

In Support of LD 1639 Comments May 2021

Dear Chairs Brenner and Tucker and Members of the Environment and Natural Resources Committee,

It is time to stop the massive imports of waste from beyond Maine's borders. Each year over 200,000 tons of toxic materials from Away are deposited at our State-owned Juniper Ridge Landfill in Old Town, which is within two miles of my home. This material is transported across most of our interstate system up to Exit 199 without any exact accounting of specific origins. LD 1639 is the vehicle at hand to correct this injustice.

You may find some history helpful in understanding the need for action. I will also include questions you may want to ask of proponents and opponents. In 1989 the State Legislature enacted sweeping waste regulations in response to the increasing importation of discards from states to our south. The landmark legislation mandated that there would henceforth be no new commercial landfills in Maine. State ownership would allow restrictions on imports that would not be possible with commercial landfills due to the United States Commerce Clause.

Generator-owned landfills would still be allowed, and the Old Town paper mill used their leverage as the major taxpayer and employer to force in a landfill in West Old Town in the early 1990s. Officials said that this facility was to be for Old Town Mill Waste Only. There was opposition from neighbors but it was overwhelmed by the forces aligned with the Mill. They basically told the town that if they could not site a landfill nearby the mill, that they would leave the area.

This landfill began accepting waste in 1996. There was a problem with a ripped liner and also a sludge landslide. It would smell bad when they would deliver sludge. By 2003 the Mill had changed hands and the new owners, Georgia-Pacific, reversed the Mill's stance from the former decade and said: "If we have to keep this landfill we will be forced to leave Old Town."

There is evidence that GP and Casella worked together to profit from the crisis created with GP's threats. The Baldacci administration was aggressively engaged in making a deal that would have the state take ownership of the landfill while Casella borrowed about \$25 million from FAME to give to GP in order to buy and set up a "biomass boiler" that would burn cheap fuel derived from Construction and Demolition Debris that Casella would provide. All along the assumption was that Casella would become the Operator of JRL. A request for proposals (RFP) was only developed belatedly. State and local officials joined Casella and GP in saying that "There will be no out of state waste in this landfill" after members of the administration identified imports as a sensitive topic.

Casella was chosen to become JRL operator after they were the only bidder on the RFP. Later, Casella failed to honor all the terms of the RFP, including that they post a \$50 million Bond. Another indication that state ownership was off to a less-than-transparent beginning came when it was only later discovered that the SPO had actually given Casella permission to import enough CDD into Maine to provide fuel for the Old Town Mill ONLY and the residue from processing that fuel could be dumped at JRL despite assurances to the Public otherwise.

There was also an undisclosed deal between the State and Casella that GP would keep the Mill open with a certain number of jobs but that the guarantee would expire in 3 years. Almost to that exact date in 2006 GP left Old Town. Once again the Baldacci administration needed to make a Deal to keep the Old Town Mill open, and they turned to Jack Cashman who had become DECD Commissioner to put together

a group of (unknown) investors to form a group called Red Shield and take over the Mill. Leading up to the 2006 gubernatorial election there were amendments made to the Operating Services Agreement (OSA) between Casella and the SPO. As part of these changes, there was a Fuel Supply Agreement (FSA) signed that authorized Casella to import enough CDD to provide fuel for ANY BOILER in Maine. This was the start of the wholesale importation into JRL becoming status quo.

In 2007 the DEP adopted a new definition of Maine Waste which was quietly approved in the legislature. Until this point a common-sense understanding was in place: if it became a waste for the first time within Maine's geographical boundaries it was Maine waste. This was the understanding in 1989 when the landmark legislation banning new commercial landfills passed. This newer version included any materials used for grading, shaping or frost protection as automatically becoming Maine Waste! Can you imagine Maine lobsters or Maine potatoes with similar deceptive definitions?

After the State took ownership of JRL in 2004, the DEP granted Casella/SPO a landfill expansion which raised the permitted capacity to 10 million cubic yards. This happened WITHOUT A PUBLIC HEARING. The State regulator (DEP) gave the State-as-Owner (SPO) a huge addition which benefited Casella by hundreds of millions of dollars worth of capacity.

