) waste. This CDD is imported primarily from Massachusetts where landfilling CDD is banned, and processed at Maine facilities. One of the principal processors of this CDD waste is ReSource<sup>3</sup> Waste Services in Lewiston, an operation previously owned by Casella. ReSource has received special legislative and regulatory consideration<sup>4</sup> that does not accrue to the benefit of Maine citizens.

Under current regulation, imported waste that is processed in Maine is classified as Maine waste. ReSource’s special regulatory accommodations include classification of the CDD fines produced by their operations as “recycling.” Casella receives a fee for utilizing those fines as Alternative Daily Cover (ADC) while avoiding accounting those CDD fines as landfilled waste consuming disposal capacity. Casella’s use of CDD fines for ADC, contributes to Casella’s profits<sup>5</sup> reported in **2023 as \$1.27 billion**. CEO, **John Casella**, was compensated with **\$3,461,597 in 2023**. Use of those fines for ADC poses an amplified threat to the environment and public

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<sup>3</sup> <https://resourcewasteservices.com/>

<sup>4</sup> April 18, 2022, Sec. 2. 38 MRSA §1310-N, sub-§5-A, ¶B, as amended by PL 2019, c. 619, §4  
<https://legislature.maine.gov/bills/getPDF.asp?paper=SP0523&item=7&snum=130>

<sup>5</sup> July 22, 2024, Megan Quinn, Cole Rosengren, Jacob Wallace, *Pay rose for multiple waste and recycling CEOs in 2023, especially GFL*: [https://www.wastedive.com/news/waste-recycling-ceo-pay-median-employee-2023-wm-republic-gfl/719302/?utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Issue:%202024-07-24%20Waste%20Dive:%20Recycling%20%5Bissue:64237%5D&utm\\_term=Waste%20Dive:%20Recycling](https://www.wastedive.com/news/waste-recycling-ceo-pay-median-employee-2023-wm-republic-gfl/719302/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202024-07-24%20Waste%20Dive:%20Recycling%20%5Bissue:64237%5D&utm_term=Waste%20Dive:%20Recycling) .

health by rendering the inherent **toxics more bioavailable<sup>6</sup> to the air, water, land, and our bodies**. Landfilled CDD releases per – and poly fluoroalkyl substances (PFAS) “forever toxic chemicals” and other persistent toxics such as lead. There is no safe level for lead exposure<sup>7</sup>.

*“Much of the large volume of CDD landfilled at JRL comes from processing facilities located in Maine. Although 38 M.R.S § 1310-N(11) prohibits the disposal of waste generated from out of state directly into state-owned waste disposal facilities, it allows “waste generated within the State” to include “residue and bypass generated by incineration, processing and recycling facilities within the State,” all of which may include waste originating from locations out of state before it gets to the processing/recycling/incineration facilities. Notably a significant amount of Maine’s CDD originates in Massachusetts due to a ban on the disposal of CDD in Massachusetts. This has resulted in a large volume of out-of-state CDD being processed by waste processing facilities in Maine with the processed fines being placed in the landfill as shaping, grading or alternative daily cover materials, and residual CDD being disposed of into JRL as in-state waste.”* January 2024 Maine Materials Management Plan Page 37

#### **Where the Public Benefit Determination Process Should Begin:**

**MEDEP should provide an environmental review of cumulative impacts from existing operations and potential impacts from the proposed Juniper Ridge Landfill expansion on the communities of Old Town, Alton, and Penobscot Nation.** It is reasonable to assume **the proposed expansion** will **continue the environmental injustice** imposed on these Penobscot County communities and outweighs any alleged public benefit.

Juniper Ridge operations pollute the environment, threaten public health, and deprive the rights of citizens in nearby communities to be protected from these harms. Juniper Ridge compounds the ruinous impacts on an already over-burdened population facing threats from **three state-owned landfills and a closed private landfill located in the Penobscot River watershed** that surrounds the Penobscot Indian Nation’s lands. **The Penobscot River and watershed is a “sacrifice zone.”**

**Juniper Ridge has harmed<sup>8</sup> the Penobscot Nation for more than two decades. Millions of gallons of the landfill’s insufficiently treated leachate effluent contaminated with PFAS and other dangerous toxics have been discharged from the Nine Dragons Wastewater Treatment Plant into the Penobscot River. The Penobscot Nation considers the river a relative and a sacred part of their rites, spirituality, and sustenance. They “suffer the injustice of the inability**

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<sup>6</sup> October 2019, PFAS Waste Source Testing Report, New England Waste Services of Vermont, Inc.: <https://anrweb.vt.gov/PubDocs/DEC/SolidWaste/OL510/OL510%202019.10.15%20NEWSVT%20PFAS%20Source%20Testing%20Rpt%20-%20Final.pdf>.

<sup>7</sup> August 11, 2023, World Health Organization: <https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health>.

<sup>8</sup> September 10, 2022, Marina Schaufler, *Compound Injustice: PFAS may concentrate over time in landfills near the Penobscot Indian Reservation*: <https://themainemonitor.org/compound-injustice-pfas-may-concentrate-over-time-in-landfills-near-the-penobscot-indian-reservation/>.

**to live in and enjoy a clean and healthful environment regardless of ancestry, class, disability, ethnicity, income, national origin, or religion**” violating Environmental Justice principles and Maine law (38 M.R.S. § 1310-AA(3)(E) in accordance with Chapter 400 Section 5.E.(5)). They **can no longer fish from the river** due to dangerously **high levels of PFAS** that are linked to many adverse health<sup>9</sup> impacts, that include high cholesterol, developmental problems in children, liver and testicular cancers, immunotoxicity and reduced immune function, fertility and reproductive harm, thyroid dysfunction, and other endocrine disruptions.

