

From: [Cheryl Spencer](#)
To: [Knuuti, Karen](#)
Subject: Fwd: Dump documents dispatch
Date: Thursday, August 8, 2024 8:30:10 AM
Attachments: [DumpDocumentsDispatch-combined-V4-pdf.pdf](#)

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Karen,

Attached you will find a copy of Dump Documents Dispatch, a collection of emails from the time period when JRL was becoming a reality. To many, this paints a picture of intentional exclusion of area citizens' "meaningful involvement". Exposure to increased pollution for area residents was never even a minor consideration for the decisionmakers.

Even if you ignore the commentary, just reading these communications gives us a look behind the curtain of Public presentation. There are other document collections in existence with more details, and I will try to submit them as well.

So, to be clear, it is my intention that this email and attached PDF should be included in the Record for this PBD process.

Regards,
Ed Spencer

----- Forwarded message -----

From: **Cheryl Spencer** <cjkspencer@gmail.com>
Date: Wed, Aug 7, 2024 at 10:28 AM
Subject: Dump documents dispatch
To: Cheryl Spencer <cjkspencer@gmail.com>

it is attached

Go to [Dump Documents Access Page](#)

Dump Documents Dispatches

So Many Documents, So Little Time!

These pages made public some of the core documents related to the West Old Town (Maine) Landfill. PLEASE NOTE: THESE PAGES WERE CREATED 2004-5 AND ALL LINKS ARE NOW INACTIVE

Most of these came from public agency and governmental sources. Many were obtained through use of [Maine's Freedom of Information Access](#) laws. Most of the documents raise questions that have never been adequately answered by the proponents of this project.

More information about the Old Town dump, including a detailed timeline of the dump project, can be found at [Documents Access Page](#). These documents are presented as a joint project between **We The People / Against The Dump** and **CommonCoordinates.com**. If you have further information, suggestions, questions or corrections, please contact: [Paul Schroeder](#) or [Stan Levitsky](#).

Needed Posting Now! Waste Management (Norridgewock) [Declines to Bid](#) on Old Town Landfill Contract

Document Date: July 9, 2003. Cast of Characters: Waste Management; George Macdonald; Casella by inference. Posted: March 11, 2005.

Coming Soon: Preview [Dispatch #21](#); [Dispatch #22](#); [Dispatch #23](#); [Dispatch #24](#).

Document Dispatch 20: *Trash truck weights: [How high can they go?](#)*

Document Date: May, 2004. Cast of Characters: Pine Tree Landfill, Maine DEP, Maine State Police. Posted: March 11, 2005.

Document Dispatch 19: *They just make these things up: [When was that meeting, again?](#)*

Document Date: July 15, 2004. Cast of Characters: William Laubenstein, Tom Doyle. Posted: March 10, 2005.

Document Dispatch 18: *"...[there need not be a public hearing...](#)*

Document Date: Dec. 9, 2003. Cast of Characters: John Lord, Cyndi Darling. Posted: March 10, 2005.

Document Dispatch 17: *"...the gov. needs to contact GP Corporate to determine if [this is a deal breaker.](#)"*

Document Date: Nov. 25, 2003. Cast of Characters: Gov. John Baldacci, Jack Cashman, Dawn Gallagher, Cyndi Darling, Paula Clark, Richard Behr. Posted: March 10, 2005.

Document Dispatch 16: *Is this an "expansion"? [Let's Ask the Gov!](#)*

Document Date: Feb. 6, 2004. Cast of Characters: Gov. John Baldacci. Posted: March 10, 2005.

Document Dispatch 15: *Happy New Year! [Bureaucrats Beyond the Call 2004 Award: DEP's Cyndi Darling](#)*

Document Date: Jan. 1, 2004. Cast of Characters: Cyndi Darling, Tom Doyle. Posted: Jan. 1, 2005.

Document Dispatch 14: [Old Town Boys](#)

Document Date: Feb. 3, 2004. Cast of Characters: Alan Stearns, Alan Stormann, John Baldacci, Jack Cashman. Posted: Jan. 1, 2005.

Document Dispatch 13: [By Popular Request: The Two Bid Acceptance Letters](#)

Document Dates: Aug. 14 and 18, and Oct. 8 2003. Cast of Characters: MacDonald, Hiltner, Lamoreau, Bohlig, Meagher, Cashman, Laubenstein, High. Posted: Dec. 4, 2004.

Document Dispatch 12: ["Tighten this up, ASAP."](#)

Document Dates: Jan. 1-4, 2004. Cast of Characters: Darling, Doyle, Stearns, Clark, Landry, MacDonald, Gallagher, Cole. Posted: Nov. 23, 2004.

Document Dispatch 11: [Let's change the laws! \(The Prequel\)](#)

Document Date: May 8, 2003. Cast of Characters: MacDonald, Adams, Cashman. Posted: Nov. 20, 2004.

Document Dispatch 10: [Hey, why not change the laws? \(The Sequel\)](#)

Document Date: Jan. 8, 2004. Cast of Characters: Nimon, Stearns, Cashman, Sosnaud, Douglas, Baldacci.
Posted: Nov. 20, 2004.

Document Dispatch 9: ["...which we are eager to bring to the table..."](#)

Document Date: Jan. 14, 2004. Cast of Characters: Stearns, Baldacci, Correll, Bostic. Posted: Nov. 18, 2004.

Document Dispatch 8: ["...a cash enhancement offer..."](#)

Document Date: Jan. 12, 2004. Cast of Characters: Bohlig, Stearns, Baldacci.

Document Dispatch 7: [Governor's Personal Proposal](#)

Document Date: Jan. 9, 2004. Cast of Characters: Baldacci.

Document Dispatch 6: [We'd better ask the Gov first ...](#)

Document Date: May 10, 2003. Cast of Characters: Lennett, Gallagher, Sawyer, Baldacci.
Posted: Nov. 14, 2004

Document Dispatch 5: ["...no home runs..."](#)

Document Date: Jan. 5, 2004. Cast of Characters: Douglas, Feck, Cashman, Stearns, Nimon.
Posted: Nov. 12, 2004.

Document Dispatch 4: ["Brewer is a total pain in the ass."](#) Document Date: Dec. 9, 2003. Cast of Characters: Landry, Stearns, Ibarguen, Cole. Posted: Nov. 10, 2004.
11/10/04

Document Dispatch 3: ["Commissioner Cashman may be prepared to 'give' on this issue ..."](#)

Document Date: October 9, 2003. Cast of Characters: Lamoreau, Cashman, Wyke, Adams, Lincoln, Stearns, Tracy.

Document Dispatch 2: [The "really exciting news": G-P's "ram-rodding this process"](#)

Document Date: April 25, 2003. Cast of Characters: Cashman, Baldacci, Vigue, Bostic,

Correll.

Document Dispatch 1: [What is out of state waste?](#)

Document Date: June 9-24, 2004. Cast of Characters: MacDonald, Schroeder, White, We The People. Posted: Oct. 26, 2004. 10/26/04

We The People received [Toxics Action Center's](#) 2004 Outstanding Activism Award



Dump Documents Dispatch #1

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With the Board of Environmental Protection hearing of our appeals out of the way as of last Thursday (October 21, 2004), this seems to be a good time to bring some of the information that has been learned in the process of fighting the dump through the established procedural channels. We plan to post one new document every day for at least the next few weeks, in order to provide some snapshot windows into the West Old Town Landfill process.

This first item is one of our favorites. Since we had it was already in digital form, it was easy to get going with it. Some of the future documents will be provided as scanned images, .pdf files, etc., depending on what materials we are working from. Since we have created our own documentation (such as videos of overweight ash trucks going over I-395) some of the future "daily dump documents" will probably be delivered to the web in multimedia form.

In the e-mail message below, George MacDonald, the State Planning Office waste management and recycling person who is managing this project for the State, says he isn't allowed to tell us where to find a definition of "out of state waste," even though for months he and everyong else promoting this project, had been telling the public that there would be no "out of state waste" going into the Old Town landfill. Why weren't they also telling us that there is absolutely no definition of out of state waste that would back up anything they were saying? And another aside: this person is the Director of the SPO's "community assistance team"??

It would be easy to launch off into a whole essay on how this fits into the dump process, but that's not the point of the [Dump Documents Dispatch](#), which is just aimed at getting some of this out for everyone to see.

This is a cooperative project of We The People / Stop The Dump and commoncoordinates.com. If you have questions, reactions, or ideas for future Dump Documents please contact: [Paul Schroeder](#) or [Stan Levitsky](#). Thanks for everyone's support.

From: "MacDonald, George"

To: "'Paul Schroeder'" , "MacDonald, George"

Cc: HLSanborn@aol.com, tamara.levitsky@maine.edu, "White, Lucinda"

Subject: RE: questions about the Old Town dump

Date: Thu, 24 Jun 2004 15:56:41 -0400

1. Mr. Schroeder:

Based upon instructions from the Office of the Attorney General, I am unable to provide responses to questions regarding testimony or the basis of statements made, in light of the litigation that has been filed.

Should you have questions regarding issues connected with this litigation, please direct them to Assistant Attorney General Lucinda White, who represents the State Planning Office and has been assigned to this project.

She has been copied on this e-mail response to you.

George

George M. MacDonald, Director
Community Assistance Team
Maine State Planning Office
184 State Street
38 State House Station (if mailing only)
Augusta, Maine 04333-0038
tel: 207-287-5759
fax: 207-287-6489
web site: www.recyclemaine.com

-----Original Message-----

From: Paul Schroeder [mailto:pauls@commoncoordinates.com]
Sent: Friday, June 11, 2004 8:21 AM
To: MacDonald, George
Cc: HLSanborn@aol.com; tamara.levitsky@maine.edu
Subject: RE: questions about the Old Town dump

Dear Mr. MacDonald.

Thank you for your note. If this the definitions and distinctions regarding out of state waste are not in Maine rules or statutes, where are they made?

What is the basis for various statements made in public meeting, some made under oath, asserting that "processing" of waste in Maine makes it "in-state waste"?

Thanks.

Paul Schroeder
866 7766

At 04:36 PM 6/10/2004 -0400, MacDonald, George wrote:

>Dear Mr. Schroeder:

>

>This e-mail is in response to your recent e-mail (which follows below) where

>you asked to "know where the distinction between waste generated in state

>and out of state is provided in the rules or statutes."

>

>The distinction between "in state" and "out of state" is defined in neither

>the solid waste management rules nor in the Maine statutes.

>

>

>George

>

>*****

>George M. MacDonald, Director

>Community Assistance Programs

>Maine State Planning Office

>184 State Street

>38 State House Station (if mailing only)

>Augusta, Maine 04333-0038

>
>tel: 207-287-5759
>fax: 207-287-6489
>
>web site: www.recyclemaine.com
>
>-----Original Message-----
>From: Paul Schroeder [Mailto:pauls@commoncoordinates.com]
>Sent: Wednesday, June 09, 2004 2:37 PM
>To: george.macdonald@maine.gov
>Cc: HLSanborn@aol.com; tamara.levitsky@maine.edu
>Subject: questions about the Old Town dump
>
>June 9, 2004
>Dear Mr. MacDonald:
>
>Several assertions have been made in public meetings regarding what
>qualified as "in-state" vs. "out of state" waste.
>These referred to ash, by-pass and C & D. I have not found any statements
>defining these terms in Maine rules or statutes.
>There is a statement about "dumping" out of state waste in the statutes but
>it seems to apply to littering and unauthorized dumping, not to landfilling.
>Please let us know where the distinction between waster generated in state
>and out of state is provided in the rules or statutes.
>Thanks for your help,
>Paul Schroeder
>866 766
>cc: Laura Sanborn, Stan Levitsky

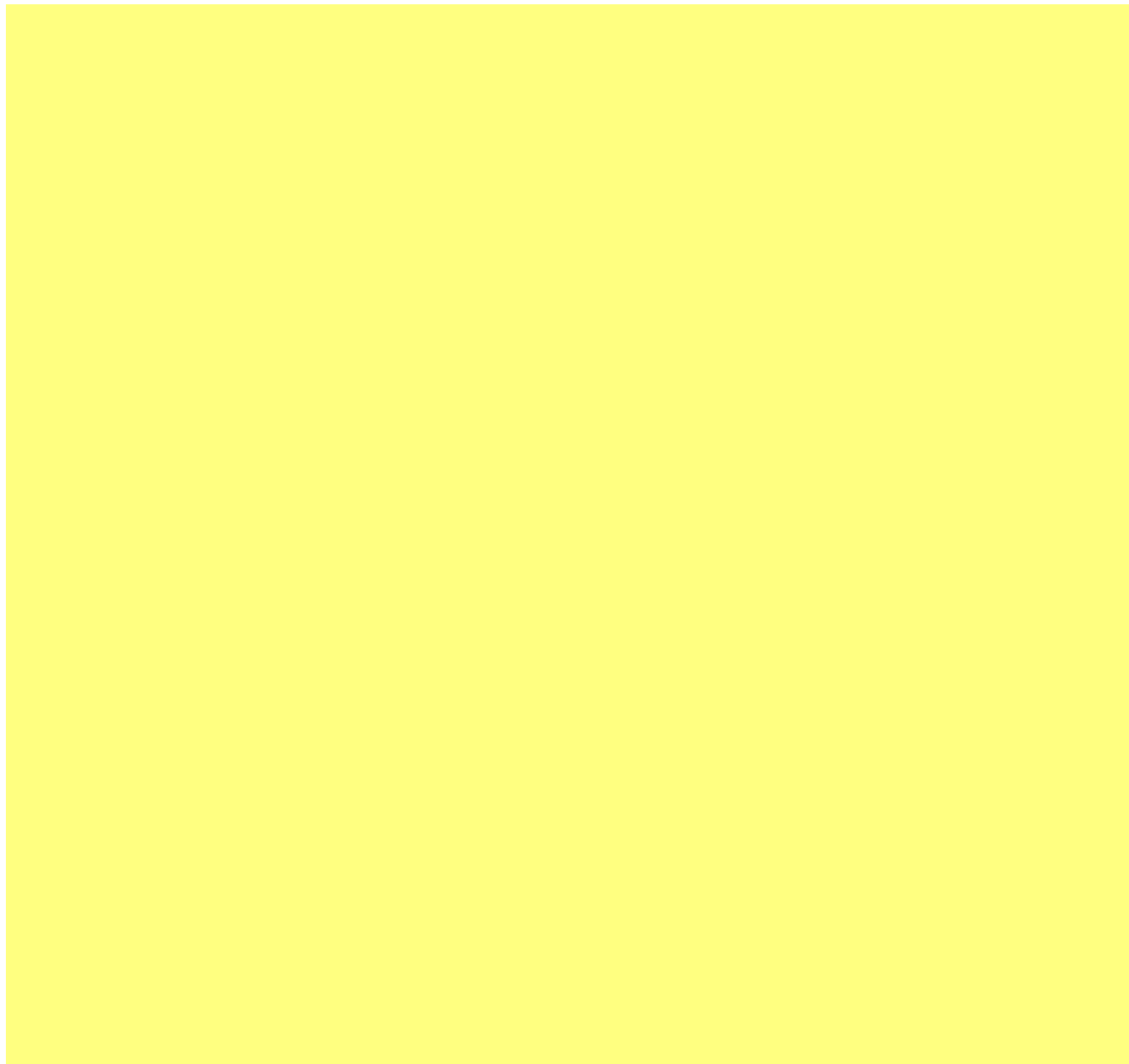
Dump Documents Dispatch #2

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This is the second Dump Document Dispatch. [Dispatch #1](#) left you hanging as to the definition of "out of state waste," and we'll leave you in anticipation for the memo that gives us the answer. Today's Dispatch, a memo to Gov. Baldacci from his "Senior Policy Advisor" Jack Cashman, sets the stage for the coming landfill debates. Read it as you will. How it fits in with the rest of the story will eventually become clear.

This is a cooperative project of We The People / Stop The Dump and commoncoordinates.com. If you have questions, reactions, or ideas for future Dump Documents please contact: [Paul Schroeder](#) or [Stan Levitsky](#). Thanks for everyone's support.



STATE OF MAINE

Office Of The Governor

John Elias Baldacci
Governor

Jack Cashman
Senior Policy Advisor

TO: Governor John Baldacci
FROM: Jack Cashman
RE: Georgia Pacific
DATE: April 25, 2003

We have made great progress in our dealings with GP and I wanted to bring you up-to-date on our activities.

Management people from GP flew to Montreal today with Pete Vigue to finalize the deal for the transfer of ownership of the biomass boiler.

I meet at 3PM today with representatives from Casella to discuss their proposal to join with the City of Old Town to buy/operate the GP landfill in Old town. They met with GP officials last night.

I have had a series of meetings with people from State Planning and DEP to work on details of a plan to have the State buy the landfill as an alternative to Casella. Both Planning and DEP are very high on this alternative and for many reason it appears to be the way to go.

I have a 3:30 PM meeting on Monday with GP executives and representatives from Planning and DEP to choose between the landfill options and set in motion the process of closing that deal.

Now for the really exciting news, Jim Bostic has been up here from G.P. in Atlanta ram-rod-ding this process, and he talked to Pete Correll today. Pete told him that if everything goes well on Monday (which it will) that we should arrange a time for the Governor and Pete to make a joint announcement late next week that they are opening back up the tissue machine and six converting lines and bringing back 150 workers.

Let me know how you want me to arrange this.

