

State of Maine  
Department of Environmental Protection

**JUNIPER RIDGE LANDFILL**  
**AMENDMENT APPLICATION #S-020700-WD-BC-A**

TRANSCRIPT OF PROCEEDINGS

**Pre-Hearing Conference**

**Augusta, Maine**

**January 30, 2013**

10:07 a.m.

**PRESIDING HEARING OFFICER:**

**HEATHER PARENT, POLICY DIRECTOR**

Department of Environmental Protection

Christine Fraga Thornton  
Registered Professional Reporter  
**THE REPORTING GROUP**  
**207-797-6040**

INDEX OF APPEARANCES

For the State of Maine:

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 Heather Parent, Policy Director  
 Cyndi Darling, Environmental Specialist  
 Michael Parker, Project Manager  
 Melanie Loyzim, Director  
 Bureau of Remediation and Waste Management  
 Paula Clark, Director  
 Division of Solid Waste Management  
 Nancy Macirowski, AAG, DEP Legal Counsel

Co-applicants and Intervenor:

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 Brian Oliver and Michael Booth, Casella  
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 Brian Rayback, Esq.  
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 William Laubenstein, AAG

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For City of Saco: Will Kany

For ecomaine and MMWAC:

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 Nicholas S. Nadzo, Esq.  
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 Nancy McBradey, Esq.  
 PRETI FLAHERTY

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 FEDERLE MAHONEY

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 DRUMMOND WOODSUM

For City of Old Town:

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 PERKINS THOMPSON

Individual Intervenor:

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 David Lincoln  
 Wanda Lincoln  
 Laura Sanborn  
 Ed Spencer

1       (The following is the transcript of the proceedings  
2 held January 30, 2013, beginning at 10:07 a.m. Heather  
3 Parent, Policy Director, presiding.)

4           MS. PARENT: Good morning, everybody. My name is  
5 Heather Parent. I am the policy director at the Maine  
6 Department of Environmental Protection. We are here today  
7 to hold the prehearing conference on the Juniper Ridge  
8 Landfill Amendment application. So, if anybody is here for  
9 a different matter, please sneak out now.

10           You should have received, either handed to you or  
11 by the door, an agenda for today's meeting. We will be  
12 following that agenda and taking up the items in order that  
13 are listed on the agenda, and at the very last item, after  
14 "Evidence Issue" on the agenda, will be "Other Issues," and  
15 as other issues arise during the conference today, I will  
16 be adding those to the agenda, and we will be covering  
17 those at the end.

18           I am going to be trying to make an effort to speak  
19 up and speak clearly during today's conference. We do have  
20 a reporter here taking and transcribing today's conference,  
21 and so I will be making an effort to be speaking up and  
22 speaking clearly. I would ask all of you to do the same  
23 when we enter into discussions with each other.

24           By way of general introduction, the Bureau of  
25 General Services filed an application to amend the license

1 with respect to the Juniper Ridge Landfill, to allow for  
2 the acceptance of unprocessed municipal solid waste. The  
3 Department accepted the application as complete for  
4 processing on October 3, 2012.

5 The commissioner, Patricia Aho, made the  
6 determination to hold a public hearing on this matter, and  
7 I have been designated by the commissioner as the hearing  
8 officer.

9 The purpose of the hearing is to develop a factual  
10 record for decision making in this matter. I also note  
11 that, in December, the applicant filed a revised  
12 application. All of these pertinent documents are on the  
13 department's website under the title, Juniper Ridge  
14 Landfill.

15 On November 15, 2012, I issued a notice explaining  
16 the procedure for petitioning for leave to intervene in  
17 this matter. The Department received 13 petitions. The  
18 applicant was provided an opportunity to object and did  
19 object to four of those petitions.

20 On January 15, 2013, I issued the first procedural  
21 order in this matter. In that order, I issued rulings on  
22 petitions for leave to intervene, and I also scheduled this  
23 prehearing conference.

24 I note that the hearing will be governed by the  
25 Maine Administrative Procedures Act, also known as the APA,

1 Chapter 2 and Chapter 20 of DEP's rules. I, as the hearing  
2 officer, may permit deviation from Chapter 20 when  
3 compliance of it is found to be impractical or unnecessary.

4 The Maine APA is in Title 5, Sections 9051 to  
5 9064, governing adjudicatory hearings. Title 5 may be  
6 found on the state website under Legislature, then  
7 Statutes. The Department rules may be found on the  
8 Secretary of State's website.

9 The parties should have also received a letter on  
10 January 15 which set forth an agenda for this conference.  
11 As I already noted, we have an agenda that we handed out  
12 today that sets forth the order in which we will be  
13 proceeding. That agenda includes procedures for -- the  
14 agenda that you received includes procedures for conduct of  
15 the hearing and the review criteria which we will be  
16 discussing today.

17 The purpose of this conference is to review the  
18 responsibilities of the applicant and the intervenors and  
19 the relevant review criteria and to discuss the issues to  
20 be addressed at the hearing.

21 As an initial matter, I'm going to introduced the  
22 people sitting up here at the table with me and then go  
23 around the table hear and introduce each person. If you  
24 are here as an interested person, and not as an applicant  
25 or an intervener, there is no need for you to identify

1     yourself at this juncture. There are seats in the back for  
2     those interested persons.

3             So, as an initial matter, we'll start with Mike  
4     Parker and introduce ourselves at this table.

5             MR. PARKER: I'm Mike Parker. I am the DEP  
6     project manager for this application.

7             MS. DARLING: I'm Cyndi Darling with the  
8     Department of Environmental Protection Solid Waste program.

9             MS. MACIROWSKI: I'm Nancy Macirowski, from the  
10    office of Attorney General.

11            MS. CLARK: I'm Paula Clark, I'm the director of  
12    the Division of Solid Waste Management at DEP.

13            MS. LOYZIM: I'm Melanie Loyzim. I'm the director  
14    of the Bureau of Remediation and Waste Management at DEP.

15            MR. DOYLE: I'm Tom Doyle. I'm with Pierce  
16    Atwood. I'm here on behalf of the co-applicant, NEWSME  
17    Landfill Operations, LLC, which is the operator of the  
18    Juniper Ridge Landfill. The owner of it is the Bureau of  
19    General Services. Bill Laubenstein is here, I believe, on  
20    their behalf.

21            MR. OLIVER: I'm Brian Oliver with Casella.

22            MR. RAYBACK: I'm Brian Rayback. I'm with Pierce  
23    Atwood, also here on behalf of NEWSME.

24            MR. MEAGHER: Donald Meagher with Casella.

25            MR. BOOTH: Michael Booth with Sevee & Maher

1 Engineers, on behalf of Casella.

2 MR. JACQUES: I'm Keith Jacques with Woodman  
3 Edmands. I'm the city attorney for the City of Biddeford.

4 MR. KANY: I'm Will Kany. I'm here representing  
5 the City of Saco.

6 MR. BOWER: Mark Bower, here on behalf of  
7 intervenors, EcoMaine and MMWAC.

8 MR. NADZO: Nick Nadzo of Jensen Baird, with Mark,  
9 on behalf of EcoMaine and MMWAC.

10 MR. LAUBENSTEIN: William Laubenstein, Assistant  
11 Attorney General, here on behalf of the Bureau of General  
12 Services.

13 MR. SPENCER: I'm Ed Spencer. I'm an intervenor  
14 from Old Town.

15 MS. LINCOLN: Wanda Lincoln, intervener from Old  
16 Town.

17 MS. SANBORN: Laura Sanborn, intervenor from  
18 Alton.

19 MR. LINCOLN: David Lincoln, intervenor from Old  
20 Town.

21 MR. KATSIAFICAS: Jim Katsiaficas, Perkins  
22 Thompson, intervenor, City of Old Town.

23 MR. TOURANGEAU: I'm Joanna Tourangeau from  
24 Drummond and Woodsum on behalf of intervenor, Old Town Fuel  
25 and Fiber.

1           MR. MAHONEY: I'm Mike Mahoney, Federle Mahoney,  
2 here on behalf of PERC.

3           MS. McBRADY: Nancy McBradey, I'm an attorney  
4 with Preti Flaherty, here on behalf of MRC.

5           MR. LOUNDER: Greg Lounder, with MRC.

6           MR. WALKER: Dan Walker. I'm an attorney at Preti  
7 Flaherty as well, on behalf of MRC.

8           MS. PARENT: Thank you. If this was any  
9 indication, I'm going to ask several of you to use your  
10 strongest voices and speak up during the proceedings today.  
11 Thank you.

12           Moving on to the Item No. II, which is the Hearing  
13 Officer's General Expectations of the Parties.

14           The applicant has the burden of proof in this  
15 matter. The applicant's burden is set forth in Chapter 2,  
16 Section 11.F. of the Department's rules. I'll read that  
17 expectation for you: "The expectation is an applicant for  
18 a license has the burden of proof to affirmatively  
19 demonstrate to the Department that each of the licensing  
20 criteria in statute or rule have been met. Unless  
21 otherwise provided by law, all applications including  
22 renewal, amendment, and transfer applications, are subject  
23 to the substantive laws and rules in effect on the date of  
24 the application is accepted as complete for processing.  
25 For those matters that are not disputed, the applicant



1 shall present sufficient evidence that the licensing  
2 criteria are satisfied. For those matters relating to a  
3 licensing criteria that are disputed by evidence the  
4 Department determines as credible, the applicant has the  
5 burden of proving by a preponderance of the evidence that  
6 the licensing criteria are satisfied. The applicant has a  
7 right to present witnesses in support of his application  
8 and to cross-examine the witnesses of the other parties."

9 As we will discuss shortly, the applicant in all  
10 parties will be required to file its testimony in writing  
11 in advance of the hearing. The applicant's witnesses, like  
12 all witnesses, will be subject to cross-examination by the  
13 parties at the hearing.

14 The interveners have the right to present evidence  
15 at the hearing regarding the licensing criteria which are  
16 relevant to the amendment application.

17 This is not a public forum for anything and  
18 everything related to the landfill. It's for the licensing  
19 criteria, and it's limited to those licensing criteria  
20 which are relevant to the amendment application.

21 The evidence by the intervenors may be in the form  
22 of witnesses who will be subject to cross-examination and  
23 documentary evidence. The intervenors will be required to  
24 submit prefiled testimony of any witnesses. An intervener  
25 may choose not the present witnesses, but simply to

1 cross-examine the witnesses of the applicant and the other  
2 parties.

3 Members of the general public may attend the  
4 hearing.

5 We will discuss the schedule later, but the plan  
6 is to hold the evidentiary hearing during the business  
7 hours and to reserve an evening session to receive  
8 testimony from the general public. Public testimony will  
9 be sworn, but will not be required to be prefiled. The  
10 department is already accepting written public comment and  
11 will continue to accept written public comment until a date  
12 that we will discuss later and will be in a procedural  
13 order that I will issue following this prehearing  
14 conference.

15 If a party that has been granted intervenor status  
16 decides that he or she or it does not want to participate  
17 in the intervenor level, I would ask that you write a  
18 letter or an e-mail to the DEP contact person, who is Mike  
19 Parker at the end of the table, and you may then simply  
20 participate in the interested persons level.

21 So, throughout the course of today's prehearing  
22 conference, if there is a person who has petitioned to be  
23 an intervener and if you choose after today's conference to  
24 instead participate as an interested person, if you  
25 would -- I would ask that you send an e-mail or a letter to

1 Mike Parker to that effect.

2 Interested persons are members of the public who  
3 have been asked to be placed on a list to receive  
4 information regarding the hearing including procedural  
5 orders and notices. These documents will also be placed on  
6 the Department website under the Juniper Ridge Landfill.

7 The role of the DEP staff is to gather facts on  
8 behalf of the Commissioner including the ability to ask  
9 questions of witnesses at the hearing. After the hearing  
10 is concluded, DEP staff has all the information it needs --  
11 once the DEP staff has all the information it needs, the  
12 staff will analyze the record. And ultimately, the  
13 Commissioner will make the determination on the license  
14 application.

15 I wanted to welcome the individual who has joined  
16 us in the process. We have gone around the room and  
17 introduced ourselves, sir. If you can introduce yourself  
18 for the room and the person who is transcribing today.

19 MR. COFFMAN: My name is Ralph Coffman. I'm an  
20 intervenor from Old Town.

21 MS. PARENT: Welcome.

22 As the hearing officer, I will rule upon issues of  
23 evidence, regulate the course of the hearing, rule upon  
24 issues of procedure, including establishing time deadlines,  
25 administering the oaths, and taking other such action that

1 is necessary for the efficient and orderly conduct of the  
2 hearing consistent with applicable regulations and  
3 statutes.

4           You should not communicate with me or seek to  
5 communicate with me regarding the substantive or procedural  
6 issues regarding the hearing. Any of those inquiries  
7 should be made to DEP staff as is done during the general  
8 course of any licensing proceedings. And again, if you  
9 would seek to communicate with DEP staff, I would encourage  
10 you to speak with Mike Parker.

11           I must emphasize that all the parties, including  
12 the intervenors, are expected to comply with the deadlines  
13 and filing requirements established by the hearing officer.  
14 Failure to comply may result in appropriate sanctions,  
15 including rejection of the argument, evidence, or testimony  
16 that the party offers seeks to offer.

17           All participants at the hearings are expected to  
18 conduct themselves professionally both in their dealings  
19 with the department and each other throughout the  
20 proceedings. If a party is unable to conduct themselves  
21 professionally, I reserve the right to take any appropriate  
22 action, including excluding that individual from further  
23 participation in these proceedings.

24           I'd like to pause here and ask if there are any  
25 questions or concerns or comments on the subject matter

1 that I just discussed? We will be going into more detail  
2 with respect to the filing requirements and other matters  
3 further, but I wanted to pause here and see if there were  
4 any questions or concerns.

5 Yes, sir.

6 MR. COFFMAN: Yes. I'd like to know why the  
7 Department of Environmental Protection has ordered police  
8 security here today specifically for me.

9 MS. PARENT: We have asked Capital Security to be  
10 here at this hearing as we do from time to time, sir.

11 MR. COFFMAN: I understand.

12 MS. PARENT: That's all I'm going to say on the  
13 matter. And as I just read in my statements, if there  
14 are -- if you don't conduct yourself professionally, I will  
15 be asking you to leave, so --

16 MR. COFFMAN: I don't think that's very  
17 professional of the Department of Environmental Protection,  
18 and specifically Patricia Aho to call Security because I'm  
19 going to be here, when I've asked her to recuse herself for  
20 having a conflict of interest.

