

Please consider these comments in regard to the current Public Benefit Determination application. The first part of my written submission will be the text of my spoken remarks at Wells Commons in Orono on July 16, 2024.

Environmental Justice and PBD

Greetings to Commissioner Loyzim, Ms. Knuuti, BGS officials and members of the Public.

From its inception, JRL has been inconsistent with the precepts of Environmental Justice, which for the first time will be used as a criteria for deciding the PBD of another JRL Expansion. The current situation is no exception. Commissioner Loyzim finds herself facing the fact that there is currently no good alternative for assuring landfill capacity for Maine's waste disposal needs. To deny PBD for JRL Expansion would be contrary to the Department's 2024 Waste Management Plan.

Maine law requires that municipalities have a plan for disposal of its citizens' waste. However, there is no person, bureau or Department in Maine charged with assuring future landfilling needs. Government employees tend to shy away from difficult decisions that may result in career obstacles once those who benefit from the status quo focus their anger on the agents of change.

"...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." PL 2021, c.626, 5 (NEW). PBD for JRL might partially benefit most Mainers, but it certainly will have negative environmental quality impacts for our local communities. This is NOT "equal protection". This is a Sacrifice zone.

The citizens and our elected officials in Old Town are largely unaware that this PBD is even happening, which makes "meaningful involvement" unlikely and even impossible due in part to time restraints. Citizens of Alton and the Penobscot Nation have not been included in this PBD process to date. This in and of itself is an injustice to local citizens. Within whatever geographic distance from JRL one use for a metric, there are diverse populations when we look at the EJ mandate "...regardless of ancestry, class, disability, ethnicity, income, national origin or religion." Many of these have been negatively impacted by JRL and will be further diminished by JRL expansion.

The rules for PBD decisions include:

7.B. For an application related to a state-owned solid waste disposal facility, shall conduct a review that is in accordance with this section and is independent..."

Where can the Public view the results of this Review? Who conducted it? Does it even exist? How can we prepare comments without a fair and impartial Review of the history of JRL and the relationship between the State as Owner (BGS) and Casella as Operator? It doesn't appear to be in the PBD application. If this review has taken place, does it include the history of secrecy and collusion at the inception of JRL? The history of JRL is a textbook example of Environmental Injustice and Regulatory Capture. The pathway to this current situation was fraught with Environmental Injustice and lack of meaningful involvement by the local Public. If this PBD process is what you consider to be a "Review", it is lacking in many ways, including that it is "independent". DEP is charged with furthering the Expansion of JRL, oversight of regulations regarding JRL, and is part of the Executive Branch of State Government in Maine. This is NOT an independent arbiter.

There are pathways to landfill capacity that could come closer to Environmental Justice. If you provide me with more time I can lay out one possible route to an alternative solution.

BROKEN PROMISES

At the inception of JRL, citizens were told by Casella, paper mill, and state officials that there would be no Out of State Waste or Municipal Solid Waste coming to the new State owned landfill. They lied, some intentionally. We were also told that there was to be no MSW (curbside waste) into the State landfill.

The current titular owner of JRL, the Bureau of General Services, has continued the hands-off partnership with Casella as operator, never once trying to assure that the citizens of Maine would have their interests protected. They have enabled Casella to completely control the landfill, without even checking to see what the waste actually contains or where it really was discarded in the first place.

We have often heard from State and municipal officials that "the OSA prevents us from doing more". Actually, the contract between the State and Casella requires review of all contracts Casella holds related to the landfill before they are implemented. (Section 3, Page 26 of OSA): *Casella shall provide the State with notice of and adequate time to review and comment on such contracts and agreements prior to their execution.*. This has not happened even once, and it places the Public at risk of hazardous materials exposure and an increasingly monopolized waste market and exhibits non-compliance by the State as Owner with its OSA. I repeat, the State as Owner is in violation of its own contract with the Operator!