The current Public Benefit Determination application does not have an adequate assessment of the impacts of the leachate effluent discharged into the Penobscot River, and its cumulative impacts on Penobscot Nation members residing on their ancestral lands. At this time, **Maine has no requirements to treat<sup>10</sup> and remove PFAS from the leachate as Casella is mandated to do in Vermont.**

**“Dan Kusnierz, the water resources program manager for the Penobscot Indian Nation, said recent tests showed the leachate contained 20 times as much PFAS as the state allows for drinking water. Kusnierz said the current treatment system fails to remove these harmful industrial chemicals before the leachate is discharged into the Penobscot River, which is a source of both sustenance and cultural identity for tribal members.**

**“Clean water is of utmost importance to protect these practices,” Kusnierz told members of the Legislature’s Environment and Natural Resources Committee on Monday. “These are not recreational uses but legally protected rights.”** (emphasis added) January 24, 2022, Kevin Miller: <https://www.mainepublic.org/environment-and-outdoors/2022-01-24/penobscot-nation-and-environmental-advocates-raise-concerns-about-pfas-in-landfill-runoff>

**The Commissioner Has Considerable Discretion apart from the Operating Services Agreement:**

**MRS Title 38, §1310-AA. PUBLIC BENEFIT DETERMINATION**

**7. Decision making.** When deciding on an application for a determination of public benefit, **the commissioner:**

A. **May issue a full or partial approval of an application, with or without conditions;** and [PL 2011, c. 566, §7 (NEW).]

B. For an application related to a state-owned solid waste disposal facility, **shall conduct a review that is in accordance with the provisions of this section and is independent of any other contract or agreement between the State and the facility operator** or any other party concerning the operation or development of the facility. [PL 2011, c. 566, §7 (NEW).] [PL 2011, c. 566, §7 (NEW).] (emphasis added)

<sup>9</sup> January 2021, ATSDR Review: *Anadromous Fish from the Penobscot River, Penobscot Indian Nation, Maine:* [https://www.atsdr.cdc.gov/HAC/pha/PenobscotRiver/Factsheet\\_Reviews\\_Fish-508.pdf](https://www.atsdr.cdc.gov/HAC/pha/PenobscotRiver/Factsheet_Reviews_Fish-508.pdf)

<sup>10</sup> October 12, 2023, Emma Cotton, *Environmental groups allege that Casella has violated its water quality permit:* <https://vtdigger.org/2023/10/12/environmental-groups-allege-that-casella-has-violated-its-water-quality-permit/>.

**The MEDEP Mission States in Part:**

***“Legislative mandate directs DEP to prevent, abate and control pollution of the air, water, and land. The charge is to preserve, improve and prevent diminution of the natural environment of the State.”***

MEDEP is not specifically delegated to protect public health, but a safeguarded environment is conducive to positive public health outcomes. An argument can be made that **every citizen has an inalienable right to clean air and water and a safe environment in which to live**. Conversely, there is **no inherent right of an operator or operation, legislative or regulatory authority to perpetuate or license activity that has potential to despoil the environment, imperil the public health, or otherwise impair the safety of a community**. **The rights of Juniper Ridge’s most impacted neighbors must occupy a priority space and influence the consideration of this Public Benefit Determination.**

Casella has been enriched with decades of increasing profits<sup>11</sup> from operations at Juniper Ridge, and the landfill’s neighbors have endured the wretchedness of pollution from those operations assailing their environment and endangering their health. **Casella’s questionable management has diminished the quality of the lived experience of their neighbors** and the costs of those harms have been externalized onto community members. Those costs include direct economic impacts from depreciated property values and increased health care expenses. Casella commits to support property values in recognition that their operations diminish value.

**An Improved Process for Evaluating Choices in Decision Making:**

Applying the principle of **Presumptive Contamination**, it is logical to conclude that **Juniper Ridge’s immediate neighbors bear the heaviest environmental and public health burdens** from the landfill’s on-going polluting operations. Those **impacts have been cumulative and synergistic** and **will be intensified with** construction and operations of an **expanded landfill**. The **Commissioner has discretion to issue a full or partial approval of the application with or without conditions**. The **status of the Operating Services Agreement is not essential to those decisions**.

As a state-owned solid waste disposal facility, the **Commissioner is required to conduct a review independent of any contract or agreement between the State and NEWSME** (Casella). As referenced by an informed member of the public in the July 16<sup>th</sup> meetings, the public has no knowledge of this review. To be credible, **such a review would include an assessment of environmental impacts and potential adverse public health outcomes from Juniper Ridge operations for the Old Town, Alton, and Penobscot Nation communities**.

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<sup>11</sup> April 26, 2024, Casella highlights pricing growth, infrastructure project progress in Q1: <https://www.wastedive.com/news/casella-q1-2024-rng-pfas-mckean-landfill/714468/>.

### Some Instructive Context:

The history of environmental and public health regulation demonstrates a lack of transparency of information<sup>12</sup> applied to choices made. Regulation is based on **the State attributing no adverse effects to the environment and public health until the impacts become blatantly apparent**. Methods for study and evaluation of health outcomes from low-level,<sup>13</sup> or on-going exposures to mixtures<sup>14</sup> of toxic chemicals are not well developed and are infrequently employed despite the **growing knowledge that small<sup>15</sup> exposures can have devastating results and damage can be passed to future<sup>16</sup> generations**.