21 MS. PARENT: So noted. And as I said, security is  
22 here as they occasionally are for various proceedings.  
23 This issue is closed, and we're going to be moving on at  
24 this time.

25 MR. COFFMAN: Thank you.

1 MS. PARENT: Are there any other issues or  
2 concerns?

3 (No response)

4 MS. PARENT: Hearing none, moving on to Item III  
5 of the agenda, Filing Requirements. I am going to be  
6 reading through a number of items that were provided to you  
7 in the Procedures for Conduct of Hearing, partially to  
8 ensure that all of you are familiar with them and partially  
9 to allow you to raise questions and issues with respect to  
10 them. But don't be concerned with writing every single  
11 thing down because, again, we have provided the detail of  
12 this to you in the Procedures for Conduct of Hearing.

13 And I'm already losing my volume, so I'll try to  
14 keep it up.

15 Filing Requirements: Unless otherwise required,  
16 all filings with the Department related to this proceeding  
17 must be made electronically in Adobe PDF format by e-mail  
18 to Mike Parker, at Michael.T.Parker@Maine.gov, and must be  
19 electronically served on all parties on the service list at  
20 the same time they are filed with the Department.

21 There are several important exceptions to note  
22 here. First, on the same day an electronic copy is served  
23 by e-mail on the Department, the serving parties must also  
24 mail by first-class postage a paper copy to the Department,  
25 a paper copy to counsel for Casella, and a paper copy to

1 the Attorney General's office.

2 Second, with respect to the prefiled testimony and  
3 exhibits, in addition to the standard electronic filing,  
4 parties must provide a paper copy of all testimony to each  
5 party on the service list and must submit three additional  
6 paper copies to the Department.

7 The currently effective service list will be  
8 maintained on the Department website, and it is the  
9 responsibility of each party to be sure its filings are  
10 copied to all of the names on that list. The service list  
11 will contain contacts, not only for the applicant,  
12 intervenors, and interested persons, but also for  
13 Department staff, consultants, and counsel, as well as for  
14 other governmental review agencies. And from time to time,  
15 when that service list needs to be updated, in addition to  
16 keeping the most current copy on the website, as I believe  
17 many of you have already experienced, we will send out or  
18 Mike will send out revised copies of the service list.

19 MR. DOYLE: Heather?

20 MS. PARENT: Yes.

21 MR. DOYLE: I have a question, really by way of  
22 clarification. In that paragraph, the second -- item  
23 second, which says, "With respect to prefiled testimony and  
24 exhibits, in addition to the standard electronic filing,  
25 parties must provide a paper copy of all testimony to each

1 party on the public service list, and must submit three  
2 additional paper copies to the Department," there is the  
3 service list of intervenor parties, and I see no problem  
4 providing the paper copies to them, but do the interested  
5 persons, in addition to getting a electronic copy, also  
6 need to receive a paper copy, a hard copy? I'm thinking  
7 about waste management here.

8 MS. PARENT: You do not need to provide paper  
9 copies to the interested persons list.

10 MR. DOYLE: Okay. So just the intervenor list.

11 MS. PARENT: That's correct.

12 Moving on. All parties must prefile the testimony  
13 they wish to submit on behalf of any witness in writing by  
14 the established deadline. This testimony must be sworn.  
15 If the witness wishes to be considered an expert, his or  
16 her credentials must be set forth in the prefiled  
17 testimony. No person will be allowed to testify at the  
18 hearing for a party unless they have submitted prefiled  
19 direct or rebuttal testimony, and no testimony will be  
20 allowed into the record if the witness is not present at  
21 the hearings at the designated time for questioning by the  
22 Department, the staff, and the parties.

23 Prefiled rebuttal testimony will be allowed only  
24 in response to the prefiled direct testimony of the other  
25 witnesses, and parties are cautioned against attempting to



1 introduce new evidence through rebuttal testimony that is  
2 not, in fact, responsive to the direct testimony of another  
3 witness. So, rebuttal testimony is only in response to the  
4 direct testimony of the other witnesses.

5 All rebuttal testimony must identify the specific  
6 direct testimony to which it is submitted in response. If  
7 a party wishes to refer to documents already contained in  
8 the administrative record within prefiled testimony, the  
9 parties should attach a copy of that document to the  
10 testimony.

11 The requirements of prefiled testimony is an  
12 important part of the hearing process as it allows the  
13 Department, the staff, and other parties to review the  
14 testimony in advance, and come to the hearing prepared to  
15 conduct efficient and focused cross-examination. I expect  
16 scrupulous compliance with the prefiling testimony  
17 requirements.

18 MR. DOYLE: Heather, just again by way of  
19 clarification, I assume, although it's not clear or  
20 implicit here, I assume it's implicit that a rebuttal  
21 witness could be different than a witness in chief on  
22 direct testimony. If you wanted to rebut something made by  
23 another party, you could use a witness different than an  
24 original witness.

25 MS. PARENT: Generally speaking, you are correct.

1 Obviously, if --

2 MR. DOYLE: Subject to these rules.

3 MS. PARENT: Subject to these rules and subject  
4 to, you know, common sense and fairness. If you are  
5 seeking to rebut information with a witness who has  
6 particular expertise in that, that's not your direct  
7 witness, that makes perfect sense.

8 MR. DOYLE: Okay.

9 MS. PARENT: And that would be allowed.

10 Speaking about exhibits for a moment. Generally,  
11 any exhibit that a party wishes to introduce into the  
12 administrative record must be attached to the prefiled  
13 testimony. I retain the discretion to allow the  
14 introduction of an exhibit at hearing that was not prefiled  
15 based on a showing of good cause. However, such requests  
16 will be looked upon with extreme disfavor, and the  
17 requesting party will bear the heavy burden of  
18 demonstrating why it was not feasible to prefile the  
19 exhibit and the need to introduce the exhibit outweighs the  
20 prejudice to the other parties.

21 In order to ensure that the proceedings are fair  
22 and efficient, we expect that all the exhibits should be  
23 prefiled ahead of time so that everybody is prepared at the  
24 time of the hearing to conduct the hearing. Therefore, any  
25 exhibits that are introduced at the hearing itself that

1 weren't introduced in prefiled testimony, I will be very  
2 carefully considering them and whether or not they're --  
3 the need for it outweighs the prejudice to the other  
4 parties of not seeing the exhibit prior to the day of the  
5 hearing.

6           The use of exhibits that were not prefiled and are  
7 not in the administrative record to impeach witnesses at  
8 hearing may be approved by me on a case-by-case basis if I  
9 am satisfied that the use of the exhibit as proposed will  
10 assist the Department in its decision making. So there  
11 will be times when an exhibit will make sense to be  
12 introduced to impeach a witness where there is no  
13 reasonable anticipation that you needed the exhibit based  
14 on the prefiled testimony, and I will make those rulings on  
15 the day of the hearing.

16           Reduced versions of over-size exhibits may be  
17 prefiled with the full-size exhibit presented at the  
18 hearing. It is the responsibility of each party to label  
19 their exhibits in a manner that allows them to be easily  
20 identified and referenced.

21           With respect to the prefiling of testimony, the  
22 introduction of exhibits, are there any questions or  
23 comments or concerns at this time?

24           (No response)

25           MS. PARENT: Hearing none, we will be moving on to

1 the Criteria and Legal Framework.

2 With my cover letter of January 15, 2013, I have  
3 provided each of you with a document called Relevant Legal  
4 Criteria. That document sets forth the applicable sections  
5 of the state law and the Department regulations that set  
6 forth the criteria for the matters that are likely to be at  
7 issue in this proceeding. These legal criteria should  
8 provide the context for our next topic, which are the  
9 issues that each party intends to bring forth in the course  
10 of the hearing.

11 And I wanted to pause here to see if there are any  
12 questions with respect to the relevant legal criteria that  
13 we provided to you on January 15th.

14 MR. DOYLE: (Gesturing)

15 MS. PARENT: Yes, Tom.

16 MR. DOYLE: Your referring to this two-page  
17 document that has six Roman numerals, Relevant Review  
18 Criteria?

19 MS. PARENT: I believe so. Yes. The one  
20 entitled, Relevant Review Criteria.

21 MR. DOYLE: I'm looking at Roman numeral II,  
22 1304.B. That's a section that deals with the establishment  
23 of refuse disposal districts and the like, and I was  
24 wondering about the relevancy of that section to the  
25 proceedings.

1           When you say relevant review criteria, are you  
2       saying these are the standards that are going to be used to  
3       determine whether NEWSME and BGS's application should be  
4       approved? Because I don't see anything in 1304.B. that  
5       provides any guidance in that regard.

6           MS. PARENT: 1304.B., like a number of the items  
7       on this, are provisions that the Department may consider in  
8       application reviews. And so, it is something that -- it is  
9       something that the Department may consider in its review,  
10      and in particular, 1304.B., I believe, if I'm not mistaken,  
11      and I'm looking to --

12          MS. MACIROWSKI: It's flow control.

13          MS. PARENT: -- looking to Nancy, is actually  
14      relevant to the flow control that the applicant's  
15      application ties the need for an amendment to. So, it  
16      could very well be relevant review criteria.

17          MR. DOYLE: Yeah, I guess, I'm not understanding.  
18      Because 1304.B. talks about a municipality's right to  
19      control waste within its borders, but not the state's right  
20      to control waste.

21          MS. MACIROWSKI: I think, in terms of the way that  
22      I think, Tom, you're saying, you know, is this a criteria  
23      that the applicant needs to meet? No. It's part of the  
24      overall legal framework as part of the background of it.

25          MR. DOYLE: Okay. That's all.

1           And then I had a question about Roman numeral III,  
2 waste management hierarchy?

3           MS. PARENT: Yes.

4           MR. DOYLE: NEWSME and BGS are supportive of the  
5 waste management hierarchy, but I've always thought of it  
6 and it has always, in my view, been interpreted by the  
7 Department to be sort of the policy or guidance of the  
8 state, but the review criteria for how the state has  
9 fleshed it out, are in 1310.N. and all of these  
10 implementing regulations. So, I'm curious as to how you  
11 intend to use that here. And I'm really, in terms of my  
12 view of how the Department and the board have looked at  
13 this in the past, I'm looking back to the PERC MSW bypass  
14 appeal in 2011, where the board -- where the argument was  
15 that the minor revision license violated the state waste  
16 management hierarchy, and the board said, "The hierarchy is  
17 a policy that guides decisions on waste management program  
18 planning and implementation. The hierarchy is not a  
19 regulatory standard that is applied to individual waste  
20 facility licensing decisions of a technical nature." And  
21 then it went on to say that, "neither the Department nor  
22 the board have the authority to require a facility to  
23 contract with one disposal facility over another."

24           MS. PARENT: I spoke with the Attorney General's  
25 Office on this particular issue, and it is our view that,

1 when you read what the Waste Hierarchy section says,  
2 that -- I'm not sure I can find it here.

3 MS. MACIROWSKI: The section is -- what it states  
4 is, "it's the policy of the state to use the order of  
5 priority in this subsection as a guiding principle in  
6 making decisions related to solid waste hierarchy."

7 MS. PARENT: So, in that instance, again, it's not  
8 a standard that you check off, but the Department has a  
9 right and an obligation to consider the waste hierarchy in  
10 its decision making. And much like, you know, other review  
11 criteria, it might not be a standard that you have to check  
12 off the box, but it is something that the Department can  
13 consider in its decision making on any application or any  
14 matter in front of the board -- in front of the Department.

15 MR. DOYLE: Okay. Well, I hear what you say. To  
16 the extent it is a up-or-down review criteria, we would  
17 object to the use of that for the record --

18 MS. PARENT: Noted.

19 MR. DOYLE: -- because we think it raises all  
20 sorts of constitutional issues, like due process and  
21 vagueness and impermissible delegation. But beyond that,  
22 I'll just note that for the record.

23 MS. PARENT: I believe we have noted that. Thank  
24 you.

25 MR. DOYLE: Okay.

1 MS. PARENT: Are there other questions? Yes.

2 MR. BOWER: I would like to weigh in on that  
3 issue, on behalf of EcoMaine and MMWAC.

4 Again I'm Mike Bower. On behalf of MMWAC and  
5 EcoMaine, we feel strongly that the hearing officer  
6 appropriately included the hierarchy in the review criteria  
7 for two main reasons.

8 First, the applicant throughout its application  
9 makes reference to waste hierarchy in arguments that the  
10 application is consistent with waste hierarchy. Therefore,  
11 we feel that it's appropriate for other intervenors and  
12 parties to parties to respond to those arguments, as to  
13 whether the application is truly consistent with the waste  
14 hierarchy as they assert in their application.

15 Secondly, as Juniper Ridge Landfill is a  
16 state-owned landfill, it's a state asset, and we feel its  
17 appropriate in that circumstance to consider the solid  
18 waste hierarchy if you're talking about state policy and  
19 you're talking about a state-owned landfill, it's a state  
20 asset. It seems entirely appropriate to consider the  
21 provisions contained in .102.

22 That's our position; it was properly included in  
23 the criteria.

24 MS. PARENT: Thank you.

25 MR. DOYLE: And I would just add that there's



1 nothing in state law that, in this instance, treats a  
2 state-owned landfill differently than any other landfill.

3 MS. PARENT: We've noted the applicant's objection  
4 and the response of EcoMaine and MMWAC.

5 At this time, I am ruling that I have decided that  
6 we are using the -- we can use the waste hierarchy as a  
7 component of the review criteria.

8 Are there other questions or issues with respect  
9 to the relevant legal criteria?

10 (No response)

11 MS. PARENT: Seeing none, we will move on now to  
12 the Intervenor's Issues. And I wanted to get at this at  
13 this question early in today's prehearing conference, I  
14 wanted to know and ask each individual intervener, and I'll  
15 go around the table, what legal issues he or she or it  
16 intend to bring forth during the course of the hearing.  
17 I'll start with Dan. I'll start with you.

18 MR. WALKER: Okay. My name is Dan Walker. I'm  
19 here representing MRC. We intend to bring forth,  
20 basically, three issues with regard to this hearing  
21 process.