Therefore, in order to uphold Environmental Justice, the State needs to deny Casella further capacity. For over twenty years the disfunction and injustices have taken place with the State as owner and Casella as Operator, and there has never been a Performance Review.

State ownership should ensure more transparency and accountability and that has not happened, so it is time to change direction.

SOLUTION ELEMENTS

There are 4 or 5 years of landfill capacity remaining at JRL. This should provide ample time to develop Just Rules of JRL operation, and wind down Casella's control. When the remaining capacity is used up, Casella will be done, and prior to the scheduled contract end in 2034 due to lack of licensed capacity.

What would happen next? The State should run its own landfill, much as the City of Augusta operates Hatch Hill LF. There would be no special deals for some and abuse of others. Any waste that was not discarded for the first time inside of Maine's borders would be banned. Minimal exposed landfill surface would greatly reduce leachate production.

For twenty plus years, JRL leachate has been sent with minimal treatment into the Penobscot River, a short distance below Indian Island. We know the leachate is full of PFAS and other dangerous toxins, and that Casella's DEP permits state that "*they shall not pollute ANY waters of the State.*" Where has the enforcement been? How is this Environmentally Just? The State as owner fails to consider the citizens' rights of those around JRL, while the State as Regulator (DEP) refuses to hold Casella responsible for license violations. This is NOT Justice!

Historically, for thousands of years members of the Penobscot Nation have relied on fish from their River for subsistence. Doing so now may negatively impact their health. The Penobscot River Restoration project was and is a national success story, with millions of sea run fish swimming upriver each spring to provide nourishment for our fellow creatures. The leachate now poses the biggest challenge for the full potential of the River to be unleashed, with its accompanying beneficial effects on the offshore marine environments. Yet Casella, who is responsible for all pollution control (OSA clause) at JRL, fails to set up a leachate treatment system for JRL similar to the one they operate at Vermont's Coventry landfill.

SUGGESTIONS

Conduct a full independent Review of the 20 year life of JRL, perhaps by OPEGA;

Send a letter to each municipality asking if there is a good place to locate a secure and publicly controlled landfill in their area. All of our current state landfills are in Penobscot County, just one of 16 Maine counties. Is this Equal Protection and Environmentally Just?

Set up a group, with full participation by the local community members, to develop landfill operation guidelines with the Public Interest as Primary;

Audit current JRL inputs and track their original discard points;

Devise a tiered system of waste disposal fees for communities, with those having the best compliance with our State Waste Hierarchy getting the lowest rates;

Financially support efforts at the community and regional level to Reduce waste inputs at the source, promote Reuse and Recycling, and get Organics out of the waste streams;

Reform and rewrite Maine's Waste Rules. Eliminate classifying landfill cover as Recycled material, which allows processing facilities to meet their 50% threshold without true recycling. Restore in Statute the common sense version of what Maine Waste was at the time of JRL's creation (before the waste industry devised definitions in their favor) : materials that were discarded for the first time within Maine's borders, and certified as such with each load into the new JRL.

This is not a complete list, and certainly others can improve the Plan. Expansion of JRL with Casella in charge and BGS as Passive Owner will only perpetuate the decades of Environmental Injustice we have already experienced.

ADDITIONAL WRITTEN COMMENTS

After attending in the PBD meetings of July 16th, 2024 and reviewing spoken comments from that day, it has become even more evident that Expansion of the JRL landfill is contrary to "*ensuring Environmental Justice for the community in which the facility or expansion is proposed.*" [MRS Title 38, 1310-AA, 3.] Not a single person spoke in favor of JRL expansion. The Penobscot Nation's ambassador, Maulian Bryant, could not attend but her comments were read into the record and should be taken to heart by Commissioner Loyzim. Ralph Leonard, perhaps Old Town's most respected City Father, spoke passionately against continuing waste business as usual in this area. Paul Schroeder, probably the best-informed citizen historian of JRL, detailed broken promises and costs to the communities including loss of Public Trust. Health threats were described and fears revealed. Many could not attend due to short notice during prime vacation season, an injustice by itself. This continues the exclusionary history of the State's first operational landfill.

