

Senator Carson, Representative Tucker, Members of the Committee,

Maine's statutory law requires that all wastes be subjected to the State Waste Hierarchy: Reduce, Reuse, Recycle, Compost, Waste to Energy and THEN Landfilling as a last resort. In order to reduce the vast amount of out of state waste coming into Maine, the state, through the offices of the state's Waste Management Agency, decided in 1989 that no more commercial landfills would be allowed in Maine, The state also established a solid waste hierarchy as a state policy at that time, years before that became a statutory law.

Landfilling is the least environmentally sound method for handling waste; we have other preferred options in this state: EcoMaine's WTE plant in South Portland, the MMWAC facility in Auburn, the PERC incinerator in Orrington, and the Fiberight Waste-to-Energy Facility, which will begin operations this month..

Landfills are a precious resource, I was told by the State Planning Office: extremely difficult to locate because of political and environmental factors, expensive to build, with long term environmental consequences while the landfill is in operation and long after it is closed. I speak with the experience of living a mile downstream from the now closed Pine Tree Landfill, with groundwater contamination that will need to be treated for unknown years into the future.

The whole point of having a state owned landfill is to be able to preserve the state's landfill capacity for Maine generated waste and to be able to exclude waste, such as out of state waste and MSW, that does not fit in with state policy.

The state has only limited alternative options to Juniper Ridge. At a presentation to the ENR in January 3, 2018, Michael Barden, who manages state-owned landfills for the State of Maine, reviewed the status of the state's two other state owned landfill sites: Carpenter Ridge and the Dolby landfill. Both are further away than JRL, so trucking costs would be considerably higher over time. Both are much smaller in size than Juniper Ridge. Mr Barden quoted a figure of **\$760,00 an acre** to develop a landfill, and a **1995 estimate of 15 million dollars** to develop the 35 acre Carpenter Ridge, which he also mentioned is surrounded by wetlands. Regarding the Dolby landfill, the original landfill is unlined; there are 9 acres that need to be capped and the state, as of last year, was pumping 60 million gallons of lechate from the site at a cost to the state of \$500,00 a year. If the available 75 acre footprint of Dolby III were to be developed, it would have only 400,000 cubic yards of capacity, equivalent to just 5 years for the MSW Casella is currently bringing into Juniper Ridge. And he noted that "landfills require perpetual care" despite a requirement of only 30 years after closure. It's questionable whether remediation at the Pine Tree Landfill will be finished 30 years from closure; after 8 years of remediation, contamination is still increasing in some areas of the landfill.

Given the limitations in size and cost to develop those two other sites, and adding the great difficulty of locating a new site because of political and environmental factors, it's essential that we don't fill Juniper Ridge with waste that should never have ended up there. The state does not have a viable long term alternative.

That's a long introduction to why we need this bill. LD 401, An Act To Preserve State Landfill Capacity. That state capacity at Juniper Ridge is jeopardized by current practices. There are several industry players that import large volumes of wastes from out of state that find their way to Juniper Ridge. My experience is with Casella Waste Systems and its handling of the Pine Tree Landfill in Hampden, where I live, and the Juniper Ridge Landfill, where I have followed Casella's operations,

so that's what I can speak to today. There is a pattern with Casella, to fill its landfills as fast as they can, with as much waste as they can possibly attract. A look at Casella's operations at the Pine Tree Landfill in Hampden is revealing:

In 1998, Casella estimated in its application that it would dispose approximately **143,000 tons a year** in its expansion phases, at the Sawyer Landfil, since called the Pine Tree Landfill, **providing capacity for approximately 23 years. Which meant that the Hampden landfill's capacity from that expansion would have lasted until 2021.**

In 2002, when PTL's public benefit determination was being reevaluated to accept MSW bypass, PTL estimated its capacity would last only until the **end of 2012.**

PTL stated that "in response to a variety of factors" it took in approximate 567,000 tons in 2003 and 568,000 tons in 2004. PTL's wildly inaccurate estimates in 1998 of their yearly disposal rates undermined the basis for DEP's public benefit evaluation for PTL to serve the capacity needs of the state.

