



OLD TOWN

July 11, 2024

Ms. Karen Knuuti, Environmental Specialist
Bureau of Remediation and Waste Management
Maine Department of Environmental Protection
106 Hogan Road
Bangor, ME 04333-0017

Re: Maine Bureau of General Services' Application for Public Benefit Determination for the Proposed Expansion of Juniper Ridge Landfill

Dear Ms. Knuuti:

Please accept this letter as the City of Old Town's (City) comments on the Maine Bureau of General Services' (BGS) Application for a Determination of Public Benefit for a New or Expanded Solid Waste Disposal Facility for the proposed expansion of Juniper Ridge Landfill by BGS (for the owner, the State of Maine) and NEWSME Landfill Operations, LLC (NEWSME, the Landfill operator).

Under State law (38 M.R.S. § 1310-AA(3)), the Commissioner of Environmental Protection is to apply the following standards in making this public benefit determination :

3. Standards for determination. The commissioner shall find that the proposed facility under subsection 1 or the acceptance of waste that is not waste generated within the State under subsection 1-A provides a substantial public benefit if the applicant demonstrates to the commissioner that the proposed facility or the acceptance of waste that is not waste generated within the State:

A. Meets immediate, short-term or long-term capacity needs of the State. For purposes of this paragraph, "immediate" means within the next 3 years, "short-term" means within the next 5 years and "long-term" means within the next 10 years. When evaluating whether a proposed facility meets the capacity needs of the State, the commissioner shall consider relevant local and regional needs as appropriate and the regional nature of the development and use of disposal capacity due to transportation distances and other factors;

B. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, is consistent with the state waste management and recycling plan and promotes the solid waste management hierarchy as set out in section 2101

We are an equal opportunity employer and service provider.

C. Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal;

D. For a determination of public benefit under subsection 1-A only, facilitates the operation of a solid waste disposal facility and the operation of that solid waste disposal facility would be precluded or significantly impaired if the waste is not accepted; and

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

The City is the primary host community for the Juniper Ridge Landfill (JRL). The City understands that the proposed expansion will provide an additional 11.9 million cubic yards and approximately 11.3 years of additional disposal capacity. This follows a 9.35 million cubic yard expansion approved by the Department in 2017.

The City also understands that the Maine Department of Environmental Protection, in its 2024 Maine Materials Management Plan at page 41, already has already concluded that **“Given the increasing quantities of wastes being landfilled at JRL, expansion of this landfill is a critical solution that will be necessary** in addition to proactive steps to increase waste infrastructure options as well as enhancing efforts toward meeting statutory waste reduction, diversion, and recycling goals.” (emphasis added)

The City is concerned that any expansion and operation of JRL be conducted in a responsible manner, that the expansion and operation of the Landfill be protective of the public health, safety and welfare, and that the City be made whole and reasonably compensated for hosting this Statewide resource. The City also is concerned with the objectivity of this public benefit determination process where JRL is owned by the State, the Department in its policy-making role already has determined the expansion of JRL is necessary, and the Department in its regulatory role will be called upon to review an upcoming amendment to JRL’s solid waste license if the Commissioner approves BGS’ public benefit determination application.

To place these concerns in context, in 1989, Maine’s Legislature enacted the first comprehensive State solid waste management program -- P.L. 1989, c. 585, *An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation*. Under this legislation and program, the State prohibited new and expanded commercial solid waste landfills, and established a Maine Waste Management Agency with an Office of Siting and Disposal Operations, charged with the duty to locate and construct needed solid waste disposal facilities by 1994. The concept behind this legislation was that State-owned facilities could control and limit or prohibit the disposal of out-of-state waste in Maine. In 1995, the Maine

Legislature abolished the Maine Waste Management Agency. P.L. 1995, c. 464, *An Act to Abolish the Maine Waste Management Agency*. During its existence, the Maine Waste Management Agency failed to site a working State solid waste disposal landfill.

Under the authority of Resolve 2003, c. 93, the State of Maine purchased a permitted landfill from the Fort James Operating Company, apparently as an economic development matter in order to encourage the continued operation of James River Paper Company in Old Town. This landfill, then known as the West Old Town Landfill (WOTL) and now as JRL, had been permitted in 1993 to accommodate paper mill waste. The 1993 WOTL License at page 4 recites that the City Council supported the WOTL application subject to nine stipulations, one of which was “that only wastes generated at James River’s Old Town mill be disposed of in the landfill,” and at pages 48-49 of the License, James River identified the wastes it intended to dispose of at WOTL as paper mill “production residuals.” See # S-20700-7A-A-N (Approval with Conditions). The State then applied to the Department for a license transfer, with Casella Waste Systems, Inc. to be the landfill operator through its subsidiary, NEWSME. See # S-20700-WR-M-T. An April 2004 amendment to the WOTL license approved a vertical increase in the landfill and additional waste streams, including construction and demolition debris; ash, front-end process residue and oversize bulky wastes generated by municipal solid waste (MSW) incinerators in Maine; and “a limited amount” of MSW bypass from those incinerators. See # S-20700-WD-N-A at pages 4, 37-40, and 59. These licenses did not permit the disposal of unprocessed MSW at JRL.

Thus, WOTL was transformed from a paper mill waste landfill to the present JRL and became the State solid waste disposal landfill that the Maine Waste Management Agency had been unable to permit and construct. Moreover, JRL did not have to go through the review process for new and expanded solid waste disposal facilities that the Maine Legislature had established in 1989, since the Department considered a vertical increase not to be an expansion of the landfill. In this way, Old Town became the primary host community for the State’s only real solid waste disposal landfill, but with only limited input from the City and others into the review process.

Since 2004, NEWSME has been operating JRL on behalf of the State. Following the closure of the Maine Energy Recovery Company incinerator in Biddeford in 2012, JRL was permitted to accept an additional 81,800 tons per year of non-bypass MSW. More recently, JRL has been receiving increasing amounts of “bypass” MSW from the closed (since April 2020) Hampden MRC Fiberright facility and from the closed (since May of this year) PERC facility. However, it is a bit of a stretch to characterize these wastes as “bypass,” as the facilities from which they allegedly are bypassed are not in operation – it would be more honest to call this unprocessed MSW, which currently is not permitted to be disposed of at JRL. Landfilling is at the bottom of the State’s solid waste management hierarchy as set out in 38 M.R.S. § 2101.

So with this context, the City respectfully requests that the Commissioner rigorously and fairly apply the tests in § 1310-AA(3) to this public benefit determination application, even though the Department’s 2024 Maine Materials Management Plan already assumes that the proposed expansion of JRL will be approved in its conclusion (at page 41 of that Plan) that Maine appears to have adequate landfill capacity for at least 10 years. The City also requests that the Commissioner and the Department reexamine the impacts of JRL on the City as host community

of this landfill in order to ensure that the public health, safety and welfare of its residents are protected and that environmental justice is ensured. Finally, the City requests that either in this proceeding or in subsequent licensing, the Department place a time limit on the duration of what currently really is the disposal of unprocessed MSW at JRL.

Thank you for your consideration of the City of Old Town's concerns in this matter.

Sincerely,



William J. Mayo
Old Town City Manager

cc: Old Town City Council