22 The first one is we want to ensure that this  
23 amended license is limited to what the application says, so  
24 far is limited to in-state MSW displaced from the  
25 communities formerly serviced by the Maine Energy facility.

1 That's number one, and so far, that's what the application  
2 says.

3           Number two, we want to address as part of this  
4 process, one of our main issues are potential concerns  
5 regarding NEWSME's future expansion plans at JRL and  
6 possible impacts to waste energy facilities staying at  
7 capacity. To the extent that, through this process and  
8 we've been working on this going forward, is that the waste  
9 energy facilities continue to operate at capacity, we're  
10 not opposed to the excess going to Juniper Ridge.

11           Number three, and we just, you know, we were going  
12 to weigh in a second ago, but you made your ruling about  
13 the solid waste hierarchy going forward, that the MRC  
14 supports, and all the 180-plus MRC communities, support the  
15 state of Maine solid waste hierarchy, not just -- and its  
16 included not just in the provision you declared, but it's  
17 also in the declaration of policy for the entire waste  
18 management chapter. It's set forth there as being used for  
19 a management tool.

20           So, we would support and we would, MRC going  
21 forward would support use of the solid waste hierarchy, and  
22 we wanted -- that will be part of this process. That's our  
23 third issue. Okay.

24           MS. PARENT: Thank you.

25           And next intervener.

1           MR. MAHONEY: Hello, again. I'm Mike Mahoney for  
2 PERC. Our issue to be presented in the proceeding would  
3 relate to the disposal agreement that has been executed by  
4 PERC and Casella, and the benefits and also its positive  
5 impact on the hierarchy, given your prior ruling.

6           MS. PARENT: Thank you.

7           MS. TOURANGEAU: Good morning. I'm Joanna  
8 Tourangeau, for Old Town Fuel and Fiber. As we indicated  
9 in our Petition to Intervene, the mill and the landfill  
10 have a long-standing symbiotic relationship, and our  
11 concern is participating in the process sufficiently to  
12 ensure that relationship is not impacted by the amendment.

13          MS. PARENT: Thank you.

14          Jim.

15          MR. KATSIAFICAS: Jim Katsiaficas for the City of  
16 Old Town. The City of Old Town does not oppose the  
17 application, but it does have some concerns on behalf of  
18 its constituents, and those concerns are what we've put  
19 together in our notice or our petition for intervention.  
20 Traffic, particularly the number of trucks and the number  
21 of trips; potential for odor from the municipal solid  
22 waste; potential for noise from the landfill operation;  
23 vectors that might come up, birds and rodent populations,  
24 as a result of the raw MSW; and lastly, the nature of the  
25 MSW.

1           We understand the revised application is for up to  
2   93,000 tons per year of municipal solid waste. It may not  
3   just be from that which had been displaced from MERC. It  
4   may be similar solid waste, and we just want some  
5   assurances that it's of a similar nature.

6           MS. PARENT: If we can move actually beyond the  
7   applicant on this side. I don't know who the first  
8   intervenor is here.

9           MR. JACQUES: Keith Jacques for the City of  
10   Biddeford. It's Biddeford's primary purpose to ensure that  
11   the state-owned facility is available for Biddeford and the  
12   13th former communities that were served by MERC, and  
13   Biddeford and those municipalities will be able to deliver  
14   its waste to the landfill, and also that the application  
15   continues to include efforts to push back out-of-state  
16   waste back out of state and encourage robust recycling  
17   programs.

18          MR. KANY: Will Kany, the City of Saco, and a lot  
19   of Saco -- we'd echo a lot of things Mr. Jacques presented  
20   as far as the community continued being able to be served  
21   by the facility, as well to bring up the issues provided  
22   the economic development that we see being spurred by this  
23   whole, so --

24          MR. BOWER: Again, Mark Bower for EcoMaine and  
25   MMWAC. As mentioned previously, I think the primary legal

1 issue for us is the solid waste hierarchy, and ensuring  
2 that -- the purpose for intervention in this matter is  
3 ensuring that any amendment to the solid waste disposal  
4 license for Juniper Ridge is reflective of the state solid  
5 waste hierarchy.

6 MS. PARENT: Did I miss any nonindividual  
7 intervenors? I want to allow them to hear all the issues  
8 first.

9 EcoMaine and MMWAC, you have -- is there anybody  
10 from EcoMaine and MMWAC in addition to?

11 MR. NADZO: I'm here with Mark, but they are they  
12 are two different parties. I suspect the issue of  
13 consolidation might come up, but we have talked with both,  
14 and we'll get to that later, but we would prefer not to be  
15 consolidated. But Mark actually spoke -- both parties,  
16 with regard to that particular subject on your agenda, is  
17 identical.

18 MS. PARENT: So you don't have any additional --

19 MR. NADZO: That's correct.

20 MS. PARENT: Okay. Starting on this end, sir.

21 MR. LINCOLN: My name is David Lincoln, and I'm  
22 from Old Town. I'm a resident near the landfill. And I've  
23 got a concern about the obstruction from my house. I can  
24 see the landfill now. On this amendment, it sounds like  
25 it's going to grow higher and higher. So I'm concerned

1 about my obstruction of view from the western horizon from  
2 my house.

3 And also, the noise. I realize that, since the  
4 interstate has allowed higher weight trucks being allowed  
5 on the interstate, the trucks coming off the ramp, the  
6 northbound ramp, which is only probably a couple hundred  
7 yards from my house, the noise from the Jake breaks all  
8 hours of the night are -- it's a noise pollution at this  
9 point. And it -- you know, when you're waking at 2:00,  
10 4:00 in the morning, it gets kind of concerning in that  
11 situation.

12 So, those are my two biggest concerns.

13 MS. PARENT: I'll encourage all of you to speak  
14 up. Thank you.

15 MS. SANBORN: Laura Sanborn from Alton. I'm in  
16 the area of the entrance to the landfill. My husband,  
17 Harry, can't be here today. He's in New York. But our  
18 issues are the health issues of the unprocessed MSW; the  
19 traffic. You know, we intend to look at the environmental  
20 issues with -- you know, I know it says no extra truck  
21 traffic, but we have a concern there.

22 One of my biggest concerns is basing a license for  
23 a state-owned landfill on another facility. You know, MERC  
24 and PERC and, you know, the Juniper Ridge -- I just don't  
25 see where one property should be -- one license should be

1 issued regarding another property.

2 MS. PARENT: Thank you, ma'am.

3 MS. LINCOLN: I'm Wanda Lincoln, the other half of  
4 David Lincoln, and he mentioned the obstruction, noise.  
5 And I'm not sure, did you mention the odor, when we're out  
6 on our deck? So those are all issues that we're concerned  
7 about.

8 Yes, sir.

9 MR. SPENCER: Ed Spencer, I guess my legal issues,  
10 I'm sympathetic to the Lincolns and Laura's, and I think  
11 what Mr. Bower says very well as far as the waste  
12 hierarchy. So I guess my primarily legal -- myself is, I  
13 think the waste hierarchy is good policy, should be  
14 enforced. It was part of the RFP that Casella bid on  
15 before they became operator. And it's very clear in that  
16 that the operator shall follow the waste hierarchy, laid it  
17 right out, and I think it should be enforced.

18 MS. PARENT: Thank you.

19 Sir.

20 MR. COFFMAN: My name is Ralph Coffman again, from  
21 Old Town, and I had a business, a campground that was  
22 affected by this toxic waste site. I happen to have  
23 property at the mouth of Pushaw Stream and Birch Stream,  
24 which is both sides of this dump.

25 I had -- the issues that I would like to see

1 addressed and find out the legality of them is, the amount  
2 of out-of-state toxic waste, trash, whatever you want to  
3 call it, that's coming in. We figure that its -- the pile  
4 that we have in Old Town is 63 percent of that is coming  
5 from out of state. We don't feel that this is in -- I feel  
6 this is in noncompliance with the Maine waste hierarchy  
7 directive and should be looked at.

8           The issue of locating it in a wetland to begin  
9 with. I happen to have been a representative, a state  
10 representative for the area, when I was taken to the  
11 property and shown test wells that were under water. That  
12 Junipers don't even grow on ridges. They grow in swamps.  
13 It's a wetland there. And there's quite a bit of run off  
14 that's coming off that is being treated in the Old Town  
15 water treatment plant. Is there any -- any concern that  
16 this is affecting the water supply of Old Town?

17           In addition, the location of this toxic waste site  
18 is right above the Old Town water district's wells that  
19 supply water to Old Town, Orono, University of Maine, the  
20 Penobscot Nation. What happens when there's a leak? You  
21 know, I've heard from engineers that showed me that, like,  
22 two test wells located a couple feet apart, you could have  
23 a fracture in the liner and that stream of toxic waste can  
24 go in between a two-foot section and never get picked up by  
25 the test wells. Plastic is going to deteriorate



1 underground, especially with the amount of weight that's on  
2 there and the amount of weight that's proposed to put in  
3 addition on top.

4 I'd like to address the issue of the transport.  
5 Are we subsidizing the out-of-state transport of this toxic  
6 waste into here by allowing them a lower charge per mile?

7 How about the safety issue? When we come down to  
8 hearings here in Augusta on this issue, and we follow  
9 trucks that are seeping their liquid left-overs out onto  
10 the road that everybody is driving on, that they're  
11 inhaling all this stuff going up and down the interstate,  
12 just the interstate alone, I think that transport is  
13 improper and hasn't been inspected and looked at and  
14 thought about.

15 How about, is there any monetary -- state monetary  
16 reserves for when Casella leaves and we're faced with this  
17 mountain? That's going to cost somebody to treat it, to  
18 guard it, to maybe move it eventually.

19 That's the issues that I'd like to see answered.

20 MS. PARENT: I was wondering, sir, if these are  
21 issues related to the amendment application or just the  
22 landfill in general?

23 MR. COFFMAN: They're related to what's going on  
24 here with this hearing --

25 MS. PARENT: With respect to --

1 MR. COFFMAN: -- and the expansion.

2 MS. PARENT: -- the landfill -- the amendment  
3 application that's in front of us today.

4 MR. COFFMAN: We're talking about Juniper Ridge,  
5 right?

6 MS. PARENT: Well, we're talking about the  
7 amendment application with respect to Juniper Ridge. I was  
8 just trying to make sure that I understood that you're  
9 speaking with respect to the amendment application and not  
10 the landfill in general.

11 MR. COFFMAN: Yup. They will be using the same  
12 trucks to bring we don't even know what, but hopefully,  
13 we'll find out during these hearings what they're going to  
14 bring up; right? So those trucks will be used -- so those  
15 trucks -- the issue of the trucks hauling would be relevant  
16 to the new -- I think everything here would be relevant.

17 MS. PARENT: Thank you.

18 I noticed, Mr. Spencer, would you have -- you had  
19 mentioned something in your filing to us about methane gas?

20 MR. SPENCER: Right.

21 MS. PARENT: Are you looking to include that as  
22 one of your subject matters?

23 MR. SPENCER: Well, I was going to wait for that  
24 under "proposed witnesses."

25 MS. PARENT: Okay.

1           MR. SPENCER: But I think that does need to be  
2 spoken to. Shall I bring it now as a legal issue?

3           MS. PARENT: I was just trying to make sure that I  
4 understood the full breadth of the legal issues.

5           MR. SPENCER: Right. So, basically, Casella is  
6 saying by, exercising this plan with the waste, that this  
7 is actually going to be better for the environment than  
8 following the -- than if the state follows the waste  
9 hierarchy and excludes MSW from the landfill.

10           I think that can be proven to be a false  
11 statement. As far as the legal matters involved with that,  
12 I'm not sure just how that would fit in.

13           MS. PARENT: That's a subject matter that you  
14 would include in there.

15           MR. SPENCER: Absolutely. I think that's  
16 critical.

17           MS. PARENT: Are there other issues that you had,  
18 that any of you had either raised in your petition or would  
19 like to raise now with respect to the legal criteria that  
20 you will be writing forth today -- bringing forth at the  
21 hearing?

22           MR. SPENCER: Could I say one more thing quickly?  
23 I think what Mr. Coffman brought up reminded me that one of  
24 the issues here is MSW is quite a bit different than the  
25 primarily construction debris that's going in there. So I

1 think you could have problems from a change in leachate  
2 quality that could possibly affect the breakdown of the  
3 facility, i.e., the liner. So, just --

4 MS. PARENT: Thank you. I violated my own  
5 promise. I'm going to try to speak up a little more.

6 Now that we have identified the intervenors'  
7 issues, which is very helpful in our next subject matter,  
8 which is discussing consolidation.

9 MR. DOYLE: Before we go on to the intervenors'  
10 issues, I mean it's nice that everyone wants to talk about  
11 a number of issues, but I think we need to try to focus it  
12 on what's relevant to this application. And if I can go  
13 and comment on some of the issues that have been laid on  
14 the table; I mean, I don't think they're all relevant to  
15 this particular proceeding.

16 MS. PARENT: Please speak to the relevance.  
17 Absolutely.

18 MR. DOYLE: Okay. With respect to MRC's issues,  
19 the one that I was a little confused about was concern re  
20 future expansion of Juniper Ridge and impact on other waste  
21 management facilities. This application is only about an  
22 amendment to the existing license for the existing landfill  
23 to bring in addition municipal solid waste. There's  
24 already municipal solid waste bypass going to the landfill.  
25 This is just additional municipal solid waste from the

1 Maine Energy communities and customers. So, the issue of  
2 the expansion is that entirely separate issue and is one  
3 that will be taken up in the future once such an  
4 application would be pursued, but this is not about the  
5 expansion. So I would like to separate in this hearing  
6 process the existing landfill from the expansion.

7 MS. PARENT: I wanted to hear your objections to  
8 each of the relevant criteria, to the extent that somebody  
9 files some prefile testimony that goes beyond the  
10 relevant -- relevance to the application in front of us,  
11 I'll be ruling at that time, but --

12 MR. DOYLE: Okay.

13 MS. PARENT: -- I wanted to give you the  
14 opportunity to, while it's fresh in everybody's mind, tell  
15 us, you know, the relevance of what we've heard today. So,  
16 I won't be making any determinations today on that, but I  
17 would like to hear your objections.