In their 2004 annual report, PTL estimated the Pine Tree landfill would reach capacity by **February of 2007.**

PTL attributed part of this increase to "new" customers, as if it had no control over how much waste PTL took in. The "new" customers it cited were Maine Energy FEPR, incinerator ash, generators of wastewater treatment plant sludge and Bypass MSW from Maine's waste-to-energy incinerators. Allowing MSW Bypass was approved in 2002.

Maine Energy (MERC) was owned by Casella, and MERC FEPR was by volume one of the largest components of special waste PTL took in each month. The principal generator of wastewater treatment plant sludge to PTL was New England Organics, also owned by Casella, and this sludge was also by volume one of the main components of PTL special waste (much of it from out of state). Bypass MSW was almost entirely from Casella's MERC facility; very little came from PERC.

The vague explanation was that the increase in waste was due to "a number of factors." Casella is fully aware of "a number of factors: its own companies' activities.

PTL stated that over half the increase in the waste disposal rate had been related to wastes generated within Maine, "including all of the increase in FEPR volumes, all of the ash-related waste volumes, and significant portions of the construction and demolition debris and MSW bypass waste volumes." But much of the waste that MERC processed was from out of state, so that much of the FEPR that was pulled out from garbage as unsuitable for incineration was from waste coming from out of state, as was the raw garbage - MWS bypass -that stopped at the MERC plant before going on to Hampden. "all of the ash-related waste" again does not take into account that waste incinerators import large quantities of out of state waste to keep their facilities going.

At the time I made a request of the State Planning Office for out of state waste records at PTL. George MacDonald, head of the SPO replied: "In 2003, Pine Tree reported to us that they received 218,087 tons of municipal solid waste and construction debris that was generated out of state. In 2001, that number was 19,313 tons." **So after PTL was allowed to take in MSW Bypass in 2002, we know that it took over 10 times as much out of state waste in 2003 as it had in 2001.**

DEP wrote in an August 24, 2005 letter to PTL: "waste volumes reported in annual reports since [2002] indicate that the current operation of the facility has resulted in the landfill capacity being used far faster than the timeframe anticipated in 2002 when the department reconfirmed the facility's 1997

public benefit determination....Since 2002, the quantity of wastes annually disposed in the Secure III Landfill expansion has greatly increased." DEP cited the practice of MERC, "to routinely accept more MSW for incineration than they could handle-including from out of state sources-and then to dispose of the excess at PTL." *

On March 31, 2006, Casella withdrew its Public Benefit application for expansion of the Pine Tree Landfill, in the face of certain DEP denial, a central reason being the profligate manner in which PTL had squandered its own precious capacity. Now it's one thing to fail to meet the Public Benefit test at a commercial landfill in Hampden, but Juniper Ridge is a state-owned landfill, supposedly restricted to Maine waste. Casella had the opportunity and responsibility to change their behavior when they were granted the right to operate Juniper Ridge. But while Norridgewock has extended the life of its current capacity, and Eco-Maine has managed to mine and reduce its landfill volume, Juniper Ridge is still growing by leaps and bounds. We still have the same behavior from Casella at our state owned landfill as we did at its commercial landfill in Hampden. To give one example:

Oversized Bulky Wastes (OBW) increased dramatically at Juniper Ridge, from **9,649 tons** in **2007** to 21,405 tons in 2008, to 51,438 tons in 2009 to 96,520 and **98,888 tons** in 2010 and **2011**. Former DEP Commissioner Aho expressed concerns about this drastic increase, as well as the large amounts of CDD and CDD residues coming into JRL (including OBW) through Casella's KTI processing facility in Lewiston.

The mystery is why the combined categories of CDD wastes into the state owned Juniper Ridge Landfill increased so drastically after the commercial Pine Tree Landfill, which had no restrictions on out-of-state waste, closed; if the increased volumes of CDD categories of wastes into JRL post-PTL were truly restricted to Maine wastes, what explains the dramatic increases since PTL closed.

Ed Spencer, who has regularly testified on Juniper Ridge practices before the ENR, can provide many more examples of activities at JR that run counter to state hierarchy goals.

We need to enact LD 401, to ensure that waste imported from out of state does not wind up in state owned landfills, to ensure that industry players are not gaming the system, to ensure that the long term capacity of Juniper Ridge is not jeopardized by practices that run counter to our statutory state waste hierarchy.

