

1 STATE OF MAINE
2 BOARD OF ENVIRONMENTAL PROTECTION
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5 IN RE: APPLICATIONS BY STATE OF MAINE
6 BUREAU OF GENERAL SERVICES FOR
7 PROPOSED EXPANSION OF THE JUNIPER
8 RIDGE LANDFILL
9 * * * * *

10 October 19, 2016
11 Cross Insurance Center
12 Bangor, Maine

13 CHAIRMAN: JAMES PARKER

14 BOARD MEMBERS:

- 15 Alvin Ahlers
- 16 Kathleen Chase
- 17 Mark Draper
- 18 Thomas Dobbins
- 19 Thomas Eastler
- 20 Jonathan Mapes

21 OTHERS PRESENT AT PANEL TABLE:

- 22 Mary Sauer, Assistant Attorney General
- 23 Cynthia Bertocci, BEP Executive Analyst
- 24 Ruth Ann Burke, BEP Administrative Assistant

25 DEPARTMENT STAFF MEMBERS PRESENT:

- 26 Kathy Tarbuck Victoria Eleftheriou
- 27 David Burns Steve Farrar
- 28 Richard Behr James Beyer
- 29 Lynn Caron

1 Lynn Caron and Victoria Eleftheriou may be here.
2 I don't see her in her seat but she's here, I
3 believe. This hearing is being recorded and
4 transcribed by Joanne Alley from Alley &
5 Morrisette Reporting.

6 This is day two of the hearing and today
7 we're going to begin with Mr. Spencer, who is an
8 intervenor. If there are any members of the
9 public here today that would like to ask a
10 question of a witness, you may submit your
11 questions to me in writing. Paper is available at
12 the water station at the back of the room. Please
13 leave your questions on the table and staff will
14 collect them periodically. I will review the
15 questions and make a determination as to their
16 relevance and ask the questions as time permits.

17 At this time I ask all persons testifying
18 who have not already been sworn in to stand and
19 raise their right hand. I think most of you were
20 sworn in yesterday, I believe, but thank you, and
21 again, I'm going to ask the testimony -- to speak
22 clearly and slowly so that Joanne can stay with
23 us. Okay. Mr. Spencer, the floor is yours.

24 MR. SPENCER: Good morning.

25 CHAIRMAN PARKER: Make sure the mike is

1 (This hearing was held before the Board of
2 Environmental Protection, Cross Insurance Center,
3 Bangor, Maine, on October 19, 2016, beginning at 8:30
4 a.m.)

5 * * * * *

6 CHAIRMAN PARKER: Good morning. I now
7 call this session of the public hearing of the
8 application by the State of Maine Bureau of
9 General Services for a 9.35 million cubic yard
10 expansion of the Juniper Ridge Landfill in Old
11 Town and Alton. My name is Jim Parker, I'm from
12 Veazie, I'm the chair of the Board of
13 Environmental Protection and I'm the presiding
14 officer for this hearing. Other members of the
15 Board are Tom Eastler from Farmington, Kathleen
16 Chase from Wells, Jonathan Mapes from Springvale,
17 Alvin Ahlers from Yarmouth, Tom Dobbins from
18 Scarborough and Mark Draper from Caribou. To my
19 right is Mary Sauer, she's the assistant attorney
20 general assigned as counsel for the Board. To my
21 left is Cindy Bertocci, she's the Board's
22 executive analyst and far to the left is Ruth Ann
23 Burke, the Board's administrative assistant. DEP
24 staff present today are Richard Behr, Steve
25 Farrar, Kathy Tarbuck, David Burns, Jim Beyer and

1 on.

2 MR. SPENCER: Can you hear me? Now?

3 CHAIRMAN PARKER: We got you.

4 MR. SPENCER: What I plan on doing here is
5 just summarizing my written testimony. I may pull
6 a couple of paragraphs out of my rebuttal
7 testimony as well, but I plan on just sticking
8 mostly with my pre-filed written testimony.

9 So let's start with Maine State Waste
10 Hierarchy in regards to construction and
11 demolition debris and oversize bulky waste. One
12 of the primary issues we need to be concerned with
13 as the State Bureau of General Services
14 contemplates an expansion of our Juniper Ridge
15 Landfill is how our State Waste Hierarchy is
16 applied to waste entering JRL. The Department of
17 Environmental Protection is charged with
18 evaluating an expansion and in so doing, consults
19 laws and rules that set regulatory procedures and
20 standards for landfills. Only in the past several
21 years has our waste hierarchy become a criteria
22 governing how we handle waste in Maine and this
23 expansion procedure is the first time DEP will
24 fully implement the hierarchy as a rule of the
25 State of Maine in regard to waste disposal

1 facilities.

2 According to MRS 2101, Maine Solid Waste
3 Management Hierarchy mandates that from the --
4 from most preferred to least preferred, we should
5 first strive for waste reduction at the source,
6 then reuse, recycling, composting, waste
7 processing, then waste to energy and then land
8 disposal. JRL is, therefore, the least desirable
9 outcome for waste in Maine.

10 In addition, under recycling and source
11 reduction determination rules set forth in 38 MRS
12 1310-N5A, it says that "an applicant for a new or
13 expanded solid waste disposal facility shall
14 demonstrate that, one, the proposed solid waste
15 disposal facility will accept solid waste that is
16 subject to recycling and source reduction programs
17 voluntary or otherwise at least as effective as
18 those imposed by this chapter and other provisions
19 of state law."

20 Without identifying where the material
21 coming into JRL actually became a waste, it is
22 impossible for DEP, as regulator, to truly
23 ascertain if that waste has been fully reduced at
24 the source as well as being subjected to other
25 requirements of our hierarchy before being

1 landfilled. It is absolutely vital that these
2 provisions of state law be fully enforced given
3 that permitted landfill space is extremely
4 valuable. CDD and its derivatives have accounted
5 for roughly half the waste coming into JRL from
6 its beginning in 2003; in fact, for the last five
7 years, 2011 through 2015, waste categorized as
8 construction and demolition debris, oversized bulky
9 waste and C&D process fines have, when combined,
10 accounted for over 57 percent of Juniper Ridge
11 Landfill inputs.

12 In 2010 and 2011, OBW, that's oversized
13 bulky waste, inputs to JRL are listed at 96,500
14 and 98,888 tons respectively. This may well be
15 why DEP Commissioner Aho attached condition three
16 to her public benefit determination partial
17 approval in 2012. DEP could see that this
18 category of JRL waste was increasing at an
19 extremely rapid pace with volumes of OBW amounts
20 from 2000 -- 2007 being 9,649 tons, 2008 OBW being
21 21,405 tons, and 2008 OBW listed at 51,438 tons.
22 Were this increase from 2007 to 2010 to have
23 continued at this pace through 2015, just the OBW
24 portion of waste entering JRL would have eclipsed
25 the total tonnages into JRL by 2014. This had to

1 have been of major concern to regulators.

2 Also contained in the conclusions of the
3 public benefit determination it directs the State
4 Planning Office, now the Bureau of General
5 Services as owner, and Casella to amend their
6 Operating Services Agreement. This was in
7 response to her concerns that there were large
8 amounts of CDD and CDD residues coming into JRL in
9 2013 -- oh, excuse me -- it should say CDD
10 residues coming into JRL, including oversized bulky
11 waste through Casella's KTI processing facility
12 in Lewiston. This facility was sold to ReEnergy
13 in 2013 and still accounts for most of the CDD
14 imports into JRL. ReEnergy has made some progress
15 in reducing the percentage of its waste inputs
16 that are imported from out of state but still the
17 vast majority of waste entering the Lewiston
18 processor and continuing to Juniper Ridge were not
19 discarded in Maine. The original justification
20 for these imports was to provide fuel for the mill
21 boiler in Old Town. Commissioner Aho noted in the
22 PBD that the Old Town boiler was not functioning
23 and this continues to be the case today.

24 November 2nd, 2006, second amendment to
25 the OSA's fuel supply agreement allowed CDD

1 imports to be used for fuel for all boilers in
2 Maine, whereas up until that time, imports were
3 only allowed to provide fuel for the Old Town mill
4 boiler. Despite these changes, there is little to
5 no fuel from CDD being burned at any boilers in
6 Maine. I believe that this is why Commissioner
7 Aho mandated that the OSA be amended; however,
8 Casella and BGS refused to comply with the PBD
9 directive and their excuse is that, quote, it is
10 not an enforceable obligation, end quote.

11 My opinion is that until the applicants
12 comply with all the conditions and conclusions of
13 the public benefit determination, that any
14 expansion should be put on hold or denied until
15 there is compliance. CDD in its various forms has
16 been coming in to Juniper Ridge for almost 13
17 years without adequate assurance of source
18 reduction and the public has had to rely on
19 accounting (sic) for accounting -- to rely on
20 Casella for accounting with no help from our state
21 agencies discernible.

22 In the DECD letter of July 11th, 2016,
23 which is our Exhibit #3, Spencer 3, which was
24 signed by Michael Barden of BGS and Jeremy Labbe
25 of Casella, here is how they described oversized

1 bulky waste and its relationship to the economy.
 2 Quote, OBW generated by a CDD processing facility
 3 is a material that is generated as a result of
 4 recycling CDD. This is an activity that should be
 5 encouraged. As economic activity increases, CDD
 6 volumes increase, resulting in an increase in
 7 oversize bulky waste generation as evidenced in
 8 the volume shown on the attached chart. Applying
 9 an arbitrary limit on OBW acceptance in the JRL
 10 expansion could have the direct result of limiting
 11 CDD recycling or causing an increased financial
 12 burden for CDD processing facilities in Maine, end
 13 quote. They seem to be arguing that higher
 14 volumes of oversize bulky waste into JRL is a very
 15 positive thing for Maine's economy. If this were
 16 the case, then why were OBW inputs into JRL at
 17 their highest in 2010 and 2011 while the economies
 18 of the United States and Maine were struggling to
 19 pull out of the steepest recession since World War
 20 II. What's more, overall combined categories of
 21 CDD varied little during these years but OBW
 22 deliveries to Juniper Ridge were at their highest
 23 levels; therefore, oversize bulky waste volumes
 24 did not correspond with higher CDD outputs
 25 overall. Mr. Barden should be prepared to explain

1 his statements at the public hearing this fall, if
 2 not before. Furthermore, Barden and Labbe in that
 3 same letter say that landfilling of oversize bulky
 4 waste was the best way to handle OBW according to
 5 the Maine DEP Maine Materials Management Plan,
 6 January 2014, Appendix C.

7 It needs to be pointed out that rules on
 8 Maine's waste hierarchy have changed since that
 9 date. Most of the materials in mattresses can be
 10 recycled into metal, wood and fabric. Appliances
 11 have metal components and the copper linings in
 12 their motors are among the most valuable of
 13 recycled materials. Furniture, likewise, can be
 14 taken apart and largely recycled. So we need to
 15 know how much effort was actually put into
 16 recycling at the true source of the oversize bulky
 17 waste which may well be beyond Maine's borders.
 18 It is also possible that waste coming into Maine's
 19 CDD processors are sent there to avoid stricter
 20 rules on landfilling in the jurisdiction where
 21 they were discarded.

22 To fully understand construction and
 23 demolition debris waste volumes into Juniper Ridge
 24 in the past and predict them in the future, should
 25 JRL be expanded, it is necessary to develop an

1 overall comprehensive portrait of Casella's
 2 network of landfills throughout the northeastern
 3 United States. We have heard that Casella either
 4 owns or operates 13 landfills in their network.
 5 How many of these are licensed to accept CDD?
 6 What are the volumes at those facilities? What
 7 are the volumes of oversize bulky waste at
 8 Casella's non-Juniper Ridge landfills? Do they
 9 also use CDD fines for daily cover and where do
 10 these fines come from? Where does the CDD that
 11 comes to Juniper Ridge actually become a waste?
 12 Where are the points of discard? What are the
 13 rules on source reduction and recycling where
 14 these materials are discarded and do they meet or
 15 exceed the standards and effectiveness of waste
 16 required in Maine?

17 The DEP needs a lot more information from
 18 Casella and BGS before they can confidently assure
 19 the public that our rules on waste hierarchy are
 20 being fully implemented both currently and in the
 21 future at the Juniper Ridge Landfill.

22 This is under my section design and
 23 operation of the proposed expansion. The
 24 standards for landfill construction -- the
 25 standard for landfill construction is that there

1 must be a six-year travel time to sensitive
 2 receptors. It sounds like that is how long it
 3 would take for any escaped toxins to get into an
 4 aquifer, etcetera. This does not inspire
 5 confidence. It is as if we are planning for a
 6 leak. If the liner system is breached, it is
 7 difficult or impossible to fix it with all the
 8 waste in place. From the beginning of a leak, it
 9 may take six years to get to drinking water
 10 sources but once that leak starts, it will leak
 11 basically forever. So while the Juniper Ridge
 12 Landfill is called a secure landfill, at the same
 13 time plans are in place that anticipate failure of
 14 the systems.

15 On April 10th, 2008, at a landfill site
 16 assessment hearing before the Board of Health in
 17 Southbridge, Massachusetts, David Bonnett, a civil
 18 engineer, landfill site professional and expert
 19 witness for Casella Waste testified under oath
 20 that, quote, all liners leak, end quote. That's
 21 my exhibit Spencer 5. This information is
 22 relevant to an expansion of Juniper Ridge
 23 landfill.

24 Stormwater management, the public and
 25 environmental systems may be at risk from

1 insufficient preparations for extreme
 2 precipitation events at JRL after an expansion and
 3 at present. Not long after Casella started
 4 operating Juniper Ridge in 2003, there was a very
 5 heavy rain that washed out the stormwater control
 6 systems and spread sediment off the landfill
 7 footprint. There is a conflict in DEP regulations
 8 because the criteria only calls for building for a
 9 25-year precipitation event. An event of this
 10 magnitude, I'm referencing to a large, you know,
 11 extreme rainfall event, an event of magnitude will
 12 surely happen at Juniper Ridge and it could be at
 13 any time. The earlier event at JRL must have
 14 violated at least some of the Natural Resource
 15 Protection Act NRPA standards. In the BEP handout
 16 from May 19th, 2016, that's exhibit Spencer 1,
 17 some of the experts -- excerpts affected at that
 18 time and in a future storm would include soil
 19 erosion, harm to habitats and fisheries, and lower
 20 water quality. There is a conflict because rules
 21 only call for a 25-year flood threshold and at the
 22 same time, building for that lower standard will
 23 not adequately protect the environment and prevent
 24 harm to public welfare.