The value of **human life is the proper basis for environmental and public health regulation** and there is **no acceptable preventable death**. Exposures to toxic pollution are associated with morbidity and mortality. The viability of present and future generations should **move us to a hazard-based methodology** for regulatory decisions that evaluates threats to public health and the environment **within a framework of Presumptive Association rather than risk assessment**. The **goal should be to reduce exposures** without relying solely on scientific certainty or proof<sup>17</sup> before acting. Regulations should **begin with acknowledging the known harms of toxic chemicals** in conjunction with recognition there is much we do not yet understand. We must **proceed with an assumption of harm until proven otherwise**. This approach would have **potential to further outcomes more protective of the environment and public health and provide increased justice and equity**.

The process must include weight-of-evidence that appraises health consequences coupled with scientific judgement and a precautionary approach. Community and traditional knowledge must be considered in decisions along with scientific and academic knowledge. The voices of impacted communities must have an influential role in decisions affecting their environment and health. Bottom line: policy and regulation are about the quality-of-life people get to live today and whether there is a sustainable and healthy future to pass on to succeeding generations.

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<sup>12</sup> October 3, 2020, Lauren Ritcher, Alissa Cordner, Phil Brown, *Producing Ignorance Through Regulatory Structure: The Case of Per- and Polyfluoroalkyl Substances (PFAS)*: <https://journals.sagepub.com/doi/10.1177/0731121420964827?icid=int.sj-abstract.citing-articles.2> .

<sup>13</sup> March 14, 2012, Linda S. Birnbaum, *Environmental Chemicals: Assessing Low-Dose Effects*: <https://pubmed.ncbi.nlm.nih.gov/32833669/> .

<sup>14</sup> August 24, 2020, William H. Goodson, Leroy Lowe, Michael Gilbertson, David O. Carpenter, *Testing the low dose mixtures hypothesis from the Halifax protect*: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3339483/> .  
<sup>15</sup> <https://littlethingsmatter.ca/> .

<sup>16</sup> January 30, 2023, Haotian Wu, Christina M. Eckhardt, Andrea A. Baccarelli, *Molecular mechanisms of environmental exposures and human disease*: <https://www.nature.com/articles/s41576-022-00569-3> .

<sup>17</sup> Linda S. Birnbaum, *Environmental Chemicals: Evaluating Low-Dose Effects*: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3339483/> .



**These decisions are a matter of morals and ethics that affect the function of justice. Traditionally, fenceline communities have lacked decision-making power and authority throughout the process. That must change.** Evidence suggests that **development of regulatory standards reflects outsized dependence on and influence<sup>18</sup> from polluters.** Regulations can **reflect deception.** Maine is not alone experiencing the nightmare of the impacts from PFAS chemicals whose hazards have been known<sup>19</sup> to their producers for decades. These “forever toxic chemicals” have dangerously contaminated our soil and water, our farm livestock and wildlife, our food and bodies. Our public schools<sup>20</sup> are desperately trying to address contamination of the drinking water supply for our children. A considerable amount of this forever pollution most likely resulted from **MEDEP licensed spreading of waste treatment sludges on agricultural land as a less expensive fertilizer option. Farmers were assured it was safe. We are learning the true costs** of that fertilizer and now **understand we must turn off the tap of these toxics entering our environment.**

**Where this PBD Application Began in the Process and What Should be Considered:**

***“Casella submitted a Preliminary Information Report (PIR) for the proposed expansion [of JRL] to the MEDEP on August 30, 2023. The MEDEP completed a review and issued a Determination of Environmental Feasibility November 6, 2023.”*** (emphasis added) June 7, 2024 letter to Karen Knuuti, MEDEP Environmental Specialist from Lane Gould, Landfill Manager

The beginning of the process should be moved further to the front and justly establish **what constitutes Environmental Feasibility.** Such a determination has **no integrity without an environmental assessment of cumulative and future impacts that includes public health effects and associations.** Environment and health are in inextricably linked. It is **not reasonable or feasible if someone is unable to enjoy being outside on their property because the odors<sup>21</sup> and pollution from the landfill are so caustic and oppressive they cannot breathe and their eyes and mucous membranes burn.** Residents of Penobscot Nation neighboring lands have testified that the odors from the landfill linger on their clothing<sup>22</sup> after being outside. They

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<sup>18</sup> July 7, 2024, Sruthi Gopalakrishnan, *Records reveal industry feedback shaped New Hampshire’s Solid Waste Rules*, [https://www.concordmonitor.com/NH-DES-Rules-shaped-by-Waste-Industry-55639139?utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Issue:%202024-07-08%20Waste%20Dive%20Newsletter%20%5Bissue:63679%5D&utm\\_term=Waste%20Dive](https://www.concordmonitor.com/NH-DES-Rules-shaped-by-Waste-Industry-55639139?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202024-07-08%20Waste%20Dive%20Newsletter%20%5Bissue:63679%5D&utm_term=Waste%20Dive)

<sup>19</sup> May 31, 2023, Susan Lamontagne, *Makers of PFAS ‘Forever Chemicals’ Covered up the Dangers*: <https://www.ucsf.edu/news/2023/05/425451/makers-pfas-forever-chemicals-covered-dangers>.

<sup>20</sup> July 21, 2024, Emmet Gartner, *Schools across Maine confront unique challenges in ridding their water of ‘forever chemicals’*: <https://themainemonitor.org/pfas-maine-schools/>

<sup>21</sup> Landfill Gas Primer – An Overview for Environmental Health Professionals, *Chapter 3 Continued: What do we know about the potential health effects of exposure to landfill gas?* <https://www.atsdr.cdc.gov/HAC/landfill/html/ch3a.html>.