Bill Lippincott
30 Wilbur Drive
Hampden, ME 04444

*Most of the data from this testimony is from a letter, with references, from December 21, 2005 to Cynthia Darling, DEP project manager at the time: Additional Comments on the Public Benefit Determination for the Pine Tree Landfill (PTL), in response to their November 18, 2005 application. Juniper Ridge was then called the West Old Town Landfill (WOTL). The letter follows; I have highlighted relevant passages from that letter. A matter I did not dwell on because much was not obtainable was adequate tracking data on waste generated from out of state; we need to have better data.

William Lippincott
Chairman- Hampden Citizen's Coalition
30 Wilbur Drive
Hampden, ME 04444

December 21, 2005
Cynthia Darling
Department of Environmental Protection
106 Hogan Road
Bangor, Me 04401

Dear Cynthia,

I am submitting additional comments on the Public Benefit Determination for the Pine Tree Landfill (PTL), in response to their November 18, 2005 application. I wish these to supplement my letter of September 2, 2005 on the Public Benefit Determination.

I wish to address various points PTL brought up in their November 18, 2005 application.

On page 3, PTL objects to DEP's right to review public benefit on this application for something other than a new or expanded solid waste facilities. Why then did PTL not object in 2002, when DEP reviewed and modified PTL's 1997 Public Benefit Determination to accept MSW bypass from Maine incinerators? That was neither a new or expanded solid waste facility, yet PTL had no problem with DEP's review at that time. Nor should they now.

On page 4 the letter states PTL "has for many years been the principal landfill disposal site" for many Maine solid waste generators." That is no longer the case; now the West Old Town landfill (WOTL) serves that purpose. Casella states that in its proposal to the state "operation of PTL would continue in the event Casella was selected as the operator." Operation of PTL is continuing now that Casella operates the WOTL, but that does not give Casella free reign to increase capacity at PTL beyond what is currently licensed.

On page 5 PTL writes of the need for alternative disposal capacity if, through negotiations with the cities of Biddeford and Saco, the MERC incinerator is closed in 2017. But in a referendum this Fall the voters of both cities voted not to buy out the MERC plant, and close it down, so the capacity for that waste stream is secure. (nor would this proposal have any bearing on capacity needs in 2017, well beyond the limits of what this increase in capacity will provide).

In the next paragraph PTL argues that PTL will provide a "bridge" capacity while the WOTL and Lewiston are being developed. But WOTL is already in operation and is fully capable of serving the demands for space for Maine generated waste when PTL reaches the limit of its current capacity. PTL fails to mention the Norridgewock special waste landfill, fully licensed and operating, which has "bridge" capacity. Nor does PTL mention the state owned Carpenter Ridge site, which could come into operation should the need arise. With the long term capacity at WOTL, that need is unlikely to arise soon. The Pine Tree Landfill has no essential role in the state's solid waste plan.

On page 6, PTL states that in 1998, SERF (now called PTL, but owned and run by Casella, with the same personnel, in essence the same entity) estimated in its application that it would dispose approximately 143,000 tons a year in its expansion phases, providing capacity for approximately 23 years.

DEP has stated in its August 24, 2005 letter to PTL that its 1997 public benefit determination was based on that information. PTL states that "in response to a variety of factors" it took in 568,133 tons in 2004, and from the table on the same page, 566,877 tons in 2003. (PTL is giving figures in tons here; in its 2004 annual report it states 660,630 cubic yards of waste were disposed). PTL's wildly inaccurate estimates in 1997 of their yearly disposal rates undermine the basis for DEP's public benefit evaluation for PTL to serve the capacity needs of the state.

Missing from this page was PTL's estimate in 2002, when its public benefit determination was being reevaluated to accept MSW bypass, that PTL's capacity would last until the end of 2012. In the 2004 annual report, PTL estimates the landfill will reach capacity by February of 2007, if WOTL starts taking large quantities of Maine generated waste in late 2005 or early 2006. Again, DEP was making a public benefit determination based on inaccurate information submitted by PTL.