25 Monitoring ground and surface water

1 leachate and landfill gas, if one reads through
 2 the Juniper Ridge annual reports and the comments
 3 of DEP personnel such as Richard Behr, there's a
 4 commonly repeated event, a monitoring well will
 5 show some abnormal results and the monitors will
 6 conclude that it is due to construction activity
 7 at the landfill. Landfills are always under
 8 construction. Juniper Ridge grows every day
 9 year-round. Why aren't there more objective
 10 measurements of water quality that are not
 11 influenced by construction activities? What if
 12 DEP staff was to go back and for every result
 13 where construction activity was blamed for unusual
 14 results, instead look at what could be happening
 15 to cause aberrations. Experts say that all
 16 landfills leak and any delay in tracking down
 17 possible breaches in the liner systems just
 18 reduces the opportunity to remedy the situation.
 19 Leachate disposal is especially troubling in
 20 regard to an expanded JRL. Casella and BGS has
 21 been extremely lax in reporting changes to
 22 leachate disposal agreements. In their July 11th,
 23 2016 letter to DEP, that's exhibit Spencer 3,
 24 Michael Barden and Jeremy Labbe revealed that
 25 Casella had signed a new leachate disposal

1 contract with the owner of the Old Town mill in
 2 April. So three months after the fact, they
 3 reveal this contract. During that period of time,
 4 there were meetings on expansion where Barden,
 5 Labbe, other Casella personnel and attorneys were
 6 present, along with DEP staff and never mentioned
 7 that the leachate disposal contract had changed.
 8 This reminds one of back in November of 2006 when
 9 Casella signed new contracts for fuel supply and
 10 leachate disposal and incorporated them into the
 11 second amendment to the Operating Services
 12 Agreement. They never disclosed these changes
 13 which drastically expanded CDD deliveries to
 14 Juniper Ridge. Only through citizen inquiry were
 15 these changes made public and not until 2008.

16 The Old Town mill has not operated since
 17 last fall, 2015. At bankruptcy court it was sold
 18 to a group that tries to sell off individual mill
 19 assets and scraps the rest. Beginning last
 20 November, about 800,000 gallons of Juniper Ridge
 21 Landfill leachate per month were taken to the
 22 wastewater treatment plant at the Old Town mill.
 23 The new contract says that Casella will get the
 24 leachate pH between 5 and 9 before putting it into
 25 the mill system. This is a wide range of pH and

1 only tested twice a year.

2 Alternatives analysis, central to the NRPA
 3 application as well as the U.S. Army Corps of
 4 Engineers application is something called an
 5 alternatives analysis. Sean Mahaney of the Corps
 6 explained to me that to them this is an attempt to
 7 determine if this activity, expanding room for
 8 waste at Juniper Ridge Landfill, is unavoidable
 9 and has any alternatives to disposal and its
 10 accompanying destruction of wetlands. Now, in
 11 Chapter 310, wetlands and waterbodies protection,
 12 in Section 5, general standards, A, avoidance,
 13 quote, the activity will be considered to result
 14 in an unreasonable impact if the activity will
 15 cause a loss in wetland area functions or values
 16 and there is a practicable alternative to the
 17 activity that would be less damaging to the
 18 environment. That's in the BEP handout Spencer 1
 19 exhibit. Obviously if there was less waste in
 20 need of disposal at Juniper Ridge there would be
 21 less pressure to expand and any expansion would
 22 last longer. During the period of time between
 23 the expansion application being submitted and
 24 accepted as complete for processing, DEP staff
 25 analyzed waste streams into Juniper Ridge. In a

1 letter from Michael Parker of DEP to Casella and
 2 BGS on January 22nd, 2016, that's exhibit Spencer
 3 7, DEP staff presented Chapter 400.4.N, solid
 4 waste management hierarchy.

5 After looking at seven categories of waste
 6 into Juniper Ridge, they commented, quote, of
 7 these seven categories, front end process residue
 8 and municipal solid waste ash currently have no
 9 other viable management option, end quote. This
 10 was for 2014. Front end process residue, 57,000
 11 tons and municipal solid waste ash, 54,000 tons
 12 comprised only 19.8 percent of the total from
 13 these seven waste streams, the total was 559,000
 14 tons and once again this is for 2014.

15 DEP staff did not say where else these
 16 wastes could go, but it sounds like at that point
 17 in time there was considered to be a, quote,
 18 practicable alternative to the activity, end
 19 quote, of bringing most waste to Juniper Ridge.
 20 In addition, the PERC incinerator in Orrington
 21 where the FEPR and ash come from is committed to
 22 burning one-third less municipal solid waste after
 23 March 2018. Remember also that DEP's stated goal
 24 is to reduce statewide waste by five percent every
 25 two years.

1 Summary, essential considerations before
 2 any expansion of Juniper Ridge should be -- any
 3 expansion of Juniper Ridge should be permitted
 4 should remember the basics. 38 MRS 1310-N1,
 5 licenses, this is Exhibit 1, page 11, the
 6 Department shall issue a license for a waste
 7 facility whenever it finds that facility will not
 8 pollute any water of the state, contaminate the
 9 ambient air, constitute a hazard to our welfare or
 10 create a nuisance. Volume of the waste and the
 11 risks related to its handling and disposal have
 12 been reduced to the maximum practical extent by
 13 recycling and source reduction prior to disposal,
 14 and practices are consistent with the state's
 15 Solid Waste Management Hierarchy. Juniper Ridge
 16 Landfill should not be issued a permit for
 17 expansion until Casella and BGS have fully
 18 complied with the conclusions and conditions of
 19 the public benefit determination license from
 20 January of 2012, including placing a limit on
 21 oversize bulky waste deliveries, amending the
 22 Operating Services Agreement to reduce CDD imports
 23 from out of state and conducting independent
 24 third-party audits of large CDD processing
 25 facilities. All concerns of the public need to be

1 considered carefully and alternatives discussed.

2 I think I just want to add, if I could,
 3 one paragraph on page 3 of my rebuttal testimony.
 4 This was in reference to Ms. Toni King's
 5 testimony. On page 6 of her testimony it says,
 6 quote, the ultimate decision on the waste
 7 management technique used by the generators is not
 8 within the control of either BGS or NEWSME, end
 9 quote. Instead of making sure that waste into
 10 Juniper Ridge Landfill are being fully reduced at
 11 the source before they get to Juniper Ridge,
 12 Casella and BGS rely on the generators of that
 13 waste to comply with provisions of our hierarchy.
 14 This has been the practice at JRL to date but
 15 moving forward and certainly at an expanded
 16 Juniper Ridge, the hierarchy should be strictly
 17 enforced and the true sources of waste need to be
 18 revealed so that the DEP as regulator can
 19 ascertain whether source reduction and recycling
 20 has actually been, quote, at least as effective as
 21 those imposed by this chapter. Failure of waste
 22 generators to furnish Casella and BGS with
 23 information about the true source or point of
 24 discard of all waste should result in exclusion
 25 from JRL. It is no secret that a high percentage

1 of Juniper Ridge Landfill wastes were discarded
 2 out of state but have been admitted using
 3 seemingly legal but creative definitions and
 4 practices. Wastes discarded beyond our borders
 5 should not be exempt from our waste hierarchy.
 6 Thanks. I think I'll leave it at that.
 7 CHAIRMAN PARKER: Thank you, Mr. Spencer.
 8 We'll open it up now for some cross. First will
 9 be the applicant.
 10 MR. DOYLE: Good morning, Mr. Spencer.
 11 MR. SPENCER: Good morning.
 12 MR. DOYLE: Could you tell us where you
 13 live in Old Town?
 14 MR. SPENCER: I live on property bounded
 15 on one side by the Kirkland Road and the other
 16 side by Pushaw Stream approximately a mile and
 17 three-quarters from Juniper Ridge Landfill.
 18 MR. DOYLE: So what is your address?
 19 MR. SPENCER: 1140 Kirkland Road.
 20 MR. DOYLE: Can you point out on the
 21 Exhibit 10, which is a site map of the Juniper
 22 Ridge Landfill and the surrounding area, where you
 23 live on that map?
 24 MR. SPENCER: This would be Pushaw Stream.
 25 I think we might need another map. I can't tell

1 from this if -- actually I think we would be right
 2 there.
 3 MR. DOYLE: So off the map?
 4 MR. SPENCER: Off this map.
 5 MR. DOYLE: Okay, and I think you said
 6 about one and three-quarter miles away?
 7 MR. SPENCER: I think so approximately.
 8 MR. DOYLE: And the expansion is moving to
 9 the north of the landfill, of the current
 10 landfill, correct?
 11 MR. SPENCER: Yes. Can you hear me okay?
 12 CHAIRMAN PARKER: Go back to the --
 13 MR. EASTLER: You're welcome to use this
 14 pointer right here if you'd like to.
 15 CHAIRMAN PARKER: That's all right, go
 16 back to the table. I want you on the microphone.
 17 MR. SPENCER: Yeah, sorry.
 18 MR. DOYLE: And the question was, and the
 19 expansion is actually slightly further away from
 20 your -- from your house than existing JRL,
 21 correct?
 22 MR. SPENCER: Not all of it but most of
 23 it, you're right.
 24 MR. DOYLE: On page 2 of your direct
 25 testimony, you propose a way to interpret the

1 Waste Management Hierarchy. Isn't it true that
 2 DEP has adopted a rule, Chapter 400.4N, the rule
 3 Toni King highlighted yesterday in her testimony,
 4 that describes how it will apply the hierarchy to
 5 solid waste facilities, including landfills,
 6 incinerators and waste processing facilities?
 7 MR. SPENCER: I don't have 400.4 in front
 8 of me, but is this the most recent addition to the
 9 hierarchy rules?
 10 MR. DOYLE: Yes.
 11 MR. SPENCER: Okay.
 12 MR. DOYLE: Here is -- I'm handing you
 13 Chapter 400.4N. Isn't it true that nowhere in
 14 Maine law does it state that the Waste Management
 15 Hierarchy must be applied at the, quote, point of
 16 discard, closed quote?
 17 MR. SPENCER: I'm not a lawyer, okay, and
 18 I really can't afford legal advice so as far as
 19 your wanting to make me -- have me make a blanket
 20 statement, isn't this true, I -- I -- I'm kind of
 21 torn. I don't know that it is true and I don't
 22 know that it's false and I don't want to take your
 23 word for it, but we could proceed on that basis if
 24 you'd like to.
 25 MR. DOYLE: Take a look at the rule. Do

1 you see the words "point of discard" anywhere in
 2 that rule?
 3 MR. SPENCER: I'll say this, I use the
 4 word "point of discard" synonymously with source.
 5 MR. DOYLE: On pages -- if they don't own
 6 or control the generators of waste, how can BGS or
 7 NEWSME control what generators do with the waste
 8 after it's been generated?
 9 MR. SPENCER: That's kind of the crux of
 10 the matter. I think given the current way things
 11 are set up it's really hard for them to do but I
 12 also know that as part of the Operating Services
 13 Agreement, it does say that the state shall
 14 control the landfill. So you can't deny that
 15 there is a burden to control the waste coming in.
 16 There has to be some standards. For example,
 17 there's standards on hazardous waste.
 18 MR. DOYLE: Yeah, you've made that
 19 statement a number of times that the OSA says that
 20 the state shall control the landfill. Where in
 21 the OSA does it say that?
 22 MR. SPENCER: I'm not sure, but I'm very
 23 confident its in there.
 24 MR. DOYLE: Isn't it true that you're not
 25 sure because it's not there?

1 MR. SPENCER: Actually, all right, can I
 2 make an amendment to my statement then? It's
 3 either in the Operating Services Agreement or it's
 4 in the request for proposals for an operator of
 5 the landfill.
 6 MR. DOYLE: Doesn't the agreement control
 7 between two parties?
 8 MR. SPENCER: With the understanding that
 9 everybody who replied to the request for proposals
 10 to operate the agreement (sic), that this is under
 11 one of the conditions that the state shall control
 12 the landfill.
 13 MR. DOYLE: On pages 3 and 4 of your
 14 direct testimony you raise questions about the
 15 source of waste into Juniper Ridge. Jeremy, can
 16 we get up Exhibit 47? Could you enlarge the --
 17 enlarge it a little bit? So this is Exhibit 47
 18 which you've seen since you've reviewed the
 19 pre-filed testimony I assume, correct?
 20 MR. SPENCER: I -- I can barely read that
 21 from this point but yeah, I've looked at the waste
 22 streams.
 23 MR. DOYLE: So here's a closer copy of
 24 Exhibit 47.
 25 MR. SPENCER: Okay, thank you.

1 MR. DOYLE: So I'm asking about your
2 questions about the source of waste into Juniper
3 Ridge.
4 MR. SPENCER: Right.
5 MR. DOYLE: Isn't it true that these
6 monthly special waste activity reports provide
7 information on date of delivery, manifest number,
8 waste description, quantity delivered in tons,
9 transporter name, generator name and waste origin
10 by Maine county?
11 MR. SPENCER: Yes.
12 MR. DOYLE: Isn't it also true that these
13 reports are sent to DEP, BGS, the Landfill
14 Advisory Committee and the City of Old Town on a
15 monthly basis and have been since 2005?
16 MR. SPENCER: Correct, I assume.
17 MR. DOYLE: I wanted to ask you about your
18 testimony on oversize bulky waste. Mattresses and
19 furniture make up a good component of oversize
20 bulky waste, don't they?
21 MR. SPENCER: Yes. I think that's --
22 that's in the -- in the industry definition, isn't
23 it?
24 MR. DOYLE: On page 5 of your direct
25 testimony, you state that most of the materials in

1 mattresses, furniture and appliances can be
2 recycled into metal, wood and fabric, correct?
3 MR. SPENCER: Yes.
4 MR. DOYLE: Have you ever disassembled a
5 mattress?
6 MR. SPENCER: I know what the inside of a
7 mattress looks like, yes.
8 MR. DOYLE: Have you ever disassembled
9 one?
10 MR. SPENCER: Sure.
11 MR. DOYLE: Can you identify any business
12 in Maine that is currently disassembling
13 mattresses on a large-scale economic basis?
14 MR. SPENCER: That's kind of a loaded
15 question. Can you? I mean --
16 MR. DOYLE: No, this is my time to ask you
17 questions.
18 MR. SPENCER: Okay, okay. I don't believe
19 there is one. I should say during a discussion
20 yesterday that someone in your group was talking
21 about doing just that, disassembling mattresses as
22 a recycling business.
23 MR. DOYLE: Isn't it true that ReEnergy
24 last night commented that they are looking into
25 the possibility of recycling mattresses?

