

August 11, 2017 Letter to Planning Board

Dear Planning Board Members,

These are some comments and questions related to your consideration of the Expansion of the state-owned and Casella-operated Juniper Ridge Landfill (JRL) in Old Town. I read your By-Laws and noticed that there can be a “major opponent” at the Public Hearing. Please instruct me what I need to do to achieve that status. I have been following this issue since October 2003, attended nearly every local meeting since then where JRL was a topic, given regular briefings to the City Council, shared my concerns with our state legislature in Augusta, petitioned the Board of Environmental Protection (BEP) on numerous occasions and was a citizen Intervenor at the BEP Hearing on Expansion of JRL last October.

There are questions and concerns about the Planning Board’s (PB’s) Public Hearing this September that the Public should understand. Who can speak at the Hearing- Old Town residents only? Can proponents from outside Old Town speak? If that is the case, should non-resident opponents be given time to state their opinions? Will it be open to Indian Island and Penobscot Nation residents? The entrance to JRL is in Alton; will their residents be able to speak?

Who authored the PB’s Procedural Outline? On what authority is that document’s decision on “Relevancy” based? During the BEP Public Hearing process, numerous issues of concern to we opponents were deemed “irrelevant”, such as Environmental Justice and a cost-benefits analysis. When we got to the actual Hearing, we opponents stayed almost exclusively to the “relevant criteria”. The proponents, which were either Casella employees or other people dependent on JRL for money, were allowed to say how wonderful the dump is and what a hardship it would be if it JRL was not expanded, which were not supposed to be “relevant criteria”. Then in the actual DEP license it states that the community supports expansion, although there was no basis for that conclusion.

One of the issues deemed “not relevant” in the PB Outline is “climate change issues”, but during the Casella presentation on Tuesday night, Chairman Shina and Casella’s people had discussions about stormwater damage and larger storms with more precipitation being likely in our future. Mr. Shina recounted infrastructure damage from earlier storm events at JRL. Mr. Mike Booth, for Casella, said that they plan to build for 100 year storm events, and that the landfill systems will “hold at least a 100-year flood” and that “We’ve gone through some 100 year storms since the State has owned the facility.” I challenge both statements as misrepresenting the actual facts. At the BEP Hearing it was revealed that the stormwater detention structures would overflow during a 100-year flood, possibly to prevent their destruction. They should document these “100-year storms” and give a more detailed explanation.

Another issue that the PB’s Outline says is “not relevant” is out of state waste. Casella’s people repeatedly claimed the other night that “There will be no out of state waste in this Expansion.” This may be technically true under State Law, and State definition of “Maine generated” waste defies common sense. Federal rules talk about a waste’s “point of discard” as being the origin or source of a material, where it became a “waste”. Over 40% of current waste streams into JRL and projected waste streams into an expanded JRL have “points of discard” beyond Maine’s borders. The current Maine definition was not in place when the State took ownership of JRL in 2004. Casella and State officials claimed in 2004 that “There will be no out of state waste” even though they had an agreement with the State Planning Office (SPO) to import enough Construction and Demolition Debris (CDD) into Maine to derive fuel for the Old Town Mill’s boiler.

At the beginning of the NEWSME presentation this past Tuesday, their attorney Tom Doyle said “I speak on behalf of the applicants”. He should not be allowed to infer that he speaks for the State as owner, which has very different priorities than does Casella, which is a publicly traded corporation which has a fiduciary duty to its shareholders to maximize profits. This is the same Tom Doyle who represented the Fort James paper company when they sought permission to site their landfill in Old Town. At that point he promised our City Council that if they approved the landfill, Old Town could pass ordinances mandating that “only Mill waste” could enter the landfill. Then in 2003, his law firm helped write the State Resolve that wiped Old Town’s landfill ordinances off the books. A related question: Could Old Town’s Chapter 24 regulations be superseded once again by State Law?