What would true "meaningful involvement" look like in terms of Public Benefit Determination? Direct contact of all the local communities by BGS, DEP, and Casella officials with a chance for elected officials and citizens to ask questions with officials under oath would be a start- much like a true Public Hearing. There would certainly be no 60 day limit for DEP to make a decision on the PBD, another injustice to the citizenry and the Regulatory Authority.

Unlike some other States where Casella does business, Maine has no local or regional entity in charge of assuring the public's health. For example, in Massachusetts there are Boards of Health. Nothing like that exists here, which may be a factor in why so much of Massachusetts's waste has filled our State landfill. Our local people often cannot afford central air conditioning or heat pumps. We rely on opening our windows on warm summer evenings to dissipate the day's heat. This can result in odors from JRL entering one's home and making it difficult to breathe. Hanging laundry out to dry may result in rotten smelling clothes, not nice fresh linen. Where my wife and I have lived for almost a half century, we dread a forecast of a northeast wind, because that makes JRL's gases more likely to assault us. Other citizens of communities who send their trash to JRL don't have these concerns, and this is Unjust. In Sec. 3, 38 MRSA 349-C, B. says

"Fair treatment" means that no group of people bears a disproportionate share of the negative environmental consequences resulting from industrial, governmental or commercial operations or policies.

JRL is certainly an industrial, governmental, and commercial operation, and we locals suffer negative consequences now and will unfortunately in all likelihood continue to do so in the future. Where else in Maine, aside from Norridgewock, is there a constant threat of landfill fire? The May 15th, 2023 fire at JRL burned over two acres of waste. What has changed since then? There is still no emergency notification system in place at the municipal, County, or State level. On May 15, 2023 Only the Penobscot Nation thought to warn its citizens to close windows and stay indoors.

On July 16th and many other times, many people have called for a Review of the over 20 year history of JRL. This review would detail broken promises, official lies, illegal Public Meetings, industry collusion with a governor's office pre-JRL and continuing corrupt practices periodically throughout its history. Is it alright to award a contract to Operate the State landfill when the lone bidder fails to fulfill terms of the Request for Proposals and gets the OSA anyway? Please check out Dump Documents Dispatch, a group of documents obtained via FOAA, to see the early injustices perpetrated without Public awareness or input.

A PARTIAL HISTORY OF JRL AND ENVIRONMENTAL INJUSTICE

I will attempt to give examples of the history of state ownership of the Juniper Ridge Landfill and inconsistency with Environmental Justice in reverse chronological order beginning in the late 2022 into early 2023 time period. At that point, area residents became concerned with the threats of escaping landfill gases to local residents and to employees of the City of Old Town's police and fire departments. Laura Sanborn and I were granted a meeting with

Old Town officials which included police and fire personnel, our City Manager Bill Mayo, and some Casella people. Mrs. Sanborn was our Penobscot County Commissioner for this area at that time. She and her husband Harry have lived within a hundred yards of the JRL entrance on Rt. 16 in Alton for about 50 years.

We were concerned that Public responders called to JRL would be unaware of the threats associated with landfill gases, including hydrogen sulfide (H₂S) and methane (CH₄). H₂S is largely described as a nuisance odor by waste industry employees, and is detectable at very low levels by most human noses. In addition, H₂S is dangerous to human health even at fairly low levels if it is sustained over periods of time. When this noxious gas reaches a certain level of concentration, our nasal detectors present in our bodies and minds are overwhelmed and do not detect the odor. This is also the point where exposure can lead to injury and death. We suggested that police and fire personnel should carry H₂S detectors on their persons to protect them. We were told that there were no such devices being used, and that basically we should mind our own business!