1 MR. SPENCER: Yeah, I heard Mr. Geisser
2 say that, sure.
3 MR. DOYLE: But they're not currently
4 recycling mattresses?
5 MR. SPENCER: No, no.
6 MR. DOYLE: Are you aware of any business
7 in Maine that is recycling mattresses on a
8 small-scale basis and economic basis?
9 MR. SPENCER: I know of a business in
10 Maine that at least until recently was reducing
11 the size of mattresses and incinerating them and
12 that would be at the PERC plant. There was
13 discussion about that yesterday as well.
14 MR. DOYLE: So they're burning mattresses?
15 MR. SPENCER: Correct.
16 MR. DOYLE: Okay. That's what they do at
17 PERC, they burn things?
18 MR. SPENCER: They -- they pull the metal
19 out and they burn the rest.
20 MR. DOYLE: Are you aware of any business
21 in New Hampshire that is currently disassembling
22 mattresses on a large-scale economic basis?
23 MR. SPENCER: No.
24 CHAIRMAN PARKER: Excuse me, stop asking
25 compound questions. Ask a question and then a

1 second question if you choose to so we understand
2 really what you're asking.
3 MR. DOYLE: Have you ever disassembled a
4 sofa or a recliner?
5 MR. SPENCER: You know, I have.
6 MR. DOYLE: You have?
7 MR. SPENCER: Sure. In fact, I was
8 thinking about using the metal inside of an easy
9 chair. It's kind of in the shape -- I was
10 thinking about using that metal to make an outside
11 place to cook, like an outdoor barbecue, you know,
12 like, you know, so use masonry and use the metal
13 as a -- as reinforcement for doing something like
14 that.
15 MR. DOYLE: Can you identify any business
16 in Maine that is disassembling used furniture such
17 as a sofa or a recliner on a large-scale economic
18 basis?
19 MR. SPENCER: I cannot identify any. That
20 doesn't mean that they don't exist, and I don't
21 understand why large-scale has to be part of the
22 conversation.
23 MR. DOYLE: Isn't it true to handle the
24 sort of wastes that are involved in OBW at Juniper
25 Ridge recycling of OBW has to be done on a

1 large-scale basis?
 2 MR. SPENCER: Ideally it would be but
 3 wasn't there discussion yesterday that if there
 4 were collection points and if you could keep the
 5 material from being commingled with other waste
 6 then the materials contained in the mattresses
 7 would have enough value perhaps to make a business
 8 of it?

9 MR. DOYLE: On page 9 of your direct
 10 testimony and page 5 of your rebuttal testimony,
 11 you claim that the DEP and the state's stated goal
 12 is to reduce statewide waste by five percent every
 13 two years, don't you?

14 MR. SPENCER: Can you repeat those pages
 15 please?

16 MR. DOYLE: Page 9 of your direct
 17 testimony and page 5 of your rebuttal testimony.

18 MR. SPENCER: Yeah, I think I did say
 19 that.

20 MR. DOYLE: What's the basis of this
 21 assertion?

22 MR. SPENCER: I've seen that in print.
 23 I've seen that in writing. In fact, we had a
 24 discussion about that at one of the -- one of our
 25 -- I can't remember just what it was but I think

1 municipal solid waste tonnage by five percent
 2 beginning on January 1st, 2009, and by an
 3 additional five percent every subsequent two
 4 years."

5 MR. DOYLE: So it says reduce municipal
 6 solid waste by five percent?

7 MR. SPENCER: Correct.

8 MR. DOYLE: It doesn't say all solid
 9 waste, does it?

10 MR. SPENCER: No, but I think there are --
 11 do you have a copy of the current waste reduction
 12 goal?

13 MR. DOYLE: As a matter of fact, I do.

14 MR. SPENCER: I know I'm not supposed to
 15 ask you questions.

16 MR. DOYLE: So could you read what was
 17 adopted this legislative session?

18 MR. SPENCER: Why don't you go sit over
 19 there, all right?

20 MR. DOYLE: I will.

21 MR. SPENCER: This is --

22 MR. DOYLE: Go ahead, Subsection 1.

23 MR. SPENCER: "State recycling goal, it is
 24 the goal of the state to recycle or compost by
 25 January 1st, 2021 50 percent of the municipal

1 there was a Board member -- the topic of five
 2 percent reduction every two years came up and I
 3 think there was a Board member who was --
 4 obviously with some background in numbers like
 5 this. I think he was talking about to be aware of
 6 the compounding effects of every five years and
 7 every -- you know, for not just the two-year
 8 period but beyond that.

9 MR. DOYLE: I'm going to show you the
 10 statute which is Title 38, Section 2132,
 11 Subsection 1A. Could you read that, please?

12 MR. SPENCER: When was this last changed?

13 MR. DOYLE: Well, that's --

14 MR. SPENCER: Is this current in other
 15 words?

16 MR. DOYLE: Well, we'll get to that in a
 17 second. That was the law in effect at the time
 18 you wrote your testimony. Could you read the
 19 Subsection 1A?

20 MR. SPENCER: I'm reading it. Do you want
 21 me to read it out loud?

22 MR. DOYLE: Out loud please.

23 MR. SPENCER: Okay. State reduction --
 24 "state waste reduction goal, it is the goal of the
 25 state to reduce the biennial generation of

1 solid waste tonnage generated each year within the
 2 state."

3 MR. DOYLE: That's the recycling goal.

4 MR. SPENCER: 1B, "state waste disposal
 5 reduction goal, it is the goal of the state to
 6 reduce the statewide per capita disposal rate of
 7 municipal solid waste tonnage to .55 tons disposed
 8 per capita by January 1st, 2019 and to further
 9 reduce the statewide per capita disposal rate by
 10 an additional five percent every five years
 11 thereafter."

12 MR. DOYLE: And so, again, in this recent
 13 legislative change this session, that reduction
 14 goal only applies to municipal solid waste,
 15 correct?

16 MR. SPENCER: So my statement may be wrong
 17 but if it's wrong, by how much of a factor would
 18 it be wrong? That's what I'm trying to think of.
 19 The statistic I would need for that would be what
 20 percentage of total waste tonnages in Maine is MSW
 21 and what the total waste is; in other words, this
 22 is -- and I admit that I may have misspoke about
 23 -- I may have confused municipal solid waste with
 24 total waste, but without -- I can't really
 25 apologize until -- unless I knew what percentage

1 of the waste stream is MSW of the total.
 2 MR. DOYLE: Juniper Ridge expansion isn't
 3 proposing to take anything other than MSW bypass,
 4 correct?
 5 MR. SPENCER: And MSW for soft layer.
 6 MR. DOYLE: Which has to be MSW bypass,
 7 correct?
 8 MR. SPENCER: That's the proposal.
 9 MR. DOYLE: On page 3 of your rebuttal
 10 testimony you suggest that NEWSME and BGS are not
 11 complying with the recycling and source reduction
 12 provision standard in Section 1310-N5A which
 13 states that, quote, the proposed solid waste
 14 disposal facility will accept solid waste that is
 15 subject to recycling and source reduction
 16 programs, voluntary or otherwise, at least as
 17 effective as those imposed by this chapter and
 18 other provisions of state law, closed quote. What
 19 recycling and source reduction provisions imposed
 20 by state law do you believe are not being
 21 followed?
 22 MR. SPENCER: I believe the requirement
 23 for the material the first order of priority, the
 24 highest level of our waste hierarchy, is reduction
 25 at the source.

1 MR. DOYLE: Yeah, I understand your
 2 argument about point of origin. Isn't it true
 3 that the only recycling and source reduction
 4 provision imposed by state law are the ones we
 5 just reviewed with respect to MSW tonnage?
 6 MR. SPENCER: Like I said, I'm not
 7 familiar enough with the entirety of Maine law to
 8 make that statement.
 9 MR. DOYLE: On page 4 of your rebuttal
 10 testimony, you suggest comparing the annual
 11 oversize bulky waste deliveries into Juniper Ridge
 12 with the annual amounts into Juniper Ridge from
 13 the PERC/MRC communities as the relevant metric
 14 for oversize bulky waste with respect to the Waste
 15 Management Hierarchy. Isn't Juniper Ridge
 16 Landfill and the expansion a landfill for the
 17 entire State of Maine not just a landfill for the
 18 PERC/MRC communities?
 19 MR. SPENCER: Yes.
 20 MR. DOYLE: On page 8 of your pre-filed
 21 testimony, you state that 800,000 gallons of
 22 leachate per month are sent to the Old Town mill
 23 wastewater treatment plant?
 24 MR. SPENCER: That's my understanding.
 25 MR. DOYLE: Isn't it true that that

1 wastewater treatment plant was designed to accept
 2 24.4 million gallons per day?
 3 MR. SPENCER: I will -- I don't think it's
 4 right to comment on that without breaking down
 5 what those numbers mean but yeah, basically the
 6 paper mill when it was functioning had this
 7 license to dispose of 20-plus million gallons per
 8 day, right.
 9 MR. DOYLE: You raise questions about Mr.
 10 Booth's testimony on stormwater management
 11 leachate collection and liner leakage. Are you
 12 aware that Mike has over 35 years of engineering
 13 experience?
 14 MR. SPENCER: No. Where did I raise this
 15 question? Was it in questioning yesterday?
 16 MR. DOYLE: It was in your testimony, your
 17 pre-filed testimony.
 18 MR. SPENCER: Where?
 19 MR. DOYLE: Stormwater management, page 7
 20 of your direct --
 21 MR. SPENCER: Excuse me one second, I'm
 22 getting dry. Okay.
 23 MR. DOYLE: Stormwater management was on
 24 page 7 of your direct testimony, leachate is also
 25 on page 7, you also raise questions about what he

1 said in your rebuttal testimony on pages 5 and 6.
 2 So my question is, are you aware that Mike has
 3 over 35 years of engineering experience?
 4 MR. SPENCER: I know that he is -- he's
 5 been -- yeah, I wouldn't know about 35 years but
 6 yeah, I read his resume and I have no issue about
 7 Mr. Booth's qualifications.
 8 MR. DOYLE: You're not a licensed
 9 professional engineer, are you?
 10 MR. SPENCER: I'm a father of a licensed
 11 professional engineer, I was admitted to the
 12 University of Virginia Engineering School, which
 13 is very -- not easy to get into at the time and I
 14 elected to pursue a different avenue of study but
 15 not to mention my father-in-law, now deceased, was
 16 a professional engineer, my daughter's boyfriend
 17 is a professional engineer, a lot of my friends
 18 are professional engineers, so but I -- am I
 19 licensed? No.
 20 MR. DOYLE: You raise concerns about
 21 subsidence?
 22 MR. SPENCER: Yes, I did.
 23 MR. DOYLE: Settlement?
 24 MR. SPENCER: Yes.
 25 MR. DOYLE: And groundwater movement?

1 MR. SPENCER: Um-hum.
 2 MR. DOYLE: Did you review Mr. Sevee's
 3 testimony on these topics?
 4 MR. SPENCER: I may -- you know, I did, I
 5 did; in fact, that's probably why I didn't just
 6 mention it because -- but yeah, go ahead.
 7 MR. DOYLE: You're not a geologist, are
 8 you?
 9 MR. SPENCER: No, no, I'm not.
 10 MR. DOYLE: I have no further questions.
 11 CHAIRMAN PARKER: Next will be Mr.
 12 Katsiaficas.
 13 MR. KATSIAFICAS: The City has no
 14 questions for Mr. Spencer.
 15 CHAIRMAN PARKER: Okay, Mr. Snowman?
 16 MR. SNOWMAN: No questions.
 17 CHAIRMAN PARKER: Mr. Laite?
 18 MR. LAITE: No.
 19 CHAIRMAN PARKER: Board members? No
 20 questions? How about the staff?
 21 MS. ELEFThERIOU: Mr. Spencer, in your
 22 direct testimony you expressed frustration with
 23 JRL's odor complaint management and response plan.
 24 Do you have any recommendations for improvements
 25 that could be made to the plan by JRL?

1 MR. SPENCER: I would -- if I was them, I
 2 would invite the Old Town Police Department -- oh,
 3 excuse me -- okay, can you hear me now? If I was
 4 the owner and operator of Juniper Ridge Landfill I
 5 would take the high road on this and I would
 6 invite the Old Town Police Department, which is a
 7 full-time department, I would invite the Penobscot
 8 County Sheriff's Department, which covers Alton
 9 and may be in that area as much as Old Town
 10 personnel, and I would invite the Maine State
 11 Police to during the course of their duties, not
 12 as a requirement, just during the course of their
 13 duties, to make a note of the time and location of
 14 any offensive smells in that area in the same
 15 manner that if there was a dead animal in the road
 16 smelling that they would just write down time,
 17 location and that there is an odor and I think
 18 that might help develop a pattern which would help
 19 them as DEP has requested, that when we smell it,
 20 to please call in because in a way we're -- you
 21 know, we're the boots on the ground and people
 22 that are there the most. So that's -- I guess
 23 that's my response.
 24 MS. TARBUCK: I have a quick question.
 25 You talked about public benefit determination

1 condition three which is the oversize bulky waste
 2 limit.
 3 MR. SPENCER: Right.
 4 MS. TARBUCK: If the expansion project
 5 moves forward and a limit is to be established in
 6 a license for oversize bulky waste, what would you
 7 propose as the oversize bulky waste tonnage limit
 8 and why?
 9 MR. SPENCER: I would need to know what
 10 the OBW inputs are to the other waste disposal
 11 facilities in Maine, including EcoMaine, South
 12 Portland, which serves a lot of that part of the
 13 state, the MMWAC incinerator, Lewiston/Auburn
 14 area, the landfill in Fort Fairfield, yeah, that
 15 serves northern Maine and maybe the smaller
 16 disposal -- you know, the municipal, Augusta,
 17 Bath, and I would try to get a relative amount of
 18 what is being produced by all these and make some
 19 kind of a determination based on that on what the
 20 total OBW output would be for a population the
 21 size of Maine, 1.3 million, and I would take that
 22 total and I would subtract all the totals. So I
 23 would first gather the information, understand
 24 their population base, and then based on that, use
 25 their population they're serving as a basis for

1 determining typical OBW output as a measure, you
 2 know, by per capita in the State of Maine and I
 3 would make the difference between the measurements
 4 at the other waste disposal facilities in Maine
 5 and what the -- you know, the projected output of
 6 all the population, 1.3 some million, and the
 7 difference in that I would put as a limit at
 8 Juniper Ridge. Am I making sense?
 9 MR. FARRAR: I have just one question.
 10 MR. SPENCER: Sure.
 11 MR. FARRAR: All right, is it just me or
 12 is it -- okay, just one question for you, Mr.
 13 Spencer. You expressed concern with the potential
 14 for extreme precipitation events and possible
 15 inadequacies of the 25-year/24-hour design storm
 16 as published by NRCS. How would you recommend
 17 going out and establishing what you would consider
 18 an appropriate design storm for the proposed
 19 expansion?
 20 MR. SPENCER: Well, I notice that --
 21 excuse me if I think out loud here.
 22 MR. FARRAR: That's fine.
 23 MR. SPENCER: I notice that part of the
 24 system design for Juniper Ridge, the expansion,
 25 parts of that I think we heard yesterday are being