Casella bragged about the declining number of odor complaints they have received over the years. They have an official-looking form and a phone number to call if residents are bothered by smells from the landfill. If you look into this protocol, you will find that there is no objective 3<sup>rd</sup> party arbitrator of how valid an odor complaint is. It is decided by Casella personnel. DEP has done nothing in response to complaints. So if you call in a complaint, you have to wait for someone from the landfill to show up at your house, and after you have given up your time it is most likely that your complaint will be denied. Is Casella doing a better job controlling odors or do people not participate out of frustration? In order to protect our citizens, I suggest that the Old Town police department should be asked to make a note whenever they detect a nuisance odor. We could ask the County Sherriff’s officials to do likewise. There has been no accurate and objective assessment of odors at JRL by objective parties, and if you drive around the area often you might conclude that at some point almost every day Old Town residents can smell JRL.

Landfill gases can be more than a nuisance, and in some cases deadly. Hydrogen sulfide is said to smell like rotten eggs, but at a higher concentration it has no odor and can be fatal. Long term low level exposure to very low levels of hydrogen sulfide can be extremely damaging. Landfill gases are a leading source of greenhouse gases, but when methane levels are measured at JRL they only look at the covered areas, not the active landfill. There could be other harmful gases emanating for JRL which are not destroyed by the flare. It seems that the State, as owner and regulator, does not want to know certain information.

Mr. Doyle mentioned that Casella’s financial capacity is guaranteed by a “credit facility overseen by the Bank of America.” The identities of those who make up this “credit facility” are not revealed. How then can we be certain that the conditions of Compliance Record (Page 18 of Ch. 24) are met, that “ any person having a legal interest in the Application” has disclosed their civil or criminal records? DEP is very slack on this requirement, and you will find that Casella’s letter of credit is outdated and should be updated. I would also like to know the companies Casella has a 5% or greater interest in as required under Ch. 24-8 O.2. (Page 19). Where are these listed in the Application? Also, where are the documents from the next section under 0.3?

Chapter 24 requires that “...the Applicant must affirmatively demonstrate that the Facility or Expansion will not contaminate any waters of the State, contaminate the ambient air, constitute a hazard to health and welfare, or create a nuisance...” (Page 21). This is the basic DEP mandate, yet there are a lot of statements that discuss what a “reasonable threat” or an “unreasonable nuisance” would be. These are subjective terms, and it is quite possible that some threat is considered “reasonable” by a regulator in Augusta but “unreasonable’ by an Old Town resident. If the Planning Board finds that an expanded JRL:

24-25.C.2. “The operation of the Solid Waste Facility threatens the public health or public safety or the environment or creates a nuisance;”

These are grounds for refusing a permit to expand.

Mr. Doyle proclaimed that the landfill is a great site. In 1990 when the paper company examined potential landfill sites, they did look at over a dozen locations. They chose the closest, which was in Old Town. This is quite a coincidence. What they neglected to mention Tuesday evening is that if this expansion is built, over 12 acres of it will be based below groundwater level. Does that sound like a great site, where draining a huge area is necessary for construction? At the BEP Hearing they first said that they would pump the water to allow construction, but when I pointed out that extraction and disposal of groundwater from such a large area would likely damage the surrounding wetlands, they said there would be a gravity drain put in place. How do you drain groundwater by gravity to a place below groundwater level?

A major issue is the potentially harmful effects of JRL leachate’s disposal at the former Old Town Mill’s wastewater treatment plant (WWTP). Casella says it is a recently licensed facility, so anything goes. The “treatment” is actually quite limited, consisting of a PH adjustment and aeration to remove BOD’s, which would rob the river water of its oxygen. Then it is dumped into the Penobscot. There is no removal of heavy metals or other harmful solids, except perhaps they end up in the WWTP lagoon. This is a problem, and the leachate would probably be less destructive if it were sent to the backup disposal site in Brewer, where the solids would primarily end up in the sludge.

I thank you for your time in considering these concerns. I will ask David Russell to send this to you, and also to share the documents Casella delivered recently:

1. A BGS violations record.
2. Waiver request for insurance requirement.
3. Waiver request for Landfill gas and Odor Testing.

By the way, both waivers should also be considered for approval by DEP. Mr. Sossong’s concerns about noise are shared by many residents, and although they may not reach the decibel threshold they are certainly a nuisance when the wrong atmospheric conditions exist and the shape of the existing landfill functions as an amphitheater.

I will look through my writings for the BEP and share them with you through Mr. Russell.

Respectfully submitted,

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Old Town