18 MR. DOYLE: Mr. and Mrs. Lincoln, one of the  
19 issues that they're concerned about is the visibility, as I  
20 understand it, of the construction. The height of the  
21 landfill and, you know, what is the planned height of the  
22 landfill does not change from -- with this application.  
23 The height of the landfill was determined back in 2004 when  
24 the amendment application for the vertical increase was  
25 approved by the Department. People had a chance to weigh

1 in on that process. It was appealed. The appeal was  
2 denied and that was the end of it. So the height of the  
3 landfill is set in the existing landfill. We're not  
4 changing that at all with this application. So, I don't  
5 see that as a relevant issue.

6 MR. LINCOLN: If you live here, you would.

7 MR. DOYLE: Yeah, but nothing is going to change,  
8 Mr. Lincoln, as a result of this application.

9 MR. LINCOLN: I understand, but if you lived where  
10 I live, you would see it and be concerned.

11 MS. PARENT: And so that everybody is clear, I  
12 just wanted to understand what the objections are. I'm  
13 actually not going to make any -- not only am I not going  
14 to make any decisions today with respect to the relevant  
15 legal criteria or the objections, I'm also not treating  
16 this as testimony or evidence. I'm trying to get an  
17 understanding of what the issues are and are likely to be  
18 when we see the prefiled testimony.

19 So my lack of response to the substance of your  
20 comments should not be taken as either accepting them as  
21 relevant legal criteria or accepting the objections. We  
22 will have the opportunity to debate the substance of the  
23 relevant legal criteria at the right time.

24 Thank you all.

25 MR. DOYLE: And then I had some objections to

1 Mr. Coffman's -- some of his issues.

2 The amount of out-of-state waste coming in. This  
3 licensed landfill is not allowed to take out-of-state  
4 waste. There's nothing in this application that would  
5 allow it to take out-of-state waste. So, I don't see the  
6 relevance of that issue.

7 Secondly, he has a number of topics that relate to  
8 the original siting of the landfill. He said it's located  
9 in a wetland to begin with. Well, it was approved to be  
10 located in a wetland in 1993 when James River licensed the  
11 landfill, and all that's happened since then is it's stayed  
12 within the existing footprint, and there's nothing about  
13 this application that proposes to fill any wetlands. So I  
14 don't see the relevancy of wetland issues.

15 Similarly, he said the landfill is above the Old  
16 Town waste water district's wells. What happens if there's  
17 a leak? All of those issues were explored back in 1993  
18 when failure analysis was done, and those issues were  
19 resolved favorably for the applicant. They're in the  
20 existing license. We're not changing anything here with  
21 this amendment application to bring in additional municipal  
22 solid waste with respect to anything relating to the siting  
23 of the landfill.

24 And then the issue of the state monetary reserves  
25 after Casella leaves. Casella is required under its

1 agreements with the state and under its license to provide  
2 financial assurance in terms of a reserve account to  
3 provide for closure and post-closure care. It is providing  
4 that financial assurance. Nothing about this application  
5 changes any of that, so I don't see that as a relevant  
6 issue for this particular application either.

7 MS. PARENT: Are those the primary ones that you'd  
8 like to identify today?

9 MR. DOYLE: Yes.

10 MS. PARENT: Thank you. We've noted those.

11 Yes, sir.

12 MR. NADZO: Nick Nadzo, on behalf of EcoMaine and  
13 MMWAC, and perhaps this goes without saying, but I would  
14 hope that, as we go forward and some other issues may  
15 develop as a result of testimony or whatever, that we  
16 are -- wouldn't be barred from addressing those issues. In  
17 other words, I guess, if more formally, that we'd like to  
18 reserve the opportunity to explore other issues as they may  
19 develop through the process.

20 MS. PARENT: So noted, your reservation of what  
21 you need to explore, more issues.

22 It was important for me to understand the relevant  
23 issues on the table today because we will be talking, after  
24 I just see if there are any more questions on this issue,  
25 on consolidation, and the relevant legal criteria really



1 helps me understand what the prefiled testimony is going to  
2 be and what the hearing is likely to consist of, as well  
3 as, you know, the appropriate consolidation of the various  
4 parties who have similar interest in various legal  
5 criteria.

6 So, to the extent there are other legal criteria  
7 that you would provide in prefiled testimony, that would be  
8 reviewed at the time it was submitted with prefiled  
9 testimony, with the appropriate opportunities for rebuttals  
10 and objections and other procedural opportunities at that  
11 time.

12 Before moving on to Consolidation, are there any  
13 other questions/issues/concerns with respect to the  
14 relevant legal criteria?

15 Yes, sir.

16 MR. COFFMAN: I just had one more issue, as you  
17 bring up --

18 MS. PARENT: Could you speak up, sir, please?

19 MR. COFFMAN: Pardon me?

20 MS. PARENT: Talk louder.

21 MR. COFFMAN: I just had one more issue that I'd  
22 like to bring up, and that's the legality of Casella  
23 Corporation's, for lack of a better word, slush fund, and  
24 how it's administered in selectively selecting whose home  
25 or business gets bought out, who gets their taxes paid, and

1 who gets water deliveries paid.

2 MS. PARENT: I've noted that as an additional  
3 item.

4 I'm assuming, Mr. Doyle --

5 MR. DOYLE: Yeah. I mean --

6 MS. PARENT: -- you'd object to that? Okay.

7 MR. DOYLE: Pejorative term, "slush fund," I don't  
8 even know what he's talking about. I mean, I don't see  
9 whatever he just said as relevant to the MSW amendment  
10 application that's before us.

11 MS. PARENT: Yes, Mr. Coffman?

12 MR. COFFMAN: I apologize. I'm not trying to run  
13 this longer. That in addition to that, there's one more  
14 item. I'm finding a problem with Casella dedicating or  
15 doubling of their allotted money for, well, advertising,  
16 PR, propaganda. They're hitting the air waves with all  
17 this money, and they're -- they doubled their lobbyist  
18 account. I think that's very improper.

19 MS. PARENT: I have noted that as another one of  
20 your issues, Mr. Coffman. I would venture to say that,  
21 based on what you've just said, that it's probably not  
22 relevant to the amendment application that's in front of  
23 us, but I've noted that as one of the items that you  
24 believe is relevant legal criteria.

25 MR. COFFMAN: Thank you.

1 MS. PARENT: Moving on to the Consolidation of  
2 intervenors. As I had noted in the materials that I had  
3 provided to you on January 15, I have proposed to  
4 consolidate "Laurie" -- Laura and Harry Sanborn -- my  
5 apologies -- Wanda and David Lincoln, Edward Spencer, and  
6 Ralph Coffman as a single group.

7 I, also, propose consolidating the cities of  
8 Biddeford and Saco as a single group.

9 As we will discuss further, I'm sure other  
10 intervenors may wish to consider consolidation in order to  
11 conserve their resources, and they should be prepared to  
12 discuss any such request for consolidation.

13 A little bit about this before we engage in some  
14 discussion. Pursuant to the Administrative Procedures Act,  
15 Title 5 of our Maine statutes, Section 9054, subsection 4,  
16 I may require consolidation of interested parties.

17 Preliminarily, it appears that the individuals who  
18 have sought and have been granted intervenor status based  
19 on their proximity to the landfill and who pay appear to be  
20 opposed to the amendment application should be consolidated  
21 as a single group. The discussion that we just had with  
22 respect to the identification of issues today also seemed  
23 to indicate an appropriate consolidation of that group.  
24 Those individuals are, again, Laura and Harry Sanborn,  
25 Wanda and David Lincoln, Edward Spencer, and Ralph Coffman.

1           I would ask if any of these individuals wish to be  
2 heard on the proposed consolidation. And I will go to  
3 Mr. Spencer.

4           MR. SPENCER: Yes. I object to being consolidated  
5 for a number of reasons. For starters, when -- during the  
6 predeadline for intervening, I did some research. I spoke  
7 to Cyndi Darling. I e-mailed the Department. And what I  
8 found is it is difficult, it's formal, the process, and so,  
9 to kind of share the burden I thought, Okay, we'll form a  
10 group and intervene as a group of citizens from that area.

11           So, I looked into that some more, and I e-mailed,  
12 and I found out that a group is not a person unless we were  
13 to form a corporation out of our group. And if we were to  
14 form a group, if anyone in that group was found to not be  
15 sufficiently aggrieved to meet the hurdle to being an  
16 intervenor, then the entire group may be at risk.

17           Okay. When I go back and look at my letter, I  
18 petitioned to intervene as a full party. I want the same  
19 rights, the same time as all the other parties. I am a  
20 member of the public, and I think it's a public hearing  
21 we've been waiting for for nine years, and I think it's  
22 just time.

23           Now practically speaking, yes, I know Laura and  
24 Harry pretty well. The Lincolns I met on the way down. We  
25 never even got to discussing this issue on the way down. I

1 think it places an unreasonable burden for us to have to  
2 choose a spokesperson.

3           What if, for example, I wanted to hire an attorney  
4 to represent me? Does that attorney -- do I have to pay  
5 the attorney to interact with the others? To, you know, to  
6 form a single voice? And you know, like I said, we try to  
7 form a group; it was too difficult. And now you want to  
8 make us be a group, which I just thought that could  
9 possibly impact us on the way down. If we were to get an  
10 unfavorable outcome on this and wanted to appeal, would we  
11 have to appeal as a group? Would we have to appeal as an  
12 individual? So it raises all these issues and it just  
13 makes it so much harder for us -- for me. I can speak only  
14 for myself, but that's what I think. And if it's a matter  
15 of time, I'm willing to share time and, possibly, we could  
16 consolidate for purposes of paperwork, if we wanted to, you  
17 know, because it's -- just the mailings could become a  
18 burden. I think, you know, that would be possible, and for  
19 communications.

20           But when it comes to -- you know, it sounds like  
21 we have similar concerns, and we do. But you have to  
22 understand, everyone's got a different background.  
23 Everyone -- we all have different information. We're all  
24 volunteers. No one's getting paid to this. We've got a  
25 person who ran for office as an Independent, we've got

1 someone who served as a Democratic, and we've got two  
2 Republicans. So you know, it's -- we're from all over the  
3 place. So, to make us become a suddenly homogeneous place  
4 and where, you know -- when it comes cross-examination  
5 time, if I, you know, or if we rotate being spokesperson,  
6 an issue comes up, Laura remembers stuff that I forgot.  
7 Okay? And it might be the same way the other way around.

8           So, I think we should all have a chance to speak  
9 for ourselves. And if it means our time is limited,  
10 although I think that would be unfair, then perhaps that  
11 would be a way out for this. But like I said, I object to  
12 being combined. Thank you.

13           MS. PARENT: Mr. Coffman.

14           MR. COFFMAN: I object, also. I'd like to use his  
15 words. He did very well. And also ask, is there a public  
16 intervenor expense account that we can get our gas and --  
17 reimbursed?

18           MS. PARENT: Taking your second question first, I  
19 am not aware of any public intervenor expense account for  
20 matters like these.

21           Are there any more questions or comments before I  
22 engage in some dialogue with you?

23           MS. SANBORN: Harry and I would prefer to stay  
24 alone, and the issue of, you know, hiring an attorney or --  
25 Spencers and Sanborns probably wouldn't hire the same

1 attorney, and those issues.

2 MS. LINCOLN: And I'll speak, hopefully, for David  
3 and myself, that we would prefer to be alone. When  
4 Mr. Spencer talked about the group not being recognized as  
5 a person and if one issue was not supported, does that mean  
6 everything is thrown out? I would prefer to be able to  
7 speak for ourselves.

8 MS. PARENT: Before we start engaging in  
9 discussion about this, I wanted to ask -- I guess I'll  
10 start with Mr. Spencer -- how your issues differ from the  
11 other ones? Because that, when I was looking to  
12 consolidate as I, you know, have a right to do, and with a  
13 group as large as this, an obligation to at least consider,  
14 I look to see where the issues were the same, because those  
15 are the times when, if the issues are the same and the  
16 interests are the same, it makes sense to consolidate  
17 resources and time, so that we don't have a week-long  
18 hearing, hearing the same information that the Department  
19 will then take into consideration.

20 MR. SPENCER: Like I said, as far as the time,  
21 we've got two full days. Okay. And I don't mind sharing  
22 time if -- I can ask questions very quickly during  
23 cross-examination.

24 MS. PARENT: What issues differ between you and  
25 the others?

1           MR. SPENCER: Okay. For example, from what I  
2 heard, just heard now, Mr. Doyle objects to the MRC's  
3 inclusion of some legal standards because he says the  
4 expansion is irrelevant. Well, I would note that, just  
5 thinking off the top of my head, that the expansion is  
6 relevant because under the public benefit determination,  
7 past -- this past year, in effect now, Condition No. 5  
8 limits the amounts of MSW. Okay? So, I can't speak for  
9 the MRC, although my town is a member, but perhaps they see  
10 it as an issue of a timeliness of the expansion.

11           For example, right now, Casella, I believe, is  
12 unable to go forward with expansion because they would have  
13 to come back and amend their public benefits determination  
14 before moving ahead. So that's just an example of how I  
15 think differently than Laura Sanborn.

16           She thinks differently, too. You know, she's --  
17 she's at the entrance to the landfill. Truck traffic's a  
18 bigger issue there. I'm to the opposite side, so it's  
19 more -- we have more long term, land value issues perhaps.  
20 So, I just think this -- we have to incorporate to become a  
21 person and then now, so we intervened as persons, and to be  
22 forced into a group that is not incorporated, it just seems  
23 like -- like, if you had said when I first wrote, when I  
24 first asked, Sure, if you want to have a group with, you  
25 know, Laura and Harry from Alton and members of the Old



1 Town community, if you would have said that will pass the  
2 aggrieved hurdle, we'll elect three spokespeople from us or  
3 whatever, that could have happened, but we didn't have that  
4 opportunity. It had to be incorporated, you know, then,  
5 and it was just an unreasonable burden.

6 Just like it is -- just to choose a spokesperson,  
7 like Harry said. I think he was kidding the other day, but  
8 he said, how are Laura and I going to decide who gets to  
9 speak? You know, so it is an issue. And I think it just  
10 infringes on my rights as an individual or everybody  
11 else's, too, to not be able to speak.

12 MS. MACIROWSKI: I want to address something about  
13 the expansion. Okay? If -- and I think I know what you're  
14 referring to -- there was a public benefit determination,  
15 this application was then a material change to one of the  
16 facts underlying the public benefit determination. If this  
17 application -- and correct me if I'm wrong, Tom -- if this  
18 application is in fact granted, the public benefit  
19 determination would then be redone, so to speak.