PTL attributes part of this increase to new customers, as if it had no control over how much waste PTL took in. The new customers it cites are [page 6-7] "(e.g. Maine Energy FEPR, Regional Waste Systems ash, and additional generators of wastewater treatment plant sludge) and new waste categories (e.g.; bypass MSW from Maine's waste-to-energy incinerators, approved in 2002.)." Maine Energy is owned by Casella, and MERC FEPR is by volume one of the largest components of special waste PTL takes in each month. The principal generator of wastewater treatment plant sludge to PTL is New England Organics, also owned by Casella, and this New England Organic sludge is also by volume one of the main components of PTL special waste (much of it from out of state). Bypass MSW "from Maine's waste-to-energy incinerators" is almost entirely from Casella's MERC facility; very little comes from PERC. Does Casella not know how much waste its own businesses are generating? Since they are a primary source for PTL waste, shouldn't Casella have a more informed view of waste flow rates? The vague explanation is that the increase in waste is due to "a variety of factors" and "a number of factors." Casella is fully aware of "a number of factors:" its own companies' activities; that it cannot provide reliable figures to DEP should disqualify its current application.

In the next paragraph on page 7 PTL states that over half the increase in the waste disposal rate has been related to increased disposal of wastes generated within Maine, "including all of the increase in FEPR/OBW volumes, all of the ash-related waste volumes, and significant portions of the construction and demolition debris and MSW bypass waste volumes." But much of the waste that incinerators process is from out of state, so that the FEPR/OBW that is pulled out from garbage as unsuitable for incineration could be from garbage coming from out of state, as could the raw garbage - MWS bypass - but for stopping at the MERC plant before going on to Hampden. "all of the ash-related waste" again does not take into account that waste incinerators import large quantities of out of state waste to keep their facilities going.

PTL states that almost 317,000 tons of waste out of 568,133 tons disposed at PTL in 2004

were Maine generated. That leaves 251,133 tons, for which PTL does not comment on; a much larger amount than the 143,000 tons estimated in the 1998 application. Was all of this from out of state? PTL provides no figures for the amount of out of state waste it has taken in over the last five years; information that is crucial in making a judgment on the beneficial role of PTL in the state's waste management plan. A central tenant of the state plan is to minimize the importation of out of state waste into Maine. PTL fails to provide any figures that would show if out of state waste has increased (or decreased) in the last five years at PTL.

I made a request of the state planning office for out of state waste records at PTL. George MacDonald replied:

"In 2003, Pine Tree reported to us that they received 218,087 tons of municipal solid waste and construction debris that was generated out of state. In 2001, that number was 19,313 tons."

He said the SPO does reports on a biennial basis and had no figures for 2002 and 2004. (Copy of email at end of this letter).

PTL should have submitted fully documented records for waste generated out of state for 2002, 2004, and 2005 through the end of November so that DEP could assess whether PTL's record is consistent with the state plan is to minimize the importation of out of state waste into Maine. They did not. From the figures provided by the SPO, it is clear why they did not; PTL took over 10 times as much out of state waste in 2003 as it had in 2001.

As to the constitutionality of the issue of out of state waste re public benefits, I defer to the courts. But the state is not imposing limits here; it rejected the initial application for lack of information. This application suffers the same defects.

On page 8, PTL states that with Phase IX in operation it anticipates receiving 250,000 - 350,000 tons a waste per year due to the redirection to WOTL "of some waste currently accepted at the PTL site" PTL does not identify this waste: Maine generated waste, what WOTL is designed and designated to take. Why not? Because the majority of waste going in to Phase IX will be from out of state. That 250,000-350,000 is a decrease from past activity is no consolation if most of this waste is generated out of state. That is of no benefit to the public. It's an increased liability to the Town of Hampden and to the State of Maine.

PTL states Phase IX will allow for continued service to PTL's customers without lengthening the total operating period of Secure III predicted in 2002. But in order to do so, they will need a vertical increase in capacity of 2.8 million cubic yards! Will they need another major expansion in 3 years to make good their prediction that this one will give PTL six more years of capacity? PTL shows that it disregards the need to demonstrate reliable projections of landfill activity.

In footnote 6 on page 8, PTL notes that Maine exported 8% of its waste in 2003. **It does not provide data for how much out of state waste Maine imports, so it is impossible to evaluate what import this figure signifies.**

Public Benefit Analysis

PTL states:

A. "The facility meets the immediate, short-term, or long-term capacity needs of the State."

On page 9 PTL states that it is an important disposal location for residues generated at the PERC incinerator in Orrington. But those residues can and will go to WOTL without the addition of Phase IX. PTL (then called the Sawyer Landfill) may have been important to the state's capacity needs in 1997; with the WOTL in operation, it no longer is.

