

IN THE MATTER OF

STATE OF MAINE, BUREAU OF	)
GENERAL SERVICES, JUNIPER RIDGE	)
LANDFILL EXPANSION	)
City of Old Town, Town of Alton,	)
Penobscot County, Maine	) EDWARD S. SPENCER
#S-020700-WD-BI-N	) INTERVENOR
#L-024251-TG-C-N	) MOTION TO STRIKE
APPLICATION FOR MAINE	) FOR BOARD OF ENVIRONMENTAL
HAZARDOUS WASTE, SEPTAGE AND	) PROTECTION PUBLIC HEARING
SOLID WASTE MANAGEMENT ACT,	) FILED AUGUST 12, 2016
and NATURAL RESOURCES	)
PROTECTION ACT PERMITS and	
WATER QUALITY CERTIFICATION	

Dear Chairman Parker,

Please accept this Motion to Strike of certain pre-filed testimony presented by the applicants for an Expansion of the Juniper Ridge Landfill, the State Bureau of General Services and Casella Waste Systems. I will also refer to pre-filed testimony by Old Town's City Manager, Bill Mayo. I believe that some of this testimony is either false, irrelevant, or misleading to the Board of Environmental Protection.

TERM of OSA

Michael Barden, writing on behalf of BGS, says (on the second Page of his testimony): "The term of the OSA is 30 years." This is not a false statement. However, it may be a misleading statement which could imply to Board members that the State has an obligation to provide Casella/BGS with capacity for 30 years. In truth, if the Expansion is denied, the OSA would end when the current licensed capacity is exhausted. I ask the Chair to either strike this statement, or ask for a clarifying passage.

CAPACITY NEEDS

On Page 4 of Mr. Barden's testimony there is another misleading and possibly false statement: "Additional state solid waste landfill capacity will be needed within the next two years to avoid serious disruption for the in-state waste deliveries that are currently being managed at JRL." This statement may be designed to pressure Board members to approve an Expansion of JRL. In addition to being misleading, I believe it is false. Mr. Barden goes on to say that "The one remaining commercial landfill currently licensed to accept these waste streams does not have capacity to absorb this tonnage post 2020/21 and the remaining two other State-owned landfills are not in a position to accept those waste streams either." Mr. Barden's first sentence implies that there will be disruption in waste disposal "within the next two years" and his next sentence says that the remaining commercial landfill has the capacity until 2020/21, which is either 4 or 5 years from the present. Therefore, I ask the Chair to strike Mr. Barden's first sentence at the top of Page 4.

ALTERNATIVE DAILY COVER (ADC) AMOUNTS

On Page 2 of his testimony, Old Town City Manager Bill Mayo discusses how Construction and Demolition Debris (CDD) fines are used as Alternative Daily Cover (ADC) at JRL. He concludes by saying "Casella also demonstrated that it uses less CDD fine-ADC (20%) than comparable landfills (at 24%) so that it is not taking undue advantage of free disposal of this material at JRL." This statement conflicts with the testimony of Toni King for Casella. Beginning on the bottom of Page 2, she says "In addition, there are no other solid waste management techniques allowed in Maine to manage CDD processing fines other than reuse as daily cover or disposal in secure landfills. About 30 percent of the waste that is accepted at JRL is used in landfill operations in this manner as alternate daily cover." On Page 5, this is restated: "About 30 percent of the waste that is accepted at JRL is used in landfill operations in this manner as alternative daily cover." And again beginning at the bottom of Page 7: "About 30% of the waste that is accepted at JRL is used in landfill operations in this manner as alternative daily cover."

There is a discrepancy between Mr. Mayo's testimony and that of Toni King. This involves about 10 percent of the total waste stream into JRL, which is projected to be about 70,000 tons difference between 20 and 30 percent. Both numbers cannot be true. I would tend to trust Mr. Mayo's statement, as he has never to my knowledge deliberately misstated facts. I am therefore asking you as Chair to strike the false statement(s) either from Mr. Mayo or Ms. King.

OVERSIZED BULKY WASTES (OBW)

On Page 8 of Toni King's testimony it says "Because of the very low volume of Oversized Bulky Waste (OBW) expected to be disposed in the Expansion (similar to historical amounts: anticipated to be about 60,000 tons per year), this material will have minimal impact on capacity consumption." The terms "very low volume" and "60,000 tons per year" are nearly opposite by any interpretation of common language. For example, a loaded tractor trailer truck usually hauls about 30 tons per legal load. This means that the anticipated OBW in the Expansion would be the equivalent of about 2000 truckloads of OBW per year. I am not sure if this intended to be misleading, but I ask you to strike this statement.

As part of this Hearing procedure, I was told on at least three occasions that revisiting the Public Benefit Determination would not be allowed. This was amended over time to allow for discussion of relevant Conditions and Conclusions of the PBD in this Expansion Hearing. However, in Ms. King's testimony on Page 10 Casella takes the opportunity to lay out an analysis of Condition 3 of the PBD and conclude "Therefore, an OBW limitation placed on JRL Expansion acceptance in this proceeding is not required." It is not up to Ms. King or Casella/BGS to determine that there should be no limit on OBW in an expanded JRL. Commissioner Aho made that ruling already in her PBD- the only question is what that limit should be. Therefore, I ask you to strike the quoted statement.

RELEVANT METRICS

Throughout Toni King's testimony there are at least four statements professing what the "relevant metrics" should be in analyzing the effectiveness of Casella's efforts to comply with the Waste Hierarchy. A typical statement is on Page 5: "The relevant metrics to evaluate effectiveness of these programs is the total tonnage of the materials that are reused or recycled." A similar and lengthy quote beginning "The relevant metrics to evaluate effectiveness..." is at the bottom of Page 6, another at the bottom of Page 8, and again on Page 9. It sounds as if Casella is lecturing the BEP and DEP on how to evaluate their efforts at compliance. Casella is the Operator of JRL, DEP is the Regulator of the JRL. The regulator should decide what the "Relevant Metrics" should be. Therefore, I ask you to strike all statements about "relevant metrics" as being irrelevant to the BEP.

CONCLUSION

I have taken the opportunity to point out certain statements that appear to me to be false, misleading or irrelevant. This does not mean that other testimony is fully accurate or is not misleading. It is difficult to distinguish Public Relations from relevant testimony. As intervenors, we will have the opportunity to ask questions of other parties at the Public Hearing this fall to develop a more comprehensive evaluation of the merits of testimony. Thank you for your consideration of these matters.

Respectfully submitted,

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