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STATE OF MAINE

BOARD OF ENVIRONMENTAL PROTECTION

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**IN RE: APPLICATIONS BY STATE OF MAINE  
BUREAU OF GENERAL SERVICES FOR  
PROPOSED EXPANSION OF THE JUNIPER  
RIDGE LANDFILL**

\* \* \* \* \*

**October 19, 2016**

Cross Insurance Center  
Bangor, Maine

**CHAIRMAN: JAMES PARKER**

**BOARD MEMBERS:**

Alvin Ahlers  
Kathleen Chase  
Mark Draper  
Thomas Dobbins  
Thomas Eastler  
Jonathan Mapes

**OTHERS PRESENT AT PANEL TABLE:**

Mary Sauer, Assistant Attorney General  
Cynthia Bertocci, BEP Executive Analyst  
Ruth Ann Burke, BEP Administrative Assistant

**DEPARTMENT STAFF MEMBERS PRESENT:**

Kathy Tarbuck                      Victoria Eleftheriou  
David Burns                         Steve Farrar  
Richard Behr                         James Beyer  
Lynn Caron

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 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 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, oversize 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 oversize  
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 oversize 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 oversize

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 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           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           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 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           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           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 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 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                   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 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 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 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 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 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 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 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 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 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           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 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 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 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 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 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 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 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 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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**CERTIFICATE**

I, Joanne P. Alley, a Notary Public in and for the State of Maine, hereby certify that on the 18th and 19th days of October 2016, personally appeared before me the above witnesses who were sworn to testify to the truth, the whole truth, and nothing but the truth in the aforementioned cause of action and that the foregoing is a true and accurate record as taken by me by means of computer-aided machine shorthand.

I further certify that I am a disinterested person in the event or outcome of the aforementioned cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of November, 2016.

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Joanne P. Alley

Court Reporter/Notary Public

My commission expires: July 17, 2022

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