Some might think, "Okay, the state made a deal to keep a mill open and bring fuel for Maine companies. No big deal." However, the SPO and Casella never mentioned to the other entities involved that the OSA had changed in a major way. The City of Old Town, whose Host Community Agreement (HCA) prohibited disposal of any out of state waste not used to provide fuel for the Old Town Mill, was not told. The town of Alton, where the JRL entrance is located and which also receives tipping fees, was not notified. The Juniper Ridge Landfill Advisory Committee, composed of representatives from Alton, Old Town and the Penobscot Nation were not informed. And perhaps most outrageously, the DEP was never trusted with the fact that all the landfill rules had changed. We only found out about these Secret Amendments from 2006 in 2008 through citizen action. This continued the pattern of Casella and the State deceiving the citizens of Maine.

Red Shield finally restarted the Old Town Mill and by February of 2007 started to use CDD-derived fuel from Casella to power their "biomass boiler". This resulted in the creation of Hazardous waste in the form of lead-laden ash from the boiler which had spewed into the town of Bradley across the Penobscot River. Hazardous waste was prohibited from JRL, but it remains there to this day.

Three major transactions altered the Maine wastescape between 2010 and 2014. Casella agreed to close its MERC incinerator in Biddeford which was having difficulty meeting its air license requirements. As part of the closure, many towns in southern Maine signed waste agreements with Casella wherein their curbside waste (MSW) was designated for JRL disposal, even though this was prohibited. Casella also closed its commercial Pine Tree Landfill (PTLF) in Hampden during this time period. Casella then sold its KTI biofuels processing facility in Lewiston to ReEnergy. In retrospect it almost appears that Casella redirected its out of state wastes that were going into PTLF (where this was permitted) to JRL.

The ReEnergy (former KTI) plant in Lewiston is classified as a processing facility. Under Maine law, any processing facility must recycle at least 50% of its inputs. Inputs to ReEnergy are over 90% from out of state, and over 90% of outputs from ReEnergy come to JRL. So how do they pass the 50% recycling threshold? It is because wastes used for Daily Cover are counted as Recycled! Even though this toxic substance will stay in a landfill forever it is classified as Recycled. LD 1639 will change this.

Daily Cover is also called Fines for Daily Cover or Alternative Daily Cover. Each year over 100,000 tons of wastes at Juniper Ridge are classified as Daily Cover. There are no town tip fees (Old Town and Alton) paid on Daily Cover. There is a limit on how deep they can spread the Daily Cover- I believe it is 6 to 9 inches (I could be off on this). Even mattresses can be classified as Fines for Daily Cover! In order to maximize Daily Cover volume it is to Casella's advantage to cover a very wide area of the landfill each day. This is probably why all last summer and into the fall there were from 7 to 10 acres of untarped area at JRL.

There are two obvious reasons that it would be preferable to have less exposed landfill. One is that this allows for more precipitation to enter the landfill and percolate through the waste to become Leachate, commonly understood as Dump Juice. This is very toxic material which gets taken to the Mill's wastewater treatment plant which does very little to alter the leachate and then releases it into the Penobscot River. The second reason that uncovered landfill area is a problem is that it allows landfill gases to escape through the porous material and contributes to greenhouse gas emissions and Climate Change. Trucking 200,000 tons of material 200 miles into Maine is also a large greenhouse gas source.

Waste imports to Juniper Ridge have been designated as problematic in the latest Maine Materials Management Plan (MMMP) which DEP puts out every five years. The Board of Environmental Protection asked the Legislature to look at waste imports to JRL in its annual report(s). More recently the Board held a hearing on a citizen petition to change DEP rules on what is Maine Waste. At that point the Board adapted Environmental Justice protections. They also had long discussions about out of state waste, and while many of them agreed it was a problem, they felt they lacked the authority to change the rules.

The State Legislature has the power and authority to correct this injustice and put Maine back on a path of justice and common sense. If we do not act decisively our beautiful state will likely become the dumping ground for New England and beyond. Thanks for your time and please consider asking some of these questions.

Respectfully yours,

Ed Spencer

PO Box 12, Stillwater, ME 04489

827-8359

Questions for Casella/ReEnergy

1. Who decides what material gets classified as Daily Cover? This is important because if a processing facility such as ReEnergy can't get about half of its waste into JRL classified as Daily Cover they cannot meet the 50% recycled material threshold for a processing facility. Plus Daily Cover is exempt from the towns' fees.
2. How much does it cost to take a ton of material to ReEnergy Lewiston? Does waste from within Maine's borders pay the same fee?
3. How much of ReEnergy's inputs are from Casella?
4. Do all outputs from processing facilities into JRL pay the same tip fee at the landfill?