On page 10, PTL explains that "additional WOTL disposal capacity" is not yet permitted. But even without that additional capacity, WOTL is presently permitted to take in Maine generated waste well beyond the limits of the proposed Phase IX application. **PTL advises that "it is prudent to utilize the current licensed capacity at these facilities [PTL and WOTL] at a conservative rate." This statement is laughable given the profligate manner that PTL has utilized its own precious capacity.**

PTL then states that it is a key disposal option for bypass MSW from all four Maine incinerators. But Maine generated bypass MSW can go to WOTL. PTL states that it serves an important function in that it can receive bypass MSW where Maine and out of state waste are co-mingled. **Looking at PTL's monthly solid waste reports, PERC generates very little bypass MSW that goes to PTL. Most MSW it takes is incinerated. Most of the bypass MSW coming to PTL is from the Casella owned MERC incinerator. The problem seems to be that MERC consistently takes in more MSW than it can process.** The solution would be for Casella to reduce surplus MSW, to not import MSW it cannot incinerate. The state can allow bypass MSW from out of state or co-mingled to go to the commercial special waste facility in Norridgewock when a plant is shut down. But that is no reason to allow a 2.8 cubic yard increase in capacity, so that Casella can import more out of state raw garbage than its MERC plant can incinerate. That is not in the public interest.

On page 11, PTL then states that it has "historically served as the disposal site for construction and demo debris generated in the greater Bangor area." All of this waste could go to the WOTL, which is why PTL uses the word "historically."

In the next paragraph, PTL states it is a convenient and cost effective site for wastewater treatment plant sludge from nearby facilities, and cites a 1998 SPO plan. All of this waste could go to the WOTL cost effectively. Neither of PTL's statements demonstrates a public need; they are options, which must be weighed against the drawbacks of further continuation of a landfill with serious design and location flaws - built over an unlined landfill with a methane gas and lechate problem, contamination of groundwater and constant odor complaints from the surrounding populace (27 in the November, 2005 PTL monthly odor report - from the beginning to the end of the month).

The PTL application does not meet the immediate, short-term, or long-term capacity needs of the State.

PTL states:

B. "The continued operation of the PTL facility is consistent with the state waste management and recycling plan."

On page 11, PTL states that the licensing of Phase IX is consistent with the state's plan for the same reasons discussed in SERF's 1997 public determination application and DEP's 1997 & 2002 orders on this subject. All of these occurred before the existence of the state owned WOTL, which creates a state facility for Maine generated waste and eliminates the public need for further capacity increases at PTL.

On page 12 PTL cites the State Plan's need for "affordable disposal options for construction, demolition and bulky wastes" without mentioning that the WOTL provides just that; the state negotiated rates with Casella at WOTL so that they would be affordable to the region into the future.

PTL then goes on to say "PTL has a proven track record of successfully managing the Hampden landfill facility, including the accumulation of years of data demonstrating that the site is environmentally suitable for waste disposal." Recent and past events show otherwise. There has been significant migration of contaminants outward from the landfill into the groundwater.

In a Feb. 3, 2003 letter to the Town of Hampden, Dr. Richard Wardward, consulting engineer for the town wrote: "It has become evident that the landfill impacts to both groundwater and surface water quality have not improved since the Conventional Landfill was capped with the Secure III liner construction. If anything, water quality has degraded based on the increasing parameter trends in some sampling locations."

At a meeting before the Hampden Environmental Trustees on 6/1/04, Dr. Wardwell stated that because the conventional landfill was now capped, landfill gas that used to escape through the landfill surface will follow groundwater, carrying VOC's and other contaminants with it. The problems that Dr. Wardwell identified in 2003 and 2004 continue to plague the landfill. Methane trapped by the capping of the conventional landfill has also pushed upward, causing a bubble in the liner in November 2005, with potential for serious fires and explosions. See the Bangor Daily News article which follows this letter

In 2002, PTL reported exceeding Action Leakage Rate Levels four weeks in a row - from Feb. 11-March 4 in 2002, indicative of problems in the liner system of the landfill. And just last month in a November 28, 2005 letter, PTL reported that the leak detection flow had again exceeded the Action Leakage Rate Level for four consecutive weeks in 2005.