1 designed for a 100-year flood. I would -- I'd
 2 probably start with that and I would try to talk
 3 with reputable, independent weather people. I
 4 would consult the -- I think NOAA does a lot of
 5 work on that, does a lot of work on projecting
 6 changes with climate change, and I think I would
 7 just consult with them as to what -- what we
 8 should really be preparing for and if you could --
 9 but I'm not even sure if -- you know, it's hard
 10 because you don't want to say it should be for
 11 what just happened in Louisiana, for example,
 12 necessarily, and you don't want to say it's just
 13 for the worst event, you know, in the last 100
 14 years in New England but I think we'd be getting
 15 closer there but I think there's just so -- and
 16 there's always uncertainty about the weather but I
 17 think moving forward there's just -- I mean, I've
 18 experienced personally in the last 20 years some,
 19 you know, 20 inches in 24 hours, you know, amongst
 20 friends and family. My son's location in Lyons,
 21 Colorado, three years and a month ago was
 22 devastated by -- and that's where I got the
 23 question about the slopes because they're at the
 24 foothills, you know, north of Boulder, northwest
 25 of Denver, and, you know, they had -- and they

1 said that was, A, a 500-year flood and B, it could
 2 happen again. So that's -- I think you'd have to
 3 just -- do our homework and -- but if -- you've
 4 got to remember, I don't want it to be expanded
 5 anyhow, but I'm not sure if we said -- like I
 6 wouldn't want to bet that building for a 100-year
 7 flood would get it done, you know.
 8 MR. FARRAR: All right, thank you.
 9 CHAIRMAN PARKER: Kathy.
 10 MS. CHASE: Thank you. Can you hear me?
 11 MR. SPENCER: Yes.
 12 MS. CHASE: All right, thank you, Mr.
 13 Spencer. I have a question. There seems to be --
 14 you've brought it up a number of times in your
 15 testimony and I've read your -- the ones that
 16 you've given us for submission, and the overall
 17 theme in a lot of the people that were concerned
 18 at the public hearing yesterday is all about the
 19 out-of-state waste that comes in.
 20 MR. SPENCER: Right.
 21 MS. CHASE: So my question to you is it
 22 seems like there's a disconnect. We've been told
 23 over and over again that the law says it comes --
 24 if it comes from the person not -- it's the
 25 generator and if they recycle it, it's them.

1 MR. SPENCER: Right.
 2 MS. CHASE: So my question to you would be
 3 what would be the solution for that? Do you have
 4 a solution for that and do we need to have better
 5 communication on what the law actually says so
 6 some of the people that are so concerned can have
 7 an understanding?
 8 MR. SPENCER: Thanks, that's a good
 9 question. And I apologize because I should have
 10 mentioned this. The law -- the definition they're
 11 going by now I believe became law in 2007. The
 12 state request for proposals happened in 2003, the
 13 state took ownership in 2004, the Operating
 14 Services Amendment was changed without notice to
 15 DEP or anyone else in 2006 and the definition was
 16 changed in 2007. So for starters, I think there
 17 needs to be a discussion of that, and I think the
 18 understanding that was in place when this plan was
 19 presented to the public in 2000 -- late 2003 and
 20 2004 and the first thing they said was there will
 21 be no out-of-state waste, there will be no
 22 out-of-state waste, even though they actually
 23 had -- there was some permission to bring enough
 24 CDD from out of state to pull burnable wood from
 25 that for the Old Town mill exclusively, and that

1 was an agreement that Casella had with -- and the
 2 State Planning Office had -- had signed, so they
 3 were allowed to import even though we weren't told
 4 that at time, but the whole idea -- the whole
 5 premise of this was that we -- the mill -- the Old
 6 Town mill was in trouble, there were 600
 7 employees, it was a large part of the tax base,
 8 and what can we do to help them. The solution
 9 seemed to be the state will take ownership of the
 10 landfill and somebody, it turned out to be
 11 Casella, would furnish the mill with low-cost fuel
 12 derived from construction and demo debris sources.
 13 So did I -- is this an answer? So things have
 14 changed since 2003 and 2004 as far as -- I'm not
 15 sure there really was a definition of in-state
 16 waste prior to that point.
 17 MS. CHASE: Okay.
 18 CHAIRMAN PARKER: I've got a couple
 19 questions for you.
 20 MR. SPENCER: Sure.
 21 CHAIRMAN PARKER: Apparently the way the
 22 state law is interpreted, and perhaps not by you
 23 the same way, is the argument is being made that
 24 municipal solid waste reduction only applies to
 25 MSW. Do you interpret it as applying to the total

1 waste stream or just to the MSW portion, the
 2 state's goals?
 3 MR. SPENCER: I think they do have a goal
 4 of reducing the overall amount of waste and -- but
 5 I know they have a goal of reducing, you know,
 6 basic citizen output, you know, non-industrial
 7 output.
 8 CHAIRMAN PARKER: Okay. Another thing you
 9 commented on, and I just want to see what your
 10 opinion of it is, you commented on the modified
 11 services agreement and apparently in your
 12 interpretation there's a failure in that agreement
 13 of directing the CDD to boilers other than Old
 14 Town and that apparently the only argument to not
 15 take it to the landfill is -- or take it to the
 16 landfill is if Old Town doesn't function. Is it
 17 your opinion that that agreement could be modified
 18 to direct more of that waste to other boilers?
 19 MR. SPENCER: Well, I think -- I think
 20 they already can. Did this go off? It's showing
 21 red. Have we got -- can you hear me now?
 22 CHAIRMAN PARKER: Yup.
 23 MR. SPENCER: Okay, I'm sorry. I think in
 24 the Operating Services Agreement now that the --
 25 any wood clean enough to be burned can go to any

1 boiler in Maine. I think that's the way it is now
 2 already.
 3 CHAIRMAN PARKER: Okay, I sort of
 4 misunderstood what you were saying.
 5 MR. SPENCER: Right.
 6 CHAIRMAN PARKER: One more question that's
 7 sort of come up is the -- I guess sort of what
 8 your argument was that -- or I guess in the
 9 testimony I've heard somewhere that Casella claims
 10 they can't really control the waste that's coming
 11 to them.
 12 MR. SPENCER: Right.
 13 CHAIRMAN PARKER: And you suggested in
 14 your testimony that some way some third-party
 15 inspection be involved. What do you really --
 16 what are your thoughts along that line?
 17 MR. SPENCER: I think at the landfill, for
 18 one thing, there should be auditors present not
 19 full-time but third-party just, you know, kind of
 20 observing and comparing the information that the
 21 regulators -- I don't know why, I'm not doing
 22 anything.
 23 CHAIRMAN PARKER: It just shut off.
 24 MR. SPENCER: It just shut off. Is this
 25 better? I think there's a gap in information and

1 once again, like if I was -- and there's no reason
 2 -- I think like Old Town can send someone out
 3 there to observe if they want and do some
 4 accounting. I just think as a society citizens
 5 are looking for transparency and some of that is
 6 just independent accounting and as far as the CDD
 7 waste streams, I really think at some level in
 8 Maine we need to develop an idea of what -- where
 9 really this stuff is coming from and what really
 10 state policy should be towards it. In other
 11 words, we don't want to become the repository for
 12 every mattress or old sofa from the states beyond
 13 our borders. I think -- even though it may be
 14 legal, I don't think we want to do that because
 15 space is just too precious.
 16 CHAIRMAN PARKER: Would you extend the
 17 third-party inspections to the other processors;
 18 in other words, people who are receiving the waste
 19 to process?
 20 MR. SPENCER: Absolutely.
 21 CHAIRMAN PARKER: Okay, that's all my
 22 questions. Any others? Yes.
 23 MR. AHLERS: Mr. Spencer, would you
 24 categorize oversize bulky waste as a separate
 25 category from municipal solid waste or a subset

1 of?
 2 MR. SPENCER: I think it should be a
 3 subset because, you know, it's basically
 4 furniture, appliances, count mattresses as the
 5 most likely.
 6 MR. AHLERS: Thank you.
 7 CHAIRMAN PARKER: Further questions?
 8 Thank you. Any recross -- oh, sorry.
 9 MR. SNOWMAN: Can I ask a quick question?
 10 I forgot during my time.
 11 CHAIRMAN PARKER: Are you all set?
 12 MR. SNOWMAN: Yes, thank you. Yeah, I
 13 just wondered, while we have Ed here, he's done a
 14 lot of work on this over the years and he's one of
 15 the very few people I know that have ever put pen
 16 to paper and tried to figure out -- figure this
 17 out, how much out-of-state garbage, and Ed, you
 18 talked about the point of discard concept, and I
 19 was wondering with your knowledge, you're the most
 20 knowledgeable -- one of the most knowledgeable
 21 guys I know about out-of-state garbage, that
 22 aspect of it. What would you say if someone came
 23 up to you and said how much of that pile up there
 24 originated out of state or was discarded out of
 25 state, what percentage of that seven million or so

1 cubic yards that are currently in there originated
2 out of state and according to a lot of people
3 shouldn't be in there? Anyway, you understand
4 what I'm saying.

5 MR. SPENCER: Yeah, I do. I think what I
6 would do is, you know, look at the sources, the
7 primary generators, and I don't mean to pick on
8 ReEnergy here or the Lewiston facility because
9 there's others, I would look at what their sources
10 are and total CDD is -- has been running 55 or 57
11 percent of what comes in here, and so I would take
12 that -- what that number is and if the -- the
13 number from ReEnergy is what, 85 percent out of
14 state, I would take 85 percent of 57 percent but
15 that would assume that they are the only one. So
16 in other words, I would -- I would look at all of
17 them and if I had to put a number based on the
18 information, I -- you know, that we have, I think
19 confidently 40 percent.

20 MR. SNOWMAN: Okay.

21 CHAIRMAN PARKER: Redirect?

22 MR. DOYLE: Recross.

23 CHAIRMAN PARKER: Recross, I'm sorry,
24 recross. How's that?

25 MR. DOYLE: Mr. Spencer, isn't it true

1 CHAIRMAN PARKER: I think when you turn
2 that one on, it turns this one off.

3 MR. SPENCER: Oh. Excuse me, could you
4 ask that again?

5 MR. DOYLE: The policy -- the Department's
6 policy about treating the residues of processing
7 facilities, including incinerators, as in-state
8 waste has existed for over 25 years, long before
9 the Juniper Ridge Landfill?

10 MR. SPENCER: I don't accept the part you
11 said about processing facilities. I -- I accept
12 the part about incinerators, waste to energy.

13 MR. DOYLE: No further questions.

14 CHAIRMAN PARKER: Thank you, Mr. Spencer.

15 MR. SPENCER: Thank you.

16 CHAIRMAN PARKER: Now we'll turn the floor
17 over to the City of Old Town. Why don't we take a
18 five-minute break just to rest up our -- and then
19 we'll start with Old Town.

20 **(OFF RECORD)**

21 CHAIRMAN PARKER: Okay, the floor now
22 belongs to the City of Old Town.

23 MR. KATSIAFICAS: Chair Parker, Members of
24 the Board, good morning. My name is Jim
25 Katsiaficas, I'm counsel for the City of Old Town

1 that for over 25 years Maine DEP has interpreted
2 in-state waste to include out-of-state waste
3 brought to a Maine processing facility such as
4 PERC, MMWAC, EcoMaine, and the resulting ash and
5 residues from that process as in-state waste?

6 MR. SPENCER: I don't know for -- for 25
7 years and you said processing facilities in
8 reference to the waste-to-energy plants. I -- it
9 appears to have been the practice and I'll be
10 neutral on that, that the -- once the materials
11 come into PERC or MMWAC that the byproducts of
12 that should become Maine waste and the -- the --
13 my qualifying -- you know, you could debate
14 whether -- yeah, I -- I think that has -- your
15 statement may not be specifically true but I think
16 generally that's from the incinerators but not
17 from the processing facilities because I think the
18 processing facility rules and practices have
19 probably changed a whole lot in that 25-year
20 period.

21 MR. DOYLE: But this rule and this policy
22 of the Department has existed long before Juniper
23 Ridge Landfill, correct?

24 MR. SPENCER: I think -- this thing just
25 died.

1 and we're here to present our testimony this
2 morning. We have two witnesses and if you indulge
3 us, we'll just have each witness speak first and
4 then we could open it up to cross examination of
5 the panel if that's the most efficient way to do
6 that.

7 CHAIRMAN PARKER: That's the way we'd like
8 to do it.

9 MR. KATSIAFICAS: Thank you. Our first
10 witness will be --

11 CHAIRMAN PARKER: The only exception would
12 be if something really critical came up and
13 somebody wanted to ask a question but I have
14 encouraged the Board to wait and ask questions.

15 MR. KATSIAFICAS: I have no doubt that it
16 would be appropriate if it were critical and
17 that's not a problem. City Manager Bill Mayo will
18 speak first and then Denis St. Peter, president of
19 CES, our review engineer, will speak and you have
20 their pre-filed testimony and their exhibits and
21 I'll turn this over then to our witnesses.

22 MR. MAYO: Good morning, Board members,
23 Chairman Parker. My name is William Mayo.

24 CHAIRMAN PARKER: Pull that a little
25 closer.

1 MR. MAYO: Can you hear me now?
2 CHAIRMAN PARKER: I can if everybody else
3 can.

4 MR. MAYO: I'm the duly appointed city
5 manager for the City of Old Town. Among my duties
6 as city manager is monitoring issues regarding the
7 operation at Juniper Ridge Landfill, operator
8 NEWSME Landfill Operations, LLC, compliance with
9 municipal ordinances and reporting requirements
10 and JRL's use of municipal infrastructure and
11 advising the Old Town City Council on those
12 issues.

13 The City of Old Town, Maine, is the host
14 community for Juniper Ridge Landfill. As the host
15 community for JRL, the City primarily is concerned
16 with the health, safety and welfare of its
17 residents and any impacts, positive or negative,
18 that JRL and its proposed expansion have on its
19 residents; therefore, the City offers the
20 following comments in the matter of the
21 application for Maine Hazardous Waste, Septage and
22 Solid Waste Management Act and Natural Resources
23 Protection Act permits and water quality
24 certification filed by NEWSME and the Maine Bureau
25 of General Services.