Dump Documents Dispatch #3

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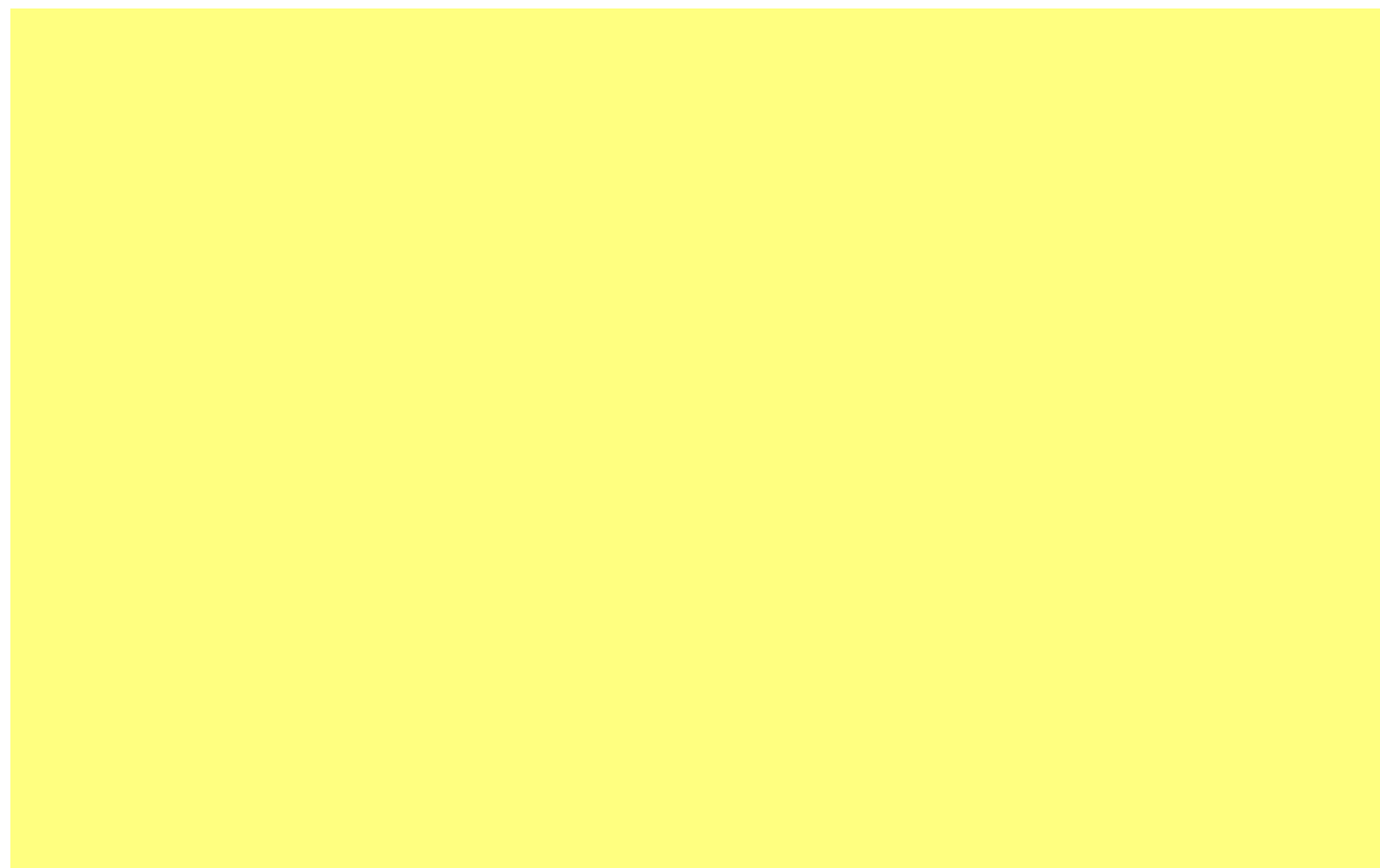
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There are checks and balances that aim to keep governmental processes within established bounds of the law. There are internal controls over activities such as soliciting contracts to do work for the state. The West Old Town Landfill process showed that some of these controls were at least partially functioning. These include the Attorney General's office (the same one that is co-authoring briefs with the private sector dump developers, deferring to private attorneys to argue the State's case before the Board of Environmental Protection, and serve as advisors to the BEP, DOT, Governor, DEP and SPO -- for those new to this: Dept. of Transportation, Dept. of Environmental Protection, and State Planning Office) and the Division of Purchases. Staff in the Office of the Attorney General, apparently, did force this project out to bid in the first place.

Today's document is taken from the saga, which lasted several months, concerning exactly how large a "performance bond" would be required from Casella before they could be given the contract to run the landfill. Briefly: a \$50 million bond was required, and Casella worked relentlessly to avoid securing the bond. In the end, they were successful in avoiding meeting the terms of this part of the RFP (request for proposals). One of the main questions surrounding the dump deal is whether the State's internal controls provided adequate protection to the public and competing providers. See also [Dispatch #13](#) for the revised letter of acceptance from the State to Casella, removing all mention of the \$50 million bond from the letter, at Casella's demand.

In coming Dispatches we will provide notes from the meeting that is mentioned here, and will document the answer to the question: Did Cashman "give" on this issue?

The Document Dispatch is a cooperative project of **We The People / Stop The Dump** and **CommonCoordinates.com**. If you have questions, reactions, or ideas for future Daily Dump Documents please contact: [Paul Schroeder](#) or [Stan Levitsky](#). Thanks for everyone's support.



Adams, Kurt

From: Wyke, Rebecca
Sent: Thursday, October 09, 2003 2:37 PM
To: Adams, Kurt
Subject: RE: Potential issue

Oh thanks...

-----Original Message-----

From: Adams, Kurt
Sent: Thursday, October 09, 2003 2:35 PM
To: Wyke, Rebecca
Cc: Lincoln, Jane; Stearns, Alan
Subject: RE: Potential issue

I am conflicted out. Talk to Alan.

-----Original Message-----

From: Wyke, Rebecca
Sent: Thursday, October 09, 2003 2:33 PM
To: Adams, Kurt
Cc: Lincoln, Jane
Subject: FW: Potential issue

Would you like to talk with Jack or should I?

-----Original Message-----

From: Lamoreau, Betty M.
Sent: Tuesday, October 07, 2003 11:41 AM
To: Wyke, Rebecca
Cc: Tracy, Sandra J
Subject: Potential issue

Hi, Becky. I will be meeting tomorrow afternoon in the Cabinet room with several folks interested in the contract with Casella Waste Systems for the operation of the Georgia Pacific landfill in Old Town. The RFP put out by the State Planning Office and approved by Purchases required that bidders have a Standard and Poors rating of at least "BBB." If not, they were to provide evidence of the ability to secure a performance bond of \$50M in order to bid, and would have to actually secure said bond before execution of a contract, if they were the selected bidder.

Casella's S&P rating is "BB-", which is a "speculative grade" considered "questionable." (The required BBB rating is an "investment grade" considered "adequate.") Casella's attorneys are arguing that we didn't really mean that they'd have to secure a bond, only that they had to show proof that they could secure one. I disagree with that stance, as does Bill Laubenstein. Because Casella put \$12.5M up front, Bill and I agree that a bond of \$37.5M would be acceptable. Anything short of that would be a significant variance from the terms of the RFP, and against the law.

I've been told that Commissioner Cashman may be prepared to "give" on this issue, and push for a bond somewhat lower than \$37.5M. In good conscience, I can't agree to that. Just wanted you to know that this may become an issue. I'll be happy to talk to you at your convenience, if you like. Thank you. Betty

Betty Moore Lamoreau, Acting Director
Division of Purchases

Dump Documents Dispatch #4

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We have been considering whether to continue with these relatively minor and obscure (but tantalizing) memos, or whether to go directly to the "big guns." Maybe it's best to continue with a few more random memos that may inspire questions without telling the whole story.

Today's gem is from the Maine Dept. of Transportation's project engineer Steve Landry to Gov. Baldacci's assistant, Alan Stearns. **What this is all about: Brewer and other towns (including Orono, Eddington, Bradley and Hampden) were having a "problem" with huge trash and ash trucks coming through the main streets of their towns.** Not least because most of the towns had not been told about the project. Brewer was the most bothered. Its town manager Steve Bost showed up at the first Elks Club meeting Jan. 21, 2003, and was shaking with red-faced outrage at the way the DEP and DOT were going about pushing this project.

Though Brewer made a formal request for public hearing and also requested that the Board of Environmental Protection take direct jurisdiction over this project, out of the clearly biased hands of the DEP, they eventually "withdrew" this request -- after the DEP denied their request for hearings and recommended to the BEP (with Wardwell still sitting in the Chair?) that the Board not take jurisdiction. What happened to make Brewer withdraw their request? Were they satisfied with the new "alternative" haul routes? Or were they merely realizing a bit late that those who go along get along, and the DOT could make its life difficult in the future. As this memo says, "... the next development in Brewer is going to be in a lot of trouble." These are our public servants at work??

For more details on overweight trash trucks, see [Dispatch #20](#).

The Document Dispatch is a cooperative project of We The People / Stop The Dump and commoncoordinates.com. If you have questions, reactions, or ideas for future Dump Documents please contact: [Paul Schroeder](#) or [Stan Levitsky](#). Thanks for everyone's support.



Stearns, Alan

From: Landry, Stephen
Sent: Tuesday, December 09, 2003 10:18 AM
To: Stearns, Alan; Ibarguen, Bruce; Cole, David A
Subject: RE: OT landfill

Alan,

Brewer is a total pain in the ass. They laid it on the line that they don't want these vehicles traveling through their lovely city. They said that we should tell the landfill that they have to haul less than 80,000 lbs per load and make them run out on the interstate. This isn't within my jurisdiction to make them and would be a price increase for them to haul using more vehicles and drivers. No price adjustments can be made to the contract with Casella, so if this were to happen, it would have to go out to bid again, made a condition of the RFP and could take approximately 3 - 4 months and the price per ton may not be acceptable to towns wanting their stuff hauled to this site. Brewer said this thing was pushed out way to fast. That all the towns in the area should have been consulted prior to putting out the RFP for the facility and that the state as the owner should have required more stringent control over the traffic and where it could go. The volume of trucks for this development are piddly. They are definitely asking us to discriminate against the trash hauler and I can't find anything anywhere that let's us discriminate. Either a roadway can handle a truck or it can't. The weight is the key and should not matter what it is hauling.

I am going to finish the review for the current haul route and other alternatives and get them to DEP by Friday's deadline. I am pulling out all the high crash locations along the corridor, because Brewer made a stink about getting these sites need to be corrected, I should have that information this afternoon. DEP's rules are very vague "Safety along the whole haul route" No definition about what safety is. There is only one High crash Locations in Brewer. Someone is going to appeal this and it will probably be Brewer. If they truly want to interpret and follow the standards they say, the next development in Brewer is going to be in a lot of trouble. This was the worst case of NIMBY I have ever seen and they were down right blatant about their intent.

-----Original Message-----

From: Stearns, Alan
Sent: Tuesday, December 09, 2003 8:40 AM
To: Landry, Stephen; Ibarguen, Bruce
Subject: OT landfill

How'd it go yesterday?

Alan Stearns
 Senior Policy Advisor
 Office of Governor Baldacci
 State House Station #1
 Augusta, ME 04333-0001
 (207) 287-3531 (voice)
 (207) 287-1034 (fax)
alan.stearns@maine.gov
<http://www.maine.gov/governor>

Dump Documents Dispatch #5

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This is one of our favorites, and it begins to get to the heart of the dump deal, which is basically about giving money to Georgia Pacific. The landfill sale was only part of a larger overall financial package. The final sale price for the State to buy the landfill from G-P (which equals the amount paid by Casella to the State for the privilege of running it) was either \$26 million or \$31 million, depending on how you account for a separate \$5 million side deal between Casella and G-P. Now we know that the financial benefits to G-P for this entire deal over 30 years are in the range of \$160 million and up. This includes landfill sale, other cash, tax breaks, below-market fuel cost subsidies, sludge and ash disposal at below-market subsidies, and reduced electric rates.

From the time of the earliest contacts between the State and G-P about this deal (April, 2003), the State's position has been to listen and to comply, while G-P spelled out its requirements and expectations of financial incentives they needed to stay in Maine. The upfront cash, in the form of Casella's bid to run the landfill commercially, was one piece among various internal corporate efforts to increase G-P's bottom line for calendar 2003, as well as to find a way to close one or the other (or both) the Old Town mill and G-P's similar mill in Plattsburgh, New York. All very complicated, but the State jumped right in. No problem. What can we do for you? Or, as the Bangor Daily News put it in an editorial May 3, 2003 titled "Reprieve on the Penobscot," Baldacci's efforts on behalf of G-P's Old Town mill are a welcome sign that "...Maine is open for business."

By December, G-P was apparently not satisfied with the dollars forthcoming. After letting the State know that they might close the Old Town mill in any case (at least this is our reading of several memos -- please stay tuned) more millions were offered, mostly in the form of increased tax breaks. Rick Douglas, a manager at the Old Town mill, apparently didn't see any need to be subtle: "...a good collection of 'singles and doubles'...no home runs..." It seems that the home runs showed up within the next few days.

For accuracy, there seems to be an error in the memo below. The figures given as "\$800-\$900m" and "\$300m" should probably be read as thousands, not millions.

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Cashman, Jack

From: Douglas, Rick (OLT) [Rick.Douglas@gapac.com]
Sent: Monday, January 05, 2004 8:34 AM
To: 'alan.stearns@maine.gov'; 'jack.cashman@maine.gov'
Cc: Feck, Ralph (OLT)
Subject: FW: G-P Expansion



GP-Old
Town.doc

Alan / Jack....

Quick summary of where we are.....

Jim Nimon's file below contains cost savings benefits to GP Old Town in the \$800-900m range annually. (TIF CEA & E-TIF)

We also can claim the future tax savings from Old Town's landfill HCB which should flow in lower tax rate to us (\$300m per year)

The potential for Green credits for the biomass boiler (\$\$ estimate TBD)

The Executive Order for the Wood sourcing Task Force

Low interest financing for expansion (FAME)

Good start....My cut is this is a good collection of "singles and doubles"...no home runsand is a bit "light" in terms of getting people excited...

Let's talk more today and Tues....Bostic wants a look at these pieces by Wed...

rick

-----Original Message-----

From: Nimon, James [mailto:James.Nimon@maine.gov]

Sent: Monday, December 29, 2003 10:51 AM

To: Douglas, Rick (OLT)

Subject: RE: G-P Expansion

Rick - I've added the column we discussed (incremental bottom-line benefit).

I also left ETIF estimate based on 100 net new jobs. Do you need anything

else from us at this time? Will you be presenting to corporate next week? Am

I right to think that the landfill closing will not occur this calendar year? Let me know if you have any other questions prior to your presentation. I may follow-up with phone call this afternoon just to be certain you received this email. Best regards, Jim

Jim Nimon, Program Manager
Office of the Commissioner
Department of Economic and
Community Development
59 State House Station
Augusta, ME 04333-0059

Dump Documents Dispatch #6

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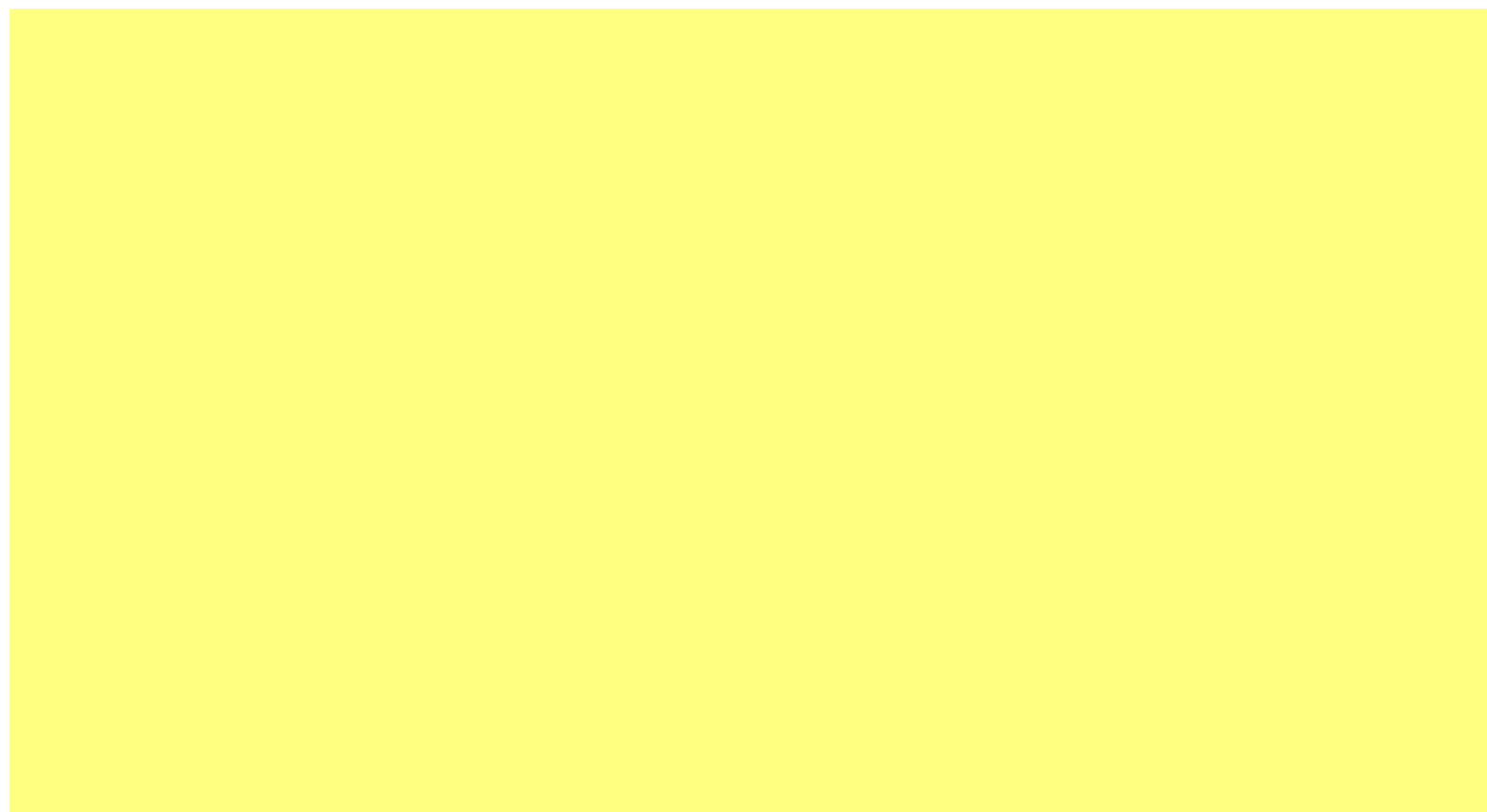
Many of the issues involved in upcoming appeals to the courts of the Board of Environmental Protection's decision about the West Old Town Landfill (WOTL) center around important questions about whether the DEP acted outside its statutory authority during the permitting process. For instance, is the DEP allowed to begin "substantive review" of an application before that application has been received as "complete for processing"? The courts must decide, we believe, whether the DEP acted within the bounds of their own Chapter 2 rules of procedure.