PTL has a track record of serious environmental problems, many of which are unresolved at this time. It is not in the public benefit to consider any increase in capacity until these problems are resolved.

Further along on page 12, PTL states that Phase IX will allow innovative recycling initiatives. It gives no details. I applaud Casella's willingness to look at innovative

recycling initiatives that eliminate the need for landfilling certain materials. In the next paragraph there is further elaboration of recycling initiatives to go on at the WOTL.

I do not understand what this has to do with the supposed need for increased capacity at PTL.

On page 13, PTL states that because its recycling initiatives are state wide, they "will ensure that PTL, as well, will accept only solid waste that is subject to recycling and source reduction programs at least as effective as those imposed by state law."

Not true. PTL, as a commercial landfill, takes out of state waste. This out of state waste is not subject to Maine recycling initiatives and source reduction. PTL cannot make that claim unless it chooses to take only Maine generated waste; PTL has shown no indication that it would be willing to restrict itself to Maine waste only.

The continued operation of the PTL facility is not consistent with the state waste management and recycling plan.

PTL states:

C. "The facility is not inconsistent with local, regional, or state waste collection, storage, transportation, processing, or disposal."

On page 13 PTL states that it has abided by the conditions of the 2002 revision.

DEP disputes that in its August 24, 2005 letter to PTL: "waste volumes reported in annual reports since [2002] indicate that the current operation of the facility has resulted in the landfill capacity being used far faster than the timeframe anticipated in 2002 when the department reconfirmed the facility's 1997 public benefit determination....Since 2002, the quantity of wastes annually disposed in the Secure III Landfill expansion has greatly increased." PTL in 2002 had estimated capacity to last until the end of 2012, but in its 2004 annual report, said capacity would be consumed by Feb. 2007. DEP rejected PTL's August 3, 2005 application on the basis of 1) inadequate information supplied 2) PTL did not act in the manner it said it would in the 2002 revision.

PTL then identifies DEP's concern during the processing of the 2002 revision regarding the potential of Casella entities related to PTL- namely MERC, "to routinely accept more MSW for incineration than they could handle-including from out of state sources-and then to dispose of the excess at PTL." DEP's concern was well founded. Since 2002 MERC has routinely accepted more MSW for incineration than it can handle-including out of state MSW-and then disposed of the excess at PTL, using up capacity at PTL at a far greater rate than they suggested in the 2002 revision. PTL's actions disregard the concerns of DEP and the public.

On page 14 PTL offers a deal: no more capacity increases at PTL if Phase IX is approved, Casella is allowed to operate and expand at the Lewiston facility
Casella gets "approval of a reasonable expansion application for the WOTL"

But DEP cannot approve expansions at Lewiston and WOTL based on an agreement to limit further expansions at PTL. Each application must rise or fall on the merits of that application; approval cannot be contingent on a deal with some other facility. PTL is making an offer that DEP, as a regulatory agency, cannot comply with.

The facility is not consistent with local, regional, or state waste collection, storage, transportation, processing, or disposal.

In its conclusion on page 14, PTL states that its facility in Hampden is an "environmentally sound option for the disposal of a variety of solid waste streams..." As I have stated in response to a similar assertion on page 12, PTL has serious environmental problems that must be resolved before any further increase in capacity is considered. PTL's application does not serve any short, intermediate or long term need of the state with the current licensing of the WOTL for an additional 10 million cubic yards of Maine generated waste, more than three times what this application would provide.

George MacDonald's email:

Subject: RE: waste
From: "George MacDonald " george.macdonald@maine.gov
Date: 08/25/2005 4:11 PM
To: Bill Lippincott

Bill -

When this office does the biennial 'Solid Waste Generation and Disposal Capacity Report', we ask the landfills to provide us with the tonnage of waste they accepted that was generated out of state.

In 2003, Pine Tree reported to us that they received 218,087 tons of municipal solid waste and construction debris that was generated out of state. In 2001, that number was 19,313 tons.

In projecting future disposal capacity consumption at commercial landfills, past history and fill rates are used as well as the company's own projections, which for the Pine Tree Landfill would be approximately 250,000 to 300,000 tons of waste a year.

George

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