1 The application proposes the addition of a
2 total of 9.35 million cubic yards of solid waste
3 disposal capacity to JRL, which will extend its
4 useful life approximately until 2030. My comments
5 concern the public health, safety and welfare
6 issues that the expansion and the continued
7 operation of JRL raise and how the applicants have
8 addressed those issues. The issues raised by the
9 City during the course of this proceeding include
10 the use of and payment for construction and
11 demolition debris fines, the use of and payment
12 for soft layer waste, road and traffic impacts and
13 general compliance with solid waste statutes and
14 regulations.

15 As of the date of the filing of this
16 pre-filed testimony, the applicants have
17 satisfactorily addressed the City's issues and on
18 one issue the City will take additional steps to
19 help ensure that the applicants will operate
20 without harm to the public health, safety and
21 welfare.

22 Approximately 20 percent of the projected
23 waste volume for the expansion consists of CDD
24 fines, the residue from the processing of CDD
25 waste at KTI facility in Lewiston, which is now

1 owned by ReEnergy. The City's Solid Waste
2 Facility Review Committee and the City Council had
3 raised the concern that NEWSME/Casella Waste
4 Systems uses CDD fines as alternate daily cover in
5 the operation of JRL as an alternate to soil that
6 it otherwise must purchase and yet, does not pay
7 the City for disposal of CDD fines under the host
8 community compensation and facility oversight
9 agreement.

10 We have resolved this concern with the
11 applicants. At a meeting with Casella we explored
12 the situation and after discussion and review, the
13 City and Casella concluded that under state law
14 and the host community agreement the use of CDD
15 fines as alternate daily cover is permitted and
16 encouraged. State law requires a solid waste
17 processing facility that generates residue for
18 disposal to recycle or process into fuel at least
19 50 percent of that waste and recycling includes
20 use as ADC. Section 3.1A of the host community
21 agreement exempts from the per ton fees charged
22 for solid waste disposed of at JRL other materials
23 that Casella accepts for beneficial use and for
24 tipping fee of \$5 per ton or less. Casella's use
25 of CDD fines is for beneficial use, does not

1 require a written determination of beneficial use
2 from DEP and Casella represents that it receives
3 \$4 per ton for this material. Casella also
4 demonstrated that it uses less CDD fine, 20
5 percent, than comparable landfills at 24 percent
6 so that it is not taking undue advantage of free
7 disposal of this material at JRL.

8 The City's Solid Waste Facilities Review
9 Committee and the City Council had also raised the
10 concern that NEWSME/Casella was not paying the
11 City under the host community agreement for
12 municipal solid waste disposed of at JRL as part
13 of the soft layer. NEWSME and BGS sought and
14 obtained from DEP a license amendment to permit
15 the use of municipal solid waste as a soft layer
16 on the bottom of new landfill cells at JRL to
17 protect the landfill liners. A concern for the
18 City was whether Casella has been paying the City
19 under the host community agreement for disposal of
20 that soft layer MSW. Casella followed up with me
21 and has explained that Casella has been paying the
22 City for the disposal of the soft layer MSW.

23 The City also raised concerns regarding
24 the impact of JRL-related truck traffic following
25 the expansion of JRL and the condition of the

1 Bennoch Road, State Route 16. These concerns go
 2 to the ability of the roads in the vicinity to
 3 safely and conveniently handle traffic
 4 attributable to the solid waste facility as
 5 required by Chapter 400(D)(1) and (2) of the
 6 Department's rules. Although Casella strongly
 7 encourages the use of Route 95 to access JRL,
 8 there's been a tendency for truck drivers to avoid
 9 the weigh stations on that road when it is open by
 10 using the Bennoch Road between Exits 193 and 199.
 11 The Bennoch Road is a state highway, Route 16, and
 12 the southerly portion of this road is within the
 13 City's urban compact area, and so it is maintained
 14 by the City. The northern portion is maintained
 15 by the Maine Department of Transportation. The
 16 City's concern is that the tractor-trailer
 17 traffic, particularly swinging empty trailers on
 18 vehicles leaving JRL, is causing deterioration of
 19 the Bennoch Road. The City is aware that other
 20 trucks use Bennoch Road but dump truck use does
 21 not appear to have the same degree of road impact
 22 as the landfill-related tractor-trailer use.
 23 Although MDOT installed a one-inch overlay over
 24 part of the road, the overlay is insufficient to
 25 repair the state portion, and while the City

1 An additional City concern is that once
 2 MDOT repairs the northern half of Bennoch Road and
 3 the City addresses the southern half, something be
 4 done to discourage tractor-trailer use on that
 5 road so the current state of the road disrepair
 6 does not reoccur. The City understands that
 7 Casella is doing what it reasonably can to
 8 discourage such use and appreciates Casella's
 9 efforts which include the recent installation of
 10 two signs, one at the weigh station at JRL and
 11 another plainly visible from the exit road
 12 instructing drivers to use Interstate 95 to leave
 13 JRL.
 14 In addition, BGS has approached MDOT about
 15 this concern and MDOT has agreed to install two
 16 signs in the area of the JRL exit road directing
 17 exiting trucks to use Interstate 95 only. Thus,
 18 the City, applicants, Casella and MDOT have
 19 reached agreement as to how to address the truck
 20 traffic impacts of the proposed JRL expansion and
 21 the City understands that MDOT will implement that
 22 agreement.
 23 With their application, NEWSME and BGS has
 24 offered a Declaration of Covenants and
 25 Restrictions as part of the wetlands compensation

1 receives an annual host community payment of
 2 \$50,000 for several purposes, including roads,
 3 emergency response, staff training for monitoring,
 4 consulting monitoring and an offset for City
 5 revenue loss due to effects on property values,
 6 neither the City's annual host community payment
 7 nor the state road maintenance reimbursement is
 8 sufficient to finance repairs to the City portion
 9 of road.
 10 The City asked BGS to discuss with MDOT
 11 actions it can take on the northern part of the
 12 Bennoch Road to improve it as part of this
 13 expansion. BGS has done so and tells us that
 14 MDOT's work plan for 2016 included in Alton and
 15 Old Town preservation paving work on Route 16
 16 beginning 3.2 miles south of the Alton/Lagrange
 17 town line and extending southeasterly 5.89 miles,
 18 and for 2017/18, includes in Old Town highway
 19 rehabilitation work on Route 16 beginning at the
 20 Interstate 95 northbound off ramp and extending
 21 southerly 4.63 miles. This does not improve
 22 additional monies -- this does not provide
 23 additional monies for the City to use in its
 24 repair of the southern portion but does improve
 25 the northern half.

1 package. This Declaration places protections on
 2 266 acres of the JRL parcel which effectively is
 3 the same as a conservation easement intended to
 4 keep the protected property in its natural state.
 5 Under that Declaration, the City would be the
 6 third party with third-party rights of
 7 administration and enforcement. The City had
 8 raised concerns about the potential cost of its
 9 administrative and enforcement responsibilities
 10 under the Declaration; subsequently, Casella and
 11 the City negotiated an agreement regarding
 12 allocation of costs for implementation of the
 13 Declaration of Covenants and Restrictions to
 14 address those concerns. On July 28, 2016, the
 15 City Council approved both the Declaration and the
 16 allocation of cost agreement.
 17 The City has hired the firm of CES,
 18 Incorporated, to review the application for
 19 compliance with state and federal regulations,
 20 particularly with regard to the Natural Resources
 21 Act, Title 38, Section 480-A through 480-JJ, Maine
 22 Hazardous Waste, Septage and Solid Waste
 23 Management Act, Title 38, Section 1301 through
 24 1310-AA, as applicable, Title 38, 2101 and DEP
 25 Rules Chapters 300, 305, 310, 315, 335, 400, 401

1 and 405, which is traffic, odor, noise, air
 2 quality, vectors, litter, leachate management,
 3 stormwater and groundwater, in order to protect
 4 the health, safety and welfare of the City's
 5 residents. As to these regulatory compliance
 6 concerns, the City is presenting testimony of
 7 Denis St. Peter, PE, of CES, Inc., and written
 8 materials prepared by him and issued by CES to the
 9 Board as part of this proceeding.

10 Mr. St. Peter's report contains two basic
 11 recommendations regarding hydrogen sulfide
 12 generated by MSW and CDD fines at JRL. One
 13 recommendation is that NEWSME/Casella institute
 14 the use of acute exposure action level for
 15 concentrations exceeding the 15 and 30 parts per
 16 billion levels, with the Old Town code enforcement
 17 officer to be contacted if hydrogen sulfide
 18 concentrations exceed the 30 ppb level. The
 19 applicants have agreed to incorporate these action
 20 levels and the notification protocol into the
 21 Operations Manual, Appendix K, Odor Control Plan
 22 for JRL.

23 The other recommendation is that because
 24 the City remains concerned with the effects of
 25 possible chronic exposure to hydrogen sulfide, but

1 the Maine Department of Environmental Protection
 2 has yet to adopt a chronic exposure standard, the
 3 City may implement its own evaluation protocol on
 4 an annual basis; therefore, the City will use a
 5 portion of the host community funding supplied to
 6 it each year to hire a consultant to evaluate the
 7 NEWSME/Casella hydrogen sulfide data to evaluate
 8 the chronic exposure, which is a one-year duration
 9 scenario. If analysis determines this data
 10 demonstrates the presence of hydrogen sulfide
 11 levels that exceed typical health-based guidance
 12 levels and so pose a potential health or safety
 13 risk to members of the public, including abutters,
 14 the City will report those findings to
 15 NEWSME/Casella and to DEP.

16 The City does not object to and does not
 17 oppose the application. Applicants have listened
 18 to the City and its concerns and issues and have
 19 satisfactorily addressed those concerns and
 20 issues. Applicant NEWSME/Casella has been
 21 responsible when issues and questions have arisen
 22 regarding landfill operation and has been a
 23 responsible community business contributing to
 24 civic organizations and events in Old Town.
 25 Applicant BGS has assisted in the resolution of

1 the City's roads and traffic concerns. Thank you.
 2 MR. ST. PETER: So far it sounds like it's
 3 still on. Good morning, Chairman and Board
 4 members. My name is Denis St. Peter. I'm a
 5 licensed professional engineer in the State of
 6 Maine, approximately 26 years of experience. I'm
 7 going to summarize my testimony. I understand the
 8 testimony has been provided as well as our backup
 9 comments.

10 As Bill said, we reviewed the application,
 11 response to comments, the DEP comments as it
 12 relates to the solid waste management regulations
 13 and statutes as well as Natural Resource
 14 Protection. CES was asked to advise the City on
 15 issues related to compliance with the technical
 16 standards outlined in the applicable statutes and
 17 regulations. The application was reviewed by a
 18 team of scientists, geologists and engineers at
 19 CES, we talked about whether or not to have the
 20 whole team attend but based on our filed
 21 testimony, felt just I could represent the team.

22 As of the date of the pre-filed testimony,
 23 CES believes the applicant has satisfactorily
 24 addressed the City's concerns and on one issue we
 25 recommended to the City to take additional steps

1 to help ensure the applicants operate without harm
 2 to public health, safety and welfare.

3 In general, CES finds the applicant's
 4 application and responses adequately meet or
 5 exceed the referenced state statute and
 6 regulations. Of particular note, the proposed
 7 expansion design includes the leak detection and
 8 secondary liner system that was discussed and the
 9 graphics are up here. This design will greatly
 10 enhance its performance in containing leachate and
 11 minimizing releases to the environment.

12 Our final two recommendations are related
 13 to the offsite monitoring, reporting and
 14 evaluation of hydrogen sulfide. Due to the type
 15 of waste and in general the CDD fines and how
 16 they're used, the concentration of hydrogen
 17 sulfide within the landfill gas is relatively
 18 high. Hydrogen sulfide can be harmful to human
 19 health above certain concentrations as well as
 20 emit offensive odors. The applicant's proposed
 21 landfill gas collection and treatment system, as
 22 well as the monitoring equipment, appear to be
 23 very robust and adequate to prevent human health
 24 hazards and nuisance odors as long as it's
 25 implemented, operated and reported as proposed.

1 The first recommendation is to put an additional
2 gas action level to coincide with offsite acute
3 exposure and odor prevention. Reporting
4 requirements would be instituted for
5 concentrations exceeding both 15 and 30 parts per
6 billion and the Old Town code enforcement officer
7 would be contacted if hydrogen sulfide
8 concentrations exceed the 30 ppb action level.

9 As we understand, the applicants have
10 agreed to incorporate these action levels and
11 notification protocol within their Operations
12 Manual, Appendix K, Odor Control Plan.

13 The other recommendation is based on
14 concerns with the effects of possible chronic
15 exposure of hydrogen sulfide. We have recommended
16 to the City that they implement their own
17 evaluation protocol on an annual basis by hiring a
18 qualified consultant to evaluate the operator's
19 hydrogen sulfide data for chronic exposure, one
20 year duration scenario. The evaluation would
21 include reviewing the hydrogen sulfide monitoring
22 data, performing statistical analysis of the data,
23 establishing proper procedures for analysis of
24 non-detect values, performing comparison of
25 relevant acute and chronic exposure guidelines and

1 other two subsets of CDD are -- do pay the City?

2 MR. MAYO: Correct, yup.

3 MR. SPENCER: And the basis for being
4 exempt is at least in part due to the fact that
5 Casella gets \$5 or less to dispose of it?

6 MR. MAYO: Yes.

7 MR. SPENCER: Okay, and yesterday we
8 heard -- or in testimony there was a statistic
9 about the revenues that Casella pays to Old Town.
10 It was something -- something on the order of
11 about a million dollars a year, and I'm just
12 curious, I don't mean to put you on the spot and I
13 know I'm enough of a pain in the neck the rest of
14 the year, but as a percentage of, you know, what
15 the City gets from Casella, would you venture any
16 guess of a percentage of what the -- of that --
17 what the costs are associated with having a
18 landfill within our borders as compared to, you
19 know, a town that didn't have a landfill?

20 MR. MAYO: I really don't. It -- it
21 certainly has an impact. I mean, you know,
22 there's been some discussion here about possibly
23 having the police departments invited up there.
24 Casella does do that. They bring our public
25 safety departments up there, fire and police

1 providing conclusions and recommendations based on
2 this evaluation.

3 If the evaluation determines that this
4 data demonstrates the presence of hydrogen sulfide
5 levels that exceed typical health-based guidance
6 levels and so pose a public health or safety risk
7 to members of the public, the City will report
8 these findings to the applicant and the DEP.

9 In conclusion, CES generally finds the
10 applicant's application and responses adequately
11 meet or exceed the referenced state statutes and
12 regulations.