Methane is another threat and is explosive when it reaches certain concentrations. There are devices to detect high levels that are used by some landfill employees, but not emergency personnel. Over the years the Sanborns and Spencers have been exposed to many dozens of high odor situations while trying to enjoy our property or working at home, and we have tried to phone in odor complaints to alert Casella that there are problems. I have also at times been frustrated with the lack of results in calling the 394-4376 Hotline and have called our area police non-emergency line at 945-4636 and then spoken with Old Town police personnel. They have acknowledged smelling the landfill frequently.

So at this meeting I asked combined Fire and Police Chief Wilcox if he would ask officers on patrol to make a note of strong odors and the time and location of that event. I did not ask him to confront the JRL operator or solve the problem, but merely to make a record. He refused to do that, saying to us that he would not be doing that! We were stunned to hear a refusal to even notate strong gases, especially to our sitting County Commissioner. On a few occasions I have experienced gases from JRL so strong that I felt I was about to choke and in imminent danger- once it turned out that the flare had gone out. I'm sure that if anywhere in Old Town a person called the police and said "I am being choked", there would be a swift and strong response. The fact that landfill gases are somehow not seen as enough of a threat or off-limits as a complaint basis is a huge injustice. At that point, Old Town policy was apparently to never engage with landfill gas complaints.

Within a year of that meeting, there was a fire at JRL the evening of May 15th, 2023. The only governmental official to alert the population was Penobscot Chief Francis, who advised his fellow Penobscot citizens to close their windows and stay indoors until they were certain

no threat existed. The fire burned over two acres to an uncertain depth. Picture setting a pile of assorted trash, sewage sludges, construction debris with its lead paint and asbestos particles, plastics, and PFAS-laden oversized bulky waste materials that covers two football or soccer fields on fire all at once! Thankfully, Sunlight Media Collective personnel were able to be there and film the event, at considerable personal risk. When our media, whose mission is to report the news to the People, called Old Town's fulltime police and fire officers the next day for more information they were told to "Go Ask Casella".

What is going on here? This is my conjecture: Old Town has always been a mill town. As such, longtime residents and City employees have learned to not complain to the Mill, whose power is seen as primary. This is due to economic dependence on mill taxes and the threat of negative consequences and lost jobs and revenue. It seems to many of us that now that the Old Town Mill has been closed for years and inconsistently running for the decades since JRL's inception, that the perception of the Mill's power has been transferred in some official's minds to a need to always defer to Casella as the landfill operator since there are a significant portion of City funds dependent on landfill tip fee revenues.

Aside from how we feel about this dependent relationship and what it does to distort democracy and citizen's rights to a healthy environment, there has to be an acknowledgement that the landfill enjoys a certain powerful status. This has resulted in many people being afraid to complain lest they suffer negative consequences. Others fear Casella because there is a perception that organized crime is often associated with the waste industry. Expansion of JRL will continue to discourage environmental justice in our local communities. The facility is therefore *"...inconsistent with ensuring environmental justice for the community in which the facility is proposed."* [(400(4)(N)(1) from Public Meeting Handout July 16, 2024]

EVOLUTION OF JRL WASTE STREAMS

In October of 2003, area residents finally became aware that we were going to be hosting a state owned landfill. We were told that this would "save the Mill" and its jobs and tax base. State, local, and waste officials all repeated that "There will be no out of state waste". Another prohibition was on municipal solid waste (MSW, or curbside waste). At this time we were already being lied to, because the State Planning Office had previously granted Casella permission to import enough construction demolition debris (CDD) to furnish fuel for a so-called "biomass boiler" at the Old Town Mill. This agreement between the SPO and JRL Operator was not revealed until after the Deal had already been consummated without public knowledge. Official lies, especially by public officials, are an injustice to democracy as well as enabling environmental injustice.

