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**Re: State of Maine, Acting Through the Bureau of General Services Old town,
Penobscot County, Maine Juniper ridge Landfill Modification of OBW Annual
Tonnage Limit
Solid Waste License
Minor Revision
#S-020700-WD-CM-M
(Approval With Conditions)**

Pursuant to the provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act*, 38 M.R.S. §§ 130 to 1319-Y, *Solid Waste Management and Recycling*, 38 M.R.S. §§ 2102 to 2236, *The Rule Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2 (last amended June 9, 2018), and the *Solid Waste Management Rules General Provisions* 06-096 C.M.R. ch. 401 (last amended April 12, 2015), *And Water Quality Monitoring, Leachate Monitoring, and Waste Characterization*, 06-096 C.M.R. ch. 405 (last amended April, 12, 2025), The Department of Environmental Protection (“Department”) has considered the application of the STATE OF MAINE, ACTING THROUGH THE BUREAU OF GENERAL SERVICES BGS” or “applicant”), with all supportive data, agency review, comments and other related materials on file, and FINDS THE FOLLOWING FACTS:....

Ms. Parmelee:

Thank you for the opportunity to submit comments **IN OPPOSITION** to the aforementioned Approval With Conditions of this Solid Waste License Minor Revision. It should be acknowledged the period for public comment is an insufficient period of time and constitutes a disservice to the public. A thirty-day comment period would better serve the public interest. Any application for changes to an existing permit should require a public hearing. The Department of Environmental Protection (Department) should consider working with the Legislature to rectify this underservice of citizens’ rights and interests.

Some context to consider around these requested permit changes for increased Oversize Bulky Waste (OBW) tonnage disposal:

Financial highlights for Casella Waste Systems, Inc. for the third quarter and year-to-date as of September 30, 2021:

- **Revenues** were \$242.0 million for the quarter, **up \$39.3 million**, or **up 19.4%**, from the same period in 2020.
- Overall **solid waste pricing** for the quarter was **up 4.1%**, driven by **collection pricing, up 4.6%**, and **landfill pricing, up 3.7%**, from the same period in 2020.
- **Net income** was **\$15.9 million** for the quarter, **up \$0.8 million**, or **up 4.9%**, from the same period in 2020. Provision for income taxes was \$6.6 million for the quarter, up \$6.2 million from the same period in 2020.
- Adjusted EBITDA, a non-GAAP measure, was \$61.2 million for the quarter, up \$10.0 million, or up 19.4%, from the same period in 2020.
- **Net cash provided by operating activities** was **\$134.1 million** for the year-to-date period, **up \$22.2 million**, or **up 19.8%**, from the same period in 2020.
- Adjusted Free Cash Flow, a non-GAAP measure, was \$82.3 million for the year-to-date period, up \$22.3 million, or up 37.2%, from the same period in 2020.
- **Acquired nine businesses with approximately \$86 million of annualized revenues year-to-date.** (*emphasis added*)

October 31, 2021, Vermont Business Magazine *Casella Waste Systems, Inc. (NASDAQ: CWST), a regional solid waste, recycling and resource management services company, today reported its financial results for the three and nine month periods ended September 30, 2021.* [https://vermontbiz.com/news/2021/october/31/casella-announces-3q-2021-results-raises-fiscal-year-2021-guidance?ct=t\(SUNDAY_ENEWS_10_31_2021\)](https://vermontbiz.com/news/2021/october/31/casella-announces-3q-2021-results-raises-fiscal-year-2021-guidance?ct=t(SUNDAY_ENEWS_10_31_2021))

The Problem:

Maine is a target for the importation and disposal of Construction and Demolition Debris (CDD) and the subset of that waste stream, OBW. Casella Waste Systems, Inc. is amassing profits bringing CDD into the state for processing and disposal. Other states in the region have tightened disposal regulations for CDD. Maine's lax regulation provides Casella with incentive to import, process, and dispose residuals of this waste stream in Maine landfills.

Casella has established itself as one of two primary waste processing and disposal operations in the state. Their management of the Juniper Ridge Landfill (JRL) has allowed them to position themselves at great advantage for this purpose. Their extensive acquisitions and operations in the region have provided essential access to more problematic waste streams associated with higher disposal costs across that territory. As profit generators, these waste streams present opportunity for Casella. That

opening for enhanced profit jeopardizes the State's objective to conserve its disposal capacity for Maine waste at JRL, the landfill designated by law for that purpose. The State's goals and Casella's goals function at cross purposes.

In The Beginning:

In 2004, the State went "into business" with Casella when the company fronted \$26 million for the State's purchase of the West Old Town Landfill from Old Fort James Operating Company. The State became the owner of the landfill with the promise of keeping the paper mill operations going and preserving disposal capacity at the landfill for waste generated in Maine. Agreements with the State put Casella in charge of operations at the now JRL. The operating agreements importantly allowed Casella to bring in CDD to fuel the paper mill boiler. The mill soon closed, but not before Casella had secured permitting from the State to increase their imports of CDD.

Additionally, the law was changed defining what was Maine waste and providing an industry-friendly get-out that encouraged importing CDD waste. The get-out allowed Casella to classify out-of-state (OSS) waste as "in-state waste" that could then be disposed at JRL consuming capacity reserved for Maine citizens. That definition was prominently useful per Casella's former KTI, then ReEnergy, now Resource operations in Lewiston. The rights and interests of Maine citizens were then and continue in the present to be trashed by those making the decisions and regulating the outcomes.