13 CHAIRMAN PARKER: Are you all set?

14 MR. KATSIAFICAS: We are.

15 CHAIRMAN PARKER: Okay. We'll open it up
16 for cross by the applicant.

17 MR. DOYLE: No questions.

18 CHAIRMAN PARKER: Mr. Spencer?

19 MR. SPENCER: Thank you. This is for Mr.
20 Mayo. So the -- there's basically three
21 categories of CDD coming into Juniper Ridge which
22 is kind of straight CDD, oversize bulky waste and
23 fines for daily cover. So I think you just said
24 that the -- the fines for daily cover are exempt
25 from the tip fee but the other two types -- the

1 departments, our code enforcement officer is
2 invited up there. We certainly have a very open
3 working relationship with them, but as I said in
4 my testimony, a lot of -- a lot of the impact for
5 us would be more related to roads and followup
6 for, you know, any type of noise complaint or odor
7 complaint if there are any.

8 MR. SPENCER: Right. So part of that is
9 money out of pocket for like roads and part of it
10 is just a portion of the already salaried or
11 already being paid Old Town personnel, right?

12 MR. MAYO: Correct.

13 MR. SPENCER: Okay, thank you. For Mr.
14 St. Peter, the -- there is a difference in opinion
15 between your firm CES and Sevee and Maher on the
16 groundwater divide as it relates to just where
17 this line would be in relation to the landfill.
18 Could you comment some on that?

19 MR. ST. PETER: Yes. I think you're
20 referring to page 2 of our general comments, and
21 this comment was made by our team of
22 hydrogeologists and hydrologists. I've gone over
23 it with them. I'm not the expert that is the
24 source of this comment but I've gone over it with
25 them and in general it speaks to the uncertainty

1 in geology subsurface conditions. It was a very
2 definitive statement that we identified in the
3 application, specifically in quotes, there is not
4 a direct hydraulic connection under existing
5 conditions between the shallow and deep
6 groundwaters beneath the expansion and the water
7 supply wells along Route 43. Now, we don't -- in
8 our opinion, it doesn't relate to whether or not
9 they've met the permitting conditions, we believe
10 they do, it just relates to our recommendation
11 that the statement shouldn't be used to prevent
12 monitoring in this area; and as I understand it
13 from Mr. Sevee's testimony yesterday, he agreed
14 with that conclusion as well.

15 MR. SPENCER: So as a follow-up, and this
16 is -- this may be a little too general of a
17 question, you know, just considering the limited
18 amount of time your firm had to spend on this, but
19 do you agree with the or concur with the remainder
20 of the applicant's conclusions as far as water
21 movements in regard to the landfill?

22 MR. ST. PETER: Yeah, we did spend quite a
23 bit of time with the application. We -- the team
24 -- the part of the team that did review this part
25 of application stated to me that they did agree

1 that they met the conditions of the permit
2 requirements.

3 MR. SPENCER: Okay, thank you. Excuse me,
4 one thing I forgot to ask. This is for Mr. Mayo
5 again, and I think I know the answer. The City's
6 municipal ordinances in relation to Juniper Ridge,
7 are they in effect now?

8 MR. MAYO: With this application -- with
9 the approval of this -- if -- if this application
10 is approved, it would go into effect.

11 MR. SPENCER: So they aren't in effect now
12 you don't think?

13 MR. MAYO: Correct.

14 MR. SPENCER: Okay, thank you.

15 CHAIRMAN PARKER: Mr. Snowman?

16 MR. SNOWMAN: No.

17 CHAIRMAN PARKER: Board members? I've got
18 a couple questions and this would go I guess to
19 Mr. Mayo. My understanding is that under the
20 current tipping fee arrangement you get a
21 percentage of the tipping fees for municipal solid
22 waste going in, and I would assume that in your
23 definition of municipal solid waste it would
24 include everything except commercial and
25 industrial, which would include OBW and stuff from

1 the community or communities from the towns
2 themselves. Am I correct in your thoughts on
3 that?

4 MR. MAYO: I believe that's accurate.

5 CHAIRMAN PARKER: Okay. The second item,
6 in the opinion of the City, you're speaking
7 somewhat for yourself but for the City as well, is
8 it your opinion that each cubic yard of space up
9 there has value and wouldn't it be appropriate for
10 the City to get some return for the space that's
11 being utilized for I guess you'd say the fines,
12 the daily cover? There's a -- I understand
13 there's a \$5 fee. It's just sort of surprising to
14 me that it only costs \$4 to get rid of it.
15 There's trucking and everything else involved in
16 it so I'm sure that there's some cash flow that's
17 generating for the haulers out of there. Wouldn't
18 it be appropriate for the City to get some
19 reimbursement for that space that's being used
20 which could be worth a lot of dollars a yard and
21 now it's being given up for \$4 a yard?

22 MR. MAYO: We've asked that question
23 multiple times. Yes, I agree with that, but the
24 other side of that is in our Operating Services
25 Agreement it's pretty clear in there how that's --

1 how that's been written in.

2 CHAIRMAN PARKER: Okay, so -- because it
3 appears to me the space is being used, money is
4 being made, the City of Old Town should share. In
5 the land that's been set aside for mitigation
6 purposes, which is 200-plus acres, which is going
7 to be retained by the City of Old Town, is the
8 City receiving anything in lieu of taxes which it
9 would be losing from that property?

10 MR. MAYO: We do receive a payment in lieu
11 of taxes on the entire landfill itself. It's a
12 fairly complicated income approach to value, so
13 all that land is also included within that. I
14 guess without getting into all the details of
15 that, in simple terms, the landfill -- I would
16 compare it to the same thing as appraising a
17 gravel pit. It's a diminishing asset. You know,
18 if you go out and appraise a gravel pit day one,
19 that's when it's at its most valuable. It's the
20 same thing with the landfill. If you looked at
21 our payment in lieu of taxes when it first opened
22 up, I believe the payment in lieu of taxes was
23 around \$250,000 a year, but it also had all that
24 capacity sitting there and as it fills up over
25 time, then the value of the landfill drops and so

1 now at this time that payment in lieu of taxes is
2 down to about \$50,000 a year, which I don't
3 dispute the value.

4 CHAIRMAN PARKER: Okay. What I'm getting
5 at, I understand the complexity of that and it's a
6 tough thing to deal with, but prior to the
7 mitigation, the City had 2, 300 acres or a couple
8 hundred acres of maybe only forest land under tree
9 growth protection; you received benefits from
10 that.

11 MR. MAYO: Yup.

12 CHAIRMAN PARKER: Are those going to abate
13 with this or were you still getting something in
14 lieu of taxes?

15 MR. MAYO: No, that excess acreage is
16 still going to be assessed.

17 CHAIRMAN PARKER: Okay. That's all my
18 questions.

19 MS. BERTOCCI: I have a question.

20 CHAIRMAN PARKER: Cindy?

21 MS. BERTOCCI: I have a question about the
22 hydrogen sulfide monitoring, and has the City
23 assessed the number and the placement of those
24 monitors and are you comfortable if they're --
25 that they're providing adequate monitoring of

1 point. You noted at one point that CES had
2 concerns about the way Juniper Ridge Landfill was
3 calculating the non-detects, and did you get that
4 resolved and if so, how?

5 MR. ST. PETER: Yeah, we did work with the
6 applicant on our concerns about that. That's part
7 of our recommendation that the City hire someone
8 independent to do that evaluation. It speaks to
9 the use of non-detects and what -- what would be a
10 statistically valid approach to how to handle
11 those non-detects.

12 MR. FARRAR: Okay, so it really hasn't
13 been resolved yet but it's on the table to be
14 resolved?

15 MR. ST. PETER: In my opinion it hasn't
16 been resolved yet.

17 MR. FARRAR: Okay. Another point in your
18 written testimony, you talked about cost estimates
19 for potential remediation and/or corrective
20 actions during the post-closure period. What sort
21 of remediation corrective actions were you
22 envisioning?

23 MR. ST. PETER: Our comment was in general
24 to make sure that there was enough remediation
25 funds and post-closure funds set aside for the

1 hydrogen sulfide emissions?

2 MR. ST. PETER: Yes, we have assessed
3 that. As part of our review, we went out to the
4 site and met with Jeremy and got a tour of those
5 locations and we're satisfied with both the
6 equipment and the locations.

7 MS. BERTOCCI: Okay, and I have one more
8 question and this is with respect to residential
9 wells along Route 16, 43 and the Old Stagecoach
10 Road. Was there baseline monitoring done of a
11 portion of those wells or all of those wells so
12 that you would know what the current state of the
13 water quality is at those residences?

14 MR. ST. PETER: That would have been
15 reviewed by someone else on our team so I can't
16 recall. I believe the answer is yes, but I just
17 can't -- can't speak definitively about it.

18 MS. BERTOCCI: Thank you.

19 CHAIRMAN PARKER: Anymore questions from
20 staff?

21 MR. FARRAR: I don't know if this is going
22 to work, but I'll try. Am I on? I just had a
23 couple questions for Denis St. Peter. I initially
24 had several more about hydrogen sulfide but
25 they've been answered I think already at this

1 future, and we reviewed that and felt that it was
2 adequate. I think that's in general what we
3 were --

4 MR. FARRAR: Did you have any particular
5 types of remediation that you had in mind?

6 MR. ST. PETER: I think some of the things
7 we talked about was the -- the potential for the
8 hydrogen sulfide long-term and we talked -- talked
9 that over with the applicant and became satisfied
10 that the funds were adequate to address those
11 situations. I can't remember the specifics about
12 what types of remediation but it was just a
13 long-term -- the long-term left over situation of
14 hydrogen sulfide.

15 MR. FARRAR: Okay, thank you.

16 MR. BEHR: I want to ask another question
17 regarding the regional groundwater flow and this
18 would be for Mr. St. Peter. Just to clarify the
19 advice in your testimony that you've given the
20 town, you suggest that in the event there is a
21 release of leachate at the facility that would it
22 be reasonable to sample the wells on Route 43 and
23 given that recommendation, do you think that it's
24 necessary to complete baseline monitoring sooner
25 than later and should it perhaps be done

1 periodically?

2 MR. ST. PETER: All right. So this is a
3 question for maybe one of our technical reviewers
4 in this area. So I -- I don't recall what the
5 baseline monitoring has been so far on those
6 residential wells. With the -- with the leak
7 detection system that they're proposing and the
8 secondary liner system, I think that's something
9 to consider in that decision of when that happens
10 and how much of it is required, but essentially
11 for the expansion area, was what we reviewed this
12 for, was you're going to have an early warning
13 system with the leak detection system, and I'd
14 have to kind of kick the can to the other experts
15 in my company if there's more detailed questions
16 about that.

17 MR. BEHR: Thank you.

18 MS. TARBUCK: So this question will sound
19 very familiar and this can be for anyone on the
20 panel, but oversize bulky waste, if the expansion
21 project moves forward and a limit is to be
22 established in the license for oversize bulky
23 waste, do you have suggestions or an opinion on a
24 proposed oversize bulky waste tonnage limit?

25 MR. KATSIAFICAS: Do you want a legal

1 answer or -- I don't mean this as testimony. All
2 I'm going to say is what's in our host community
3 agreement, acceptable waste is what the town
4 receives a tip fee for, a portion of the tip fee.
5 An acceptable waste includes in its definition
6 oversize bulky waste. That's in the appendix to
7 the host community agreement. The City receives
8 revenues for this oversize bulky waste and really
9 whatever the Department determines is appropriate
10 the City is prepared to live with. The City has
11 no position on this, as I understand it, and I
12 will be kicked under the table by the manager if I
13 have that wrong, but the City has no position and
14 will abide by the Department's determination on
15 this, but it is something for which it does
16 receive revenues under the host community
17 agreement. I hope I haven't overstepped my bounds
18 in answering that.

19 CHAIRMAN PARKER: Any questions?

20 MS. ELEFThERIOU: I have two questions for
21 Mr. Mayo. In your direct testimony you stated
22 that Casella demonstrated that it uses less CDD
23 fines as alternate daily cover at 20 percent than
24 comparable landfills at 24 percent?

25 MR. MAYO: Yup.

1 MS. ELEFThERIOU: Would you please clarify
2 the origin of the 24 percent?

3 MR. MAYO: The 20 percent I got from --
4 from the table 5-1 from Casella's report, which it
5 was actually 19.7.

6 CHAIRMAN PARKER: You're not on right now.

7 MR. MAYO: Am I on now?

8 CHAIRMAN PARKER: It's a little better but
9 still not good.

10 MR. MAYO: Okay, sorry about that. The 20
11 percent came from table 5-1 from Casella's
12 information they submitted. It was actually 19.7,
13 around the 20 percent value on fines.

14 MR. KATSIAFICAS: That's BGS Exhibit #4.

15 MR. MAYO: And I'm trying to find here
16 where I had my 24 percent.

17 MR. KATSIAFICAS: It's included in the
18 application materials.

19 MR. MAYO: That too came out of the
20 application. I don't have that page number right
21 in front of me though.

22 MS. ELEFThERIOU: Okay, thank you. In
23 your direct testimony you stated that Maine DOT
24 will be performing some paving work in Alton and
25 Old Town during 2016. If known, would you please

1 give us a status update on that work?

2 MR. MAYO: Yup, that's basically -- I
3 drive that road every day so I can tell you it's
4 been completed.

5 MR. BURNS: Mr. St. Peter, I have one
6 question for you regarding utilities. In your
7 testimony you reference that you looked at the
8 leachate outlets being the Expera Specialty
9 Solution Mill in Old Town or the Brewer Wastewater
10 Treatment Plant. Did you carry that analysis
11 through to look at the effluent and compliance
12 with treatment standards and specifically at the
13 Old Town facility?

14 MR. ST. PETER: No, we did not. We just
15 looked at the licenses and saw that they were
16 licensed.

17 MR. BURNS: Thank you.

18 CHAIRMAN PARKER: Any other questions from
19 the Board? Recross?

20 MR. DOYLE: Just a couple. Mr. Mayo,
21 Chairman Parker asked you a question about PILOT,
22 the payment in lieu of taxes, and you explained
23 that it started out large and as capacity
24 increases, it gets smaller. If the expansion is
25 approved, doesn't the PILOT balloon up again?