The Mill owners at that time sent their unionized workers to the public meetings to encourage state ownership of their Mill landfill and protect their jobs. This also pitted Mill workers against those of us trying to protect our quality of life. There was a threat of violence which thankfully did not materialize. Nobody knew at that time that as part of the Mill deal with the State and Casella, that the jobs restored in their agreement would only be guaranteed for 3 years. This was compounded environmental injustice: In order to profit from its sale of a landfill liability and get low cost fuel from CDD, the community was divided and longtime friendships ended. Yet at the same time millworkers were pitted against others, the Mill had never disclosed that their agreement to return the mill to operating only guaranteed those jobs for a limited time. The mill closed in 2006, equipment furnished at partial taxpayer expense was disabled or scrapped, and once again there was a Mill Crisis. Crisis leverage has always been a part of the JRL story. Environmental Justice was never even considered and there was no meaningful involvement possible.

Just prior to the gubernatorial election in November of 2006, the Mill was once again "Saved". There were a group of investors formed under the leadership of state officials that was called Red Shield. Red Shield was handed the Old Town Mill for one dollar, and some jobs were restored as the Mill reopened. During this time period, there were Amendments to the Operating Service Agreement signed- the 2nd Amendments. They were not disclosed to the Public, the DEP as Regulator, City of Old Town or town of Alton officials. In addition, the members of Red Shield were not disclosed. This same group led the Mill into bankruptcy.

Part of the 2nd Amendments was the Fuel Supply Agreement (FSA). Up to that point, there was begrudging acknowledgement by some that a lot of CDD was being imported to Maine, but that was restricted to an amount solely for the purpose of deriving fuel for the Old Town Mill's boiler. The FSA of November 2006 allowed importation of CDD for the purpose of making fuel for ANY boiler in Maine! As part of this, the fuel was separated from the CDD and the waste byproducts were allowed to be brought to JRL. In a period of less than three years, the prohibition on out of state waste turned into unlimited importation of debris! Of course, more debris equals more toxins, more off-gasing of the landfill, and environmental damage with citizens deprived of peaceful use of their property.

These new agreements were only disclosed when Old Town citizens started asking City officials why there was so much CDD going into JRL when the Mill was not burning any CDD fuel. The 2nd amendments were only revealed to the DEP as Regulator in 2008, almost two years after their implementation! What a huge environmental injustice occurred at that point: the DEP, who is charged with JRL oversight and environmental protection, was itself denied inclusion in the OSA amendments. One part of the executive branch of the State of

Maine (SPO) excluded another State entity tasked with environmental protection (DEP) and subjected citizens to more and more wastes being brought from beyond Maine's borders. What greater example of Environmental Injustice can there be than the State as Owner colluding with Mill and trash company to fill Maine with others' wastes?

Conclusions

There is little hope for reforming the role BGS fills as titular owner of JRL. The remaining licensed capacity at JRL should be allowed to be utilized with Casella as Operator, but the PBD should be rejected due to Environmental Injustice and failure to adhere to Maine's Waste Management Hierarchy. A thorough Review of the two decade plus history of JRL is needed, preferably by OPEGA.

The State needs to acknowledge that the first operational state-owned landfill has failed to be what was intended: A way for Maine to control the wastes deposited in-state and serve the needs of the citizens of Maine, not some waste industry entities whose purpose is profit. Rules need to be developed for landfill management, with particular attention being paid to limiting the exposed "working face" of the landfill in order to minimize leachate production. If the City of Augusta can operate their Hatch Hill Landfill for the needs of the local citizenry, it will be possible to serve the State as a whole without Casella or other corporate control.

Another environmental injustice exists due to the fact that if JRL were to be unable to take waste or closed, the next most likely location for State landfill development would be at Carpenter Ridge near Lincoln. This location is directly adjacent to Penobscot Nation land. Should the Penobscots succeed in stopping further growth of Juniper Ridge Landfill, it would be faced with degradation of other lands with great traditional value to their culture. The State needs to find other landfill sites not located in Penobscot County. We need to get serious about reducing wastes at the source, and getting organics out of the waste stream.

Respectfully submitted,

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