<sup>22</sup> February 16, 2024, Kaitlyn Budion, *Residents speak out about extending Juniper Ridge operator’s contract*: <https://www.mainepublic.org/environment-and-outdoors/2024-02-16/residents-speak-out-against-extending-juniper-ridge-operators-contract>.



worry that the pollution<sup>23</sup> causing those odors might be affecting their children's health. Community members are identifying health issues they associate with the operations at the landfill. Additional to the air pollution concerns, is the fact that Juniper Ridge is a significant contributor to man-made climate disrupting greenhouse gas emissions including methane. This issue has attracted attention and is driving increased efforts for mitigation<sup>24</sup> and regulation. Put directly, **Environmental Injustice is not feasible.**

**Before a PBD decision is approved there must be an independent assessment of Casella's management operations of Juniper Ridge and an evaluation of environmental and public health impacts that considers existing cumulative and future impacts on those most affected by the proposed expansion: the Residents of Old Town, Alton, and Penobscot Nation citizens inhabiting adjacent lands.** It must be recognized, that these pollution impacts are not singular or one-off events but act in a synergistic mix with other toxics and conditions present.

#### **A Definition of Cumulative Impacts:**

*"Cumulative impacts means exposures, public health or environmental effects from the combined emissions and discharges, in a geographic area, including environmental pollution from all sources, whether single or multi-media, routinely, accidentally, or otherwise released. Impacts will take into account sensitive populations and socio-economic factors, where applicable, and to the extent data are available." CalEPA definition used in the CalEnviroScreen model:*<https://oehha.ca.gov/media/downloads/calenviroscreen/report/calenviroscreen40reportf2021.pdf>

**These impacted communities must have equitable, meaningful access and opportunity to participate and contribute to the MEDEP's decision-making process in a manner that influences decisions.** Applying principles of Environmental Justice, **the PBD must assure that no group of Maine citizens bears disproportionate burdens from impacts to the environment and public health resulting from MEDEP's decisions for Juniper Ridge's proposed expansion.**

#### **An Example of What Should be Considered Assessing Burdens from Juniper Ridge Operations:**

*"Environmental burdens", any destruction, damage or impairment of natural resources that is not insignificant, resulting from intentional or reasonably foreseeable causes, including but not limited to, climate change, air pollution, water pollution, improper sewage disposal, dumping of solid wastes and other noxious substances, excessive noise, activities that limit access to natural resources and constructed outdoor recreational facilities and venues,*

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<sup>23</sup>June 26, 2024, Sharon Udasin, Garbage dumps may be 'burping' toxic 'forever chemicals': Study:

<https://thehill.com/policy/energy-environment/4740816-garbage-dumps-pfas-forever-chemicals-study/>.

<sup>24</sup> December 14, 2023, Jacob Wallace, Federal methane strategy calls for improved, cost-effective landfill emissions tracking technologies: [https://www.wastedive.com/news/epa-omb-ghg-emissions-monitoring-strategy-sem-measurement-research/702101/?utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Issue:%202023-12-14%20Waste%20Dive%20Newsletter%20%5Bissue:57382%5D&utm\\_term=Waste%20Dive](https://www.wastedive.com/news/epa-omb-ghg-emissions-monitoring-strategy-sem-measurement-research/702101/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202023-12-14%20Waste%20Dive%20Newsletter%20%5Bissue:57382%5D&utm_term=Waste%20Dive).

*inadequate remediation of pollution, reduction of ground water levels, impairment of water quality, increased flooding or storm water flows, and damage to inland waterways and waterbodies, wetlands, marine shores and waters, forests, open spaces, and playgrounds from private industrial, commercial or government operations or other activity that contaminates or alters the quality of the environment and poses a risk to public health.*

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section62>

### Prioritizing Citizens' Rights:

There is growing opinion that nuisances are in fact, **threats to public health and the environment. Violating citizens' rights<sup>25</sup> to clean air and clean water could qualify under common law as a nuisance.** Juniper Ridge's on-going air pollution, menaces to surface and groundwater, the impacts of fires, and potential instability of the landfill exacerbated by increased frequency of extreme weather events **require a response and a plan from MEDEP to protect the environment, public health and by extension citizens' rights.** If MEDEP's position, is they have no authority to do this, that rejoinder gets to the very crux of the matter – **that authority and the rules to properly implement those actions must be put in place.**

### The Truth About Landfills:

Regardless of engineering and hydraulic reports, what **must frame this conversation is the fact that all lined landfills eventually leak<sup>26</sup> toxic leachate, and toxic precipitation runoff from the landfill can overwhelm containment systems.** When new phases of a landfill are constructed and begin operation, leachate flows can significantly increase due to a large area being subjected to precipitation without the presence of waste to slow down the migration of the water to the leachate collection system. **Casella's operations<sup>27</sup> at their NCES landfill in Bethlehem,<sup>28</sup> New Hampshire and the Coventry<sup>29</sup> landfill in Vermont have experienced breaches from leachate overflows. The Bethlehem landfill has experienced leachate hauling emergencies and there are on-going unresolved<sup>30</sup> deficiencies continuing to threaten the Ammonoosuc River and watershed.**

Multiplying severe weather events aggravate Juniper Ridge's potential for landfill instability and leachate hazards. Water runoff, or leachate remaining on the liner and leaking

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<sup>25</sup> Donald G. Gifford, *Public Nuisance as a Mass Products Liability Tort*, 71 U. Cin. L. Rev. 2055, 741, 774 (2003), [https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1424&context=fac\\_pubs](https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1424&context=fac_pubs)

<sup>26</sup> <https://www.clf.org/blog/all-landfills-leak-and-our-health-and-environment-pay-the-toxic-price/>

<sup>27</sup> June 14, 2024, Letter of Deficiency from NHDES to John Gay, Engineer, Casella Waste Systems: <https://www4.des.state.nh.us/DocViewer/?ContentId=5202855>

<sup>28</sup> July 22, 2021, Annie Ropeik, *State Says Casella Fell Short On Preventing Major Landfill Leachate Spill In Bethlehem, N.H.*, <https://www.nhpr.org/nh-news/2021-07-22/nh-casella-landfill-bethlehem> .