Of related interest is DEP involvement in early planning and decision making meetings related to the transfer of the landfill, whether as originally conceived directly from Georgia-Pacific to Casella, or as latter arranged, from G-P to Casella via formal State ownership. Since DEP staff were documented as participating in early meetings with the Governor's office, edited the Resolve, and wrote the first draft of the RFP, we need to ask: Why was the DEP involved to this level at this stage of the process? We have been advised that perhaps this involvement is customary and legitimate, unless perhaps decision makers are involved.

As the document below shows, the DEP's only decision maker in this process, Commissioner Dawn Gallagher, was involved, even to the point of vetting good alternative ideas with the Governor before responding (if ever.) Why was only one proposal ever on the table, while all alternatives were sidetracked? What exactly is the relationship between the Governor, the "decision maker," and the corporate client?

Read on, and draw appropriate conclusions as to the entanglements, and whether these relationships could ever possibly result in fair outcomes. Also: does anyone out there who may be reading this know the current whereabouts of David Lennett?

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Adams, Kurt

From: Gallagher, Dawn R
Sent: Saturday, May 10, 2003 5:56 PM
To: Lennett, David
Cc: Adams, Kurt; Cashman, Jack
Subject: FW: GP Landfill

Dave,

In case you wondered, I don't think we should answer this email until we meet with the gov's office.

Dawn

-----Original Message-----

From: SenatorSawyer@aol.com [mailto:SenatorSawyer@aol.com]
Sent: Saturday, May 10, 2003 4:40 PM
To: Lennett, David
Subject: GP Landfill

David,

Since you were the one quoted in the Bangor Daily News regarding the GP Landfill, I thought it proper to copy you my thoughts to Kurt and Jack regarding "ownership". I continue to believe ownership by either the MRC or PERC would make the most sense for all concerned! GP could get some cash and reduce their disposal costs. 144 towns would have a disposal site for their Ash, FEPR and C&D wastes. The DEP could continue in its current role of Regulator. When CWST or WMI finally fill up, we could revisit the rules at the Old Town facility then ... I've heard a rumor that Jack is planning on having the State "own" the facility, and negotiate with a private operator (no RFP process)! to enjoy "super" operation rights (if it looks like a Commercial Landfill ... it is!). if that's the course we're on ... I can predict some interesting debates with Joanne, Beth, etc., when we allow a Commercial Landfill to be created without changing State law.

Anyway, I thought it proper to try to keep you in the loop. At least the loop I'm up to speed on. Hopefully, you'll be able to reciprocate down the road.

Tom Sawyer

Dump Documents Dispatch #7

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In [Dispatch #5](#) we learned that Georgia-Pacific's requirements were not met by **the State's additional offer on December 18, 2003 of \$23 million in tax breaks over 20 years** -- in the words of G-P manager Rick Douglas, a "good collection of 'singles and doubles'" but "no home runs." Wasn't there something more that the State could do for G-P?

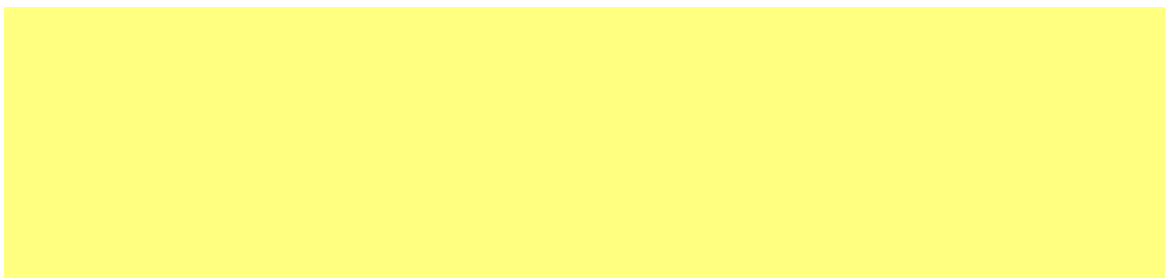
Within a few days the question became critical, since G-P had decided to postpone the closing on the sale of the landfill by G-P to the State. The idea that the deal might fall through at the last minute caught the attention of both the State and Casella. For the State, it meant coming up in early January, 2004 with **further financial incentives, totaling \$3-4 million per year over the next five years**, or \$15-20 million above the \$23 million offered in December (and above the \$25 million paid for the landfill, and above the long-term below-market prices for biomass fuel and sludge dump capacity). For Casella the loss of this deal would mean the loss of the most critical component in its longterm business strategy, a massive boost in its landfill capacity.

Apparently, the critical missing piece in these new offers was actual cash. Please bear with us: the picture is complicated, but it is getting clearer. The entire purpose of the landfill deal was to provide an immediate cash boost to G-P. The State had no cash handy for bailout purposes -- enter Casella, who came up with \$25 million for the landfill. This amount may have been enough to pay for the biomass boiler that G-P claimed it needed to reduce its long-term energy costs. But what about adding further capacity to the Old Town mill in the form of new machines or lines, which probably would be started up in Old Town and closed down in their competing sister mill in Plattsburgh, New York? **Where would the \$5-10 million come from to make that happen?**

Because this whole story has never been told publicly, by the State, or by Casella, or by G-P, or by the news media, we can't claim that our interpretation of the documents is true, or that it is the only story that can be told about this deal. The scanned page below, taken from a new proposal made by the State to G-P on January 9, 2004, suggests that the cash G-P needed would soon be forthcoming.

One apparently minor detail in the final transaction has largely escaped public notice. The landfill price had until this time been reported as \$25 million. More recent reports put it at \$26 million. **Where did the extra \$1 million come from, and why?** In the final Operating Services Agreement, an extra \$1 million was added to the contract in the form of a cash escrow account, called the "Improvement Fund," that could be drawn upon by G-P with the Governor's approval, when certain mill improvements were in place. As will be shown in future dispatches (see [Dispatch #8](#) and [Dispatch #9](#)) the \$1 million was offered by Casella, along with another \$5 million, to keep the deal on track. It seems that the "Additional One-Time Funds" referred to in the document below represent the **further \$5 million cash commitment that was brought forward from Casella.**

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Governor's Plan to Benefit GP Retention-Expansion

- **Governor's Commitment -**
\$1,000,000 (year one equity injection)
- **Governor's Personal Proposal -**
Additional One-Time Funds
(to be presented personally on Monday)



Dump Documents Dispatch #8

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In [Dispatch #7](#) we saw that the possibility of millions in additional cash for Georgia-Pacific showed up as part of the supplementary economic incentive package being offered by the State on January 9, 2004. **Where were these millions coming from?** Apparently Casella had drawn the conclusion that unless they came up with a few more millions, there would be no deal. Three days after Gov. Baldacci let G-P know that more money was on the way, Casella's President Jim Bohlig sent the letters below that apparently made the offer official.

This is the first multi-page Dispatch, 3 pages. The original letter (2 pages) and the clarification all were sent the same day, and need to be read together. It is hard to resist further speculation on all that may have been going on during the first two critical weeks of 2004. Until alternative explanations are publicly offered, the documents mostly have to speak for themselves.

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January 12, 2004

Via Fax 207-287-1034 *and*
Via email alan.stearns@maine.gov
Mr. Alan B. Stearns
Sr. Policy Advisor
Governor Baldacci
Augusta, ME 04333

RE: Contract for Landfill Operation

Dear Mr. Stearns:

During the past 6 months the Maine State Planning Office, in conjunction with the Governor's office, has undertaken an effort to obtain the services of a qualified entity responsible for the operation, development and expansion of an existing landfill located in Old Town, Maine currently owned by Georgia Pacific Corporation. The State of Maine, through their Request for Proposal for Contract for Landfill Operation, has worked to ensure that world class sustainable paper making operations continue to exist within the Old Town environment while at the same time, creating long-term sustainable Waste Management and Recycling assets for the State of Maine.

As you are aware the State Planning Office awarded, subject to successful negotiations on mutually agreeable terms, to Casella Waste Systems the Contract for Landfill Operation contained in the Request for Proposal.

Over the past 3 months, the State of Maine has developed a comprehensive economic package which they feel will further foundationally support long term, state of the art paper making resources within the State of Maine. Because of the importance of this goal and the critical nature of ensuring that adequate incentives are available to enhance paper making competitiveness of these resources, Casella Waste Systems, Inc. is pleased to offer an enhancement to its existing Contract Offer of a \$1,000,000 cash contribution which can be used by the Governor's Office in developing strategic resources for the Old Town Georgia Pacific paper making operation. This offer is a cash enhancement offer to our existing offer and would be paid at closing under all of the current conditions which have been negotiated between the parties.

In addition, we have examined our offer and believe that substantial front-end benefits will be realized by Georgia Pacific in locating paper making operations from other venues to the State of Maine through the reconfiguring of our existing offer for sludge disposal and biomass supply.

Mr. Alan B. Stearns
January 12, 2004
Page 2

In order to incentivize Georgia Pacific to this outcome, Casella Waste Systems, Inc. is prepared to offer \$5,000,000 of Additional Cash Reimbursement (ACR) upon the completion of paper making conversion upgrades now contemplated by Georgia Pacific. This cash contribution is an alternative to the existing offer, including the \$1,000,000 enhancement discussed above and remains valid and available to the State at their sole selection. This ACR is affected through an enhancement of our sludge and biomass supply benefits contained in our initial offer.

In order to affect this ACR, Casella Waste Systems, Inc. would propose a modification of the biomass supply contract from \$4.00 to \$8.00 per ton beginning in year 6 and a modification to the sludge disposal contract from \$10.00 to \$25.00 per ton beginning in year 6. This ACR is designed to provide substantial additional improvement to the net present value of the original offer and is offered as an alternative should this assist in locating cash resources necessary to incentivize Georgia Pacific's decision to develop long term sustainable paper making operations in the State of Maine.

All other terms of our offer remain valid and this acceleration of cash payment may be negotiated at any time after execution of the contract upon mutually satisfactory terms for the State of Maine and Georgia Pacific.

Casella Waste Systems, Inc. as a regional integrated solid waste provider for the State of Maine remains fully committed to the enhancement of long term paper making and waste management resources for the State of Maine. We believe that the capital which is being produced as a result of this transaction allows the State of Maine and Georgia Pacific to develop world class sustainable paper making operations while at the same time creating sustainable waste disposal options for the State of Maine. These important goals are achieved while at all times meeting legislative criteria of "Revenue Neutral" to the taxpayers of the State of Maine.

We are pleased to be part of this unique partnership and believe that such an undertaking will result in long term economic competitiveness for all businesses within the State of Maine.

Sincerely,

James W. Bohlig
President & COO

January 12, 2004

Via Fax 207-287-1034 and
Via email alan.stearns@maine.gov
Mr. Alan B. Stearns
Sr. Policy Advisor
Governor Baldacci
Augusta, ME 04333

RE: Clarification to Contract for Landfill Operation.

This letter is being written in response to a clarification request from our letter dated January 12, 2004 (Re: Contract for Landfill Operation).

Casella Waste Systems wishes to clarify that the Additional Cash Reimbursement (ACR) of \$5,000,000 is in addition to the existing offer, including the \$1,000,000 enhancement discussed in the body of the above-referenced letter. Taken together, Casella Waste Systems, Inc. is offering \$6,000,000 of additional cash benefits associated with the Contract for Landfill Operation. \$1,000,000 of this is offered without condition to the existing transaction and the balance of the cash contribution (\$5,000,000) is tied to a reconfiguration of the biomass and sludge disposal supply benefits as discussed in the letter.

I hope this clarification assists you in your discussions with the other parties.

Sincerely,

James W. Bohlig
President & COO

Dump Documents Dispatch #9

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In [Dispatch #8](#) a cash infusion of \$6 million from Casella to Georgia-Pacific via the State was offered. Was this offer accepted in full or formally? The day after the new cash "enhancement offer" was made, Gov. Baldacci spoke with G-P's Chairman and CEO Pete Correll, and one day later the Governor's assistant Alan Stearns sent the follow-up message that is reproduced below.

There are gaps in the documentary record that we have obtained so far. Though \$6 million was offered (\$1 million without conditions, and \$5 million with conditions involving restructuring of the long term biomass fuel and sludge dump contracts) we don't know that this entire offer was actually accepted, formally or informally, by G-P. We do know, however, that an additional \$1 million showed up in the final Operating Services Agreement, in the form of an escrow cash account called the "Improvement Fund." And we have seen nothing that indicates that this offer was not accepted. Suddenly, a deal that was in trouble in late December was again on track. Both the land purchase and the Operating Services Agreement were completed about three weeks later, on February 5, 2004.

What is the problem here, if any? This seems to be a question for the legal system to sort out, at this point. Until then, it is our intent to make details of this deal publicly known, so that other eyes and minds than our own can begin to judge what the West Old Town Landfill is really all about.

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From: Stearns, Alan
Sent: Wednesday, January 14, 2004 9:28 AM
To: Jim Bostic (jebostic@gapac.com); Pete Correll
Subject: Governor Baldacci's proposals

Mr. Correll:

Following last evening's conversations with Governor Baldacci, attached are documents which describe the additional \$1M and \$5M which we are eager to bring to the table. As the Governor mentioned, the \$5M is necessarily conditioned upon certain restructuring of terms with Casella Waste Systems, which we believe will be favorable to GP's interests. I look forward to working with your team to develop new jobs in Old Town, and we all appreciate your commitment to all existing jobs in Maine. Please don't hesitate to contact me or the Governor for any reason.

Alan Stearns
Senior Policy Advisor
Office of Governor Baldacci
State House Station #1
Augusta, ME 04333-0001
(207) 287-3531 (voice)
(207) 287-1034 (fax)
alan.stearns@maine.gov
<http://www.maine.gov/governor>

Dump Documents Dispatch #10

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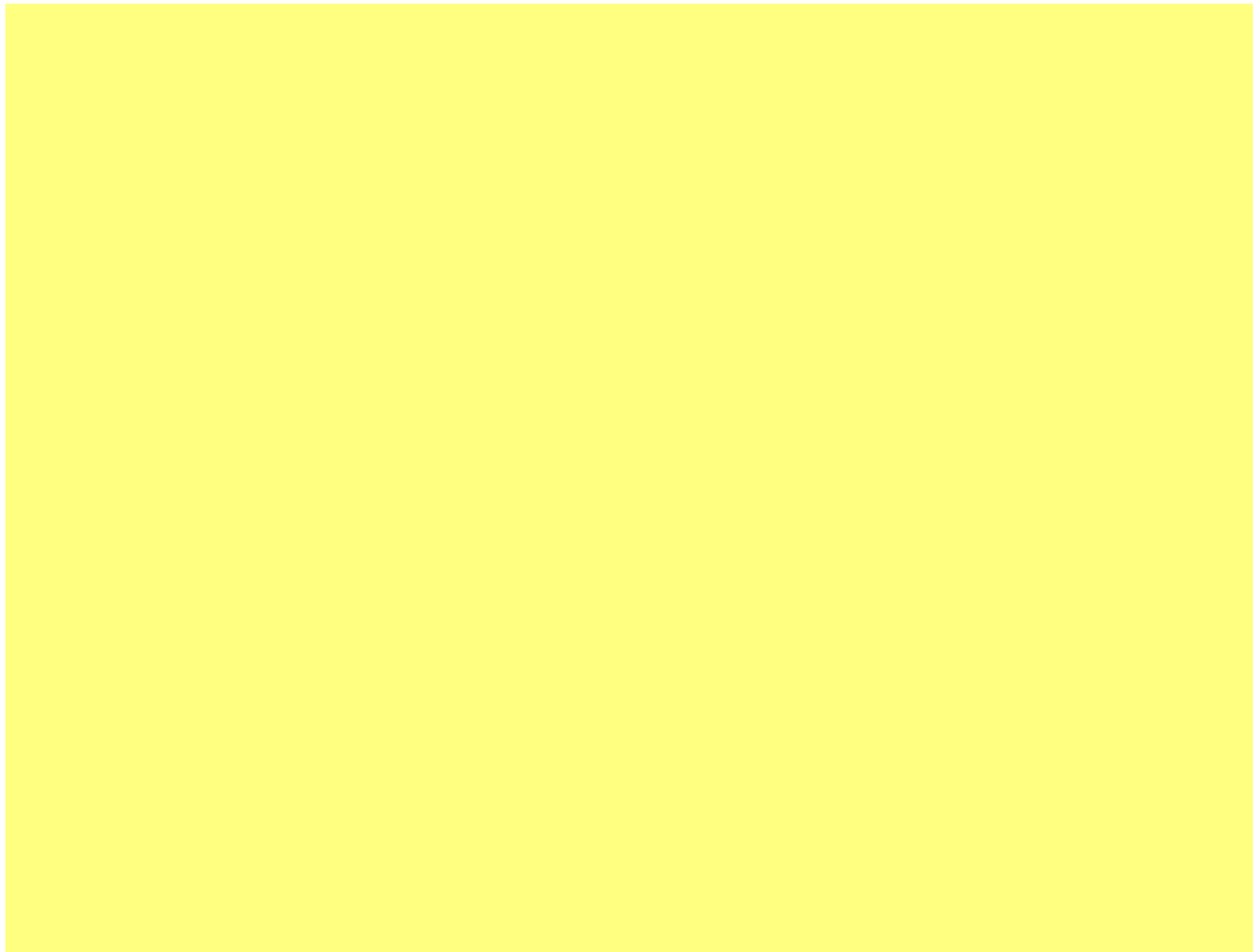
Go to [Dump Documents Home Page](#)

In earlier Dispatches we learned that many financial incentives were offered to Georgia-Pacific by the State, over and above the cash up front (and further "cash enhancements" up front) from Casella to pay for the rights to run the dump (see for instance "...no home runs..." in [Dispatch #5](#)). The State really, really wanted to prove to G-P that it could hit the ball.

Though the total gifts to G-P would amount to over \$160 million over the 30-year landfill and fuel supply deal, a few dollars in the form of an "ETIF" tax break might not be available. The problem? They weren't allowed by law. Always inventive, the dauntless staff at the Department of Economic and Community Development (DECD) decided that tweaking the laws a bit, exempting G-P from the statutory requirements related to job creation (wasn't this supposed to be all about jobs ...?), would fix it. Can't hit a home run, you weaklings? Not a problem. Let's just rebuild the ballpark.

So here you have it, and in [Dispatch #11](#) you'll see it again -- but that time it's the landfill siting laws that would need to be changed. And our trusty state bureaucrats will be standing by, telling the corporate sector exactly what laws will need to be undone to make it all happen. Stay tuned.