20 MR. DOYLE: We'd have to file a modification plan.

21 MS. MACIROWSKI: You'd file a modification before  
22 the expansion could happen. So, this application is  
23 relevant to the expansion -- potentially, to the expansion  
24 in the public benefit application. However, the inverse is  
25 not true. The potential expansion and a potential future

1 public benefit determination is not relevant to this  
2 proceeding on this application. Do you follow me?

3 MR. SPENCER: Yeah. I guess I would say, and you  
4 know, this is kind of out there in a way, because I'm  
5 taking what MRC said, but I would think it could be an  
6 issue with expansion because, just for the timing of it.  
7 Okay. We're going to go through this process. We're going  
8 to have a hearing set in early April, hopefully, right?  
9 And then, after that, we'll see what happens. There's  
10 likely to be an appeal either way it goes, I would think.  
11 That could stretch on. I mean, look what happened when  
12 public benefits determination was passed, actually, I think  
13 a year ago tomorrow. And then it didn't go through the  
14 appeals process, didn't get through that until sometime in  
15 August. So, there is an additional time, that was my  
16 point, as far as it affecting expansion. And some people  
17 might say, you know, we're better off just excluding this  
18 right now and getting on with the expansion because, like  
19 with the MRC, they'd need a place to put their -- you know,  
20 front-end process, their residuals, and so, just as an  
21 argument for time's sake, I think it is an issue for the  
22 expanding business, but I understand what you're saying,  
23 Ms. Macirowski.

24 MS. MACIROWSKI: Yeah --

25 MR. SPENCER: I accept that.

1 MS. MACIROWSKI: -- and I'm just trying to say  
2 that to you because I think, when you're doing your  
3 prefiled testimony, I think it's helpful if you keep that  
4 in mind, so that you're focusing it on issues that --

5 MR. SPENCER: Right.

6 MS. MACIROWSKI: -- at least they're  
7 aren't objections as to whether they're relevant.

8 MR. DOYLE: Could I speak to their -- the  
9 consolidation issue for a second?

10 MS. PARENT: What I would like to do, if possible,  
11 Mr. Doyle, is explain a little bit about what consolidation  
12 does mean and does not mean, and then perhaps we can speak.

13 Consolidation does not mean that you become one  
14 party, and that -- and what it does, it does still allow  
15 each individual who has been consolidated, either  
16 voluntarily or by me, the hearing officer, you each remain  
17 individual parties with individual appeal rights with  
18 individual -- the full rights of a party.

19 What it does mean is that you are required to  
20 coordinate as much as possible the testimony and the  
21 cross-examination efforts during the hearing process. We  
22 would expect that those parties who have been coordinated,  
23 coordinate the prefiled testimony, so that there is one set  
24 of prefiled testimony. We would really expect that the  
25 group would probably separate out the cross-examination and

1 witness functions. So that, for example, if the group of  
2 individuals was grouped the way I had proposed, say,  
3 Mr. Spencer would have cross-examination, Mr. Spencer would  
4 cross-examine on the methane-gas issue, Ms. Sanborn would  
5 cross-examine on the traffic issue, and you know,  
6 Mr. Lincoln would cross-examine on the odor issues, for  
7 example. Where each one of you would take, you know, an  
8 issue and be responsible for it at the hearing.

9           It allows you for the opportunity to collaborate  
10 and coordinate in that way, and therefore, be more  
11 effective and efficient with the information that needs to  
12 come to the Department for our consideration.

13           But if, at the end of the day, you have differing  
14 opinions or issues or approaches with respect to a  
15 particular issue, there are two ways that you could address  
16 that.

17           The first one is that you will also have the  
18 opportunity, and I would be granting that opportunity, to  
19 speak during the public comments session in addition to  
20 providing witness testimony and to providing  
21 cross-examination opportunities. So, therefore, again,  
22 Mr. Spencer, if you differed with the rest of your group on  
23 a particular issue -- traffic, say -- during the public  
24 comment period, which is also sworn, you would have the  
25 opportunity to speak to that issue without otherwise

1     jeopardizing the group.

2             The other approach that could be made, if in the  
3     process of developing your prefiled testimony, it becomes  
4     very clear that the group agrees on all issues, but one,  
5     for example, you could petition me as hearing officer to  
6     allow for individual testimony on a particular issue that  
7     the group simply does not agree upon.

8             The idea here is to not hear the same evidence  
9     seven, eight and nine times --

10            MR. SPENCER:    Sure.

11            MS. PARENT:    -- from seven, eight, or nine  
12     different parties --

13            MR. SPENCER:    Sure.

14            MS. PARENT:    -- when it will be the same evidence  
15     or information from the people with the same interests, but  
16     still preserving your opportunity to raise those issues  
17     where you do have a difference of opinion.

18            My hope is that explaining that to you will  
19     provide you some understanding of what consolidation does  
20     and doesn't mean.

21            MR. SPENCER:    Not to take up too much of people's  
22     time, but I'm certain that some of our testimony is going  
23     to be common and shared, just speaking about, you know,  
24     with Laura and Harry.

25            My other concern is that, if how many intervenors

1 are there total here, 13? Is that right?

2 MS. PARENT: I believe so.

3 MR. SPENCER: Right. So if you consolidate us, we  
4 five parties into one, does that mean that we will get one  
5 out of the -- that would mean that we'd be down from nine  
6 parties, I believe. So does that mean our combined parties  
7 would get one ninth of the time?

8 MS. PARENT: That is not what that means, and  
9 that's a good question.

10 MR. SPENCER: Okay.

11 MS. PARENT: I won't give the exact calculation  
12 here because, quite frankly, I don't know it and won't know  
13 it until --

14 MR. SPENCER: Yup.

15 MS. PARENT: -- resolve the consolidation issue.  
16 However, part of what I would seek to do is make sure that  
17 there is fairness with respect to the time that you  
18 present. If all of the parties remained individual, you  
19 all probably would get a very, very, very short period of  
20 time for both presentation of your testimony and  
21 cross-examination, such that we're not going to be able to  
22 get to the information that we need. By consolidating you,  
23 I'm able to give each group a much larger period of time to  
24 do with the direct testimony and to have cross-examination  
25 occur, so the evidence that's presented to us as a

1 Department is more meaningful.

2           So, for example, if all 13 of you, you know, were  
3 given three minutes on direct and, you know, ten minutes on  
4 cross-examination on, you know, an issue that's critical to  
5 you, we might not ever have the opportunity to get the  
6 information that we need. However, if you consolidate, and  
7 it's, say, a half an hour on direct -- and these are just  
8 pulling out of the air -- half an hour on direct and, you  
9 know, 45 minutes on cross-examination, that gives you an  
10 opportunity to provide much more evidence and much more in  
11 depth, and really get at those issues that we need to hear  
12 in order to make an appropriate decision as a Department.

13           MS. LINCOLN: Could I ask, is it possible that we  
14 could identify maybe two people to be spokespersons if the  
15 group is consolidated? For example, when you were talking  
16 about testifying, there may be one person that's more  
17 knowledgeable when it comes to that, and then there may be  
18 a person that's more knowledgeable for cross-examining.

19           MS. PARENT: Absolutely. When I say absolutely,  
20 there will be some logical identification of people during  
21 the hearing itself. So, for example, each one of you might  
22 end up cross-examining or testifying on a different subject  
23 matter. With respect to the filings of the testimony, what  
24 have you, I believe that that is something that we would be  
25 asking you to identify one person to communicate with the

1 rest of the group on. But with respect to the hearing  
2 itself, I will be looking to those parties who have been  
3 consolidated to identify for me -- the easiest way to say  
4 this is one person per issue, and you could end up having  
5 one person on all the issues or each of you could end up  
6 dividing them out, but I will be looking to you, because  
7 you will know what's most appropriate for your group.

8 MS. LINCOLN: Thank you.

9 MR. SPENCER: So I'd just say, it sounds like  
10 we're going to get consolidated to an extent, but if we  
11 have a spokesperson, say I'm on the greenhouse gas issue,  
12 right? And you know, it's stressful and, to go through  
13 this stuff, and Laura notices, "Ed forgot to mention the  
14 truck transportation gasses." Can she say to me at that  
15 point when I'm up there fumbling around a little bit, "Hey,  
16 what about the transportation gasses that let go?" You  
17 know what I'm saying? So we can have sort of way to back  
18 up at if -- what if I had an attorney, you know? And the  
19 attorney's doing the presentation, and he sees me going  
20 nuts, and he leans over and goes, "Hey, what are you  
21 thinking?" "Oh, yeah."

22 MR. LAUBENSTEIN: You don't want to ask me.

23 (Laughter)

24 MR. SPENCER: But you know, that's what I'm  
25 saying. So let's make pretend that, if we are



1 consolidated, that we are each each other's attorney as  
2 well, and I'm taking more time doing this right now --

3 MS. PARENT: This is important.

4 MR. SPENCER: -- than I'm going to take.

5 MS. PARENT: This is important. And so I  
6 certainly think it's important to take this time, and I  
7 appreciate the dialogue that we're having. I am -- I will  
8 be giving a fair amount of latitude for such an instance.  
9 The only caveat there is I, you know, obviously to the  
10 extent that you abuse that latitude or do something that  
11 prejudices the proceedings, I would, you know, cut off the  
12 back -- you know, your ability to communicate with each  
13 other. But I recognize that, you know, if one of you is  
14 sitting back in the audience and something hasn't been  
15 raised that's important, that there might be appropriate  
16 ways for them to bring it to that spokesperson for the  
17 particular issue.

18 So, in other words, yes, you will have some  
19 latitude there. I will be looking to ensure that it's not  
20 abused. But to the extent that you're just trying to  
21 coordinate at my request, I will be allowing you to find  
22 ways to coordinate, if that makes sense.

23 MS. PARENT: And Mr. Coffman, and then I want to  
24 give Mr. Doyle an opportunity, because he had asked a while  
25 earlier, but Mr. Coffman, yes.

1           MR. COFFMAN: Is there legal assistance available  
2 from the state of Maine for public intervenors in  
3 situations like this?

4           MS. MACIROWSKI: No, there is not.

5           MS. PARENT: Mr. Doyle.

6           MR. DOYLE: Well, I think you've covered a lot of  
7 the same ground that I was going to cover. I mean, I think  
8 the whole purpose of consolidation of parties with common  
9 issues is to try to streamline the process for the sake of  
10 the process. And that, if you're consolidating it into a  
11 group, you don't lose your individual status. And that if  
12 they had, contrary to what Mr. Spencer said, if you were an  
13 aggrieved party, then you'd be able to appeal, but you're  
14 going to have to show that you're a person aggrieved. And  
15 simply because you're a part of a group doesn't mean you  
16 lose that ability to try to show you're a person aggrieved  
17 on appeal.

18          MS. PARENT: That's true.

19          MR. SPENCER: But if we had come to you with this  
20 same group as intervenors --

21          MR. DOYLE: I don't think --

22          MR. SPENCER: -- you wouldn't have objected to  
23 anyone's status as an aggrieved?

24          MR. DOYLE: The only person I objected to of  
25 all -- of the four of you -- four different -- I assume Mr.

1 and Mrs. Lincoln, I treat them as one and the Sanborns as  
2 one, I'm sorry, for purposes of you live in the same house.

3 MS. LINCOLN: He's already consolidated with me.

4 (Laughter)

5 MR. DOYLE: The only person I objected to was  
6 Mr. Coffman, because I didn't think he met the test for  
7 being an intervenor, and I was overruled, but I don't think  
8 that you need to be a corporation to be an intervenor.

9 MR. SPENCER: Do you need to be a corporation to  
10 be a person?

11 MR. DOYLE: No. No, you don't.

12 MR. SPENCER: Okay. I'll keep that in mind.

13 MS. PARENT: Yes, Mr. Coffman.

14 MR. COFFMAN: Excuse me. Mr. Doyle objected for  
15 our citizens group, the Citizens Against Genocide by Toxic  
16 Waste Height, you objected to the group getting status  
17 because we weren't incorporated.

18 MR. DOYLE: Well, the reasons for my objection are  
19 in the petition, and those were granted. I understand that  
20 group is not part of it, but Mr. Coffman has been allowed.

21 MS. PARENT: Mr. Coffman, as an individual, is  
22 granted intervenor status, the group, I apologize for not  
23 remembering the name, was not granted intervenor status.

24 With respect to the consolidation of the  
25 individuals, I'm inclined to -- based on the conversation

1 that we've had today, I am going to require the  
2 consolidation of the individuals I've identified. I will  
3 request of any of the individuals, if you have -- if it  
4 becomes apparent during the process of developing prefiled  
5 testimony, that new information has come to light that  
6 would cause you to not be able to coordinate on any  
7 particular issue, that that information be provided to me  
8 as hearing officer, copying the parties, and I will make a  
9 determination as to whether or not the consolidation  
10 requirement needs to be adjusted.

11 And the rules that I discussed at the beginning of  
12 the proceeding with respect to requiring that all parties,  
13 and I am looking to everybody around the table, comport  
14 themselves in a professional manner applies within the  
15 individual consolidation groups as well as when you are in  
16 front of me during these prehearing conferences or the  
17 hearing itself. And I just wanted to remind everybody  
18 around the table of that requirement.

19 With respect to Cities of Biddeford and Saco. I  
20 had indicated -- that you -- I'm a little discombobulated.  
21 Thank you. Cities of Biddeford and Saco, I had indicated  
22 that you also have similar interests, and I believe you  
23 might have even filed one particular document requesting  
24 intervention status. Any objection to being consolidated?

25 MR. JACQUES: I believe we filed separate

1 documents, but I don't have any objection on behalf of the  
2 City of Biddeford to combine our intervention.

3 MR. KANY: No objection from the City of Saco.

4 MS. PARENT: Which attorney will be the primary  
5 fern?

6 MR. JACQUES: Probably me. Keith Jacques for the  
7 City of Biddeford.

8 MS. PARENT: Well, when it comes to providing  
9 prefiled testimony, if we can do something to just make  
10 that indication to us, that would be helpful.

11 MR. JACQUES: Sure. Thank you.

12 MS. PARENT: Are there any other parties before us  
13 who would like to consider consolidation? Those parties  
14 that I had identified we've discussed today, but are there  
15 other parties who would like to consolidate?

