



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL MERCER
COMMISSIONER

January 22, 2016

Michael Barden
Dept. of Economic & Community Development
59 State House Station
Augusta, Maine 04333-0059

Don Meagher
NEWSME Landfill Operations, LLC
2828 Bennoch Road
Old Town, Maine 04468

RE: Juniper Ridge Landfill Expansion; Application #S-020700-WD-BI-N

Dear Mr. Barden and Mr. Meagher:

The Department has the following comments on the applications noted above. In addition to these comments, I have attached comments from Richard Behr, Stephan Farrar, Victoria Eleftheriou and Ken Libbey, as well as comments from outside agencies.

- Chapter 400.4.B, Financial Ability:** The projected total cost for the design and construction of the proposed expansion is \$24.6 million. Construction of Cell 11, slated for 2018, is estimated at \$6.24 million. A letter from Bank of America, N.A. was submitted with the application that demonstrates a secured credit facility of \$190 million, of which \$38 million is currently available to cover the costs of design and construction of the expansion. Staff comments that this secured credit facility is available for Casella Waste Systems, Inc. and all its wholly-owned subsidiaries, including NEWSME Landfill Operations, LLC. The cost of ongoing operations, estimated to be \$7.0 million per year, will be financed by revenues generated from the operation of the landfill, such as tipping fees. Finally, the cost for closure and post-closure care of the facility is estimated to be \$21.1 million. NEWSME Operations, LLC maintains a surety bond, currently in the amount of \$21,072,243, for the closure and post-closure care of the landfill. Staff comments that the period for the primary surety bond (#853746) expired on September 12, 2015. A current Continuation Certificate needs to be provided and updated annually.

In addition to the supporting documentation submitted with the application, staff accessed and reviewed the 2014 Corporate Annual Report for Casella Waste Systems, Inc. to verify financial commitments and environmental liabilities associated with other Casella subsidiaries. Finally, staff verified the status of bonds issued through the Finance Authority of Maine (FAME). FAME staff confirmed that the Casella makes payments to bondholders directly or through a trustee, that FAME has no direct exposure in the case

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of default on the bonds and that Casella is considered to be in good standing with no payment defaults. A copy of the correspondence with FAME is attached.

- **Chapter 400.4.D, Traffic:** Staff have reviewed all the statements and supporting information contained in Volume I, Section 3.4 and Volume I, Appendix E of the application. In addition, the Maine Department of Transportation (DOT) conducted a similar review of the same submittals. Both DEP and DOT comment that the slight increase (3 trips in the peak hour) will not result in the need to modify roadways or intersections in the vicinity of the landfill, that there are no high crash locations in the area that will be impacted by the proposed development and that a traffic study is not warranted. A copy of DOT's comments is attached.
- **Chapter 400.4.E, Fitting the Facility Harmoniously into the Natural Environment:** Staff have reviewed all the statements and supporting information contained in Volume I, Sections 3.5 and 3.6, and Volume I, Appendix F of the application. Staff comment that three Significant Wildlife Habitats are located within the boundaries of the property on which the expansion area is located, but are likely not to be impacted by the proposed development. Further, correspondence from the U. S. Fish and Wildlife Service (USFWS) notes that critical habitat for Atlantic Salmon (*Salmo salar*), a federally and Maine-listed endangered species, lies within the watershed of the project. Staff comment that a final determination by the USFWS or the Army Corps of Engineers on potential impacts to critical habitat of Atlantic Salmon associated with the proposed expansion has not been issued.
- **Chapter 400.4.F, No Unreasonable Adverse Effect on Existing Uses and Scenic Character:** Staff have reviewed all the statements and supporting information contained in Volume I, Section 3.6, and Volume I, Appendices F, G and H of the application. Staff comment that on bottom of page 7-6 of the Sound Level Assessment Report¹, there is reference to Figure 7-1 through 7-6. Staff could only locate Figures 7-1 and 7-2. This is likely a typographical error, however, if not, please submit the additional figures. Further, it is stated at the bottom of page 9-1 of the same Report that "Operational restrictions will be necessary in certain regions of the western expansion area during the one hour of nighttime operations in order to comply with the noise limits." For the purposes of compliance, the applicant should clarify which of the mobile equipment listed in Table 7-1 of the Report will not be operating in the western expansion area during the one hour of nighttime operations (6:00 a.m. to 7:00 a.m.).

¹ *Sound Level Assessment Report Juniper Ridge Landfill Expansion – Old Town, Maine*. Epsilon Associates, Inc., July 7, 2015

Volume I, Appendix F of the application contains correspondence from the Maine Historic Preservation Commission stating that there will be no historic properties affected by the expansion and that a Phase I archeological investigation will not be required.

Staff comment that the Visual Assessment Report² was prepared using both the definition of “public viewing area” contained in 06-096 CMR 400.1.L1 and “scenic resource” contained in 06-096 CMR 315.5.H of the Departments rules. Further, the visual assessment study area was expanded out to a distance of 6 miles, well beyond the 2,000 feet specified in 06-096 CMR 400.4.F(3)(b) of the Solid Waste Rules and the City of Old Town’s ordinance.