Since inception, Casella's JRL operations have assaulted the rights of citizens to breathe clean air; enjoy clean water and unpolluted lands; and the right to enjoy a quality of life that protects public health and the environment. The State has been an active participant in those exploitations, with unrelenting permitted changes allowing for expanded operations disposing increased CDD tonnage at the landfill. The State has failed to effectively exercise its rights as owner of the landfill and as a market participant in waste disposal to oversee operations at JRL to best serve the benefit of Maine and its citizens. The State has not required Casella to manage the landfill in a manner that would conserve disposal capacity for Maine citizens. The State continues to repress the rights of citizens to meaningfully participate in the ever-increasing permitted limits of waste imported and disposed by Casella at JRL. It might be argued that the State has failed to uphold the bounds of its statutory Waste Management Hierarchy with JRL operations.

Current Casella Creep:

The Department's previous December 18, 2019 denial for the Minor Revision License (#S-020700-WD-BW-M) request to increase annual disposal of OBW at JRL from 65,000 tons to 85,000 tons for a limited period, was replaced with Department approval for a modification request to increase annual OBW disposal from 65,000 tons to 85,000 tons concluding at the end of 2020. The limit was to revert back to 65,000 tons annually in 2021 and to continue at that limit for subsequent years. **On June 16, 2021 Casella sought yet another permit revision** for tonnage limits to be evaluated and modified annually by the Department "based on current OBW recycling opportunities, economic factors, and other relevant factors."

Casella proposes "establishing a methodology for determining the annual OBW limit for a five-year period" rather than annually. **Casella is already endeavoring to change the provisions of the proposed revision with this request. Casella is establishing the permitting parameters, not the Department.** The assertion that the proposed methodology will have the outcome of OBW tonnage reverting to 65,000 tons annually after January 31, 2025 is exceedingly questionable given the past and present trajectory of operations and permitting. Casella appears to pressure the Department with threats of closure of its Lewiston Resource facility if they are not allowed to dispose increased amounts of imported CDD/OBW waste at JRL. That begs the question: How are ever-increasing amounts of CDD/OBW imported to Casella's Resource facility and requiring disposal at JRL a benefit to the State-owned landfill with the purported purpose of conserving long-term disposal capacity for Maine waste? How does such Department permitting promote the State Waste Management Hierarchy?

The Department maintains that the Public Benefit Determination (PBD) for expanding JRL requires that Casella's Resource facility must demonstrate each year that their operations are recycling to the "maximum extent practical." This is a very non-specific, perhaps truly non-quantifiable, requirement. How can it be a basis for permit determining compliance and/or revision?

The "Need" as stated by Casella:

Casella is citing the increased amounts of municipal waste water treatment sludge being disposed at JRL as the need for additional OBW tonnage. The outcome of

stricter regulation on management practices relative to the presence of PFAS contamination in sludge has increased landfilling of the waste. Casella maintains they must have expanding amounts of OBW to stabilize the landfill. On the face of it, couches and mattresses hardly seem to be the solution. The OBW potentially adds to the PFAS problem with the leachate generated by the landfill. Further risk is posed for the Penobscot River where the leachate is discharged following minimal treatment that does not address the PFAS contamination. It should be noted that PFAS has been found contaminating the fish in the river according to a recent ATSDR report warning that consumption of those fish could endanger human health. The Penobscot River is a sacred relative of Penobscot Nation and a source of subsistence fishing important to the culture of The Nation. JRL operations comprise a considerable source of racial and environmental injustice to Penobscot Nation and its neighbors.

Departmental and State Response:

The Department has responded to citizens' concerns about the burden of increasing amounts of imported waste requiring disposal at JRL with the statement that **“waste generated in the State applies to wastes processed in Maine and that the Department does not have the authority to amend the statute.”** Citizens have made numerable appeals to the Department and the Legislature to address this problem. LD 1639 *An Act To Protect the Health and Welfare of Maine Communities and Reduce Harmful Solid Waste* has been held over to the next legislative session. This legislation was initiated by citizens seeking redress for the State's and the Department's failure to utilize and regulate JRL for the purpose intended. LD 1639 is a good first step in a better direction. Casella is opposing this legislation. The State and the Department work for the citizens of Maine and are vested with serving the interests and well-being of those citizens as they develop and implement policy and the regulation for carrying out that work. That responsibility has been profoundly neglected in the instance of JRL.

Another way:

Rather than permitting Casella to import, process and bury more CDD/OBW at JRL to “stabilize” wet sludge, the Department should work to develop policy and assist communities with the ability to test for and to remove PFAS and other toxins from waste water treatment sludge. Producers of PFAS and other toxins should be responsible for contributing to the cost for treatment and removal of those dangerous pollutants from

sludge. Any waste water treatment sludge should be required to be dried before landfill disposal. If landfill disposed, it must be prevented from contributing to leachate production.

The Department and the Legislature would be well advised to develop policy and regulation that focuses on front end solutions for waste management. Those efforts would develop needed infrastructure to remove organics from the waste stream; remove toxic inputs; minimize amounts of waste generated; conserve valuable resources; recover and repurpose reclaimable resources; incorporate deconstruction into CDD management; require that generators of what must be disposed pay for the costs of that disposal; and provide sustainable disposal options for residuals. Such efforts would provide opportunities for enterprise and new community businesses and enhance the local economy with important and safe employment for citizens. Efforts should be framed with the recognition that **waste is a choice** and **something we do that is unnecessary**. Waste management is best viewed through the lens that **LESS IS MORE**.

What now?

- The Department should reject Casella's request to permit increased amounts of CDD/OBW waste for disposal at JRL.
- The State as owner of JRL, must step up to its responsibility under statute to preserve disposal capacity at JRL for Maine citizens.
- The rights of Maine citizens and their participation must be prioritized in developing policy and in making decisions for operations at JRL and waste management across the state.

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