<sup>29</sup> March 8, 2024, Abagael Giles, *Spill of landfill leachate into stormwater pond leaves Coventry locals concerned*, <https://www.vermontpublic.org/local-news/2024-03-08/spill-of-landfill-leachate-into-stormwater-pond-leaves-coventry-locals-concerned> .

<sup>30</sup> June 30, 2024 Response from NHDES Waste Management Director, Michael Wimsatt re: leachate management deficiencies at Casella Bethlehem, NH landfill: [https://drive.google.com/file/d/10d9DQqtFC8IamNZ\\_cQAcHE-xbHv0\\_IRxb/view?usp=sharing](https://drive.google.com/file/d/10d9DQqtFC8IamNZ_cQAcHE-xbHv0_IRxb/view?usp=sharing) .

under the landfill will transmit toxics contained in the entombed mountain of wastes to surface and groundwater. **Juniper Ridge is in proximity to a major watershed affecting the Penobscot River and surrounding wetlands and waters.** The PIR identifies **groundwater flow that drains into Judkins Brook and Pushaw Stream which feed the Penobscot River and watershed.** It is contended that “hydraulic isolation” protects<sup>31</sup> water supply wells along Routes 16 and 43. Yet it was **noted at the July 16<sup>th</sup> meetings that Casella supplies drinking water for some of Juniper Ridge’s neighbors.** The PIR discusses **the fractured underlying bedrock which provides the “highways and byways” for groundwater flow.** What must be stressed is that a **contaminated water source most likely cannot be effectively reclaimed.** Any attempts at possible remediation would come at an exorbitant cost that would include Maine taxpayers.

Jeff Weld,<sup>32</sup> Communications Director for Casella, claims that operations at JRL are within MEDEP “guidelines,” but Cassella’s documented<sup>33</sup> record raises serious questions. Casella has faced hundreds of environmental infractions across the New England region where it operates a multitude of facilities. Safe water is the basis for all life on this planet and we have had a hard lesson about the realities of dealing with contamination of a substantial portion of Maine’s precious water resources with forever PFAS chemicals. It should be noted that **PFAS are coming to the fore as one of the toxic releases<sup>34</sup> of primary concern from landfills.**

#### **Juniper Ridge Expansion Puts Ecologically Valuable Areas at Risk:**

*“A total of nine wetlands were delineated within the proposed Expansion area footprint and the delineated radius areas as shown on Figure 6-2. Of the nine wetlands identified, two may be considered wetlands of special significance (WOSS) under the Maine Natural Resources Protection Act (NRPA) because of features that exist outside of the proposed Expansion footprint, namely a significant vernal pool and 20,000 square feet of open-water. The proposed Expansion footprint will impact approximately 4.2 acres of forested and scrub-shrub wetlands not containing WOSS features.”* Pp. 6-1 PIR Sevee & Maher Engineers, Inc. August 2023: [https://www.epa.gov/sites/default/files/2021-1/documents/functions\\_values\\_of\\_wetlands.pdf](https://www.epa.gov/sites/default/files/2021-1/documents/functions_values_of_wetlands.pdf)

#### **Concerns with Juniper Ridge’s Proposed Expansion:**

*“The proposed Expansion will be designed for phased operations and will consist of landfill cells sized to provide capacity for approximately one to two years each based upon an estimate of the facility’s future waste disposal requirements. Leachate from the cells will be conveyed to the aboveground glass-lined storage tank via the existing dual containment force*

<sup>31</sup> August 2023 PIR Sevee & Maher Engineers, Inc. Pp. 5-2

<sup>32</sup> February 16, 2024, Bangor area community members speak out against Casella Waste Systems’ contract extension request: <https://www.newscentermaine.com/article/news/local/juniper-ridge-landfill-casella-waste-systems-bangor-maine-contract/97-a3504eda-7758-4a5a-9edb-761be844f974>

<sup>33</sup> January 3, 2024, Manzelli, Amy, BCM Environmental & Land Law, PLLC, letter to Michael Wimsatt, Director, Waste Management Division, NH Department of Environmental Services: <https://drive.google.com/file/d/1OK9kZnX3ojz5tG45R1YmPnKRY0HVc57M/view?usp=sharing>

<sup>34</sup> June 26, 2024, Sharon Udasin, Garbage dumps may be ‘burping toxic ‘forever chemicals’: Study: <https://thehill.com/policy/energy-environment/4740816-garbage-dumps-pfas-forever-chemicals-study/>

**main. The proposed Expansion's phased development will sequence waste and cover placement, control run-on and runoff in accordance with the facility's Stormwater Management Plan, manage leachate generation, protect the liner system, and maintain overall landfill stability, all while providing much-needed landfill capacity to the State of Maine.**" August 2023 PIR Sevee & Maher Engineers, Inc., Pp.1-6

The public is **not assured with such statements given a history of reported landfill instability<sup>35</sup> and a fire** of unknown origin and **claims of no damage to the landfill's liner and leachate and gas collection systems**. There has been **no independent assessment of impacts from the May 2023 fire** that spewed emissions of dioxin and other toxics into the atmosphere and deposited tainted debris across the area. Penobscot Nation Chief Kirk Francis reported<sup>36</sup> that tribal members suffered burning eyes and sore throats from the fire's smoke and ash.