16 MR. SPENCER: Can I ask you a quick question?

17 MS. PARENT: Sure, Mr. Spencer.

18 MR. SPENCER: MRC owns one fourth of PERC, yet  
19 they're going to have individual representation. Is there  
20 a legal reason for them to be separate or should they be  
21 consolidated as well? Not to be problematic.

22 MS. PARENT: Would the representatives like to  
23 respond?

24 MR. WALKER: I can speak to that, that the MRC  
25 would not support consolidation with PERC at this point.

1 We're both represented by separate counsel at this point.

2 We both filed separate intervenor applications.

3 MRC, as you know, is made up of 180 separate Maine  
4 municipalities that dispose of their waste at PERC through  
5 a contractual agreement with PERC. They do own 25 percent  
6 of PERC, but they are only a limited partner in that  
7 arrangement. And therefore, they're a separate entity from  
8 PERC. The MRC's current contractual arrangement with PERC  
9 expires in 2018, which is not that far away. So MRC needs  
10 to separately review everything as part of this process  
11 separate from PERC because of this planning for 2018. And  
12 also, they weren't -- MRC was not a party to the disposal  
13 agreement between PERC and Casella. So, for all those  
14 reasons, we would object.

15 MR. SPENCER: Okay. I fully accept that. I'm  
16 fine.

17 MS. PARENT: If I could just ask additional  
18 questions of the representatives. Based on my asking  
19 everybody what your legal issues were, I got the impression  
20 that you had different legal issues and interests in the  
21 proceedings. Is that an accurate read?

22 MR. WALKER: Yes.

23 MR. MAHONEY: I think you heard correctly, ma'am.

24 MS. PARENT: And Mr. Spencer, that's a primary  
25 reason why we didn't consolidate --

1 MR. SPENCER: Okay.

2 MS. PARENT: -- to begin with. However, if they  
3 had chosen to, for whatever reason, I would have  
4 entertained that. Thank you.

5 I believe we're ready to move on to the Conduct of  
6 the hearing.

7 MR. DOYLE: Before we move on --

8 MS. PARENT: Yes.

9 MR. DOYLE: -- I have a question about why  
10 ecomaine and MMWAC should not be consolidated. They filed  
11 nearly identical petitions to intervene. They filed nearly  
12 identical briefs clarifying whether they wanted to be an  
13 intervenor. They're represented by the same counsel,  
14 Jensen Baird and, as we heard this morning, they have the  
15 same issue, which is ensuring that the solid waste  
16 management hierarchy is followed. So I wonder why, for  
17 purposes of streamlining this proceeding, similar to the  
18 way we've consolidated the individuals, they should not  
19 also be consolidated.

20 MR. NADZO: I can address that.

21 MS. PARENT: Yes.

22 MR. NADZO: Although it wasn't suggested by the  
23 hearing officer that consolidation be made, but I think  
24 that the fact is that we, in a way, have already  
25 consolidated in the sense that EcoMaine is 21 member

1 municipalities who own and operate a waste energy facility  
2 in Portland, and its members are pretty much central,  
3 southwest Maine. And Mid-Maine Waste Action, again, kind  
4 of a consolidation of its 12 member owners of  
5 municipalities, with a facility in Auburn, its members  
6 pretty much in central Maine.

7           There were -- some of those municipalities  
8 expressed grave concern about this application and even  
9 considered intervening individually. We assured them that  
10 we would be representing them as a part of EcoMaine, for  
11 those who are members of EcoMaine and MMWAC or MMWAC.  
12 There are potentially some different issues that, as we get  
13 down the road, so, we think that we're -- by having just  
14 the two organizations, rather than 21 and 12 municipalities  
15 all sitting here, we've attempted to serve the purpose of  
16 consolidation, which is to streamline to the extent  
17 possible.

18           MS. PARENT: Mr. Coffman?

19           MR. COFFMAN: For the record, I'd like to voice my  
20 objection to the consolidation of the citizens intervenors  
21 into one.

22           MS. PARENT: Noted that objection. I have made a  
23 decision, but that objection is noted.

24           It has occurred to me that we have the reporter  
25 diligently typing for almost two hours. Before we move on



1 to the other matters, I'm going to take a ten-minute recess  
2 so allow her to recover. I suppose I'll do this, just  
3 because it's fun. (Pounding gavel) We'll be back at 12:00  
4 according to that clock on the back wall.

5 (The conference recessed from 11:49 a.m. to 12:04 p.m.,  
6 when the Hearing officer called the conference to order.)

7 MS. PARENT: Welcome everybody back. It's just  
8 after noon time. I believe we have only a few other items  
9 that we have to cover, and at the end of this process, I'll  
10 lay this out in more detail. However, I just wanted to  
11 note that the decisions made today and the decisions that I  
12 have reserved for making after this meeting will be  
13 provided in a procedural order. So, some of the details  
14 that we discuss today, as you're leaving this meeting and  
15 trying to remember how exactly it worked out, I will be  
16 providing a procedural order after this meeting sometime,  
17 you know, sometime in the week's following this meeting  
18 that lay out some of these details.

19 Moving on to the portion of the agenda entitled  
20 Conduct of Hearing. As I had mentioned earlier, we have  
21 circulated a document entitled Procedures for Conduct of  
22 Hearing. I wanted to ask at this time whether or not there  
23 are any questions about those procedures?

24 And I believe, as I had, noted, or at least as I  
25 previously stated, the Administrative Procedures Act in

1 Chapter 20 apply to these proceedings, although I have the  
2 authority to not apply portions of Chapter 20 that are not  
3 relevant or appropriate during these proceedings.

4 In the procedures for conduct of the hearing, I  
5 have proposed the following order. So, all of the  
6 testimony and witnesses who go up will be in the following  
7 order, for discussion today. First, the applicant; then  
8 PERC; then MRC; Old Town Fuel and Fiber; EcoMaine;  
9 Mid-Maine Waste Action Corporation; the grouping of the  
10 Sanborns, the Lincolns, Spencer, and Coffman; and then the  
11 towns of Biddeford and Saco; and the City of Old Town.  
12 That's the order that I have proposed here. Traditionally,  
13 the municipalities -- the applicant goes first, and the  
14 municipalities traditionally in other proceedings go last,  
15 so that's -- that was part of the reason for the order in  
16 which I noted.

17 Are there any questions or comments with respect  
18 to the order of the parties?

19 (No response)

20 MS. PARENT: Seeing none, with respect to  
21 cross-examination, the Department staff, counsel, and I may  
22 request clarifying questions after the parties have had an  
23 opportunity to cross-examine the witnesses.

24 So, in other words, the witnesses will go up and  
25 testify. A witness will go up and testify and then

1 cross-examination of all of the parties to the witness will  
2 occur, and then I and the staff and Department counsel will  
3 ask for clarifying questions, if we have clarifying  
4 questions at that time.

5 Does anybody have any comments with respect to,  
6 again, either the order or order of cross-examination?

7 MS. McBRADEY: I have a quick question. Nancy  
8 McBradey for MRC.

9 You just mentioned that almost envisioning  
10 individual witnesses for the parties. Sometimes at other  
11 hearings, licensing hearings held by the Department or the  
12 Board of Environment Protection, witnesses are actually put  
13 in panels. Is that something that you are considering?

14 MS. PARENT: With your prefiled testimony, if that  
15 is the way that you feel would be most efficient or  
16 effective, I would request that you propose that at that  
17 time. It will not provide you more time than I would  
18 otherwise allocate.

19 In other words, if I have determined a  
20 certain time period -- again, I'll just throw out a time  
21 period -- if I determine that a half an hour per witness,  
22 you know, per subject matter, by putting the witnesses in a  
23 panel, you're still going to end up with that same  
24 allocation. However, if that's the way that you feel would  
25 be the most appropriate, I would entertain that request and

1 entertain the responses to that request at the time of  
2 prefiled testimony, and I would make my determination after  
3 that.

4 MS. McBRADY: Great.

5 MR. DOYLE: Can I just follow up on what Nancy  
6 suggested? My experience in these hearings is that usually  
7 the parties -- we're going to have prefiled testimony here,  
8 which everyone will have a chance to read. At the hearing  
9 or that the applicant or someone else puts on their case,  
10 and the witnesses provide what I will refer to as a  
11 Reader's Digest version of their prefiled testimony. They  
12 don't read their prefiled testimony. They give a Reader's  
13 Digest version. And then it is much more efficient, in my  
14 experience, to have each party do their entire case in  
15 chief, and then make their witnesses available in either  
16 panel form or just make their witnesses available for  
17 cross-examination. It seems to be more efficient, more  
18 coherent, if it's done in that fashion.

19 MS. PARENT: And you are echoing and building upon  
20 what Ms. McBradey said. And part of the reason why I said  
21 I would entertain it is, I do see the validity in that  
22 approach and would take that request very, very seriously  
23 under advisement. I would, obviously, want the opportunity  
24 for all parties to, if they have valid objections, provide  
25 me with those objections, but there is a validity to the

1 panel approach, and I will consider it.

2           However, it's the responsibility of each party or  
3 consolidation of parties to determine how that panel  
4 configuration would work, and you will be advised that, you  
5 know, you won't be afforded more time than you would  
6 ordinarily be afforded if the panel went individually, if  
7 that makes -- if you understand what I'm saying.

8           MR. DOYLE: You mean for cross-examination or --

9           MS. PARENT: For direct. For direct testimony.

10          MR. DOYLE: Direct.

11          MS. PARENT: I will certainly take that under  
12 advisement, but I would request, and I think we will put  
13 something in the procedural order, to request such  
14 arrangements be provided at the time of prefiled testimony,  
15 so that I am aware of the arrangement that you're seeking  
16 to undergo.

17                 At this time, I was -- I was wondering, at this  
18 time, it would be good for me to -- the staff and I to  
19 understand the identity and the nature and the number of  
20 witnesses that you are currently contemplating if you  
21 actually, in fact, begin to have an idea today as to either  
22 how many witnesses or the nature of the witnesses or, just  
23 in general terms, I'd like to hear from you what you  
24 envision your witnesses would be speaking to.

25                 For expediency, I will start with --

1 MS. MACIROWSKI: The applicant.

2 MS. PARENT: That makes sense. Thank you.

3 I always listen to the woman on my right.

4 MR. DOYLE: NEWSME Landfill Operations and Bureau  
5 of General Services expect to present four witnesses  
6 currently. I'd like to reflect upon the procedural order  
7 when it comes out, but currently, we're estimating four  
8 witnesses. And are you looking for the names of the  
9 witnesses?

10 MS. MACIROWSKI: I think it's -- generally, we're  
11 not holding you to this. I think it's generally useful,  
12 especially because we're going to know who these people  
13 are.

14 MR. DOYLE: So, are you looking for their names  
15 now?

16 MS. MACIROWSKI: I am looking for their names.

17 MR. DOYLE: Just so long as everyone else --

18 MS. PARENT: And therefore, I am.

19 MR. DOYLE: -- has to provide their names, sure.

20 MS. PARENT: And therefore, I am.

21 MR. DOYLE: We would have Mike Barden, as the  
22 representative for DECD, talk about their role here in this  
23 process, and his oversight of JRL and of NEWSME as the  
24 operator, and his participation in the review of the  
25 application before it went in.

1           Brian Oliver, who's the vice president of the  
2 northeast operations for NEWSME Landfill Operations, will  
3 discuss the events that led up to this submittal of the  
4 application, now that it's still a review criteria,  
5 although it's not an up and down criteria, consistency with  
6 the waste management hierarchy, the benefits from the  
7 approval of this application.

8           Jeremy Labbe and Mike Booth. Jeremy is an  
9 engineer, who works at the landfill on behalf of NEWSME  
10 Landfill Operations, will talk about many of the  
11 operational issues related to the application. And Mike  
12 will talk about similar related operational and engineering  
13 issues that Jeremy doesn't cover. So, between the two of  
14 them, they will be dealing with the operational and other  
15 issues that some of the individual intervenors have raised  
16 today. So, in terms of -- well, those are -- I'll rest  
17 there, before we get to time.

18           MS. PARENT: Okay. Moving down the line. I'm  
19 sorry. PERC.

20           MR. MAHONEY: PERC hasn't made any final decisions  
21 on calling witnesses, but I think for purposes of planning,  
22 we'd like to submit sort of a place holder for one witness.  
23 It could be Kevin Nordby from PERC, or another authorized  
24 representative of PERC, to speak about the disposal  
25 agreement and consistency with the hierarchy.

1 MS. PARENT: MRC.

2 MR. WALKER: Dan Walker, MRC. We propose three  
3 witnesses at this point. First would be Greg Lounder, the  
4 executive director, who would talk about MRC's partnership  
5 with PERC. Again, going back to our issues that we talked  
6 about before, concerns regarding the proposed amendment's  
7 potential impact to capacity at PERC. And then, again,  
8 concerns regarding utilization of air space at Juniper  
9 Ridge for MSW, raw MSW.

10 Secondly, the MRC board president, Chip Reeves,  
11 who's the director of public works in Bar Harbor. He would  
12 talk about the community's perspective and MRC's long time  
13 advocacy of the hierarchy.

14 And then, lastly, we would -- we'd want to call  
15 George Aronson, who is the long-time consultant, technical  
16 consultant from Commonwealth Resource Management to the  
17 MRC. And he'd bring up more of the technical aspects and  
18 bring up statistics regarding solid waste generation and  
19 management in Maine.

20 MS. PARENT: Thank you.

21 Old Town Fuel and Fiber.

22 MS. TOURANGEAU: One or two, I would guess, at the  
23 most, in order to discuss mill operations and the  
24 agreements between the parties possibly, and possibly  
25 someone to talk about changes in waste disposal practices



1 at the mill and/or changes to the leachate quantity and/or  
2 quality.

3 MS. PARENT: Ecomaine.

4 MR. BOWER: Ecomaine at this point would plan to  
5 be having two witnesses: Kevin Roche, the general manager,  
6 and a representative from one of the member municipalities,  
7 one of the 21, but we don't -- we're not sure of that yet.  
8 We'd want a place holder for that.

9 MS. PARENT: And Mid-Maine Waste Action Corp.

10 MR. NADZO: Mid-Maine Waste would also be  
11 expecting two, and it would be Joe Kazar, who is the plant  
12 executive director, and then one of -- an official,  
13 either -- public official either who's on the board or  
14 otherwise. So we'd --

15 MS. PARENT: Don't forget to speak up.

16 MR. NADZO: Sorry about that. So, two, and we're  
17 unsure who the second would be.

18 MS. PARENT: Thanks. And with respect to the  
19 Sanborns, Lincolns, Spencer, and Coffman, do you have any  
20 ideas at this time?