1 MR. MAYO: Yes, it does, yup.
 2 MR. DOYLE: And I believe it was Victoria
 3 asked you a question about the use of CDD fines at
 4 JRL versus at another facility and you were asked
 5 about the source of that 24 percent number in your
 6 testimony. Isn't it true that during the public
 7 benefit determination process the DEP itself did
 8 an analysis of CDD fines used at JRL and at Waste
 9 Management's Crossroads facility and that's the
 10 source of that comparison?
 11 MR. MAYO: I believe that's correct.
 12 MR. DOYLE: Thank you.
 13 CHAIRMAN PARKER: Any recross? Mr.
 14 Spencer?
 15 MR. SPENCER: (Shakes head.)
 16 CHAIRMAN PARKER: Mr. Snowman?
 17 MR. SNOWMAN: (Shakes head.)
 18 CHAIRMAN PARKER: Just a comment, my
 19 comment didn't relate to the value of the
 20 landfill. I know that's a negotiable item. I was
 21 just concerned about more land being set aside
 22 that's totally tax free, okay, because the
 23 citizens pick up that cost. My understanding is
 24 that's not the case with the mitigation land.
 25 There's still going to be a tax acquired to it.

1 the Chapter 400 standards, and the Appendix G, the
 2 Epsilon report, and within that report the specs
 3 are Appendix B as in boy.
 4 CHAIRMAN PARKER: Okay. So everyone
 5 should have that including the intervenors then,
 6 right? The next item is Monday, the 17th, Monday
 7 of this week, a new wastewater treatment plant
 8 license was issued for the Old Town facility and
 9 I'd like to make sure that that with its letters
 10 or e-mails that came to the Department, along with
 11 compliance, are entered into the record and
 12 everybody receives a copy of that. So the
 13 Department has it but I want to make sure everyone
 14 is aware of it so that the intervenors and the --
 15 the applicant probably has it by now, I'm not
 16 sure, and make sure everybody has that so that the
 17 actual application is being based on the current
 18 license, not on a prior license, okay?
 19 And this is a question for the Board,
 20 okay, the applicant wanted to have one more
 21 individual present some information regarding the
 22 OBW limit. Is this something the Board wants to
 23 entertain or not?
 24 MS. CHASE: Yes.
 25 CHAIRMAN PARKER: Yes, yes, yes, yes, yes,

1 MR. DOYLE: Correct.
 2 CHAIRMAN PARKER: I think we're all set
 3 now. Let's take a five-minute break and then
 4 we've got a couple more things to clean up and
 5 then we'll --
 6 **(OFF RECORD)**
 7 CHAIRMAN PARKER: We've got a couple of
 8 things that we want to clarify and get cleaned up
 9 a little bit. One of them, yesterday in the
 10 testimony it talked about the specs for the new
 11 sound equipment that Casella is using and we'd
 12 like to see those actually submitted into the
 13 record so everybody has them. So if we can get
 14 those submitted to the record and to the
 15 intervenors and whatever, then we'd appreciate
 16 that.
 17 MR. DOYLE: This is Rob O'Neal from
 18 Epsilon. He's telling me that they're already in
 19 the record. They're in Appendix G of what -- so
 20 it's Appendix G, the sound level assessment report
 21 of Epsilon and within that report it's Appendix B
 22 in that sound report.
 23 CHAIRMAN PARKER: Okay, so the staff
 24 should have that.
 25 MR. DOYLE: So it's probably in volume 1,

1 yes, it's a yes. So we're going to have the
 2 applicant present the information but I'm also
 3 going to open it up after the presentation so the
 4 intervenors can cross if they choose to.
 5 MR. DOYLE: Thank you. Toni and Mike,
 6 would you come forward?
 7 So yesterday morning I think it was --
 8 afternoon -- afternoon during cross examination,
 9 Ms. King was asked principally by Assistant
 10 Attorney General Sauer about commenting on an OBW
 11 limit, and Toni commented to some length and she
 12 would like to -- she has some additional comments
 13 about the issue of an OBW limit.
 14 MS. KING: Thank you, Tom. For the
 15 reasons stated in my pre-filed rebuttal and
 16 hearing testimony, we firmly believe a limit on
 17 oversize bulky waste received at Juniper Ridge
 18 Landfill is not required. It is inappropriate to
 19 attempt to regulate other facilities through
 20 landfill licenses but that is exactly what the
 21 public benefit determination attempted to do with
 22 both Maine Energy Recovery Company and KTI
 23 Biofuels, Inc., due to a common parent entity. It
 24 is even more inappropriate at this time as the
 25 circumstances have changed with the change in

1 ownership and compliance of ReEnergy Lewiston with
 2 the processing facility recycling rule standards.
 3 The OBW material is a recycling residual whose
 4 most appropriate end destination is landfill
 5 disposal. Limiting residual volumes results in
 6 limiting recycling initiatives themselves contrary
 7 to compliance with the Maine Solid Waste
 8 Hierarchy. Moreover, as stated yesterday,
 9 limitations reduce the flexibility of businesses
 10 to adjust to market changes and changes in
 11 technologies and processes as evidenced by the
 12 increase in OBW from PERC due to operational
 13 adjustments. Having said that, a review of the
 14 record, rather than having an arbitrary limit
 15 imposed upon us, we would offer our conclusions as
 16 to a potentially acceptable limitation that may
 17 tend to minimally disrupt Maine's solid waste
 18 management.

19 Our 2011 annual records indicate our
 20 greatest level of acceptance of OBW being
 21 approximately 99,000 tons per year. Utilizing a
 22 three percent CPI from 2011, this would result in
 23 a capacity need of 118,000 tons per year. We
 24 believe this would allow some breathing room that
 25 would serve to not hinder businesses and economic

1 growth and would allow for flexibility to meet the
 2 needs of potential changes in technology and
 3 market changes that might increase recycling
 4 residual disposal requirements. Thank you.

5 CHAIRMAN PARKER: Thank you. We'll take a
 6 couple minutes so they can digest what you said.

7 MR. DOYLE: Mike may have something to
 8 add.

9 CHAIRMAN PARKER: Stay at the table.
 10 We're not going to take that long.

11 MR. BARDEN: Thank you. Mr. Laubenstein
 12 and I have been talking with Casella about this a
 13 little bit. We agree with Casella that -- I think
 14 it's okay.

15 MR. DOYLE: Is it? It says red.
 16 (Referring to microphone).

17 MR. BARDEN: It's okay, right? So our
 18 position is that there should not be a limit and
 19 here's a couple reasons. First of all, this is
 20 kind of a zero sum game. So either processing
 21 facilities are going to reduce their capacities so
 22 they're not generating as much revenue, so that
 23 means that there probably would be a reduction in
 24 employment and there will probably be no new
 25 processing facilities coming on line if they don't

1 have an outlet for their residues. So it's going
 2 to have to go -- and if they keep their capacity
 3 the same, it's going to go to another facility.
 4 So you're just shifting it from a state-owned
 5 landfill that's licensed to take state waste and
 6 there's only probably one other facility that
 7 would agree to take that and it's going to be at a
 8 higher tipping fee than it is now because there
 9 was a reason the state in the Operating Service
 10 Agreement put a cap on tipping fees and that was
 11 because at some point the state recognized that
 12 there was probably only going to be one landfill
 13 in the state and that was going to be state owned.
 14 So there was going to be no competition, and if we
 15 have a contract operator, that contract operator
 16 could charge whatever they want for tipping fees
 17 at least in the state and that's going to redirect
 18 state -- either state waste out of state if they
 19 can sort of cover the transportation costs that
 20 that's going to be, it means a higher cost to
 21 municipalities, to businesses. So if there's a
 22 cap on Juniper Ridge and the processing facilities
 23 are still processing the same amount they are now,
 24 it's going to go to another commercial landfill
 25 until that commercial landfill's capacity has run

1 out and that commercial landfill is going to know
 2 that JRL can't take anymore of that waste so they
 3 can jack up their tipping fee to whatever they
 4 want it to be and Maine businesses and communities
 5 are going to have to pay that higher tipping fee
 6 and that's why we don't think it's justified to
 7 have a limit on OBW at JRL.

8 CHAIRMAN PARKER: Mr. Spencer, do you have
 9 any comments or cross I guess you'd say?

10 MR. SPENCER: Thank you. What's the --
 11 this oversize bulky waste, it only comes through a
 12 couple of facilities to Juniper Ridge, so what's
 13 the approximate percentage of that OBW that
 14 originates beyond our borders?

15 MS. KING: Oversize bulky waste is a
 16 residual from a processing facility.

17 MR. SPENCER: Correct.

18 MS. KING: So the processing facilities
 19 that we accept OBW from are located in Maine and
 20 OBW is a Maine state waste.

21 MR. SPENCER: Okay. The waste inputs to
 22 this or these processing facilities, isn't it true
 23 that over 80 percent of that waste stream into,
 24 say, the former KTI originated from out of state?

25 MS. KING: I don't have their annual

1 report in front of me, but it's an exhibit to my
 2 testimony.
 3 MR. SPENCER: Am I off by a large amount
 4 by saying at least 80 percent?
 5 MS. KING: I don't know.
 6 MR. SPENCER: So -- and also, when Casella
 7 owned KTI, was -- how did that work? Was there a
 8 sorting pile set aside like, you know, you pull
 9 the burnables out of it, so was there oversize
 10 bulky waste pile at the facility?
 11 MS. KING: Yes. So ReEnergy has changed
 12 the processing techniques since they've taken over
 13 the facility from we used to do a positive pick
 14 and they do essentially a negative sort, and it's
 15 just a different way of obtaining the recyclable
 16 commodities from the waste stream. The oversize
 17 bulky waste, when we owned KTI Biofuels, it's --
 18 it's essentially a larger fraction of front-end
 19 process residue that PERC would generate. So it's
 20 things that are too big and too difficult to
 21 manage to put through the processing equipment
 22 that are picked out initially from the waste
 23 stream that is tipped.
 24 MR. SPENCER: Okay, another thing is, you
 25 want to use for your baseline for a limit the

1 99,000 tons a year of OBW that came into Juniper
 2 Ridge in 2011, is that right?
 3 MS. KING: Yes.
 4 MR. SPENCER: What was the next highest
 5 year?
 6 MS. KING: Again, I don't have that in
 7 front of me.
 8 MR. SPENCER: It was 98,000 tons I think
 9 the year before. I think two consecutive years it
 10 was 98 and 99. Why do you choose the highest year
 11 for a baseline?
 12 MS. KING: We're not choosing a baseline.
 13 We're choosing a cap, remember.
 14 MR. SPENCER: Okay. We are using a cap
 15 but shouldn't the cap -- if a cap is in place, to
 16 set some kind of a limit, shouldn't the limit be
 17 somewhere between the all-time highest and the
 18 all-time lowest?
 19 MS. KING: I don't believe so.
 20 MR. SPENCER: So you think -- well,
 21 obviously you -- so you think that's fair, that
 22 the --
 23 MS. KING: Well, let's get this straight.
 24 We don't think that it's fair to have a cap at
 25 all; however, this is the cap that we think will

1 give us the most flexibility to meet the solid
 2 waste disposal needs of the State of Maine.
 3 MR. SPENCER: Do you consider yourself to
 4 be -- not yourself -- Casella and BGS to be in
 5 full compliance with the public benefit
 6 determination from 2012 at this point?
 7 MS. KING: Yes.
 8 MR. SPENCER: Okay, thank you.
 9 CHAIRMAN PARKER: Mr. Snowman?
 10 MR. SNOWMAN: Yes. I'd like to ask Ms.
 11 King I guess. This 294 tons, I got -- I got with
 12 my math 294 tons were generated by PERC. I'll
 13 just let you go through my thinking here. In the
 14 four years 2010, '11, '12 and '13 I got 294 tons.
 15 I was wondering what percentage in your estimation
 16 or how much more OBW was generated in the PERC
 17 communities that's not accounted for in that 294
 18 tons?
 19 MS. KING: So I think we're mixing the
 20 different waste types between PERC and KTI
 21 Biofuels. So PERC takes primarily municipal solid
 22 waste, MSW, and any OBW that comes in in a
 23 municipal solid waste load, you know, carpet rolls
 24 or couches or mattresses or appliances, are
 25 incidental to that load. People have managed to

1 stuff a roll of carpet into an MSW container or a
 2 load and it's not supposed to be there because
 3 PERC cannot process construction and demolition
 4 debris, they can only process municipal solid
 5 waste. Oversize bulky waste from a facility such
 6 as KTI Biofuels or ReEnergy Lewiston which
 7 processes construction and demolition debris,
 8 quite regularly they receive oversize bulky waste
 9 in a construction and demolition load. It is not
 10 just incidental to their process; it's a portion
 11 of their process.
 12 MR. SNOWMAN: So where would the majority,
 13 say, of oversize bulky waste be processed for
 14 residents that live in these PERC communities?
 15 MS. KING: It's not processed.
 16 MR. SNOWMAN: Or -- or -- okay, let me
 17 rephrase that. Essentially I want to know how
 18 much oversize bulky waste in your estimation is --
 19 I believe there's about 200,000 people that live
 20 in the PERC communities, if I'm not mistaken, that
 21 was some number that -- I could be wrong about
 22 that. How much oversize bulky waste is generated
 23 by the residents just in -- I won't go to MERC
 24 because I think there was a lot more out-of-state
 25 garbage I think that was admitted -- no, no,

1 excuse me -- point of discard out-of-state garbage
2 generated at MERC than there was at PERC. I think
3 there was less out-of-state garbage going into
4 PERC. That's what I've been told anyway. So I'm
5 just kind of, you know, looking at these PERC
6 numbers and I'm seeing how low they are and I'm
7 trying to figure out what -- what do these --

8 MS. KING: Again, the OBW that PERC
9 reports is not representative of the construction
10 and demolition material that is generated by those
11 PERC communities because PERC does not take
12 construction and demolition debris.

13 MR. SNOWMAN: Okay. So where is it going?
14 Where is the oversize bulky --

15 MS. KING: It depends on the municipality.
16 So, for instance, a couple weeks ago our Pine Tree
17 Waste hauling companies did a curbside bulky waste
18 collection in Orrington. That went through the
19 Old Town transfer station, which we operate, and
20 it went to -- I believe it went to Juniper Ridge
21 as construction and demolition debris because
22 that's what it is. It's not a processing
23 residual. Being able to do that affords us the
24 opportunity to source separate and recycle some of
25 that material as well.

1 MS. KING: No, I don't believe so. It
2 pertains to the expansion which has not yet been
3 approved, one, and two, the audits are supposed to
4 be initiated by DEP not by us. We have agreed to
5 finance those audits as requested in the PBD but
6 we have not received any word that the audits are
7 going to be performed.

8 MR. KATSIAFICAS: Thank you. We have no
9 position on the amount of the -- I just mentioned
10 what was in the order. Thank you.