**Fires can also contribute to other landfill failures.**<sup>37</sup> **The State and Casella have embarked on a disposal model**<sup>38</sup> **at Juniper Ridge that combines gaseous sludge, bulky waste and CDD. This method creates pockets of gas in the landfill increasing the risk**<sup>39</sup> **for difficult-to-extinguish fires that could damage the liner, as well as gas collection and methane management systems installed in the landfill**. Landfill gas system construction and operation, such as is being installed at Juniper Ridge, can add to the risk<sup>40</sup> of landfill fires. This management approach furthers the potential hazards to Juniper Ridge neighbors. **Residents have repeatedly asked that Casella be required to provide an alert system that would directly notify neighbors of incidents at the landfill. This system should be a requirement for an affirmative decision on the PBD.**

### **Casella's influence on Maine's Materials Management Outcomes:**

**Any truthful conversation about Casella's function** in waste and materials management in Maine must include discussion of the **outsize role Casella plays** in legislation, regulation,

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<sup>35</sup> March 8, 2023, Kevin Miller, *Maine lawmakers told that 'catastrophe' is averted, but sludge disposal challenges remain*:

<https://www.mainepublic.org/politics/2023-03-08/maine-lawmakers-told-that-catastrophe-is-averted-but-sludge-disposal-challenges-remain> .

<sup>36</sup> May 17, 2023, Caitlin Andrews, *DEP unlikely to find cause of Juniper Ridge fire*:

<https://www.mainepublic.org/environment-and-outdoors/2023-05-17/dep-unlikely-to-find-cause-of-juniper-ridge-fire>

<sup>37</sup> July, 2022, Zeinab Masalegooyan, Farzad Piadeh, Kourosh Behzadian, Process Safety and Environmental Protection, *A comprehensive framework for risk probability assessment of landfill fire incidents using fuzzy fault tree analysis*: <https://www.sciencedirect.com/science/article/pii/S0957582022004694> .

<sup>38</sup> 2024.05 Lister Methane LFG reduction:

<https://drive.google.com/file/d/1mHYCRBfDzSf4H7EtXqSZR57geM0VwpMO/view?usp=sharing>

<sup>39</sup> March 2001 (Rev. December 2001), *U.S. Fire Administration Topical Fire Research Series Volume 1, Issue 18*, <https://apps.usfa.fema.gov/downloads/pdf/statistics/v1i18-508.pdf>

<sup>40</sup> May 31, 2019, *Subterranean Landfill Fires: The Cause and Solutions*,

<https://wasteadvantagemag.com/subterranean-landfill-fires-the-cause-and-solutions/> .

collection, transportation, processing, and disposal of waste in the state and across the region as far as the mid-Atlantic area. The **Office of the Attorney General undertook an investigation<sup>41</sup> into the impact of Casella's operations in the State. Citizens suffering Casella's operations at Juniper Ridge raised concerns<sup>42</sup> with the Government Oversight Committee more than a decade ago about the relationship between the State and Casella. These issues are still unaddressed and must be resolved prior to approval of the PBD for expansion for Casella's operations at the landfill.**

### Casella's Pervasive Operations in Maine

**3.3 Casella Waste System's Support of the Solid Waste Hierarchy within the State of Maine**  
*"CWS, NEWSME's parent company, is a key driver of sustainable materials management in Maine, delivering significant investment and innovation at every level of the State's solid waste hierarchy. CWS operates recycling, source reduction, reuse, and toxics reduction programs and facilities consistent with the solid waste hierarchy and in support of achieving the State's recycling goals . . ." August 2023 PIR Sevee & Maher Engineers, Inc., Pp.3-7*

This statement illustrates that Casella's presence and influence in the State, supported with multiple operations in the region, provides a **formidable obstacle to effective legislation, regulation, program development and infrastructure buildout** that would meet Maine's regional needs for locally controlled and accountable materials and waste management that promotes the goals outlined in the Solid Waste Management Hierarchy.<sup>43</sup> **Cassella's near-monopoly** of Maine operations creates **disincentives to develop the foundation and programs that would fuel growth of local reuse, refill, repair, recycle, and composting** ventures that would include the opportunity to circulate profits and benefits more locally.

### A Failed System:

The **Public Benefit Determination application promotes a band-aid approach to waste and materials management and does not address the failures of the current system. Casella's management of Juniper Ridge exacerbates the State's deficiency** to achieve statutorily mandated waste reduction and recycling goals. The **State's partnership with Casella has**

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<sup>41</sup> December 31, 2002, Ralph E. Townsend, Professor of Economics, University of Maine; Francis Ackerman, Attorney General, *An Analysis of Competition in Collection and Disposal of Solid Waste in Maine*, [https://www.maine.gov/ag/dynld/documents/Solid\\_Waste\\_Report.pdf](https://www.maine.gov/ag/dynld/documents/Solid_Waste_Report.pdf).