21 MR. SPENCER: We can't identify anyone right now,  
22 I would say, but what I was thinking for sure is an  
23 atmospheric scientist to speak to greenhouse gasses  
24 relevant to landfills and incinerators. There's a  
25 possibility -- I need to speak with Mr. Roche, because he

1     could fill a large part of that, he has expertise in that  
2     area.

3             The other thing, it sounds like leachate quality  
4     will be addressed by Old Town Fuel and Fiber. That was a  
5     concern.

6             The other thing I was thinking is some historical  
7     perspective on this because -- and I'm not sure if you  
8     would even allow this, but I'm just thinking how this  
9     landfill starts out being for paper mill waste only, then  
10    it becomes for in-state with some exceptions for  
11    out-of-state construction demolition debris. Next thing  
12    you know, it's going okay to bring all -- potentially all  
13    of Canada's biomedical waste to Maine to be treated and  
14    then put in. So this creeping incremental history of  
15    expansion of waste streams and loss of control.

16            MS. PARENT: Speaking to your comment about  
17    whether or not I would allow that, I would just ask you to  
18    look to the relevant review criteria of the amendment  
19    application and be sure that the witnesses and the  
20    testimony that you propose are directly -- directly address  
21    the amendment application and the review criteria that we  
22    have to decide upon. So, I'm not saying what you said is  
23    or is not relevant --

24            MR. SPENCER: Okay.

25            MS. PARENT: -- but just make sure that what you

1 provide is specific to that application.

2 And again, as we had mentioned, we're not holding  
3 anybody to numbers or names. We're just trying to get a  
4 general sense.

5 The Towns of Biddeford and Saco.

6 MR. JACQUES: Keith Jacques for the City of  
7 Biddeford, now for Saco as well. I haven't had an  
8 opportunity to speak to Saco to get a sense as to what we  
9 will do by way of witnesses, but I anticipate we'll  
10 probably call four witnesses: The mayors from each city,  
11 and if, for some reason the mayors were unavailable, the  
12 city manager from each city. And then also, if you need  
13 their names, Alan Casavant from the City of Biddeford -- is  
14 the mayor of the City of Biddeford, and Mark Johnston is  
15 the mayor of Saco, and John Bubier is the city manager for  
16 Biddeford, and Rick Michaud is the city manager for Saco.

17 And then in addition to those witnesses, I  
18 anticipate -- and those witnesses, primarily, I think would  
19 talk about the cities' interests in having the state  
20 landfill available for the disposal of its MSW waste. And  
21 then I anticipate that we, also, would have Brian Finney,  
22 who is the city of Biddeford environmental code officer,  
23 and Dan Stevenson, who is the environmental development  
24 director, also testify. And they would -- their testimony  
25 would be focused on the state hierarchy issues.

1           Thank you.

2           MS. PARENT: And just recall that, with respect to  
3 the consolidation, we'll be looking for, you know,  
4 essentially one witness per issue. So when the procedural  
5 order comes out, that will be made very clear to you, and  
6 we'll be asking you to just take that into consideration in  
7 presenting your witnesses.

8           MR. JACQUES: I understand, but I just wasn't  
9 going to cut the City of Saco's mayor out quite yet.

10          MS. PARENT: Absolutely not. Yeah, I completely  
11 understand. I just wanted to make sure that you understood  
12 that the same rules will apply.

13          MR. JACQUES: I do. Thank you.

14          MS. PARENT: City of Old Town.

15          MR. KATSIAFICAS: Jim Katsiaficas for the City of  
16 Old Town. I see one to two witnesses: the city manager,  
17 William Mayo, and the appropriate city staff person might  
18 have some specific issues, depending on what they are, what  
19 they implicate.

20          MS. PARENT: Thank you.

21                Just like we just talked about, providing an  
22 estimate and an general idea of who your witnesses are, I  
23 was also looking to see if we had an estimate -- Sorry.

24       (Pause) If we could just have one moment here.

25       (Brief off-the-record colloquy.)

1 MS. PARENT: My apologies for that. With respect  
2 to the estimate of time for cross-examination and the  
3 hearing as a whole, part of what I will be doing is  
4 reviewing the proposals for testimony and making a  
5 determination based on that. However, I wanted to hear  
6 from the parties today as far as their thoughts and  
7 recommendations with respect to how long it would take  
8 them.

9 As I believe Mr. Doyle said -- I can't remember, I  
10 think it was Mr. Doyle said the bulk of the testimony will  
11 be within your prefiled. I would anticipate that the  
12 direct testimony of the witnesses will be very short,  
13 because we will have your information already prefiled. I  
14 would expect that the bulk of time taken during the hearing  
15 is with respect to cross-examination. So, you know, it  
16 will probably be something on the order of five minutes per  
17 witness for presenting what they have already presented in  
18 a written document, and obviously, a longer time allowed  
19 for cross-examination of that information.

20 And with that in mind, I wanted to give the  
21 parties an opportunity to provide me their thoughts and  
22 estimates as to how long they would expect their witnesses  
23 to take to present the evidence and respond to questions on  
24 the various issues.

25 And keeping with the habit I'm trying to form with

1 staying in the order that we will be proceeding during the  
2 hearing, I'll start with the applicant.

3 MR. DOYLE: Well, I had envisioned even, you know,  
4 since the applicant has the burden of proof as you pointed  
5 out --

6 MS. PARENT: Mm-hmm.

7 MR. DOYLE: -- first thing this morning, that for  
8 our case in chief, prefiled testimony, it would probably be  
9 done in about one and a half to two hours.

10 MS. MACIROWSKI: Your direct testimony.

11 MR. DOYLE: Direct testimony, yeah. You know, it  
12 may be less, but we're going to try to do it as efficiently  
13 as possible, but you know, we have a burden of proof. So,  
14 I estimated based on my experience and knowing what number  
15 of witnesses we have, it would be one and a half to two  
16 hours. And then we would, you know, present that panel of  
17 witnesses for cross-examination.

18 MS. PARENT: Okay.

19 MR. DOYLE: And are you asking me for my estimate  
20 of how long it would take me to cross-examine other people?  
21 Because I don't really, without having seen their  
22 testimony, and their -- they weren't quite as specific as I  
23 would have hoped in terms of names and what they're going  
24 to cover, it's a little tough to say for length of time for  
25 cross right now.

1 MS. PARENT: Yeah, and I recognize that. I won't  
2 be asking you to estimate something that you are unable to  
3 estimate today. And with respect to the --

4 MR. DOYLE: Let me just add, and there are some  
5 people that I may not cross-examine at all, but you know, I  
6 think I would like to be allowed at least as long as  
7 they're up there for cross-examination, the time that they  
8 spend on direct.

9 MS. PARENT: Okay.

10 MR. DOYLE: So that's -- if that's any help to  
11 you.

12 MS. PARENT: Okay. Thank you. With respect to  
13 the -- your estimate with respect to the direct  
14 presentation of prefiled testimony, I believe we'll need to  
15 take a long look at how we expect the hearing to unfold and  
16 the information that we have in both your application and  
17 in your prefiled testimony, and we'll be making a  
18 determination as to, you know, whether the time estimate  
19 that you provided might be adjusted.

20 I do expect that we will either have a number  
21 of -- sorry, I'm speaking softly again -- a number of  
22 procedural orders between now and when we have the hearing  
23 or we might also have an additional prehearing conference  
24 if necessary. So we will be communicating more with  
25 respect to the time of your presentation of your case in

1 chief to allow you to ensure that your information -- that  
2 you have been given ample opportunity to provide the burden  
3 of proof.

4 PERC?

5 MR. MAHONEY: Mike Mahoney for PERC with respect  
6 to PERC's potential witness, I would anticipate needing no  
7 more than 30 minutes for direct testimony.

8 MS. PARENT: I'll say collectively, with  
9 everybody, we'll be taking a look at the time limits, but  
10 the estimates are helpful for us to get a general sense  
11 from where you're coming from.

12 MRC? Eventually, I'll get this right.

13 MR. WALKER: We've discussed this and we believe,  
14 you know, taken individually, we were thinking 30 minutes  
15 each if we -- but we, also, are very interested in honoring  
16 your will to be efficient, and also, with the potential  
17 that we might be presenting them in a panel as well. So  
18 we're going to say 30 minutes each, but it could -- you  
19 know, we will work with you to make it as efficient as  
20 possible.

21 MS. PARENT: Old Town Fuel and Fiber?

22 MS. TOURANGEAU: Joanna Tourangeau, for Old Town  
23 fuel and Fiber. I can't imagine that we would need more  
24 than 30 minutes each. I think we would be fine with saying  
25 15 each if we go to two.



1 MS. PARENT: Ecomaine.

2 MR. BOWER: Mark Bower for ecomaine. Similarly,  
3 probably 15 minutes for each witness. I'm not sure how  
4 long they will be cross-examined for, but in terms of the  
5 direct testimony. So, not more than half hour for ecomaine  
6 and similarly for MMWAC.

7 MS. PARENT: Okay. Thank you.

8 The -- have the grouping of Sanborns, Lincolns,  
9 Spencer, and Coffman had enough time to provide me an  
10 estimate? And it's okay if you have not.

11 MR. SPENCER: No, we haven't, but I would think it  
12 could take an hour, hopefully less, maybe two, a half hour  
13 each. But we've just gotten formed as a group. So I'd say  
14 an hour maximum, and you know, hopefully, we'll cut that  
15 down as time approaches.

16 MS. PARENT: And I recognize that you've just been  
17 formed, and I won't be holding anybody to these numbers,  
18 either to increase them or lower them. It's just good to  
19 have a --

20 MR. SPENCER: Yup.

21 MS. PARENT: -- general sense.

22 MR. SPENCER: Right.

23 MS. PARENT: So, thank you.

24 And the Towns of Biddeford and Saco?

25 MR. JACQUES: I would anticipate no more than 30

1 minutes combined.

2 MS. PARENT: And City of Old Town?

3 MR. KATSIAFICAS: Thirty minutes maximum.

4 MS. PARENT: As I think I had mentioned at one  
5 point, we've reserved two days for this hearing. We would  
6 anticipate having the hearing during the daytime hours with  
7 a public comment portion of the hearing in the evening.  
8 We're looking at having the hearing on April 9th and 10th  
9 of 2013, and the public comment portion being during the  
10 evening of April 9th of this year. And as I mentioned for  
11 the public comment portion, we will provide the public an  
12 opportunity to testify under oath, and I have already  
13 indicated that, if in the groupings there is an issue that  
14 is unique to a particular individual, they will be  
15 permitted to testify during the public comment portion as  
16 well.

17 I wanted to open up the discussion with respect to  
18 the ninth and tenth, understanding that there are a lot of  
19 parties involved, so we're trying to -- I wanted to see if  
20 there was anybody who could not make that -- those days and  
21 if there are objections to those days.

22 (No response)

23 MS. PARENT: Seeing none, the procedural order  
24 will indicate that April 9th and 10th will be the days of  
25 the hearing.

1           The Commissioner, when she identified this  
2       application as being an application that was to be held  
3       during a public hearing, had designated the location to be  
4       Augusta. The reasons for that were set forth in her  
5       delegation to me as hearing officer and were posted on the  
6       website as well.

7           We are going to be holding the public hearing  
8       in Augusta understanding that there are -- that this is --  
9       in many ways involves statewide issues and looking at the  
10      representation around the table, there are a number of  
11      parties who are from various parts of the state. I wanted  
12      to provide the parties an opportunity to make any comments  
13      that you would like to make on the location at this time.

14           Mr. Spencer?

15           MR. SPENCER: I think I've requested between six  
16      and ten times DEP officials, including the Commissioner  
17      herself, that there be an opportunity for people in the  
18      greater Old Town area to comment under oath, but you know,  
19      closer to home. And I understand, you know, that this is a  
20      central location, Biddeford, Saco, and Old Town is about  
21      the same distance, but I must mention that, as far as  
22      effects in the near and the far term, it's the people of  
23      that area that are going to bear the long-term burden.

24           We've got -- the Penobscot Nation is just  
25      downstream, you know. You've got Bangor, Brewer, Orono --

1 all these communities, and you've got a thriving scientific  
2 community living around there and, you know, working out of  
3 the University of Maine. So, to make it more difficult for  
4 them -- if the purpose is -- and I agree, you know, if the  
5 purpose is fact finding, I think it would be wonderful if  
6 you could have something up there. Now, would it have to  
7 be, you know, all hands-on deck, you know, at great  
8 expense? I'd think, you know, there would be some salaried  
9 DEP employees, perhaps a site could be furnished up there  
10 at no cost.

11 So I urge you just to consider that, not in  
12 instead of the April 9th and 10th, but in addition to at  
13 some point. Because everybody -- I know I'm going to go  
14 back this afternoon and my wife's going to ask, you know,  
15 and everybody -- so just, anything you want to add to that?

16 MR. LINCOLN: Is there a possibilities of having a  
17 remote communication site at the University of Maine, so  
18 that the people in the communities could meet there and be  
19 able to talk back and forth to the meeting here in Augusta.  
20 Is that a possibility or is the technology not there?

21 MR. COFFMAN: It's there.

22 MS. PARENT: I do know that there would be some  
23 probably some logistical challenges with that.

24 MR. LINCOLN: Really.

25 MS. PARENT: What I do want to make sure that I

1 make sure you understand is that, even if parties are not  
2 able to come to the meeting and testify under oath at the  
3 public comment session, we will be accepting comments,  
4 written comments for this application the way we do with  
5 all of them, and they will be part of the decision-making  
6 process.

7           So, to the extent that there are people who, for  
8 whatever reason, regardless of whether, you know, the  
9 meeting -- the public comment process was held in Augusta  
10 or in another location, could not make it for that day,  
11 they have the opportunity to provide written comment to the  
12 Department until the record closes, and we'll be making  
13 sure that we publish the date of the record closure in  
14 ample time for people to provide their written comments.