11 CHAIRMAN PARKER: I've got a question.
12 Maybe you can help me solve a conundrum, I guess.
13 When does municipal solid waste exempt itself from
14 mattresses and from refrigerators and stuff that
15 you're now determining basically are construction
16 and demolition -- construction waste, because in
17 the definition of municipal solid waste, basically
18 municipal solid waste includes everything but the
19 commercial and industrial waste which is produced
20 in the community. If I put a mattress out at the
21 end of my driveway, I think at that time it's a
22 municipal waste, and when does it become
23 nonmunicipal?

24 MS. KING: So that varies by regulatory
25 subsets, so different states and different

1 MR. SNOWMAN: Yeah, I'm just trying -- I'm
2 just trying to get a handle here. There's been no
3 -- I've been at this for many years --

4 MS. KING: Again, I appreciate the
5 question because I think we're mixing waste
6 streams and what oversize bulky waste exactly is,
7 which is a processing residual from construction
8 and demolition debris processing facilities.

9 MR. SNOWMAN: Okay, thank you. That's it
10 for now.

11 CHAIRMAN PARKER: City of Old Town?

12 MR. KATSIAFICAS: Mr. Chairman, Members of
13 the Board, we weren't really prepared to talk
14 about the public benefit determination seeing as
15 how that was supposed to have been done and behind
16 us. Page 20 of that has the commissioner's
17 findings and it talks about the commissioner
18 stating that if and when a license is issued for
19 the construction and operation of an expansion,
20 the Department will calculate such a limit. It
21 also said that if they were shipping over 10,000
22 tons per year OBW to Juniper Ridge there will be
23 an audit. My question would just be, has an audit
24 occurred on the two-year cycle with regard to OBW
25 as seen on page 20 of the commissioner's decision?

1 communities have their own definitions and in the
2 last few decades, those definitions have gotten
3 tighter and whittled down. As things are able to
4 be recycled and beneficially reused, they're taken
5 out from the waste stream definitions. A perfect
6 example is universal and electronic waste, which
7 used to be a part of your trash bag, and now
8 they're not able to be picked up in your trash
9 bag. You're not supposed to put a car battery in
10 your trash bag, for instance. That's a universal
11 waste that needs to be handled differently. So I
12 -- I'm not sure what community you reside in, but
13 I would hazard a guess as to say that whoever
14 picks up your curbside trash is not also going to
15 pick up a mattress on the same day. Typically our
16 communities in Maine have -- if they have curbside
17 pickup, they have separate bulky waste cleanup
18 days, they have separate leaf and yard waste
19 pickup days and they have ordinarily a place to
20 drop off source separated materials like universal
21 and electronic waste, construction and demolition
22 debris, another -- other various subsets of your
23 waste stream.

24 CHAIRMAN PARKER: I hear what you're
25 saying but my community may decide it's going to

1 have a time to pick up the large items which you
 2 can't put in a packer truck but that doesn't
 3 change its definition from being a municipal waste
 4 to a construction or demolition debris waste or to
 5 a commercial waste. It's still a municipal waste
 6 that's generated, and my community may choose not
 7 to put it in the same truck because it may not fit
 8 but that doesn't change the definition of it and
 9 that's what I'm trying to toy with is when a
 10 definition comes in to the OBD being something
 11 separate from municipal waste which I don't think
 12 it is.

13 MR. DOYLE: I think if you look at the
 14 definitions in Chapter 400 of the Department's
 15 rules, there are separate definitions for
 16 municipal solid waste, construction and demolition
 17 debris and bulky waste. They are separately
 18 defined.

19 CHAIRMAN PARKER: I've been reading the
 20 definitions and I will I guess politely disagree
 21 with you, okay, in my interpretation of how it's
 22 worded but I just wanted to see what your thoughts
 23 were on it as to how you define it, okay? Because
 24 that's something we're going to have to probably
 25 discuss of how we deal with the OBD and the OBD is

1 refrigerator, your couch or your mattress. That
 2 is oversize bulky waste which is a subset of
 3 construction and demolition debris.

4 CHAIRMAN PARKER: I will disagree with you
 5 and we'll move on because the definition doesn't
 6 say that. When my refrigerator comes out of my
 7 household, it's a municipal solid waste, okay?

8 MS. KING: I think that part of the
 9 confusion is the way you're looking at municipal
 10 and commercial. Just because it's not considered
 11 a municipal solid waste, construction and
 12 demolition debris is not always commercial or
 13 industrial. If we -- if we, you know, demo a
 14 house, a residential house, it's still
 15 construction and demolition debris. It's not
 16 necessarily commercial or industrial but it's not
 17 MSW.

18 MS. CHASE: Can I break in?

19 CHAIRMAN PARKER: Yes, please.

20 MS. CHASE: Right here I have on page --
 21 it's number 5 and it's under the Maine Department
 22 of Environmental Protection under solid waste
 23 generation characterization, and the paragraph
 24 clearly says "Maine's solid waste management
 25 infrastructure includes municipal, commercial and

1 a nice acronym because it tells you basically what
 2 we're talking about but it's a different acronym
 3 if it comes from a municipality or it comes
 4 imported through a transfer facility where they're
 5 handling commercial products. It's -- it's -- in
 6 my opinion, and I'm only one person, okay? It
 7 says -- just to follow up a little, municipal
 8 solid waste means solid waste emanating from a
 9 household and normal commercial sources. I
 10 exempted commercial. I said my household. If I'm
 11 going to throw out a sofa that comes out of my
 12 household, it doesn't come out of an industrial
 13 processor. So at that point it's a municipal
 14 solid waste. How my municipality handles it, they
 15 may prohibit me from putting it in one truck and
 16 it has to go in another.

17 MR. DOYLE: I think the way it's -- I
 18 think the way it's been interpreted under the
 19 rules -- is this on -- I believe the way it's been
 20 interpreted under those rules and the Department's
 21 historic interpretation is that the type of normal
 22 household waste that you put out on the curbside
 23 on a weekly basis, which is trash, and the type of
 24 waste that will be generated at this -- at this
 25 convention center today, does not include your

1 private industrial waste handling facilities," and
 2 in this it says waste "MSW is waste that is
 3 typically generated by household and commercial
 4 businesses," which would include mattresses,
 5 couches --

6 MS. KING: No.

7 MR. DOYLE: No.

8 MS. CHASE: Because underneath
 9 construction and demolition is a completely
 10 different category.

11 MS. KING: That's right.

12 MS. CHASE: No, I mean, different from
 13 what they're saying is municipal solid waste.

14 MS. KING: That's right.

15 MR. DOYLE: They separate them.

16 MS. KING: So the commercial portion of
 17 MSW would be essentially the --

18 MR. EASTLER: Get closer.

19 MS. KING: Is it on? So the commercial
 20 clause in that MSW would essentially be, you know
 21 when you go to a business, you know, a nail salon
 22 and they have -- they have a dumpster out back,
 23 and that's where they walk outside at the end of
 24 the day and throw their trash bag in. That's the
 25 commercial portion of the municipal solid waste

1 definition.

2 CHAIRMAN PARKER: Any further questions

3 from the Board?

4 MS. CHASE: I would like a real

5 clarification on that because it doesn't read that

6 way and I think it -- you know, clearly I think

7 somewhere along the line household goods gets

8 mixed in with demolition, and I don't think that

9 -- I think that -- in order for us to continue,

10 it's so confusing, I'm hearing two different

11 things, that it would be nice if we have a really

12 good clarification on that I would think.

13 MR. DOYLE: If you -- if you --

14 CHAIRMAN PARKER: Any other questions?

15 MR. DOYLE: If you look at the -- if you

16 look at the Maine Materials Management Plan, which

17 is the state's solid waste management plan issued

18 in 2014, on page 5 it gives a paragraph solid

19 waste generation and characterization. Table 1,

20 2012 Maine solid waste types and amounts, first

21 category, municipal solid waste, generation

22 1,307,787, second category, construction and

23 demolition debris, CDD, wood waste, land clearing

24 debris, 438,133.

25 MS. CHASE: Right, I have that.

1 MR. DOYLE: Two separate waste categories

2 or two different types of wastes.

3 MS. CHASE: That's what I said.

4 MR. DOYLE: Well --

5 CHAIRMAN PARKER: I think at this time

6 we'll stop the debate and we'll ask the Department

7 to review the definitions because I'm certainly

8 not going to be convinced by your argument and

9 you're not going to be convinced by mine. So

10 let's move on and I think as Kathy said, let's try

11 to get a better definition of what is -- I guess

12 what is what, okay?

13 MR. DOYLE: Okay.

14 CHAIRMAN PARKER: Any further -- oh,

15 Alvin, he had a question.

16 MR. AHLERS: I think you're --

17 CHAIRMAN PARKER: You're all set? Okay,

18 he's all set. Staff?

19 MR. BURNS: I just want to ask a

20 clarifying question so that I can understand with

21 all due respect to you not wanting a cap on this.

22 You had proposed the 99,000 tons per year, and

23 then the Consumer Price Index associated with

24 that. Are you suggesting that that is an annual

25 moving cap or did you suggest that it would be

1 118,000 tons per year as a final cap?

2 MS. KING: We're suggesting 118,000 final.

3 MR. BURNS: All right. One other -- here

4 we go again. All right, here we go. My other

5 question regarding the 118,000 ton per year cap,

6 usually when I think of things like this there's

7 some sort of confidence interval or level of risk

8 associated with establishing a numerical limit.

9 Did you evaluate what the level of risk might be

10 to businesses wanting to bring material that maybe

11 puts you over the cap?

12 MS. KING: We did. I mean, we haven't had

13 a long time to take a look at this in any great

14 detail, but if you -- if you look at the

15 propensity for actual construction and demolition

16 debris recycling and other processing facilities

17 in the State of Maine, we're fairly comfortable

18 that we'll maintain enough flexibility underneath

19 that cap to be able to serve the needs of the

20 State of Maine.

21 MR. BURNS: Thank you.

22 CHAIRMAN PARKER: Any further questions?

23 No redirect, no recross or whatever?

24 MR. SPENCER: Thanks. We may be just

25 going around and around here and we should

1 separate the issues somehow, but I heard about a

2 town pickup in Orrington or something of oversize

3 bulky waste that comes then to the Old Town

4 transfer station, if I heard it right.

5 MS. KING: No, you didn't hear that right.

6 It was a pickup of bulky waste.

7 MR. SPENCER: Bulky waste.

8 MS. KING: Yes.

9 MR. SPENCER: And what was the town again?

10 MS. KING: Orrington.

11 MR. SPENCER: Okay, Orrington. Bulky

12 waste and that goes to the Old Town transfer

13 station and then to Juniper Ridge?

14 MS. KING: For consolidation, yes.

15 MR. SPENCER: Okay. So there isn't any

16 processing done along the way? There's no waste

17 reduction?

18 MS. KING: No, no, there's removal of

19 recyclables at all of our transfer stations, yes.

20 MR. SPENCER: Right, but the -- but was

21 anything removed from it with the bulky waste?

22 Bulky waste comes in, does stuff come out of it?

23 MS. KING: So we obviously don't landfill

24 things like appliances, for instance. So the

25 appliances were removed from the bulky waste

1 loads, they were handled appropriately, that any
 2 CFCs were removed and then the metals were
 3 recycled, but that -- that's source separation.
 4 It's not processing.
 5 MR. SPENCER: Right, and then you said
 6 something -- I can't remember exactly what
 7 question prompted you but it was something about
 8 rules varying by state and I think I heard you say
 9 it has been tightened in some places, which has
 10 caused some changes?
 11 MS. KING: I don't recall saying that but
 12 rules certainly do vary by state, yes.
 13 MR. SPENCER: Okay, I'll get it off the
 14 transcript. Thank you.
 15 CHAIRMAN PARKER: I think that's all the
 16 questions. City of Old Town, do you have any?
 17 MR. KATSIAFICAS: We have no questions.
 18 CHAIRMAN PARKER: Well, I believe if
 19 that's the case, we've pretty well concluded our
 20 business at this hearing.
 21 First of all, I want to compliment
 22 everybody for being professional and
 23 straightforward and expressing their opinions
 24 because we have a difficult job to deal with and
 25 being civil is a very, very important part of how

1 MS. BERTOCCI: Do the parties -- I'm
 2 asking whether or not the parties feel they need
 3 to have a transcript available to them before
 4 drafting and submitting your brief.
 5 MR. SPENCER: Speaking for myself, yes.
 6 CHAIRMAN PARKER: Okay.
 7 MR. DOYLE: Sure.
 8 MS. BERTOCCI: So the Chairman will take
 9 that all into consideration after we consult with
 10 Ms. Alley. Okay.
 11 CHAIRMAN PARKER: Well, I think I've
 12 already concluded the hearing, so thank you.
 13 **(HEARING CONCLUDED AT 12:00 P.M.)**
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1 well your presentation is received, and I want to
 2 thank you all for that. At this time I would
 3 adjourn the -- yeah, adjourn the public hearing.
 4 MR. SPENCER: Were we going to set a date
 5 for -- were we going to set a date for final
 6 briefs? One question possibly related, about when
 7 will the transcript be available?
 8 MS. BERTOCCI: I would respond that our
 9 intention was to set a date. I have not conferred
 10 regarding the time it's going to take to process
 11 the transcript so I think I will speak with Ms.
 12 Alley and the Chairman will then set a date for
 13 the submission of those briefs and we'll get back
 14 to you shortly on that.
 15 MR. SPENCER: Would you hazard a guess if
 16 it's before or after Veterans Day weekend?
 17 CHAIRMAN PARKER: We don't know.
 18 MS. BERTOCCI: I will speak with Ms. Alley
 19 after she has an opportunity to look at the work
 20 in front of her and we will get back to you
 21 promptly. I am assuming that the parties are
 22 interested in having the transcript available
 23 before you have to submit your brief, is that --
 24 is that a request or --
 25 MR. SPENCER: Excuse me?

1
 2 **CERTIFICATE**
 3 I, Joanne P. Alley, a Notary Public in and for
 4 the State of Maine, hereby certify that on the 18th
 5 and 19th days of October 2016, personally appeared
 6 before me the above witnesses who were sworn to
 7 testify to the truth, the whole truth, and nothing but
 8 the truth in the aforementioned cause of action and
 9 that the foregoing is a true and accurate record as
 10 taken by me by means of computer-aided machine
 11 shorthand.
 12
 13 I further certify that I am a disinterested
 14 person in the event or outcome of the aforementioned
 15 cause of action.
 16
 17 IN WITNESS WHEREOF, I have hereunto set my hand
 18 this 8th day of November, 2016.
 19
 20 _____
 21 Joanne P. Alley
 22 Court Reporter/Notary Public
 23 My commission expires: July 17, 2022
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