<sup>42</sup> March 9, 2012, Meeting Summary, Government Oversight Committee, *Contracts and Agreements Related to the Operations and Management of the State-owned Juniper Ridge Landfill*, pp. 2,3:

[https://www.maine.gov/legis/oepga/GOC/GOC\\_meetings/Current\\_handouts/4-10-12/Summary.pdf](https://www.maine.gov/legis/oepga/GOC/GOC_meetings/Current_handouts/4-10-12/Summary.pdf).

Request for OPEGA Review of the Operation of the Juniper Ridge Landfill, summary of Limited Background Research conducted for the Government Oversight Committee in its consideration of this request:

[https://www.maine.gov/legis/oepga/GOC/GOC\\_meetings/Current\\_handouts/5-25-12/JRL%20Summary%20Limited%20Background%20Research.pdf](https://www.maine.gov/legis/oepga/GOC/GOC_meetings/Current_handouts/5-25-12/JRL%20Summary%20Limited%20Background%20Research.pdf).

<sup>43</sup> <https://www.maine.gov/dep/sustainability/sw-hierarchy.html>

**squandered disposal capacity set aside for Maine waste and has grown Casella's profits.**

Casella's **business strategy** for maximizing profits is increased generation of waste as a commodity requiring landfill disposal, and **runs counter to** the State's mandate of **waste reduction, diversion, and recycling** and **competes for recycling resources**. Testimony at the July 16<sup>th</sup> meetings provided first-person accounts of how recycling in Maine communities has diminished with Casella's management of municipal recycling programs. Single stream collection and other impediments have culminated with **recyclable resources<sup>44</sup>** being **landfilled at Juniper Ridge**.

The technological failure<sup>45</sup> at the former Municipal Review Committee (MRC) Fiberight facility in Hampden has contributed to the need for expansion at Juniper Ridge. MRC, now Municipal Waste Services/Innovative Solutions, continues the quest for a technology that claims the ability to eventually "recycle" about 90% of a mixed waste stream. The **technology is fraught** and has been **unable<sup>46</sup>** to effectively advance to scale **to meet trumpeted goals**.

**Blind allegiance to the MWS/Innovative Solutions advertised plan misdirects tax dollars of member municipalities and discourages and dismantles efforts to employ viable programs on the front end of the waste stream** – such as separating materials at the source, and supporting Maine's Food Recovery Hierarchy by removing food waste and organics<sup>47</sup> for diversion to clean composting (38 M.S.R 38 Chapter 24: §2101-B).

**MEDEP cannot defend the trajectory of waste landfilled at Juniper Ridge as satisfying the goals of the State Waste Hierarchy. The State has failed to exercise its position<sup>48</sup> as a market participant to conserve disposal capacity at the landfill. The State's lack of planning, build out of infrastructure, development of programs, and implementation of proven methods to reduce the volume of wasted resources on the front end has put us in this extreme position of unsustainable landfill expansion.** State-wide, efforts to reduce the

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<sup>44</sup> January 13, 2022, Neil Seldman, *Single Stream/Dual Stream: Contending Approaches to Recycling in the U.S.*: <https://ilsr.org/articles/single-stream-dual-stream-contending-approaches-to-recycling-in-the-us/> .

<sup>45</sup> March 1, 2023, Sawyer Loftus, *It was going to revolutionize trash disposal. Instead, Maine is landfilling more than ever.*:

<https://www.bangordailynews.com/2023/03/01/mainefocus/hampden-trash-plant-delayed-recycling-goals-joam40zk0w/> .

<sup>46</sup> June 16, 2023, James Bruggers, *Inside Indiana's 'Advanced' Recycling Plant: Dangerous Vapors, Oil Spills and Life-Threatening Fires*: <https://insideclimatenews.org/news/16062023/indiana-advanced-plastics-recycling-vapors-spills-fires/>

<sup>47</sup> March 22, 2022, Marina Schaufler, *In Maine, the time is ripe for food recovery and reducing food waste*: <https://themainemonitor.org/in-maine-the-time-is-ripe-for-food-recovery-and-reducing-or-ending-waste/>

<sup>48</sup> May 13, 2010, Jerry Reid, AAG, Chief Natural Resources Division Memorandum to Joint Standing Committee on Natural Resources, *Commerce Clause Limitations on State Regulation of Solid Waste; Legal Restrictions on Unlined Landfills*: <https://img1.wsimg.com/blobby/go/3a99e672-2796-498c-8250-9aae47365deb/downloads/Commerce%20Clause%20Limit> .



quantity of waste generated requiring disposal have lacked commitment, resources, and staffing and have averted serious consideration of a just transition to Zero Waste<sup>49</sup> goals.

### Conclusions – We Need a Better Way:

***“We should look at waste management as toxics and tonnage.”*** Josh Kelly, Solid Waste Program Manager, Vermont DEC, NH Solid Waste Working Group, June 17, 2024

***“Put people and the planet before pollution and profit. Marry facts with community engagement.”*** Judith Enke, former EPA Region 2 Administrator, founder of Beyond Plastics

***“A recent study<sup>50</sup> estimated that plastics cost the United States around USD \$249 billion in disease burden and healthcare costs in 2018 alone.”***

***“Finally, resin producers and consumer goods companies have failed to warn the public about the true costs of managing plastic waste, the insurmountable challenges of recyclability, and plastics’ degradability and toxicity. There is increasing evidence that industry knew about many of these inherent dangers since the dawn of the post-WWII era.”*** June 2024, CIEL Making Plastic Polluters Pay Page 55: <https://www.ciel.org/reports/make-plastic-polluters-pay/>.