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Cashman, Jack

From: Nimon, James
Sent: Thursday, January 08, 2004 3:33 PM
To: Stearns, Alan
Cc: Cashman, Jack; Sosnaud, Jeff
Subject: G-P ETIF

Rick and I spoke today about whether to include the 100 jobs and the corresponding \$1.6 million from ETIF. He's worried about overstating benefits that may not pan out. Just so we're all on the same page: ETIF is a high quality job creation incentive. The law on the books today would not permit one penny of reimbursement for the 100 jobs because of the need to establish a job baseline from the higher of 12/31/03, or the average of the 3 previous 12/31's. To illustrate, G-P has a workforce of 450 as of 12/31/03; the figure balloons to 552 when averaged over three previous year ends, wiping out the 100 jobs in the proposal. One remedy is a private & special law that authorizes the department to alter the ETIF definition of "base level of employment" for its review of G-P's CY2004 development program. Jack just told me by phone that if all other pieces of this deal come together as planned, he and Governor will seek legislative support for the P&S law. I'll let Rick know generally about our plans for support but won't be sharing specific language yet (see attached draft). He and I will be reviewing the latest G-P proposal draft this afternoon (G-P prefers powerpoint, so we're re-formatting). Let me know if you have questions.



G-P P&S
 Law.doc

Jim Nimon, Program Manager
 Office of the Commissioner
 Department of Economic and
 Community Development
 59 State House Station
 Augusta, ME 04333-0059
 Phone: (207) 624-9822
 Fax: (207) 287-5701
james.nimon@maine.gov
www.econdev.maine.com

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DRAFT FOR THE COMMISSIONER'S CONSIDERATION

PRIVATE & SPECIAL LAWS OF MAINE

Second Regular Session of the 121st

CHAPTER XX

H.P. XXX – L.D. XXXX

An Act to Allow the Department of Economic and Community Development to adjust the definition of Base Level of Employment for Georgia-Pacific of Old Town's Employment Tax Increment Financing Development Program

Emergency Preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the City of Old Town has already lost manufacturing jobs in the pulp and paper industry, a significant employer in the community; and

Whereas, the City of Old Town may lose more manufacturing jobs in the pulp and paper industry should Georgia-Pacific be forced to close operations and consolidate outside of Maine; and

Whereas, the Legislature has established an employment tax increment financing program, the Maine Revised Statutes, Title 36, chapter 917, as a state economic development tool to permit employers to finance high quality job development; and

Whereas, Georgia-Pacific desires to take immediate steps to bring an additional paper machine on line and significantly increase employment in Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec 1. Authorization to adjust the definition of base level of employment.

Notwithstanding the Maine Revised Statutes, Title 36, chapter 917, for the purposes of approving Georgia-Pacific of Old Town's CY2004 ETIF development program, the Department of Economic and Community Development may define "base level of employment" as the total employment of a business as of the December 31st immediately preceding the approval of the employment tax increment financing development program.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

January 8, 2004

Dump Documents Dispatch #11

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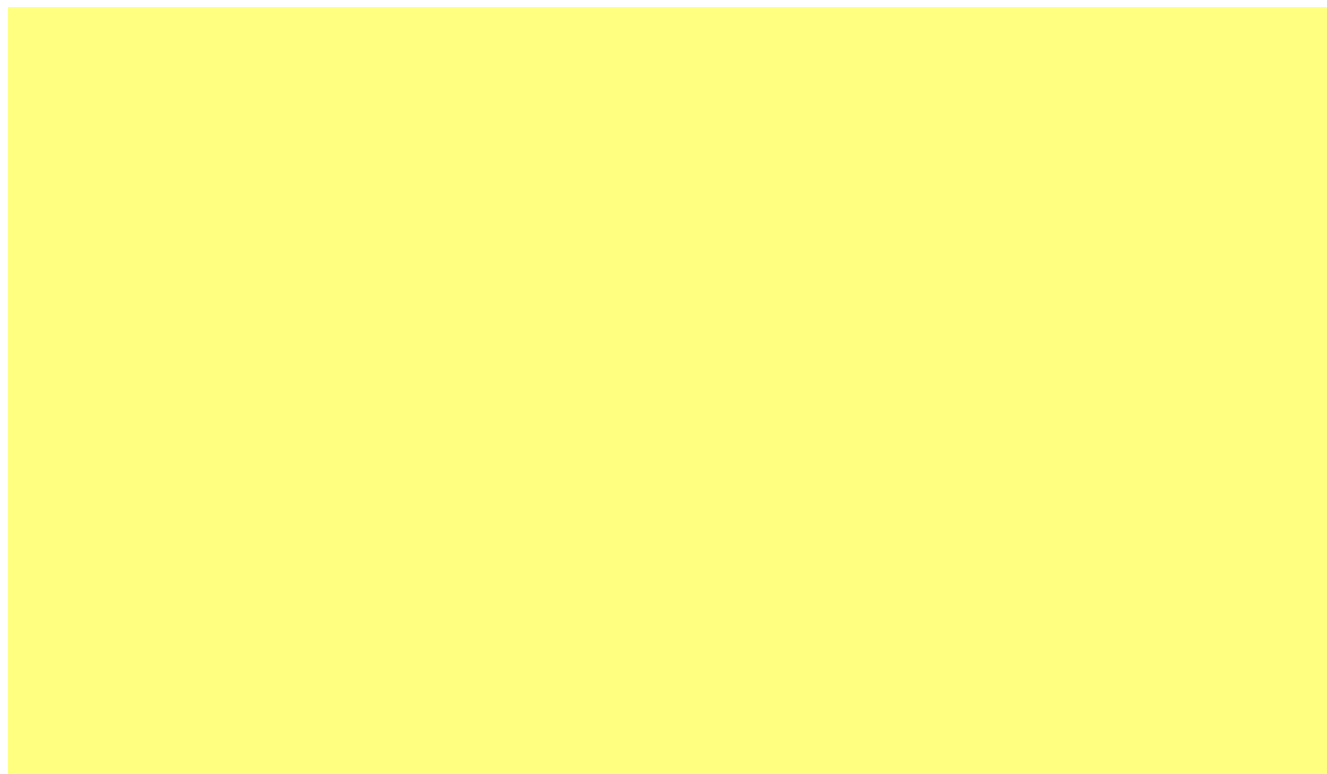
Go to [Dump Documents Home Page](#)

In the previous [Dispatch #10](#) we found our State officials busily scratching their heads to find a way to exempt G-P from existing job creation laws. It's not hard to remember the parallels from last year, when existing laws would not allow Casella and G-P to "commercialize" the West Old Town Landfill all on their own. The State would have to be involved. But even if it were involved, there was the matter of existing landfill siting statutes that might get in the way. As is so elegantly stated in the memo below by George MacDonald, the State's solid waste manager at the State Planning Office, "This G-P opportunity doesn't fit neatly into what was planned." That is, into the existing rules set up by the Legislature regarding the siting of State-owned landfills.

This was the scenario when the need for a Legislative Resolve became apparent to the dealmakers. Mr. MacDonald of the SPO as well as David Lennett of the DEP offered their services to help make this happen (as an aside we ask again, why was the DEP involved at this stage?). Ok, George, remind us again, exactly what were those laws that we will need to cancel with the new Resolve? Only a month later the Resolve became reality, passed in the last hours of the last day of the Legislative session, June 14, 2003. We weren't surprised to learn that many inconvenient statutes were negated by the new Resolve, including the one referenced in MacDonald's e-mail below.

A source of constant aggravation for opponents of the landfill is the Rule that defines what qualifies as a landfill "expansion." Their definition goes against everyday understanding of the word "expand," and has been used against public involvement in this project. In the ongoing civics lesson called West Old Town Landfill, we have learned that well beyond mere definitions in the Rules, entire Chapters of the Maine Revised Statutes can be negated, and whole new laws put in place, when needed to serve corporate interests. Are we hitting home runs yet, Rick?

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Adams, Kurt

From: MacDonald, George
Sent: Thursday, May 08, 2003 2:03 PM
To: Adams, Kurt
Cc: Cashman, Jack
Subject: drafting legislative language to permit purchase of G-P's landfill in Old Town

Importance: High

Kurt -

Jack has told me that you have been tasked with this project. I would like to offer some assistance to you in this endeavor and have included current statutes, and what appears may be needed, with this e-mail.

Current statute (MRSA 38 §2156-A, Facility development) gives authority to the State Planning Office to plan for and recommend development of disposal facilities, when there remains 4 years or less of disposal capacity within the state.

<http://janus.state.me.us/legis/statutes/38/title38sec2156-A.html>

The above statute paints what the intended development process was to be. The thrust of this statute is that at some point in time, the State would need to step in and develop disposal capacity. But that can only happen with Legislative approval. This G-P opportunity doesn't fit neatly into what was planned. (Actually, there is probably 6 to 8 years remaining disposal capacity within the state, given the latest numbers, not the 4 years that would allow us to use this statute.)

What I believe is needed is language that addresses the state's efforts in this particular case (G-P's landfill). Rather than going for something broad, in terms of application, focus on specifics related to this particular acquisition. Here's some possible language that you may want to think about (and perhaps discard) but I think this covers the bases (with some detail but not excruciatingly so) that are being discussed at this point:

6. The State acquire the Fort James Operating Company's landfill in Old Town, to address local, regional and statewide solid waste disposal needs. The State may directly contract for the operation of the landfill or may defer selection of contractor to Fort James. An arrangement may be provided for Fort James' continued use of the landfill for their Old Town mill wastes, that is separate from other contracts related to the disposal of other wastes that may be delivered to the landfill. The State, upon acquisition of the landfill and surrounding property, will assume risks and liabilities related to the operation of this site. The State Planning Office will present a report that provides the framework for this acquisition and its operation and will include necessary elements pertaining to state owned disposal facilities.

I don't know if a time frame needs to be included (I know Jack has talked about 20 year commitment for the mill waste..and other arrangements..)

Thoughts??

I do believe that some sort of document needs to be developed that spells out steps, roles and responsibilities related to the landfill... more than just the contract that will be developed....

let me know if I can be of assistance..... David Lennett at DEP has also offered to assist in this effort.....

thanks....

George

Dump Documents Dispatch #12

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As early as May, 2003 the DEP Commissioner and her staff were looking to the Governor's office for direction in how to manage the West Old Town Landfill issue (see for instance [Dispatch #6](#), where Gallagher tells her waste management head, "I don't think we should answer this e-mail until we meet with the gov's office.")).

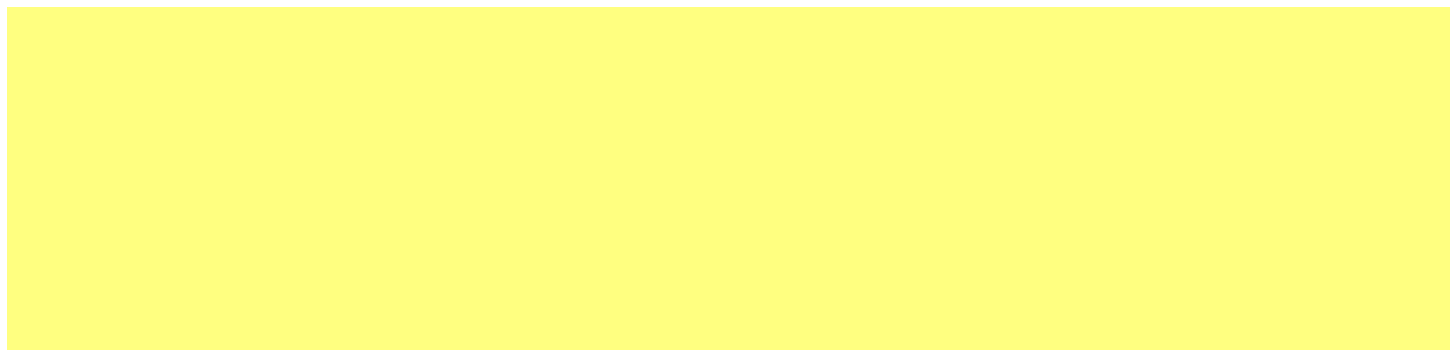
In the messages below (and we apologize for the poor quality of some of the scans - the format and quality of the original documents was not good in some cases) the story of the Governor's involvement continues into 2004. Many messages and memos we have obtained reflect an overall pattern of involvement that brings the autonomy of DEP and its Commissioner into question. The crisis that prompted the messages below was the possibility, perhaps nearing certainty, that the City of Brewer would press forward with its demand that the Board of Environmental Protection take original jurisdiction in this licensing process.

That move would create **a major problem for the project's timetable, and would mean a huge setback for the requirements of Georgia-Pacific** (see [Dispatch #17](#)) which originally wanted the deal to be closed in December, so that the cash involved could be made available to their corporate headquarters in Atlanta by the end of 2003. As we have already seen, the entire deal was already thought to be in jeopardy, whether "really" or just due to G-P's tactical decision to postpone the closing in order to squeeze more concessions out of both the State and Casella (for a glimpse, see [Dispatch #8](#)). Now they were asking, would they be forced to give up on their timetable totally, and also have to turn control of the process over to the BEP?

The tone of these messages is one of great concern. We are compelled to ask, why would Cyndi Darling, DEP's project manager in Bangor, feel the need to initiate these messages on Jan. 1, a day that for most of the world (including most State bureaucrats) is a legal holiday? (See Cyndi's Outstanding Bureaucratic Service Award, [Dispatch #15](#)) And how telling is it that her message went first to Tom Doyle, attorney for G-P at the time (or was he already working for Casella by Jan. 1 of this year?). Of particular interest are the marching orders from Alan Stearns, the Governor's assistant: "tighten this up ... make the meeting happen ... keep me in the loop." The tightened process apparently worked out. By the end of the month Brewer had withdrawn its request for BEP jurisdiction, though the full story of how that happened is only partly known.

Just as we asked about the memo in [Dispatch #4](#), **who are these people working for?** Tom Doyle clearly is "in the loop" -- he's getting e-mails from the State on holiday. Alan Stearns also is in the loop, though from his perspective the loop needs to be "tightened up" a bit. Who is not in the loop? Certainly the five people and organizations who asked for a public hearing about this project are not in the loop. And the citizens of the Old Town region are not in the loop. Cyndi Darling is not calling us up on holidays to give us the latest skinny. That's a fact.

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Stearns, Alan

From: Landry, Stephen
Sent: Sunday, January 04, 2004 1:26 PM
To: Stearns, Alan; 'Thomas Doyle'; Darling, Cyndi W; Clark, Paula M; MacDonald, George
Cc: Gallagher, Dawn R; Cole, David A
Subject: RE: Brewer traffic

Alan,

I don't have a problem setting up a meeting with Brewer, the question is what are we going to discuss. They said they would brainstorm on some other possibilities and get back to me with possible additional routes. Setting up a meeting without those talking points is meaningless. I can bring them the info I already have, but it is the same stuff we have discussed before. I will call Steve Best first thing on Monday.

-----Original Message-----

From: Stearns, Alan
Sent: Friday, January 02, 2004 3:41 PM
To: Landry, Stephen; 'Thomas Doyle'; Darling, Cyndi W; Clark, Paula M; MacDonald, George
Cc: Gallagher, Dawn R; Cole, David A
Subject: RE: Brewer traffic
Importance: High

Tighten this up, ASAP. At our last meeting there was a clear expectation of a follow-up meeting with Brewer before January 5th. Steve Landry or Cyndi Darling – make the meeting happen. **I want to know by Monday noon that a meeting has been scheduled with Brewer.** Call me if you need assistance.

Cyndi/Paula: please keep me in the loop, especially re planned legal-ish response. Must you make a preliminary decision on January 5th? Does this latest Brewer letter mean anything legally?

-----Original Message-----

From: Darling, Cyndi W [mailto:Cyndi.W.Darling@maine.gov]
Sent: Thursday, January 01, 2004 4:16 PM
To: 'Thomas Doyle'
Subject: RE: Brewer traffic

Hey, I tried to call you yesterday, but Diane said you were out until Friday!

Happy New Year - I just read a letter from Edward Gough from Gross, Minsky & Mogul making Brewer's "conditional" request for BEP jurisdiction "definite".

I tried contacting Steve L. this week to see when he wanted to set up a meeting with Brewer, but he's out. I tried calling George MacDonald about setting up a public info meeting, but he's out.....

