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GOVERNOR

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

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May 4, 2018

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RE: Appeal of Juniper Ridge Landfill Solid Waste License Amendment Order
#S-020700-WD-BL-A: Response to Motion to Disqualify

Dear Appellants:

On April 30, 2018, the State of Maine Bureau of General Services (BGS) and NEWSME Landfill Operations, Inc. (NEWSME) filed an appeal of Department Order #S-020700-WD-BL-A. A timely appeal was also filed by Edward Spencer. In conjunction with the appeal, BGS and NEWSME filed a Motion to Disqualify me from participating in the appeal proceeding.

In the motion, you cite my April 10, 2013 e-mail to then Department Commissioner Patricia Aho commenting on the 2012 application by BGS to accept at Juniper Ridge Landfill (JRL) in-state, non-bypass municipal solid waste that was previously contracted for disposal at Maine Energy as a basis for the conclusion that I have pre-judged the matter currently before the Board, or at least a basis for the appearance of bias. You also cite to my decision to recuse myself from BGS and NEWSME's appeal of the Commissioner's 2013 decision on that application.¹ In your motion, you argue that the issues in the current appeal proceeding are substantially the same as the issues in the appeal of the Commissioner's 2013 decision and that, therefore, by extension I should disqualify myself in the current appeal proceeding.

¹ BGS's September 12, 2012 application was accepted for processing on October 3, 2012. The Department subsequently held a public hearing on the application on April 9 and 10, 2013, and written comments were accepted through April 30, 2013. My comments on the application were submitted on April 13, 2013, prior to my appointment to the Board. The Department issued its decision on December 20, 2013. BGS and NEWSME appealed the Commissioner's licensing decision to the Board on January 21, 2014.

Following consideration of your motion and consultation with the Office of Attorney General, I have decided not to recuse myself from participation in the current appeal proceeding. My April 10, 2013 comments on BGS's 2012 application were made five years ago, prior to my appointment to the Board. I recused myself from BGS and NEWSME's appeal of that license decision because my comments were directly related to the license under appeal at that time and because of the proximity in time between my comments, the Commissioner's licensing decision, and the subsequent appeal to the Board.

Since my comments in 2013 on BGS's 2012 application, I chaired, without objection, the licensing proceeding on BGS's 2015 application for expansion of the Juniper Ridge Landfill which approved with conditions a 9.35 million cubic yard expansion of JRL (Board Order, #S-020700-WD-BI-N / # L-19015-TG-D-N, dated June 1, 2017). In the course of that public hearing and proceeding, I heard and digested a great deal of evidence on the issues involved. As you argue in your current appeal, there have been a number of changes in the solid waste management landscape in the five years since my e-mail to the then-Commissioner, and since the Commissioner's 2013 decision. I believe that I can fairly judge the evidence and arguments in the pending appeals of Department Order #S-020700-WD-BL-A and need not recuse myself from participation.

Sincerely,

A handwritten signature in blue ink, appearing to read "James W. Parker".

James W. Parker, Chair
Board of Environmental Protection

cc: Service List