***“I’ll just come right out and say it: It’s easier to throw away trash than it is to recycle it. Disposal capacity is running out, and we’re running out of time. If the expansion [of Juniper Ridge] does not occur, the state’s going to be in trouble. There’s going to be a crisis situation.”<sup>51</sup>*** Susanne Miller, Director of the MEDEP Bureau of Remediation and Waste Management

Pressures on disposal capacity near-term and long-term, intensify the need to shift the focus to front-end choices that are: less extractive, less toxic,<sup>52</sup> support less overall consumption, eliminate needlessly wasteful and toxic outcomes, and foster equity and justice in policy development and regulatory decisions. Resources should be targeted to further develop programs currently undertaken such as Extended Producer Responsibility, the single-use plastic ban and bottle bill, electronics recycling, and proper handling of batteries.

Our **policy choices and actions will flow from what we value**. MEDEP spent the summer of 2023 conducting regional meetings<sup>53</sup> across Maine seeking input in preparation for the release of the 2024 Materials Management Plan. It was evident that participants sought

<sup>49</sup> <https://www.epa.gov/transforming-waste-tool/how-communities-have-defined-zero-waste>

<sup>50</sup> Leonardo Trasande et al., *Chemicals Used in Plastic Materials: An Estimate of the Attributable Disease Burden and Costs in the United States*, 8 J. Endocr. Soc.: <https://doi.org/10.1210/jendso/bvae019>.

<sup>51</sup> January 14, 2024, Kate Cough, *Trash talk: towns’ garbage in Maine landfills is up nearly 50 percent*: <https://themainemonitor.org/municipal-solid-waste-buried-in-landfills-up-nearly-50-percent/>

<sup>52</sup> Philippa D. Darbre, *Chemical Components of Plastics as Endocrine Disruptors: Overview and Commentary*, 112 Birth Defects Res. 1300, (2020), <https://onlinelibrary.wiley.com/doi/10.1002/bdr2.1778>

<sup>53</sup> <https://www.maine.gov/dep/ftp/temp/waste-management/comments/>.



MEDEP's assistance to develop regional programs and infrastructure. There was interest to advance efforts up the levels of the waste hierarchy. Information was shared that demonstrated communities are participating in efforts to reduce, repair, refill, reuse, and compost. The interest was there to do more, but leadership, infrastructure, programs, and resources are lacking.

Efforts should develop outcomes to meet rural and urban regional needs as they present different challenges. **Dependence on mega for-profit corporations and "magic tech" to deal with materials management on the back end is misguided, ineffective and unsustainable; and misallocates resources away from available solutions and continues to build on the existing toxic legacy of current methods.**

#### What We Are Asking:

- **Assess Casella's Operating Services Agreement with the State** and address areas between the operator and their customers to **provide transparency sufficient for MEDEP's oversight**. The **assessment and recommendations must be in place prior to any licensing for expansion**. *\*This was MEDEP's recommendation<sup>54</sup> in the January 2024 Analysis of Sludge and State-Owned Landfills as Public Utilities Report.*
- **Sludge<sup>55</sup> disposal is driving decisions** about landfill capacity, and **Juniper Ridge is viewed as the "answer"** to the sludge disposal dilemma. **MEDEP must stand-up a sludge-drying operation to conserve disposal capacity.**
- MEDEP must **require Casella to install and operate a Leachate Removal and Treatment System for per- and polyfluoroalkyl toxic chemicals** that includes the capacity to treat additional leachate generated from any expansion of the landfill. *\*There must be a detailed timeline for installation and implementation of the treatment system.*
- Any move for expansion **must first assess cumulative impacts on the Penobscot Nation, residents of Old Town and Alton** and include anticipated increases in leachate production and effluent discharges to the Penobscot River.
- MEDEP must place a **fill limit on Juniper Ridge** and **significantly reduce the amount<sup>56</sup> of, or better still, prohibit the use of pulverized Construction and Demolition Debris fines utilized for Alternate Daily Cover**. *\*These pulverized fines should be accounted as landfilled waste and not recycling.*

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<sup>54</sup> [Analysis of Sludge and State-owned Landfills as Public Utilities \[PDF\]](#)

<sup>55</sup> December 15, 2023, *An Evaluation of Biosolids Management in Maine and Recommendations for the Future* Pp. 8-49: [\(updated 2/21/2024\) An Evaluation of Biosolids Management in Maine and Recommendations for the Future \[PDF\]](#) .

<sup>56</sup> "In 2023, 51,022 tons of CDD processing fines and clean wood waste was recycled as alternative daily cover (ADC) in accordance with 38 M.R.S. § 1310-N(5-A)(B)(2). Between 2020 and 2023, an average of 80,029 tons of fines were used as ADC during landfill construction. In 2023, ADC represented approximately six percent of the material disposed of at JRL." JRL PBD Sevee & Maher Engineers, Inc.

- MEDEP should **invest interest, leadership, and resources to incorporate a just transition to Zero Waste Goals**<sup>57</sup> that prioritize planning, building infrastructure, and implementing programs regionally to promote waste reduction **moving away from the focus on incineration and landfilling** at the bottom of the hierarchy.

Waste is a **choice** and there is **no away** for what is wasted. In compliance with Environmental Justice requirements, the current **Public Benefit Determination application should be DENIED**. Thank you for considering my comments.

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***“We are now faced with the fact that tomorrow is today. We are confronted with the fierce urgency of now. In this unfolding conundrum of life and history, there "is" such a thing as being too late. This is no time for apathy or complacency. This is a time for vigorous and positive action.” - Martin Luther King Jr.***

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<sup>57</sup> <https://www.epa.gov/transforming-waste-tool/how-communities-have-defined-zero-waste> .