I'll talk with you tomorrow - Cyndi

Dump Documents Dispatch #13

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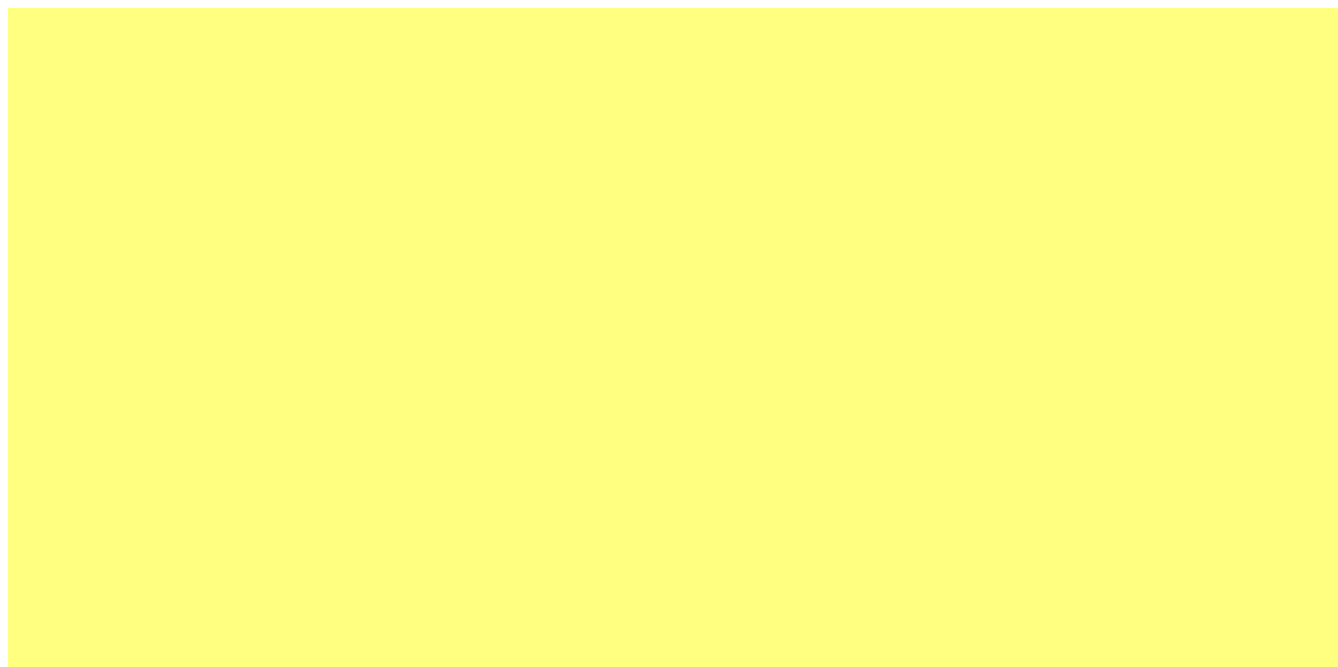
Go to [Dump Documents Home Page](#)

First, to our treasured **Dispatch** fans: you may have noticed that we have not posted any here for a few days; a lot has been going on. **We The People** had to take time out to help with another award, the **Toxic Action Center's "Dirty Dozen"** award, given annually to New England's worst festering environmental sores. Special thanks to TAC's nominations and review committee for their perceptive inclusion of the **West Old Town Landfill**! We suspect that in this case, the word "dirty" applies as much to the political process as it does to the leaking dump. We had a few other tasks, such as filing two appeals with the Superior Court in Bangor (one from We the People and one filed by Paul Schroeder), a trip to the hospital to have a bothersome internal organ removed, etc. We hope we won't have to rename this the **"Weekly Dispatch."**

We last visited the issue of the **\$50 million performance bond** that was required by the Request for Proposals (RFP) in [Dispatch #3](#), titled "Commissioner Cashman may be willing to 'give' on this issue..." As the big picture emerges, it doesn't seem that Commissioner Cashman ever had any intent other than to "give" on this or any other issue involved in this massive give-away of public resources to the private sector.

Today, three documents are presented: the **two letters of acceptance**, and a later e-mail written by George MacDonald briefly outlining **why there had to be two**, and expressing some frustration -- but frustration exactly at what? The message he is responding to doesn't state exactly what the situation is. However, we would not be too far wrong suppose that Casella was not only aiming to "negotiate" the \$50 million bond, they aimed to negate it totally, an aim in which they nearly totally succeeded, if we are reading the terms of the final contract correctly. Through various deductions, pro-rations and evasions (some documented in notes we have from the "negotiating" sessions) the bond was reduced from a \$50 million requirement (as stated in answers to pre-bid questions answered by the State) to an actuality of between \$2 and \$4 million. We await correction from those more intimately involved and responsible in crafting (or butchering) the deal.

The **Document Dispatch** is a cooperative project of **We The People / Stop The Dump** and **CommonCoordinates.com**. If you have questions, reactions, or ideas for future Dump Documents please contact: [Paul Schroeder](#) or [Stan Levitsky](#). Thanks for everyone's support.





STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
25 STATE HOUSE STATION AUGUSTA, MAINE 04333

JOHN ELIAS BALEWICK
GOVERNOR

DAVID H. KEELEY
ACTING DIRECTOR

August 14, 2003

Mr. James Hiltner, Regional Vice President
Casella Waste Systems, Inc.
110 Main Street, Suite 1308
Saco, Maine 04072

Dear Mr. Hiltner:

I am pleased to inform you that we have completed the review of proposals submitted in response to our recent Request For Proposals for 'Contract For Landfill Operation'. The State Planning Office has accepted the proposal submitted by Casella Waste Systems, Inc., subject to the following conditions: (1) The contract will be signed, and entered into by, Casella Waste Systems, Inc.; and, (2) Casella Waste Systems, Inc. will obtain in a form acceptable to the State a performance bond of not less than \$50,000,000, to secure performance of Casella's obligations under the contract. Upon hearing from you that you accept this decision, the process of drafting such a contract may begin. We are hopeful that this contract development phase will advance smoothly, allowing for the other project's components to move ahead at the same time.

This award is conditional, pending State Purchases Review Committee approval of the Maine State Planning Office's decision with regard to the Request for Proposal for 'Contract For Landfill Operation'. Any person aggrieved by the award decision may appeal the decision to the Director of the Bureau of General Services in the manner prescribed in 5 M.R.S.A. § 1825-E. The appeal must be in writing and filed with the Director of the Bureau of General Services, 9 State House Station, Augusta, Maine 04333-0009 within 15 calendar days of receipt of notification of contract award.

Should you have questions, in the meantime, please feel free to contact me.

Cordially,

George M. MacDonald, Manager
Waste Management & Recycling Program

cc: Betty Lamoreau, Acting Director, Bureau of Purchases
James Bohlig, President, Casella Waste Systems
Don Maegher, Casella Waste Systems
Jack Cashman, Governor's Office
William H. Lauberstein III, Attorney General's Office

PHONE: (207) 287-8136

OFFICE LOCATED AT 104 STATE STREET, AUGUSTA, ME.

FAX: (207) 287-4429



STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION AUGUSTA, MAINE 04333

JOHN ELIAS BALDACCI
GOVERNOR

DAVID H. KEELEY
ACTING DIRECTOR

August 18, 2003

Mr. James Hiltner, Regional Vice President
Casella Waste Systems, Inc.
110 Main Street, Suite 1308
Saco, Maine 04072

Dear Mr. Hiltner:

This letter replaces the earlier letter, dated August 14, 2003, that announced the award decision of the State Planning Office with regard to their recent Request For Proposals to 'Contract For Landfill Operation'.

I am pleased to inform you that the State Planning Office has completed its review of proposals submitted in response to the Request For Proposals for 'Contract For Landfill Operation' and has decided to make an award in favor of Casella Waste Systems, Inc. Subject to successful negotiation of mutually agreeable terms, the State Planning Office will enter into a contract with Casella Waste Systems, Inc. for the services, and under the terms and conditions, detailed in the Request For Proposals.

This award is a final decision, subject to State Purchases Review Committee approval, of the Maine State Planning Office with regard to the Request for Proposal for 'Contract For Landfill Operation'. Any person aggrieved by the award decision may appeal the decision to the Director of the Bureau of General Services in the manner prescribed in 5 M.R.S.A. § 1825-E. The appeal must be in writing and filed with the Director of the Bureau of General Services, 9 State House Station, Augusta, Maine 04333-0009 within 15 calendar days of receipt of notification of contract award.

Should you have questions, please feel free to contact me.

Cordially,

George M. MacDonald, Manager
Waste Management & Recycling Program

cc: Betty Lamoreau, Acting Director, Division of Purchases
James Bohlig, President, Casella Waste Systems
Don Maagher, Casella Waste Systems
Jack Cashman, Governor's Office
William H. Laubenstein III, Attorney General's Office

PHONE: (207) 287-4030

OFFICE LOCATION AT 104 STATE STREET, AUGUSTA, ME.

FAX: (207) 287-4480

2003 AUG 19 14:11 FROM-

TO- Casella Waste System PB2/02
PAGE 01

-----Original Message-----

From: MacDonald, George [mailto:George.MacDonald@maine.gov]

Sent: Wednesday, October 08, 2003 8:57 AM

To: Michael High; Laubenstein, Bill; MacDonald, George; Lamoreau, Betty M.

Subject: RE: Some talking points

Michael :

Thanks for the summary...

In response to item 1, the first award letter was refused by Casella, and they refused to talk about the need for a performance bond until they received an award letter that did not reference that (meeting that Betty and I had with Casella et al after they refused the first award letter)... it was based upon Casella's stance that the performance bond could not be discussed until an award had been made.... That led to the second award letter and now they say this????

George

George M. MacDonald, Manager
Waste Management & Recycling Program
Maine State Planning Office
184 State Street
38 State House Station (if mailing only)
Augusta, Maine 04333-0038

Dump Documents Dispatch #14

Go to [Documents Dispatch Contents List](#)

Go to [Dump Documents Home Page](#)

Where to begin in commenting on this set of emails? That Gov. Baldacci, who has yet to come to the Old Town area to actually face the public about this dump project, sent a special thank you to Old Town City Council chair Stormann for his help in getting the project through? That three "Old Town boys" will go down in history as the ones who brought this huge dump to their home town (make that four -- Matt Dunlap's somehow missing from this exchange)? That Jack Cashman is "notorious" and a "fireball"? That we the public, called by Stormann "enviornmentalists" (yes, that's how he spells it), are falsely accused of traveling all over the state "to debate numerous issues"?

Read on, and weep.

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Stearns, Alan

From: Stearns, Alan
Sent: Tuesday, February 03, 2004 1:46 PM
To: 'Alan.Stormann@umit.maine.edu'
Cc: Governor
Subject: RE: Old Town Land Fill

Chairman Stormann:

Governor Baldacci asked me to respond, thanking you for your comments. The support of the City has been invaluable. We're mobilizing additional public education, and encouraged by the thoughtfulness of comments in (and by) the Bangor Daily. Don't ever hesitate to contact me directly by phone or email with thoughts or comments as we work through the next several weeks of process.

DEP and SPO have good websites dealing with the landfill. Don't hesitate to point constituents to these sites.

DEP: <http://www.maine.gov/dep/rwm/solidwaste/wotl/index.htm>

SPO: <http://www.state.me.us/spo/recycle/>

You may not know that I'm an Old Town boy. Not as notorious as Cashman, but glad to be working with the City.

Alan Stearns
Senior Policy Advisor
Office of Governor Baldacci
State House Station #1
Augusta, ME 04333-0001
(207) 287-3531 (voice)
(207) 287-1034 (fax)
alan.stearns@maine.gov
<http://www.maine.gov/governor>

-----Original Message-----

From: Alan Stormann [<mailto:Alan.Stormann@umit.maine.edu>]
Sent: Tuesday, February 03, 2004 10:57 AM
To: governor@maine.gov
Subject: Old Town Land Fill

Dear Governor Baldacci,

My name is Alan Stormann and I am currently the chair of the Old Town City Council. I want to take a moment to thank your office for the diligent work you and your staff are doing in attempting to keep the GP Mill in Old Town alive.

Your staff came to Old Town two weeks ago in an attempt to provide information at a community meeting at the Old Town Elks Club. Alan Sterns moderated this meeting and from my prospective did an excellent job.

It was obvious from the beginning that the "group" of enviornmentalists that assembled were not there for

information gathering, but rather to be disruptive to the folks trying to provide detailed factual information.

After the first half hour some of the guests at the meeting were getting upset with the folks being disruptive and asked one gentleman to sit down and be quiet so the folks could provide information.

I spoke with Jack Cashman later in the week and asked the question as to why the DEP staff knew this folks by their first name. He advised that these folks travel all over the state to debate numerous issues.

I just want to let you and your staff know that they were are are very much appreciated. A lot of citizens in our community have expressed to me the need to work hard and to continue to do all we can to keep our industry both in Old Town and in Maine.

Last night at our local council meeting the same group of folks showed up to discuss their concerns. Time being the issue and not having this issue on the agenda, as chair, I allowed only that Old Town residents speak and that non-residents submit their thoughts and concerns to us in writing. The citizens of Old Town that did speak were concerned about leakage from the proposed land fill in the future. I expressed to these citizens that I have trust in our DEP and State of Maine professionals that the safety of our citizens are our primary concern and I am also convinced that the DEP wouldn't issued a permit to an "unsafe" landful.

I would very much like to see some type of press release updating the process and how the process is going, either from your office or the DEP or both. As we continue to move forward with our support of the landfill the real issue seems to be the need to be kept current with information.

I am sorry for the length of the e-mail and again thank you for your endeavors.

Alan D. Stormann, Chair
Old Town City Council

Stearns, Alan

From: Stearns, Alan
Sent: Tuesday, February 03, 2004 3:48 PM
To: 'Alan Stormann'
Subject: RE: Old Town Land Fill

Yes! I knew I recognized the name. Thanks for the comments.

-----Original Message-----

From: Alan Stormann [mailto:Alan_Stormann@umit.maine.edu]
Sent: Tuesday, February 03, 2004 2:12 PM
To: Stearns, Alan
Subject: Re: Old Town Land Fill

Hi Alan,

I do believe that your family resided on the Kirkland Road for many years by the I-95 overpass. I to grew up on the Kirkland Road at the top of the first hill across from the Bagleys.

I want to say to you that I was very impressed with your demeanor and the professional way that you handled that most uncomfortable meeting in Old Town at the Elks Club. I had a simular night last night.

Thank you, the Governor, and your staff for their time and effort and with the energy that is portrayed. I do agree that Jack Cashman is a fireball. He too is a great asset to the current administration.

Thanks for your quick response.

Alan Stormann

Dump Documents Dispatch #15

Go to [Documents Dispatch Contents List](#)

Go to [Dump Documents Home Page](#)

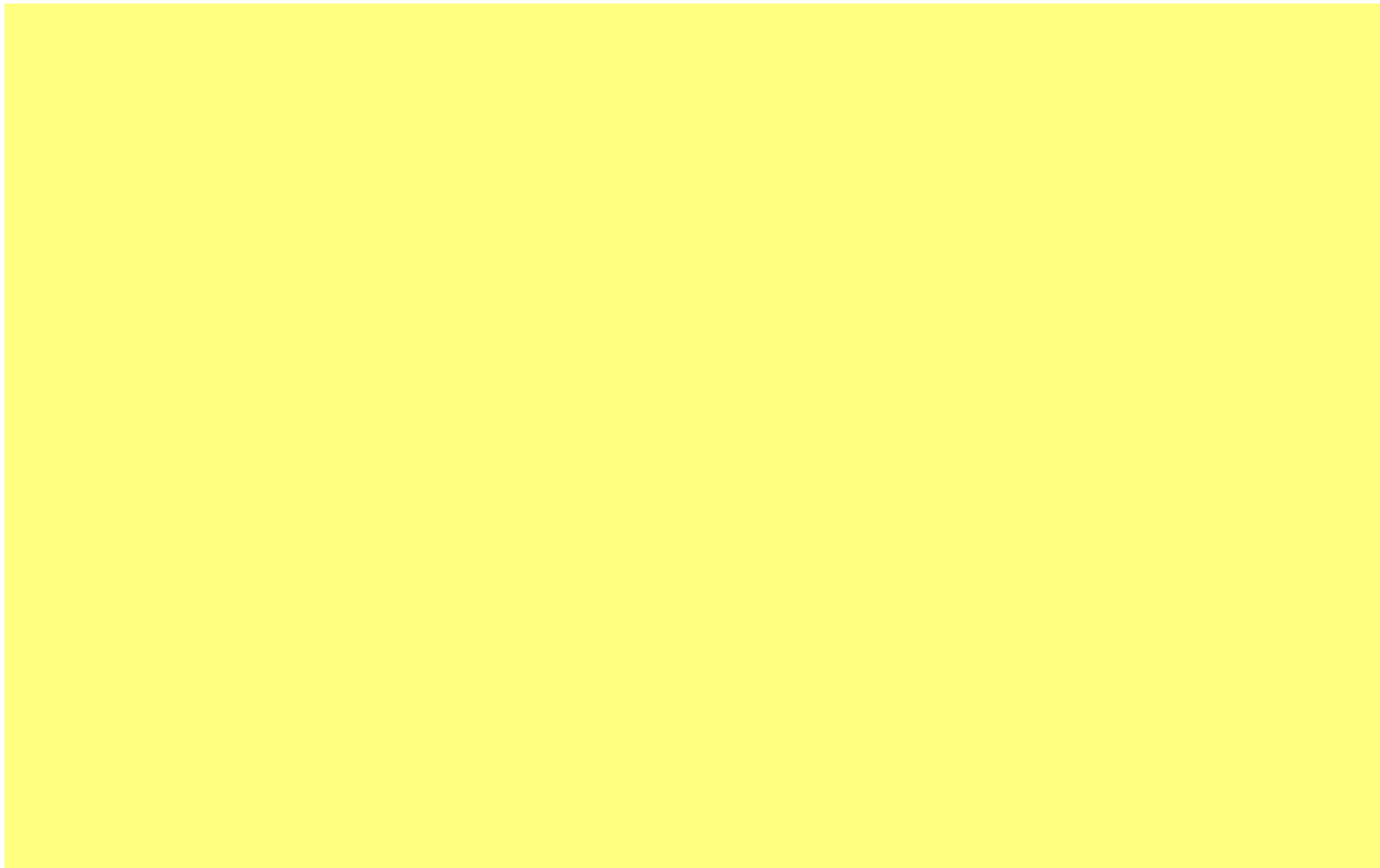
Happy New Year! To everyone who has supported the fight against the West Old Town dump in so many ways during the past year, and especially **to those who have made this effort so very necessary**, taking up countless hours of our time and thousands of our dollars to carry forward this exercise in *Democracy in Action*: **our politicians, bureaucrats and waste entrepreneurs**.

We could not let this January First go by without commemorating the **One Year Anniversary** of the truly extraordinary efforts of an outstanding bureaucrat, **Cyndi Darling of the Bangor Office of the Maine Department of Environmental Protection**. As you can see from the email below, Cyndi was putting in hours on New Years Day, a year ago today. Her special mission of the day was to alert Pierce Atwood Attorney Tom Doyle, representing Casella (or on that day was he representing Georgia-Pacific, or was it the State Planning Office that was benefitting from his services ... ?). And who was particularly Not Represented by any of them on that day? The people of Brewer. Of course, on any particular day they are also Not Representing Alton, or Hudson, or Orono, or you, or me.

This Dispatch is in part a reprise of [Dispatch #12, "Tighten this up ASAP"](#). Check that one out to see further outstanding examples of **Our Bureaucracy In Action**.

And then, don't forget to have a Happy New Year! And by the way, when's the last time Cyndi tried to get in touch with you, to let you know about something of particular concern? Thanks Cyndi, you're a darling!

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-----Original Message-----

From: Darling, Cyndi W [mailto:Cyndi.W.Darling@maine.gov]

Sent: Thursday, January 01, 2004 4:16 PM

To: 'Thomas Doyle'

Subject: RE: Brewer traffic

Hey, I tried to call you yesterday, but Diane said you were out until Friday!

Happy New Year - I just read a letter from Edward Gould from Gross, Minsky & Mogul making Brewer's "conditional" request for BEP jurisdiction "definite".