- **Chapter 400.4.G, No Unreasonable Adverse Effect on Air Quality:** See the January 20, 2016 memorandum from DEP Technical staff on the landfill gas management plans and operations.
- **Chapter 400.4.H, No Unreasonable Adverse Effect on Surface Water Quality:** Staff have not identified any facet of the siting or operation of the proposed expansion that would cause the facility to discharge any water pollutants that would affect the state classification of a surface water body. Further, staffs analysis shows that there are no “waterbodies most at risk from new development” within the watershed of the proposed expansion. Staff note, as stated by the applicant, the existing Stormwater Pollution Prevention Plan will need to be updated to include and address changes brought about by the proposed expansion.
- **Chapter 400.4.I, No Unreasonable Adverse Effect on Other Natural Resources:** The NRPA application submitted as part this overall project is still under review pending responses from outside reviewers, including Maine Inland Fisheries and Wildlife, the USFWS and the Army Corps of Engineers.
- **Chapter 400.4.N, Solid Waste Management Hierarchy** Staff have reviewed all the statements and supporting information contained in Volume I, Section 3.14 of the application. In addition, staff reviewed data contained in the 2013 and 2014 Annual Reports for the Juniper Ridge Landfill, the 2014 Annual Report for the Hawk Ridge Landfill and summaries of 2014 data for the generation, disposal and utilization of residuals in Maine. These last data were compiled by the Department from annual reports for calendar year 2014. In general, the information contained in the application regarding the application of the solid waste hierarchy adequately identified and addressed those wastes that are sufficiently within the control of the applicant to manage or facilitate. Staffs analysis of the summary of wastes accepted at JRL determined that seven categories of wastes accounted for 88.7% of the wastes accepted at the facility. These are mixed CDD (199,000 tons), CDD processing residue – fines (126,000 tons), FEPR (57,000 tons), MSW ash (54,000 tons), CDD processing residue -bulky waste

² *Visual Assessment Report Juniper Ridge Landfill – Old Town, Maine.* SMRT Architects and Engineers, July, 2015

(48,000 tons), Municipal WWTP/POTW sludge (38,000 tons) and MSW (37,000 tons). Of these seven categories, FEPR and MSW ash currently have no other viable management option. CDD processing residue – fines and CDD processing residue -bulky waste are arguably largely generated from the processing of out-state wastes. However, these wastes are considered in-state wastes, as they are generated at processing facilities located in Maine and the fines are used as daily cover to the extent possible in accordance with the statutes and rules governing these wastes. The Department analyzed the use of fines as daily cover at JRL as part of its review of the Public Benefit Determination and noted no irregularities in this practice. Mixed CDD, the largest category of waste accepted at JRL, is generated at many sources in Maine, some of which are under the direct control of the applicant. Staff comments that the applicant should provide additional detail on current and future efforts to decrease the amount of mixed CDD sent to JRL. In reviewing the 2014 Annual Report, staff noted efforts by the applicant to divert MSW from the landfill to other facilities higher on the hierarchy, including ecomaine and MMWAC. Staff note that agreements between these facilities were executed late in 2014 and would not be reflected in the 2014 Annual Report. The applicant should continue to divert MSW to these facilities and provide data on the quantities of MSW diverted to these facilities in 2015. Finally, staff comment that 38,000 tons of Municipal WWTP/POTW sludge was accepted at JRL in 2014, of which approximately 28,000 was generated by Portland, South Portland and Rockland. By comparison, the 2014 Annual Report for the Casella-owned Hawk Ridge Compost facility accepted 27,000 tons of Maine-generated biosolids and 24,000 tons of out-of-state biosolids. Staff are aware that there is limited capacity for land applying and composting biosolids. However, the applicant stated that biosolids from Maine sources in excess of the limitations must be disposed in a secure landfill. Staff propose that a large portion of the Maine-generated biosolids could be managed at the Hawk Ridge facility if out-of-states sources were managed through options other than JRL.

- **Chapter 400.12, Civil and Criminal Disclosure Statement:** Staff comment that civil criminal disclosure must be expanded to include Casella Waste Systems, Inc., the parent company of both New England Waste Services of Maine, Inc. and New England Waste Services of Maine Landfill Operations, LLC. A cursory review of the organization of Casella Waste Systems, Inc. and its subsidiaries, as shown in Volume I, Appendix Q of the application, shows a direct link to the management and control of the various entities. Also, some of the documentation and agreements contained in the application, such as the letter from Bank of America, specifically name Casella Waste Systems, Inc. The expanded disclosure must address all the pertinent information on Casella's other subsidiaries, including those operating in other states and countries, as required in 06-096 CMR 400.12

As always, should you have any questions regarding these comments, please do not hesitate to contact the Department to discuss these items. Please note that responses to these comments

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should be submitted to Kathy Tarbuck, who will be taking over as the project manager for the combined applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Parker". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael T. Parker, Project Manager
Division of Materials Management

Attachments:

FAME Correspondence
DOT Comments
Comments of R. Behr
Comments of S. Farrar, et al.

Cc (via email): K. Tarbuck, MeDEP
V. Eleftheriou, MeDEP
S. Farrar, MeDEP
R. Behr, MeDEP
L. Caron, MeDEP
C. Bertocci, BEP
M. Booth, Sevee & Maher
T. Doyle, Esq., Pierce Atwood