15           We do have some logistical challenges that we're  
16 trying to accomplish, and we have noted your request and  
17 your -- for an additional public comment session. The one  
18 with respect to this hearing will be held in Augusta  
19 because of the logistics required with us traveling back  
20 and forth during the hearing time. But please and, you  
21 know, if you know that people want to comment and for  
22 whatever reason can't make it, please let them know that  
23 they have another vehicle to comment, and it will be  
24 considered by the Department in making the application  
25 decision.

1 MS. LINCOLN: Excuse me. I have a question. Is  
2 it possible to communicate with Mike Parker about some  
3 suggestion we may have for a remote site or is that an  
4 inappropriate suggestion?

5 MS. PARENT: It is always proper to communicate  
6 with Mike Parker with respect to the application process as  
7 you would with any application process. The logistics of  
8 the hearing will be presented by me in the procedural  
9 order, and you will have the opportunity to object and copy  
10 all the parties on it. But, as with any application  
11 process, you have the opportunity to communicate with staff  
12 on, you know, any part of that application process. But  
13 the logistics of the hearing will be formally communicated  
14 by me and formally responded to by all the parties copying  
15 each other.

16 MS. LINCOLN: Thank you.

17 MS. PARENT: Yes, Mr. Coffman.

18 MR. COFFMAN: I would also like to suggest that  
19 there be another meeting in Old Town, greater Old Town area  
20 because, you know, I thought, like, we, in government,  
21 would want inclusion, that citizens would be included,  
22 especially citizens that are affected by the policies that  
23 you're deciding on. I don't know who is more affected in  
24 the state than the residents of the greater Bangor -- the  
25 greater Old Town area that Ed spoke about.

1 MS. PARENT: Yes, I've made note of the fact that  
2 there is a request to have it up north -- have it up in the  
3 Old Town area.

4 MR. COFFMAN: And one other reason is that Old  
5 Town can't speak for the citizens, because if Old Town  
6 government objects, it's like a contractual blackmail  
7 that's going on.

8 MS. PARENT: I've made a note of it, sir.

9 MR. COFFMAN: The funding that they're receiving,  
10 stops immediately.

11 MS. PARENT: I've made a note of your request and  
12 your reasons, and the request and reasons of the other  
13 parties.

14 MR. COFFMAN: So the citizens have no one to speak  
15 out for them. They have to come down here.

16 MS. PARENT: At this point, we're moving on, sir.

17 MR. COFFMAN: Thank you.

18 MS. PARENT: To the Transcription of hearing, as  
19 you may have noted today, we have a person -- a person  
20 recording today's meeting. It was not required, but it  
21 will certainly be useful to the parties going forward.

22 The hearing itself, we will have a court reporter  
23 there, a recorder there, taking transcription at the  
24 hearing itself, and we will be making that available, and I  
25 believe the details for that will be in our procedural

1 order. So I wanted to make note of that today.

2 With respect to the schedule, I skipped ahead a  
3 little bit to note that the hearing itself will be held on  
4 April 9th and 10th with the public comment portion, the  
5 sworn public comment portion of the hearing being on the  
6 evening of April 9th here in Augusta.

7 The question of when prefiled testimony is due,  
8 looking at a calendar and counting back to make sure that  
9 there is fair and adequate time for the parties to prepare  
10 and deliver their prefiled objections and rebuttal  
11 testimony, we were seeking to have the date for prefiled be  
12 on February 28th, the objections to the prefiled testimony  
13 being on March 8th, and the rebuttal to the -- the rebuttal  
14 testimony being on March 22nd.

15 I'll pause here to see if anybody has concerns  
16 associated with those particular deadlines for prefiled and  
17 rebuttal and objection testimony.

18 MS. TOURANGEAU: Can I just repeat those? It was  
19 prefiled on February 28.

20 MS. PARENT: February 28th.

21 MS. TOURANGEAU: Objections, March 8.

22 MS. PARENT: That's correct.

23 MS. TOURANGEAU: And rebuttal, March 22nd?

24 MS. PARENT: You've got that correct.

25 MR. SPENCER: I wanted to bring up the possibility



1 of changing that middle date. I believe February 28th,  
2 four weeks from tomorrow, so that's a Thursday. March the  
3 8th is the following Friday. So that gives one weekend  
4 for, you know, we citizen intervenors. So I was wondering  
5 if we could possibly move that March 8th date back to the  
6 following Monday, the 11th, just to afford us more, you  
7 know, nonwork -- give us another weekend to look at the  
8 voluminous, last-minute testimony. And if that -- I know  
9 it cuts the next period down some, but I -- you know, I  
10 just -- when I first saw the schedule, that kind of jumped  
11 out.

12 MS. PARENT: I think that that's a reasonable  
13 request, and --

14 MR. DOYLE: Before you make a decision, we sort of  
15 need to know what the ruling is on the objections before we  
16 prepare rebuttal testimony.

17 MS. PARENT: I was going to look to see timing for  
18 rebuttal as well.

19 MR. DOYLE: So, take that into your calculus of  
20 when these dates are due, because one won't know what to  
21 put in for rebuttal until, you know, when an objection is  
22 sustained and a particular piece of testimony is stricken  
23 because it's not relevant, we obviously don't need to  
24 prepare rebuttal testimony related to it.

25 MS. PARENT: Thank you. In the procedural orders

1 that will be issuing after this hearing, I expect that we  
2 will be moving the date to March 11th. And as Mr. Doyle  
3 suggested, we also will look to make sure that we adjust  
4 the rebuttal testimony to allow for an appropriate time for  
5 rebuttal testimony as well. We're talking about a two- or  
6 three-day swing here as opposed to a larger period of time,  
7 so I think we can find a way to accommodate your request.

8 MR. SPENCER: Sounds great.

9 MS. McBRADEY: Heather, Nancy McBradey for MRC.  
10 Do you think there might be a deadline for demonstratives  
11 as we approach the deadline for the hearing?

12 MS. PARENT: Demonstratives being different than  
13 the exhibits in the prefiled?

14 MS. McBRADEY: Correct. If any parties -- I'm not  
15 speaking that MRC will have any demonstratives, but  
16 demonstratives essentially are the culmination of prefiled  
17 testimony and exhibits provided that they reflect what's in  
18 the record.

19 MS. PARENT: Demonstratives, the deadline for  
20 demonstrative exhibits would be the same as prefiled  
21 testimony.

22 MS. McBRADEY: Okay.

23 MS. MACIROWSKI: The other thing, and this will be  
24 reflected in the next procedural order that comes out, but  
25 it came up in my head as we were going around the room and

1 talking about the time needed. With the prefiled testimony  
2 and the exhibits, then we'll also ask that you state  
3 whether you intend to offer those witnesses as a panel and  
4 then the amount of time that you're requesting. And then,  
5 at the same time as the objections, even if you're not  
6 objecting, that will also be the deadline to submit  
7 something that you then will state the time that you want  
8 for cross-examination of the witnesses. And that will then  
9 help with planning.

10 MS. PARENT: Well said.

11 Are there any other questions with respect to the  
12 schedule of either the actual meeting times or the prefiled  
13 testimony?

14 I'm not sure if this is -- we did have one  
15 evidentiary issue that has come to light. And I'm not sure  
16 whether or not the confidentiality of the PERC-Casella  
17 contract is being alleged. Both the applicant in its  
18 revised application and PERC in its petition for leave to  
19 intervene have cited a small portion of the contract. It's  
20 my understanding, based on a discussion with the DEP staff,  
21 that the applicant doesn't intend to offer the contract,  
22 itself, but that understanding might have changed.

23 Can you -- Mr. Doyle, can you speak to the  
24 contract and whether or not you will be introducing the  
25 entire contract or whether you will be seeking to redact

1 the monetary figures?

2 MR. DOYLE: Well, the parties that to the  
3 contract, PERC and NEWSME Landfill and Casella, have no  
4 objection to submitting the agreement provided that price  
5 terms, sensitive business price terms are redacted from the  
6 agreement, and that sufficient time be given for PERC and I  
7 believe the MRC community -- MRC to communicate with its  
8 member communities about the agreement because they have  
9 not done that yet.

10 So, we were suggesting that to allow time for  
11 those communications to occur, that the agreement be  
12 submitted in that redacted form, I believe on the 14th of  
13 February. Today is the 30th of January.

14 MS. PARENT: So, essentially, two weeks.

15 MR. DOYLE: Two weeks and a day. It's Valentine's  
16 Day.

17 MS. PARENT: What a great present.

18 That would be acceptable to us to have the  
19 contract with just the price terms redacted, the rest of  
20 the contract may be relevant for context or for other  
21 reasons. I would caution you to ensure that only the price  
22 terms be redacted, and if we see entire paragraphs or other  
23 large segments of the contract being redacted, we will most  
24 certainly look unfavorably upon that.

25 Those were the issues that we had identified at

1 the outset of the meeting today, the prehearing conference  
2 today. I did indicate at the beginning of this conference  
3 that Item No. IX would be other issues that arose during  
4 the course of this meeting. So, I wanted to open up the  
5 floor for other issues that are procedural in nature, that  
6 need to come before us today.

7 Mr. Spencer?

8 MR. SPENCER: Yes. Not being a trained in these  
9 things, I'm always confused about what is actually going to  
10 be included in the record for this. For example, I  
11 mentioned some terms contained in the request for  
12 proposals. Now, will that be in there? Do I have to  
13 request that that be made part of the record?

14 And also, you know, I hope we can assume that the  
15 operating services agreement between the state and Casella  
16 and the amendments to that will be part of the record, that  
17 this is an amendment to the DEP license. Right? I assume  
18 that is in there.

19 How about newspaper articles, statements made on  
20 the record? For example, I think Mr. Doyle quoted from a  
21 transcript from a public informational session back a time  
22 ago. Is that included? So, I'll just --

23 MS. PARENT: The record consists of the  
24 application, and you know, you do not have to produce the  
25 application as part of the record. However, most of the

1 other items that you identified, if you want to be sure  
2 that they're part of the record, and if we -- I rule that  
3 they're relevant to the amendment application that's before  
4 us, you need to make sure that you include that as part of  
5 your prefiled testimony. That's the only way to ensure  
6 that some of those items are included in the record. So,  
7 include those as part of your prefiled testimony.

8 MR. SPENCER: Could requests be made for inclusion  
9 in records before the prefiled testimony is done? That way  
10 we'd know if, for example, you know, if you didn't admit  
11 something, then we're not going to waste our time compiling  
12 the testimony that came from there. You know, in other  
13 words, could -- you know, the end of the week or early next  
14 week, could I say, you know, prior to prefiled testimony or  
15 does it have to wait and be part of the prefiled testimony?

16 MS. PARENT: You can ask Mike Parker specific  
17 questions about what can and can't be part of the record.

18 MS. MACIROWSKI: I think Mr. Spencer's question is  
19 not what can be part; it's what is part of the record.

20 MS. PARENT: Okay.

21 MS. MACIROWSKI: So DEP staff would have a good  
22 sense of what's already part of the record. So those would  
23 be the folks to ask if you have a specific question about a  
24 specific document.

25 MR. SPENCER: Okay.

1 MS. PARENT: I encourage you just to communicate  
2 with Mike Parker to ensure that what you believe is part of  
3 the record is actually part of the record, and that would  
4 be the easiest way to answer that question.

5 MS. TOURANGEAU: Is there on the website right  
6 now -- sorry, this is Joanna Tourangeau again -- an index  
7 of any sort to what is in the file already?

8 MS. DARLING: (Shaking head in the negative)

9 MR. TOURANGEAU: Is there an index anywhere?

10 MS. DARLING: Not for this application.

11 MR. DOYLE: But on the other hand, there are a  
12 number of documents that have been posted on the website,  
13 including the updated application. I don't know if you  
14 have response to comments that we just filed on the website  
15 yet.

16 MR. PARKER: I think those are all up there, too.

17 MR. DOYLE: So there are a number of items that  
18 are posted on the website.

19 MS. TOURANGEAU: Oh, yeah, I know. I guess my  
20 thinking was that there probably are some documents that  
21 many parties are going to want to have in the record, and  
22 better to just know that it's already in the record than to  
23 have five or six different parties submit the same thing as  
24 an exhibit, but --

25 MS. PARENT: As information is provided to us, we

1 put it up on the website.

2 Are there procedural issues that are relevant to  
3 what we've been talking about today?

4 (No response)

5 MS. PARENT: Seeing none, the next step -- did you  
6 raise your hand?

7 MR. DOYLE: No.

8 MS. PARENT: The next step that we will have here  
9 is that we will be developing a procedural order detailing  
10 a lot of what we talked about today, providing you some  
11 further definition and clarity as to your roles and  
12 responsibilities as parties and as consolidated parties,  
13 and you know, setting up the next set of deadlines.

14 As we discussed, the prefiled testimony will be  
15 required to be submitted by February 28th, and the  
16 objections will be required to be submitted by March 11th,  
17 and I believe the rebuttal testimony will probably be  
18 submitted March 25th, but the date will be appropriate.  
19 There will be an appropriate adjustment to the rebuttal  
20 testimony date.

21 The redacted contract will be required by  
22 February 14th, with just the redactions to the price terms.

23 And are there any other deadlines?

24 MS. MACIROWSKI: No.

25 MS. PARENT: And so we will be getting out the



1 procedural order as soon as we can, and I wanted to thank  
2 everybody today for a very productive, very professional,  
3 and cordial meeting. I very much appreciate you taking  
4 these three hours to complete this work today. Thank you  
5 all very much. And I'll bang this thing.

6 (Conference adjourned at 12:59 p.m.)  
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## 1 CERTIFICATE

2 I, Christine Fraga Thornton, RPR, a Notary Public  
3 in and for the State of Maine, hereby certify that the  
4 foregoing is a true and accurate record, to the best of my  
5 skill, ability and knowledge, of the evidence as taken by me  
6 by means of mechanical stenography and computer-assisted  
7 translation, of the proceedings held on January 30, 2013, at  
8 Augusta, Maine.

9 I further certify that I am a disinterested person  
10 in the event or outcome of the above-named cause of action.

11 IN WITNESS WHEREOF, I subscribe my hand and affix  
12 my seal this 12th day of February, 2013.

13  
14   
15

16 \_\_\_\_\_  
Christine Fraga Thornton, RPR  
17 Freelance Court Reporter  
Notary Public

18  
19 **CHRISTINE FRAGA THORNTON**  
20 **NOTARY PUBLIC - STATE OF MAINE**  
**My Commission Expires**  
21 **April 10, 2014**  
22  
23  
24  
25