I tried contacting Steve L. this week to see when he wanted to set up a meeting with Brewer, but he's out. I tried calling George MacDonald about setting up a public info meeting, but he's out.....

I'll talk with you tomorrow - Cyndi

Dump Documents Dispatch #16

Go to [Documents Dispatch Contents List](#)

Go to [Dump Documents Home Page](#)

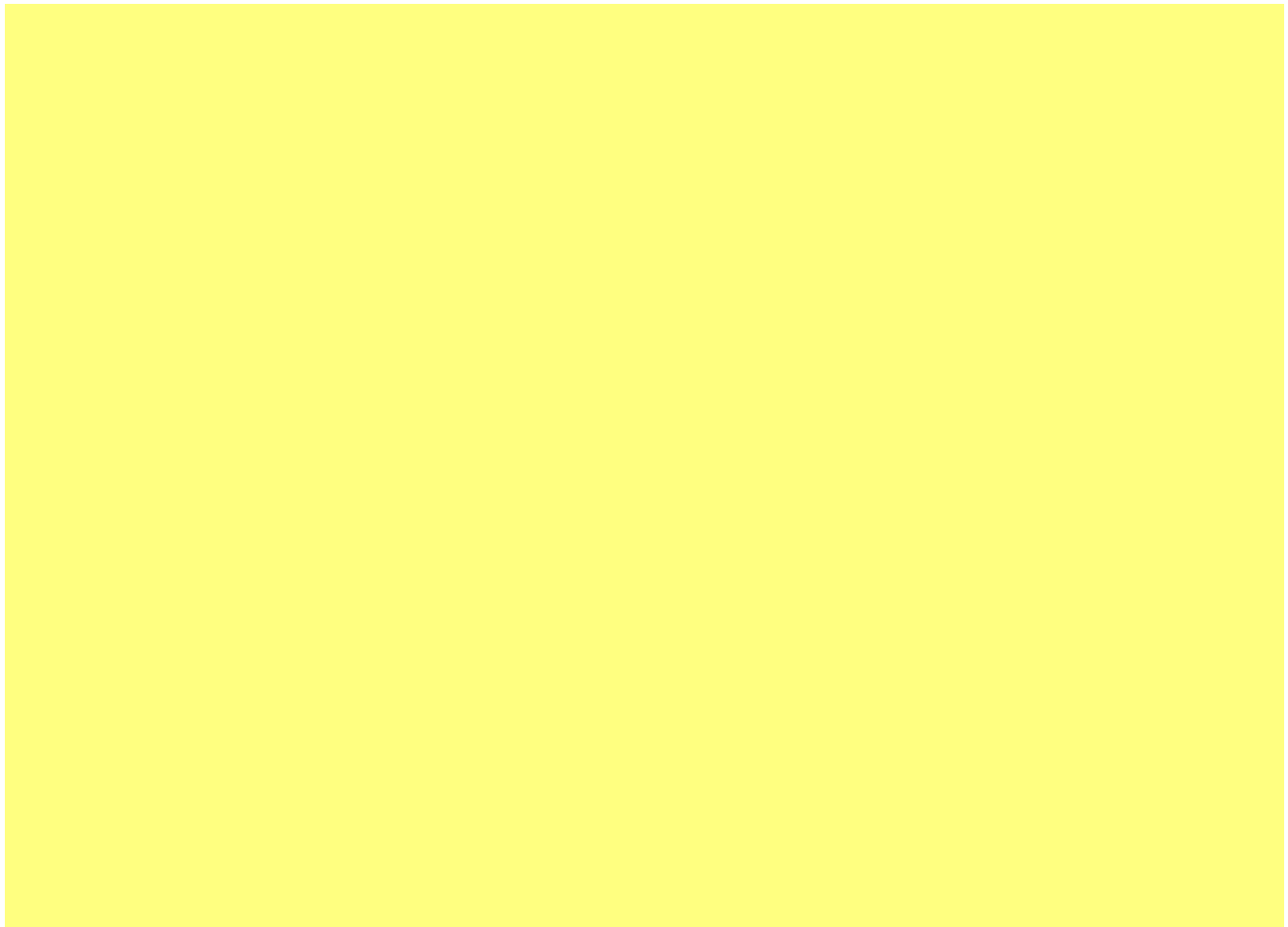
Everyone who has been working on the West Old Town dump issue knows that a major force behind this project is **Maine's Gov. John E. Baldacci**. We also know that he has been very scarce in speaking out publicly about this issue. The Governor has never faced an open meeting about the dump.

When the gigantic size of the project finally dawned on the public in late January, 2004, dozens of people contacted the Governor's office about this. Aimee Dolloff, the reporter from the Bangor Daily News who has covered the project, specifically asked the Governor's office whether he would make a public statement about the dump. His authorized statement is reproduced below.

One thing jumps out here: **Baldacci makes it clear that this is an "expansion" of the existing dump**, a conclusion that any observer of the process has to share. Unfortunately for the Gov, this directly contradicts the official position of the DEP, which is that this is "not an expansion" since the permitted horizontal footprint will not change with the amended license -- in spite of the **huge increase of volumes, flows, and types of waste involved, and huge increase in the dump's vertical elevation**.

No matter how they want to spin this, the West Old Town Landfill project is a gigantic expansion. You can fool some of the people some of the time, but as the Gov has again proven, it is hard to fool everyone all of the time.

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Stearns, Alan

From: Leach, Joy
Sent: Friday, February 06, 2004 12:18 PM
To: Stearns, Alan; Umphrey, Lee
Subject: Governor's approved Landfill Statement

Statement from Governor John E. Baldacci
Old Town Landfill
February 6, 2004

The landfill purchase and expansion is a win-win-win opportunity for the people of Maine. It brings job retention at the Georgia Pacific mill, needed landfill capacity at an existing landfill for in-state waste, and state-of-the art recycling services.

I've encouraged Commissioner Gallagher and her staff to exercise independent judgment on the pending permit application. I am encouraged by Commissioner Gallagher's commitment to a transparent public process, including January's public workshop and a second public workshop once DEP staff has prepared a draft permit for her review. Furthermore, the legislature last year authorized the acquisition of the landfill with a resolve that protects the interests of the taxpayers, and sets the stage for very real benefits for Maine people.

It's important that we make Maine a competitive place to do business, so we can retain good paying jobs and set the stage for growth. Georgia Pacific identified energy costs as a primary challenge in Maine. Facilitating Georgia Pacific's investment in a new boiler at the Old Town mill will allow them to stay competitive and retain jobs. Without the landfill sale, jobs will be at stake at Georgia Pacific.

The landfill purchase and expansion has local support from workers, businesses, and the Old Town City Council.

Dump Documents Dispatch #17

Go to [Documents Dispatch Contents List](#)

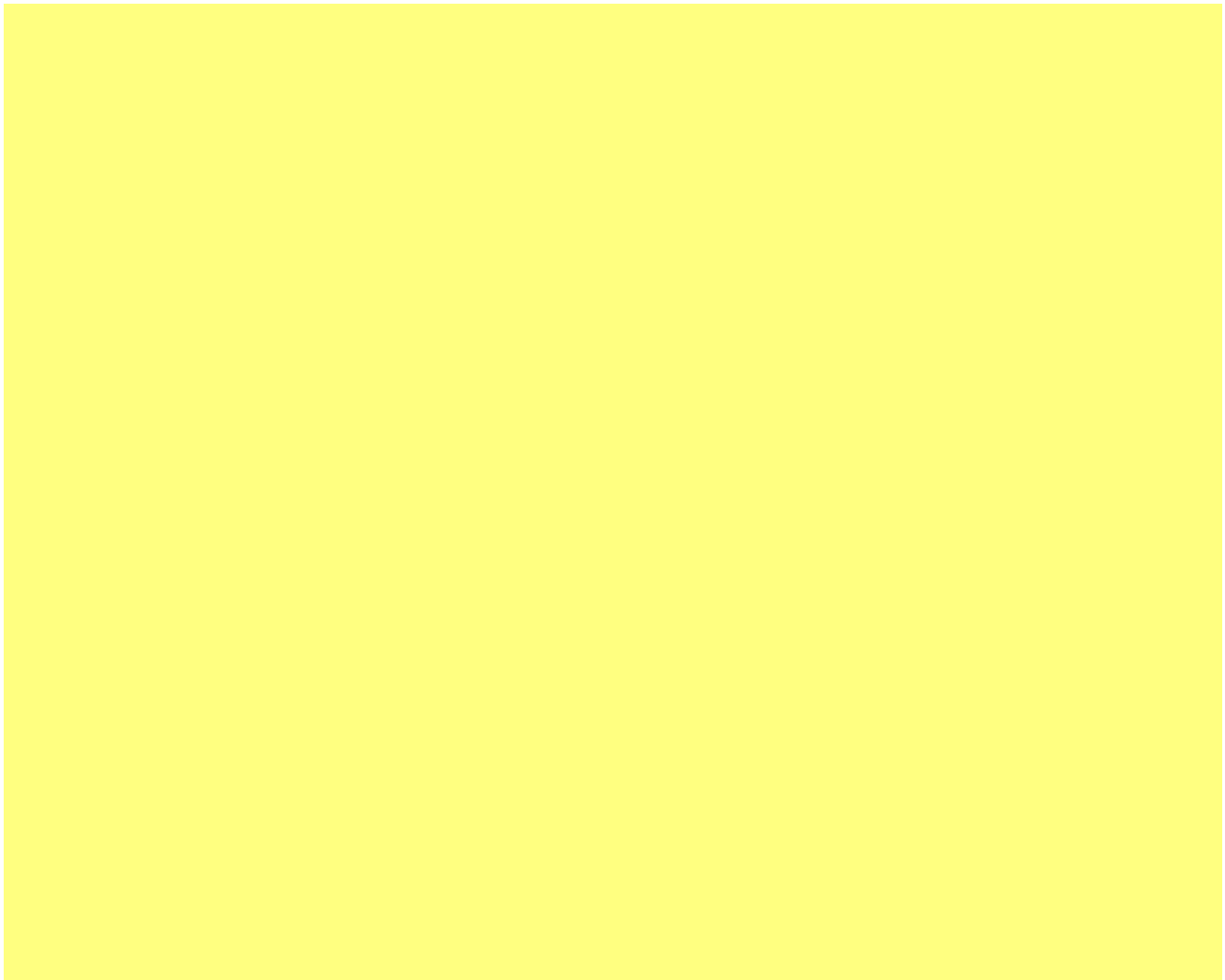
Go to [Dump Documents Home Page](#)

One of our recent freedom of information requests to the Maine Department of Environmental Protection fetched the pages below. They are meeting notes made by DEP geologist Richard Behr during a meeting called by Dawn Gallagher (DEP Commissioner) to explain to her staff the immediacy of getting the permitting done ASAP, with the only problem being that Maine's permitting rules did not allow for the speed that the corporate clients (especially Georgia-Pacific) would like.

This meeting was held only four days after the amendment application had been accepted as being complete for processing -- and thus four days into the window for the public to request a public hearing on this project. As is clear from these notes, and from many other documents we have obtained, **there was no way that the DEP would allow a public hearing**. Five requests for hearings were received by the DEP, all of which were denied due to lack of conflicting technical evidence in the requests.

What does it all mean? Read on, and judge for yourself. If you have concerns about this approach to "protecting" our environment (or our democracy) by Maine's DEP, you might consider contacting Dawn Gallagher directly, at 17 State House Station, Augusta, Maine, 04333-0017, (207)287-7688.

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West Old Town Landfill

~10:00 - 25-Nov-03

Dawn H Paula Clark, Lyndi P.
Steve F, and me

Dawn wanted to give us an update and better understand the review time line.

Apparently the Purchase and Sales Agreement indicates the license will be final on 31-Dec-03. That would mean the appeal period (30 Days) would have run its course. Turns out this simply isn't possible.

Sounds like its G.P. that wants the \$25,000,000 before year end. Casella appears to have more flexibility on this account.

Lyndi indicates the earliest date to issue a license would be 12-Dec-03 (that marks the end of the 20 day comment period.)

12-Dec-03 plus 30 day appeal period puts a final license into 2004.

The current DEP review time frame -

⇒ All Technical Comments finalized by 31-Dec-03
this would give SME a week to 10 days to provide comments.
response to

(2)

The end date for license would be 13-Feb-04.

people
Dawn indicated there are GP that want this to be a deal breaker. ~ She plans to contact Jack Cashman (Gov. office, I think) and let him know the gov. needs to contact GP Corporate to determine if this is a deal breaker. Casella indicates they could live with the current schedule (13-Feb-03) because Paula says she's been contacted by an ^{date} individual inquiring about a public hearing for this project. Attorney involved - Eaton-Peabody. Apparently if this process were to include a public hearing it would be a deal breaker. Paula says even if it's not granted (i.e., only requested) it will increase the time required to complete the review.

However, if it goes well into 2004 it would ~~pose~~ present operational problem (could be a deal breaker)

Dump Documents Dispatch #18

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Go to [Dump Documents Home Page](#)

The scariest obstacle, from the DEP's perspective, in the West Old Town dump process would have been holding public hearings on the project (see also [Dispatch #17](#)). The Governor's office was very concerned about this, and when the period for public hearing requests closed, the Governor's assistant Alan Stearns sent an email to DEP's project manager Cyndi Darling asking if any hearings had been requested.

After outlining the several requests that had been received (all of which, of course, were eventually denied) Cyndi tagged the following line onto her reply to Stearns: **"a first for me - the City of Old Town requested that the Department *not* hold a public hearing"** (message of Dec. 13, 2003). This request, reproduced below, was from Old Town City Manager John Lord, a major player in keeping this process hidden from the citizens of the city that hired him (for instance, in pushing through a Council resolution in favor of the legislative resolve without a public meeting -- see [Dispatch #19](#) -- and in keeping alternative local control options out of Council discussions -- see future [Dispatches](#)).

Throughout this process, We the People have often asked: **Who are our elected, appointed and employed public officials working for, anyway?** (See for instance [Dispatch #15](#)). **Who is the DEP protecting? They are not protecting us.**

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December 9, 2003

Cindy Darling
Maine Department of Environmental Protection
106 Hogan Road
Bangor, ME. 04401

Dear Cindy,

I want to commend you, Ed Logue, and the rest of the state "crew" for the way in which you all handled the meeting yesterday on the traffic issues relative to the "West Old Town Landfill". It was a very timely meeting to get everyone on the same page, factually, and with the process. (I *don't* agree that somehow your review process was not timely. But, the reassurance that everyone has until February to comment may have allayed those concerns.)

I am, also, writing to suggest that (contrary to what *others* have suggested) there need *not* be a public hearing on this application, particularly, since the traffic issue appears to be the only basis for this request. I don't have to tell you that there are a number of issues related to the proposed license amendment, many of which are more significant than the truck traffic. As I understand the rationale for convening a public hearing, it is only justified if DEP finds that it will provide additional information to assist the review process (as opposed to further flagellation of a deceased horse). It appears that the MDOT staff has identified most of the relevant issues on the proposed route and that little would be gained by further discourse. (As an aside, all of the conditions noted on the secondary highway system *already* exist and have been previously identified. This project does little to change anything in that regard.)

Thanks again for yesterday's session.

Sincerely,

John M. Lord
City Manager

Dump Documents Dispatch #19

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Go to [Dump Documents Home Page](#)

At the various public informational sessions about the West Old Town dump, a curious "Public Participation" document emerged. The version reproduced below is taken from the co-signed response to the appeals against the dump, produced by Asst. Attorney General William Laubenstein III (apparently representing the DEP at that time) and Tom Doyle, attorney for Casella, and formerly representing Georgia-Pacific in the deal. In what they think is a convincing tour-de-force, they claimed many opportunities for public participation, going well beyond the strict requirements of the law.

We won't clutter up this Dispatch with a detailed critique of this purported participation timeline (the very first entry is false, since the Resolve never even made it to Committee until June, and there were not "hearings" etc.) Because this purported participation timeline has been attached to Casella's legal brief (March 17, 2005) **We the People is assembling a document that refutes many of the claims made here.** For this, see [Timeline Facts](#). For a detailed timeline as assembled by We the People, see [Timeline](#) (300k text document).

One event, however, deserves particular notice: **"June 2003 Old Town City Council Public Meeting resulting in Resolution supporting legislative Resolve."**

Exactly when was this (non-)meeting, Tom and Bill? The City Clerk of Old Town has no record of it. The *Penobscot Times* never ran a story about it, and inquiries by the *Times'* editor never unearthed any such meeting. No citizen of Old Town can be located who participated or even heard of this meeting. We have reluctantly come to the conclusion that this meeting never took place.

The Old Town City Council did unanimously sign a letter of support for the Legislative Resolve. This letter was written and signed on June 3, 2003, and then carried to Augusta by City Manager John Lord (see also [Dispatch #18](#)). That was the day, June 3, 2003, of the only public hearing held by the Joint Committee on Natural Resources regarding the landfill Resolve.

Tom and Bill, we ask you again, please: **When was this "public meeting?"**

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Public Participation in West Old Town Landfill Process

Attachment A

261

The West Old Town Landfill (WOTL), an existing industrial solid waste landfill consisting of 68 acres in west Old Town, was the subject of numerous State and local public hearings and permitting processes when it was originally licensed as a new secure landfill during the period 1991-1993. In connection with the State's effort to purchase the WOTL in 2003-2004 to save jobs at the G-P Old Town Mill, there have been multiple additional opportunities to ensure public participation in the landfill sale and permitting process to change the facility from an industrially-owned to a State-owned secure solid waste landfill. These include:

- | | |
|--------------------------------------|--|
| May-June 2003 | Legislative public hearing, work sessions, and debate on Resolve to authorize the State Planning Office to purchase Georgia-Pacific's WOTL. |
| June 2003 | Old Town City Council public meeting resulting in Resolution supporting legislative Resolve. |
| June 13, 2003 | Public Notice of State Request for Proposals: Contract for Landfill Operations. |
| July 9, 2003 | Proposal submittal and SPO bid opening. |
| August 18, 2003 | Bid award selecting Casella as Landfill Operator. No appeal filed within public appeal period. |
| September 25, 2003 | Public Notice in BDN of Landfill License Transfer to State and certified notice to all landfill abutters. |
| September 26 –
October 16, 2003 | 20-day public comment and request for public hearing period on transfer application. No written comments or requests for public hearing received. |
| September 26, 2003 | Submission of license transfer application to DEP. |
| October 16, 2003* | Public meeting with Old Town City Council to review benefits of project to Georgia-Pacific, establishment of Citizens Advisory Committee, and to discuss Host Community Benefits. |
| October 21, 2003 | DEP License Transfer Order approval. No appeal filed within public appeal period. |
| October 29, 2003 | Public Notice in BDN of Amendment Application for increased capacity within existing WOTL footprint and certified notice to all abutters. |
| October 30, 2003 | Submission of Amendment Application to the DEP. |
| November 21 –
December 11, 2003** | 20-day public comment and request for public hearing period. |
| December 8, 2003* | Meeting at DEP Bangor office with representatives from Alton, Bangor, Brewer, Hampden, Eddington, Bradley, Herman, Orono, Veazie, Old Town, MDOT, and BACTS to discuss proposed local road haul routes for landfill. |

December 9, 2003*	Public meeting with Alton Board of Selectmen to discuss project, establishment of Citizens Advisory Committee, and community benefits.
December 16, 2003*	Meeting in Brewer with municipal officials to discuss proposed local haul routes.
January 12, 2004	Public notice in BDN and Penobscot Times of MDEP Public Information Meeting in Old Town. U.S. mail notice to persons who submitted written comments during the 20-day comment period.
January 21, 2004*	DEP Public Information Meeting in Old Town.
February 12, 2004*	Meeting held by Casella in Old Town for landfill abutters.
February 17, 2004	Draft DEP Order on Amendment Application available for public comment.
February 24, 2004*	DEP Public Informational Meeting in Bangor.
February 28, 2004*	Meeting held by Casella in Old Town for landfill abutters.
March 29, 2004*	Public Information Meeting and opportunity for public comment under oath in Old Town.
March 30, 2004*	Continuation of Public Information Meeting and public comment session in Old Town.
March 30, 2004	End of comment period on draft order – 25 working days more than the minimum required comment period (5 working days) on a draft order.
April 9, 2004	Commissioner signs final order approving Amendment Application.

*Public meeting not required by Maine law.

**DEP accepts written comment throughout the application processing period even though the 20-day period expires. DEP accepted written comments from the public until the end of the comment period, March 30, 2004.

Dump Documents Dispatch #20

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Truck safety has been a major concern of many individuals and towns in the West Old Town dump process. The City of Brewer made the State very nervous by demanding a hearing and BEP original jurisdiction because the trash trucks were being routed through Brewer. They were ultimately bought off by spreading the trucks through other towns such as Orono -- see [Dispatch #4, "Brewer is a total pain in the ass."](#)

The tables reproduced below tell part of the story. They are from the May, 2003 **Special Waste Activity Reports** filed by the Pine Tree Landfill in Hampden, Maine (owned by Casella) to the Maine DEP's Bangor office, supposedly the regulators of the facility. The first item reports trucks that arrive from the PERC incinerator in Orrington. Every truck on this page is over the maximum Maine weight of 100,000 lbs., with one truck nearly 40,000 lbs. overweight.

The second list includes trucks arriving from out of state, often Massachusetts and often from Casella subsidiaries. The first set on the second page below lists shipments from [MTS Environmental](#) of New Hampshire, a Casella subsidiary; the second set is from [New England Organics](#), another Casella subsidiary. Again, many of these trucks travel over Maine highways overweight.

Who is controlling this? These reports arrive monthly at the DEP, who claim it's not their responsibility to police truck weights. The State Police apparently do not have the resources. When members of **We the People / Against the Dump** tried to get these records into the official record during the appeal process, the reaction of the company was to begin filing reports that excluded gross truck weights, and only included the weights of delivered waste. In a small victory, the State Police began excluding overweight trucks from the I-95 bridge between Bangor and Brewer, over which all the overweight trucks from PERC had been traveling, and which has a limit of 80,000 lbs.

In the News: In a front page story in the March 10, 2005 Bangor Daily News about the closing of a Casella facility in Pennsylvania due to chronic violations, Casella VP Joe Fusco "...noted that the company doesn't want to blame anyone, but that it won't tolerate employees who don't have a regard for quality record keeping." **For Casella, quality record keeping apparently means keeping as many of the facts as possible out the the public's view.**

Trash Truck Update: Since originally posting this Dispatch, we have learned that the Maine DEP actually licenses all operators of trash trucks and actually charges a fee for each vehicle transporting trash. This was learned Thursday, March 17, 2005 at a workshop of the Joint Committee on Natural Resources, during a presentation by Paula Clark about the Solid Waste Management Fund, the sole source of funds for DEP's solid waste programs. Part of that fund derives from licensing trash trucks. **Paula Clark mentioned that various criteria are used to approve trash haulers and license them, but when asked about this later said that these standards do not include whether the trucks of the hauler chronically are overweight (as in the records below). That is a State Police function.** (Oh, excuse us.)

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PINE TREE LANDFILL FACILITY
Customer Profile Detail Report
 Transactions from 05/01/2003 through 05/31/2003
 Third Party and Intercompany Customers
 Recycle and Disposal Waste
 Inbound and Outbound Tickets

<u>Customer</u>	<u>Ticket</u>	<u>Material</u>	<u>Gross</u>	<u>Tare</u>	<u>Net</u>	<u>Tons</u>	<u>Transporter</u>	<u>Approval</u>	<u>Job#</u>	<u>Date</u>
A00363 (P.E.R.C.)										
	47473	FEPR	113,660	41,640	72,020	36.01	KBC	71042A	3328	5/20/03
	47480	FEPR	102,440	39,560	62,880	31.44	KBC	71043A	3328	5/20/03
	47485	FEPR	101,220	39,500	61,720	30.86	KBC	71044A	3328	5/20/03
	47575	FEPR	112,700	41,100	71,600	35.80	KBC	71045A	3328	5/21/03
	47608	FEPR	106,340	40,360	65,980	32.99	KBC	71046A	3328	5/21/03
	47623	FEPR	110,480	41,020	69,460	34.73	KBC	71047A	3328	5/21/03
	47663	OVERSIZED BULK	109,220	39,500	69,720	26.86	KBC	71048A	3328	5/21/03
	47663	FEPR	109,220	39,500	69,720	8.00	KBC	71048A	3328	5/21/03
	47759	FEPR	107,940	48,680	59,260	29.63	KBC	70641A	3328	5/22/03
	47838	FEPR	106,320	40,340	65,980	32.99	KBC	71049A	3328	5/23/03
	47853	FEPR	108,620	40,240	68,380	34.19	KBC	71050A	3328	5/23/03
	47862	OVERSIZED BULK	122,920	40,240	82,680	33.34	KBC	71051A	3328	5/23/03
	47862	FEPR	122,920	40,240	82,680	8.00	KBC	71051A	3328	5/23/03
	47865	FEPR	112,360	49,040	63,320	31.66	KBC	71052A	3328	5/23/03
	47880	OVERSIZED BULK	105,220	40,260	64,960	24.48	KBC	71053A	3328	5/23/03
	47880	FEPR	105,220	40,260	64,960	8.00	KBC	71053A	3328	5/23/03
	47884	OVERSIZED BULK	112,100	48,460	63,640	23.82	KBC	71054A	3328	5/23/03
	47884	FEPR	112,100	48,460	63,640	8.00	KBC	71054A	3328	5/23/03
	47949	FEPR	112,180	41,220	70,960	35.48	KBC	77361A	3328	5/24/03
	47950	FEPR	114,120	42,100	72,020	36.01	KBC	71055A	3328	5/24/03
	47965	FEPR	112,640	41,340	71,300	35.65	KBC	77362A	3328	5/24/03
	47972	FEPR	104,660	41,240	63,420	31.71	KBC	77363A	3328	5/24/03
	47983	FEPR	132,960	37,620	95,340	47.67	KBC	77364A	3328	5/24/03
	47984	FEPR	106,220	41,320	64,900	32.45	KBC	77365A	3328	5/24/03
	47987	FEPR	107,380	43,640	63,740	31.87	KBC	77366A	3328	5/24/03
	47995	FEPR	106,820	34,120	72,700	36.35	KBC	77367A	3328	5/24/03
	48004	OVERSIZED BULK	116,880	41,540	75,340	29.67	KBC	77368A	3328	5/24/03
	48004	FEPR	116,880	41,540	75,340	8.00	KBC	77368A	3328	5/24/03
	48007	OVERSIZED BULK	137,360	43,600	93,760	30.88	KBC	77369A	3328	5/24/03

PINE TREE LANDFILL FACILITY **Customer Profile Detail Report**

Transactions from 05/01/2003 through 05/31/2003

Third Party and Intercompany Customers

Recycle and Disposal Waste

Inbound and Outbound Tickets

Customer	Ticket	Material	Gross	Tare	Net	Tons	Transporter	Approval	Job#	Date
3A00526 (MTS)										
	47818	ASEBESTOS CONT	103,960	36,160	67,800	33.90	SQUAGLIA	77516A	6672	5/23/03
	47821	ASEBESTOS CONT	113,340	36,940	76,400	38.20	SQUAGLIA	77515A	6672	5/23/03
	47840	ASEBESTOS CONT	105,220	35,580	69,640	34.82	NA	77472A	6672	5/23/03
	47892	ASEBESTOS CONT	107,960	35,940	72,020	36.01	SQUAGLIA	77473A	6672	5/23/03
	47896	ASEBESTOS CONT	105,260	36,600	68,660	34.33	NA	77474A	6672	5/23/03
	47899	ASEBESTOS CONT	97,940	34,000	63,940	31.97	SQUAGLIA	77475A	6672	5/23/03
	47902	ASEBESTOS CONT	97,740	35,820	61,920	30.96	SQUAGLIA	77627A	6672	5/23/03
	47914	ASEBESTOS CONT	96,200	33,980	62,220	31.11	NA	77626A	6672	5/23/03
	47951	ASEBESTOS CONT	103,060	36,320	66,740	33.37	NA	77630A	6672	5/24/03
	47952	ASEBESTOS CONT	105,820	40,740	65,080	32.54	NA	77629A	6672	5/24/03
	47954	ASEBESTOS CONT	100,120	37,160	62,960	31.48	NA	77628A	6672	5/24/03
	48286	ASEBESTOS CONT	99,460	35,480	63,980	31.99	SQUAGLIA	77631A	6672	5/28/03
	48309	ASEBESTOS CONT	111,220	36,160	75,060	37.53	NA	77632A	6672	5/28/03
	48354	ASEBESTOS CONT	125,600	40,580	85,020	42.51	SQUAGLIA	77633A	6672	5/29/03
	48371	ASEBESTOS CONT	104,240	38,300	65,940	32.97	NA	77634A	6672	5/29/03
Totals for BA00526 (MTS)						2,259.62				

13 Line Items and 63 Tickets

3A00569 (NE ORGANICS, SPRINGFIELD MA)

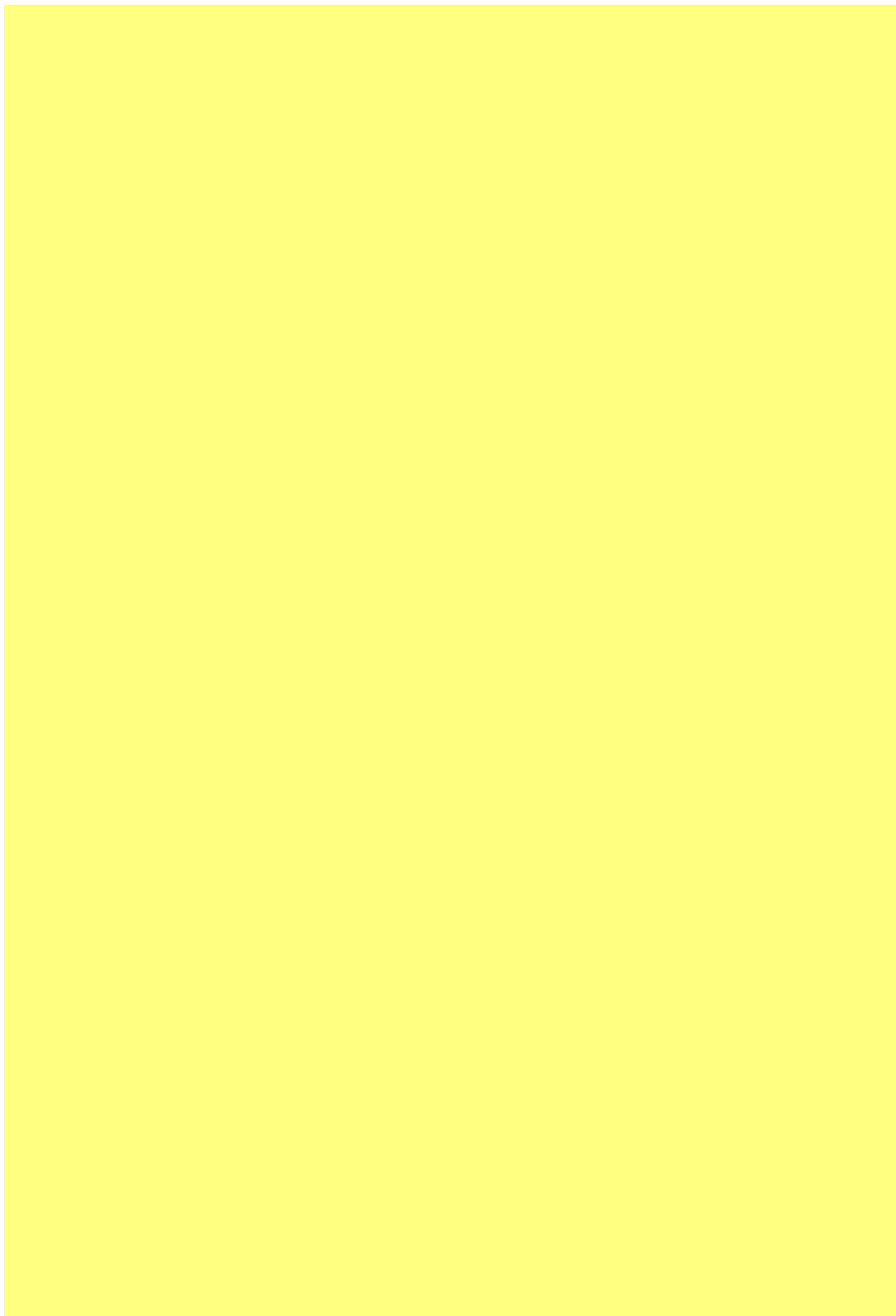
46615	I/C SLUDGE	98,180	37,940	60,240	30.12	N.E. ORG	77125A	6529	5/13/03
46750	I/C SLUDGE	101,000	38,920	62,080	31.04	N.E. ORG		6529	5/14/03
46992	I/C SLUDGE	99,100	38,320	60,780	30.39	N.E. ORG	77128A	6529	5/16/03
47502	I/C SLUDGE	96,740	37,060	59,680	29.84	N.E. ORG	77129A	6529	5/20/03
47620	I/C SLUDGE	89,680	35,920	53,760	26.88	N.E. ORG	77130A	6529	5/21/03
47825	I/C SLUDGE	91,320	37,340	53,980	26.99	N.E. ORG	77132A	6529	5/23/03
47904	I/C SLUDGE	108,800	38,900	69,900	34.95	N.E. ORG	77133A	6529	5/23/03
48112	I/C SLUDGE	101,280	38,320	62,960	31.48	N.E. ORG	77134A	6529	5/27/03
48217	I/C SLUDGE	95,940	37,420	58,520	29.26	N.E. ORG	77135A	6529	5/28/03
48410	I/C SLUDGE	112,040	38,800	73,240	36.62	N.E. ORG	77136A	6529	5/29/03

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Parr, Chris

From: tdoyle@PierceAtwood.com
Sent: Friday, May 23, 2003 1:52 PM
To: Chris.Parr@maine.gov; Jack.Cashman@maine.gov
Cc: jdelahanty@PierceAtwood.com; Choward@PierceAtwood.com
Subject: RE: Draft Legislation



Proposed Resolve
West Old Town...

Chris and Jack,

Attached is a redline with G-P's suggested revisions to the State's Draft I of the legislation, which was cleaner than Draft II and thus easier to amend. We also have incorporated certain changes from the State's Draft II that seemed appropriate.

As I explained during our call, with respect to "municipal regulation" of this existing landfill, once State-owned, the appropriate provision is Section 2173 of Title 38, which was the section cited in the State's Draft I. The sections cited in Draft II would be appropriate for a site not yet constructed or developed, which obviously isn't the case here.

I would be happy to respond to any questions or comments you may have. I'll be in until 5 pm today. You also can reach me at home this weekend if you would like to discuss any of this further (781-5309).

Regards,
Tom

-----Original Message-----

From: Parr, Chris [mailto:Chris.Parr@maine.gov]
Sent: Wednesday, May 21, 2003 6:26 PM
To: 'jdelahanty@pierceatwood.com'; 'tdoyle@pierceatwood.com'
Cc: Cashman, Jack; MacDonald, George
Subject: Draft Legislation

John & Tom:

Attached please find draft legislation necessitated by the anticipated transaction involving the State of Maine and Georgia-Pacific Corp. As you will see, the legislation is in the form of a resolve, which we have determined to be the most effective means of addressing the identified legislative requirement.

At your earliest convenience, please review the draft and then, once you have done so, share any thoughts or comments you may have.

We look forward to your response.

Sincere Regards,

J. CHRISTOPHER PARR
Assistant Counsel for Governor John E. Baldacci
Office of the Governor
One State House Station
Augusta, Maine 04333-0001
(207) 287-3531 (voice)
(207) 287-1034 (fax)

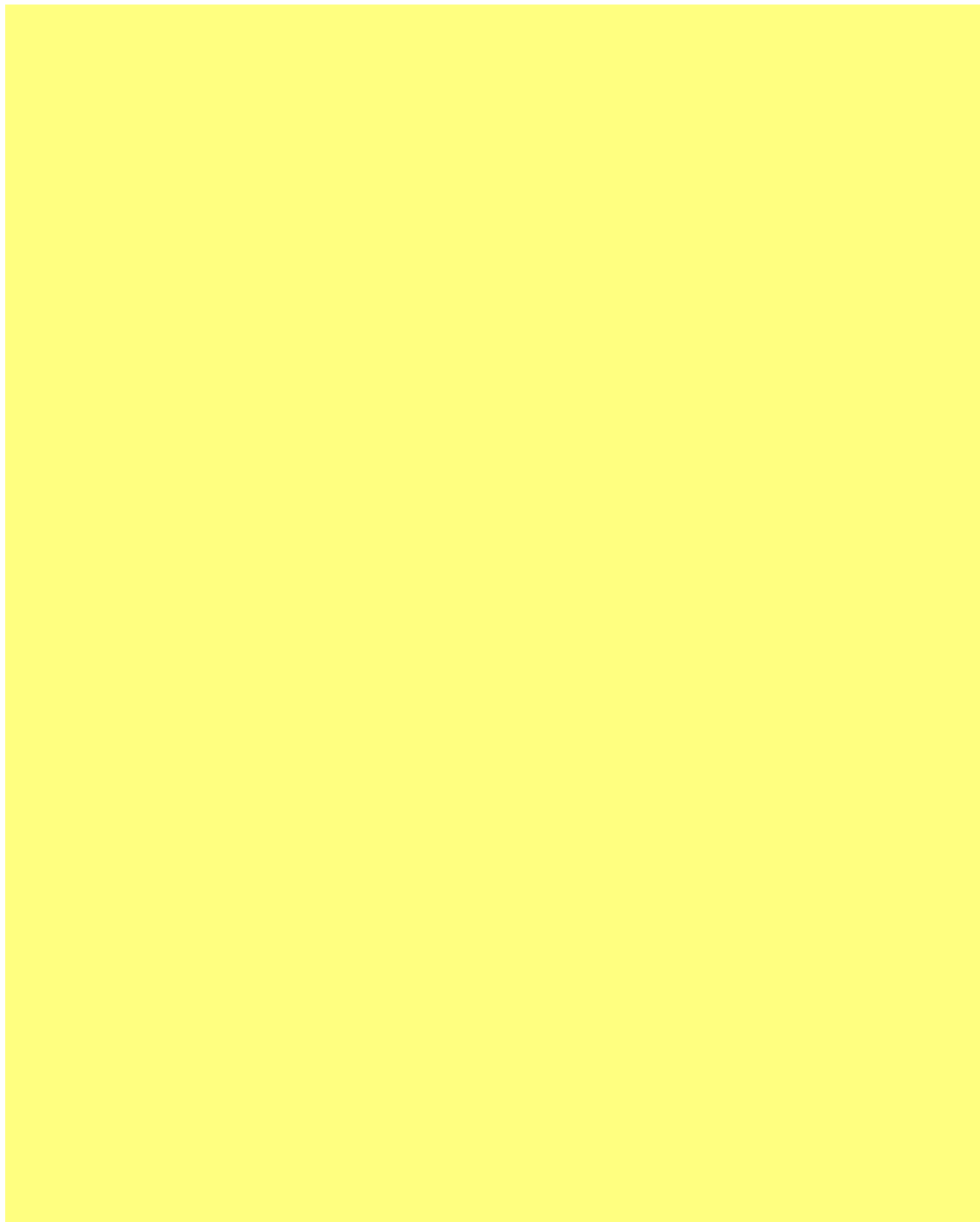
<<05212003 [DRAFT - Resolve OTL].DOC>>
JCP

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Stearns, Alan

From: Sosnaud, Jeff
Sent: Friday, October 10, 2003 12:20 PM
To: Stearns, Alan
Subject: Necessity for Old Town Land Fill Permit



Resolve - amend
6.5.03 11.35 a...

Alan--

Following up on my voice mail of 5 minutes ago, here's the memo from Tom Doyle (of Pierce Atwood) to Old Town City Attorney Bob Miller--should you want it. Jeff.

> -----Original Message-----

> From: Thomas Doyle
> Sent: Monday, September 08, 2003 8:00 PM
> To: 'Bob Miller'
> Subject: Resolve 2003, Chapter 93 (To Authorize the State to Purchase
> a Landfill in the City of Old Town)

> Bob, as a follow-up to the telephone discussion that you, John Lord
> and I had last week, I wanted to get back to you on the reasons why
> the Resolve preempts the City of Old Town's Generator-Owned Landfill
> Ordinance (and all its other ordinances and permits), on the issue of
> approving the transfer of the West Old Town (WOT) Landfill (and its
> permits) from G-P/Fort James to the State. The reasons are as
> follows:

> 1. The Resolve, in Section 1, sub-section 5, is clear on its face on
> this
> issue:

> "Notwithstanding the Maine Revised Statutes, Title 38, section
> 1310-U, the municipality in which the disposal facility is located may
> not regulate the operation or any other aspect of the disposal facility as
> provided in Title 38, section 2173 or by means of any municipal
> ordinances, regulations, licenses or permits, except that the
> municipality may enact ordinances with respect to the operation of
> any expansion of the disposal facility, including any expansion of
> the type of waste the facility is licensed to accept..." (Emphasis
> added.)

> As you may know, Title 38, Section 1310-U is the provision of State
> law that delimits the topic areas that a municipality may regulate
> with respect to solid waste facilities, but they must do so in a
> manner not stricter than State law. But the Resolve, in Section 1,
> sub-section 5, trumps 1310-U ("notwithstanding 1310-U), and expressly
> states that the City of Old Town may not regulate the operation "or
> any other aspect of the disposal facility." "[A]ny other aspect"
> includes the transfer of the existing City Landfill permit for the WOT
> Landfill from G-P/Fort James to the State.

> The rest of subsection 5 explains what and how the City "may" regulate
> the Landfill, through enactment of ordinances--"the operation of any
> expansion", and "any expansion of the type of waste", provided the
> standards are not stricter than State law. The permit transfer,
> alone, does not involve any expansion at the Landfill.

> Significantly, the last part of subsection 5 contains provisions of
> importance to Old Town and Alton. It requires the establishment of a

> Citizens Advisory Committee with 7 members (5 from Old Town; 2 from Alton), and defines the role of the committee in reviewing various aspects of the Landfill, including (a) review of proposed contracts, site analyses and applications, (b) periodic public meetings to solicit opinions of residents concerning the disposal facility, (c) providing the Landfill operator and SPO with any alternative contract provisions, permit conditions or procedures, and (d) serving as a liaison between the communities and the disposal facility operator or SPO to facilitate communications during the development and operation of the Landfill.

> 2. You suggested that the above quoted/underscored provision may not apply to a City permit transfer approval, because that event is prior to G-P/Fort James' actual conveyance of the landfill to the State. But that interpretation is not consistent with the language or the intent of the Resolve. Virtually everything in the Resolve involves activities prior to the actual conveyance to the State. The Resolve's purpose is "To Authorize the State to Purchase [the WOT] Landfill". Section 1, subsection 1 authorizes the acquisition by the State. Subsection 2 authorizes the execution and delivery of acquisition and operation agreements for the Landfill. Subsection 3 sets forth the process for how the State was required to select an operator, pre-sale, to operate the Landfill post-sale. Subsection 4 again refers to the acquisition agreement and the issue of sovereign immunity. Subsection 5 defines the role of the City of Old Town in regulating the landfill, pre and post-sale.

> Consider this, why would the Administration and the Legislature set forth, in a special resolve, such a detailed authorization for the acquisition and operation of the Landfill--including a provision that states that Old Town "may not regulate the operation or any other aspect of the disposal facility," and then allow the City of Old Town a potential veto of the entire acquisition transaction, through a municipal permit transfer process ?

> 3. It is our understanding that all the principal parties involved in this transaction--the Administration, G-P/Fort James, State Planning Office, interested potential bidders, and area legislators--have the same interpretation of the Resolve stated above. There was no intent to have a separate City Landfill permit transfer approval. And Section, subsection 5 so states.

> 4. The above points also are consistent with statements made by City Manager John Lord at the Legislature during the passage of the Resolve. Based on discussions with Administration officials intimately familiar with the WOT Landfill Resolve process, Mr. Lord maintained that the State, through the DEP, is the agency best equipped to review the permit transfer and regulate the landfill's operation and future expansion, and that the City lacks such expertise. Again, there was no intent for the City to have a separate municipal landfill permit transfer approval process for this transaction.

> 5. Finally, attached is a Word version of the Amended Resolve, just before the Legislature took it to the floor. This was supplied to me today by SPO. The language is consistent with the final resolve in all areas relevant to this discussion. It provides that the City "may not regulate the operation...or any other aspect of the disposal facility", and only on the floor was the amended language relative to expansions added. The Summary states that the "resolve further provides that municipal regulation of the facility will not be the same as for any other disposal facilities owned by the State. Except as otherwise provided in the resolve, the City of Old Town will be afforded the specified host community benefits." (Emphasis in the original.)

> In sum, we believe the Resolve's language and purpose make clear that there was no intent for the City to have a separate City permit transfer process for approval of the Landfill conveyance to the State.

> The City "may not regulate the operation or any other aspect of the
> disposal facility...by means of any municipal ordinances,
> regulations, licenses or permits." The City may have a role, if it
> chooses to exercise it, in the DEP permit transfer process, in any
> landfill expansion application filed with the DEP, or via a newly
> enacted municipal review process for such an expansion. The City also
> may participate fully in review of all aspects of the Landfill through
> the Citizen Advisory Committee. Lastly, the City will receive
> significant host community benefits.

>
>
> I hope this provides of fuller explanation of the Resolve's intent on
> this topic. After you've reviewed this, please give me a call.

>
> Tom

>
>
> <<Resolve - amend 6.5.03 11.35 am. (W0138309).DOC>>

>
> Thomas R. Doyle
> Pierce Atwood
> One Monument Square
> Portland, ME 04101
> 207-791-1214 direct
> 207-791-1350 fax
> tdoyle@pierceatwood.com
> <http://www.pierceatwood.com/bios/doyle.html>
>
>

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Stearns, Alan

From: MacDonald, George
Sent: Friday, October 24, 2003 10:13 AM
To: Stearns, Alan; Laubenstein, Bill; Sosnaud, Jeff; Cashman, Jack
Subject: FW: City Council Meeting

FYI..... positive news from the City of Old Town's Council RE: transfer of landfill permit process.. see message below...

There was a possibility that the City would require the transfer process to pass before the City's Planning Board - - but that now seems to be dead!!!!

(Rick Douglass is the Old Town Mill's controller...)

George M. MacDonald, Manager
Waste Management & Recycling Program
Maine State Planning Office
184 State Street
38 State House Station (if mailing only)
Augusta, Maine 04333-0038

tel: 207-287-5759

fax: 207-287-6489

web site: www.recyclemaine.com

-----Original Message-----

From: Douglas, Rick (OLT) [mailto:Rick.Douglas@gapac.com]
Sent: Friday, October 24, 2003 10:03 AM
To: 'Thomas Doyle'; 'Jim Hiltner'; 'Don Meagher'; 'George MacDonald'; Curtis, Michael (OLT); 'Pete Maher'
Cc: 'Jim Bohlig'; 'Tom Gilbert'; 'Marty Drew'; Allen, Ronald T.; Bostic, James E. Jr.; Feck, Ralph (OLT)
Subject: City Council Meeting

Great news ...Just spoke with John Lord ..The City Council mtg last night went very well...The entire Council agreed that it needn't take any actions relative to the transfer. Bob Miller basically did not offer any opposition ...At this point, barring any unforeseen circumstance, the City is fine with the current State review process... John indicated he kept the idea of a City Resolve (T. Doyle document) to himself, since he got the Council position he wanted..He will keep the REsolve as a "card to be played" at some later date if circumstances change... He reiterated the Council's positive comments on the information we all presented at the workshop...

rick

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JOHN ELIAS BALDACC
GOVERNOR

STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
38 STATE HOUSE STATION AUGUSTA, MAINE 04333

MARTHA E. FREEMAN
DIRECTOR

November 17, 2003

Mr. Ron Borja, Chairman
Board of Selectmen
Town of Alton
3945 Bennoch Road
Alton, Maine 04468

Dear Mr. Borja:

The Alton Board of Selectmen recently sent a letter to Martha E. Freeman, Director of the State Planning Office, in which questions were posed in regard to the proposed State-owned solid waste disposal facility located in Old Town. Where I have been actively involved in this project, Martha asked me to respond to your letter.

I believe a meeting between the Selectmen and the parties involved with this project would be the most appropriate means to fully address the questions and concerns you raised. In order to focus on the issues you identify in your letter, I suggest that this meeting be limited to the three Selectmen, representatives from Georgia-Pacific, the intended landfill operator (Casella Waste Systems, Inc.) and their engineers, and myself.

If you would please let me know what dates you have available within the next month, I will contact the others and coordinate a date and time that fits in with the times you offer. You may call me directly at 287-5759 with those dates and times if you wish, or respond by letter to me at the address above.

Cordially,

A handwritten signature in dark ink, appearing to read 'George M. MacDonald'.

George M. MacDonald, Manager
Waste Management & Recycling Program

cc: Martha E. Freeman, Director, SPO
Senator Mary Cathcart
Representative Anita Haskell

A. WHAT IS OUT OF STATE WASTE?

The many statements by the Applicants / Respondents throughout the permitting process that no out of state wastes will be deposited at WOTL draw attention to the fact that the issue of handling, and excluding, out of state wastes is a critical factor here. That out of state wastes will not be deposited in Old Town is explicitly claimed in the Amendment License in the following terms: “In accordance with the RFP and OSA [Operating Services Agreement], the applicant will not accept solid wastes generated from out-of-state sources at the WOTL” (Amendment, VII.1 at p. 36).

Among the many public statements that have been made that out of state waste will be excluded from the WOTL facility are the following:

At the January 21, 2004 public informational meeting held in Old Town, the following information was recorded: “after Jim Bohlig's [President of Operator Casella] presentation: isn't there OOS [out of state] waste taken at PTL [Pine Tree Landfill] everyday? OOS waste is accepted at PTL, but it won't be allowed into WOTL; what if OOS waste comes across the state line to Kittery & is transferred to another hauler there for transport to a landfill; can it come to WOTL? No – that would be OOS waste and thus not allowed into WOTL” (Meeting Comments, III.118 at p. 1 of 7)

At the morning session of the March 30, 2004 public informational meeting, George MacDonald of the State Planning Office stated, “In regards to out of state waste, no out of state waste will be delivered to this facility.” (III.297.D at p. 40, lines 16-18)

Casella's Don Meagher, at the evening session of the March 30, 2004 public information meeting, stated: “In terms of points of origin of the waste streams, they would be from generators within the State of Maine. Certainly the two largest categories are the PERC plant and Maine Energy, but when we start talking about waste categories such as construction and demolition debris, it could be a fairly large construction or demolition debris site from a major structure. It could be a very small homeowner renovation with a single two-yard dumpster in the driveway. So being able to identify all of those is simply an impossibility. Suffice to say, the origin will be in the State of Maine.” (III.297.E at page 44, line 1 to p. 45, line 5).

In their Response to Appeals (June 8, 2004), in arguing against the Petitioner's request that a cap be placed on the amounts of C&D that may be deposited in the Landfill, at least until a study of the actual effects of allowing this waste stream are determined, the Applicants (now Respondents) quote from the Amendment License and assert that “waste that is generated outside Maine will not be accepted at the landfill (Response to Appeals, VIII.11 at p. 29).

The Board of Environmental Protection (BEP) continued this discussion in its Dismissal of the Appeals (Dismissal, IX.1 at p. 13). This discussion in effect negated the relevance of the many statements that had been made about restricting the importation of wastes to the WOTL. In the Dismissal of the Appeals, the BEP incorrectly claimed that “The Board finds that the State cannot prohibit the importation of waste into Maine without running afoul of the Commerce Clause of the U.S. Constitution” (IX.1 at p. 15).

This finding was made without any reference to Maine's Statutes or Rules, and without any definitions for the concept of out of state waste available to them. It was only through inference from presumptions about the handling and classification of incinerator ash and front end process residues that the BEP claims that sorted C&D from out of State, because the

sorting would occur in Maine, that these wastes would be acceptable at the WOTL (Dismissal, IX.1 at p. 14). There was no independent determination that the byproducts of C&D sorted in Maine can be allowed into the West Old Town Landfill.

This issue of the State's ability to prohibit these imports will be examined in detail in a separate section below. First, it should be noted that there is no definition in Maine's Statutes or Rules of the phrase "out of state waste" or of similar phrases such as "wastes generated outside the State of Maine." The absence of such definitions may be construed to mean that the many statements regarding deposit of such wastes in the WOTL are moot. However, the frequency with which these statements were entered into the Record in the form of public assurances about the scope of the Landfill leads the Petitioner to the conclusion that there is some consistent meaning that is intended by the use of the terms. In fact, these terms go to the heart of the rationale behind the establishment and the operating conditions of a facility such as the WOTL. The Petitioner argues that the absence of any resolution on these points requires that the review process be reopened.

Although Maine's Legislature in 1989 established a set of conditions that was aimed at legally limiting the importation of wastes from outside Maine into the state, there was apparently never a practical occasion within which the definition of these terms would be required. The West Old Town Landfill is a precedent-setting project that presents the first situation in which these terms, and the concept behind them, will require an operational definition. Until the present time, all of Maine's operating landfills have been commercial facilities in which the deposit of non-Maine wastes has been allowed. Part of the confusion over the definitions of these terms, and over the powers of the State of Maine to control these waste flows, stems from the unique precedent that is being established in Old Town.

There exists what amounts to a rule of thumb definition that is used by the Applicants / Respondents in their explanations of the meaning of out of state waste. This is generally along the lines provided by Casella's Don Meagher at the DEP's March 30, 2004 public informational meeting, evening session (not a hearing, but testimony taken under oath and transcribed): "In terms of unprocessed out-of-state construction demolition debris, none would come to the West Old Town Landfill. In terms of construction demolition debris that is processed, there is no limit because once it goes through a processing facility, that is in-state waste." (III.297.E at p. 132, lines 18-24)

This statement expresses their rule of thumb definition of out of state wastes. These are wastes that arrive directly at a landfill from non-Maine sources. Any "processing" done within the state of imported wastes automatically makes them into Maine wastes. The statement also expresses the true state of affairs that will be in place at the WOTL, that unlimited amounts of C&D can enter the state and be destined for the West Old Town facility, as long as they are go through a "processing facility" along the way.

The whole issue of definitions and assurances is of great importance in this case, because the West Old Town Landfill is the first facility that will go into operation that is State owned for the express purpose of legally limiting the importation of such wastes into Maine. This policy will be discussed in the following section.