

1 STATE OF MAINE  
 2 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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 7 IN RE: STATE OF MAINE BUREAU OF GENERAL SERVICES  
 8 AND NEWSME LANDFILL OPERATIONS, LLC  
 9 JUNIPER RIDGE LANDFILL  
 10 AMENDMENT APPLICATION TO ACCEPT MUNICIPAL  
 11 SOLID WASTE FROM MAINE SOURCES  
 12 OLD TOWN, PENOBSCOT COUNTY, MAINE  
 13 #S-020700-WD-N-A

12 PUBLIC HEARING

15 HEARING OFFICER: HEATHER PARENT

18 This hearing was held pursuant to Notice at  
 19 the Governor Hill Mansion, 136 State Street,  
 20 Augusta, Maine, on April 9, 2013, beginning at  
 21 9:00 a.m.

1 (This hearing was held before Heather Parent,  
 2 Hearing Officer, at the Governor Hill Mansion, 136 State  
 3 Street, Augusta, Maine, on April 9, 2013, beginning at  
 4 9:00 a.m.)

5 \* \* \* \* \*

6 HEARING OFFICER: Good morning, everybody.

7 Thank you for taking your seats so quickly. We have  
 8 a long day ahead of us and we'd like to start  
 9 promptly at 9. Can everybody hear me? Okay, so I  
 10 guess I'm going to have to lean in. That's all  
 11 right.

12 I now call to order this hearing of the  
 13 Department of Environmental Protection on the  
 14 application from the State of Maine Bureau of General  
 15 Services prepared and submitted by its operator and  
 16 agent, N-E-W-S-M-E, NEWSME Landfill Operations, LLC,  
 17 to amend Department Order S-20700-WD-N-A in order to  
 18 accept municipal solid waste from sources within the  
 19 State of Maine at the Juniper Ridge Landfill as a  
 20 result of the closure of the Maine Energy Facility in  
 21 Biddeford.

22 The purpose of this hearing is to receive  
 23 testimony from the parties and the general public on  
 24 whether the proposed project meets the requirements  
 25 of the Waste Management Act which is in Title 38 of

1 Maine's laws, Section 1301 to 1310-S; the Solid Waste  
 2 Management and Recycling Act, which is in Title 38,  
 3 Sections 2101 and the Solid Management Waste Rules  
 4 which is in the Department Rules 400 to 409.

5 My name is Heather Parent. I'm the policy  
 6 director at the Department of Environmental  
 7 Protection, and I will be the presiding officer at  
 8 this hearing. Other persons present at the table at  
 9 the front of the room are Nancy Macirowski, our  
 10 Assistant Attorney General and counsel to the  
 11 Department; Melanie Loyzim, the Director of Bureau of  
 12 Remediation and Waste Management; Paula Clark, the  
 13 Director of the Division of Solid Waste Management;  
 14 for additional DEP staff there is Cyndi Darling and  
 15 Mike Parker. Our court reporter today is Joanne  
 16 Alley of Alley & Morrisette.

17 At this time, I wanted to make sure that you  
 18 have muted your cell phones and other electronic  
 19 devices. So if you have not done so already, please  
 20 do so at this time.

21 This hearing is being held by the Department  
 22 pursuant to the Maine Administrative Procedure Act,  
 23 Title 5, Sections 9051 to 9064, and Chapter 3 of  
 24 Department of Environmental Protection Rules.

25 Notice of the hearing was published in the

1 Bangor Daily News and the Journal Tribune on March  
 2 14th and March 30th, 2013. Notice was also sent to  
 3 the parties and all of those specifically requesting  
 4 notification. Additionally, press releases and  
 5 public service announcements were distributed to  
 6 regional media outlets on March 12th and April 1st,  
 7 2013.

8 During this hearing the Department will  
 9 receive evidence from the applicant, Maine Bureau of  
 10 General Services, along with its operator and agent  
 11 for JRL, NEWSME Landfill Operations, LLC, and the  
 12 intervenor groups. The intervenors in this  
 13 proceeding are Penobscot Energy Recovery Company,  
 14 which goes by PERC, Municipal Review Committee, which  
 15 goes by MRC, ecomaine, Mid-Maine Waste Action  
 16 Corporation, citizen intervenors Harry Sanborn and  
 17 Laura Sanborn, Wanda Lincoln and David Lincoln, Ed  
 18 Spencer and Ralph Coffman, the cities of Biddeford  
 19 and Saco, the city of Old Town and Old Town Fuel and  
 20 Fiber. We will address the intervenor status of Old  
 21 Town Fuel and Fiber prior to getting to the  
 22 proceedings today.

23 The testimony of the parties was pre-filed  
 24 in advance of the hearing. That testimony is part of  
 25 the record and all of the parties have received

1 copies. We will also address the applicant's  
 2 objection related to pre-filed testimony prior to the  
 3 proceedings today. Today's hearing will begin with  
 4 the testimony from applicant Maine Bureau of General  
 5 Services and its operator and agent for JRL, NEWSME  
 6 Landfill Operations, LLC, followed by cross  
 7 examination of the applicant's witnesses. Please  
 8 note that counsel to the Department and DEP staff may  
 9 ask clarifying questions at any time, although the  
 10 Department will generally hold its questions until  
 11 the completion of cross examination by the parties.  
 12 Following questioning of the applicant by DEP staff  
 13 presentations by the intervenors will generally  
 14 follow the sequence outlined in the Fourth Procedural  
 15 Order, allowing for minor adjustments as needed  
 16 during the course of the proceedings.

17 I believe we have an updated schedule that  
 18 we have put at the beginning of the room.

19 MR. PARKER: It hasn't been changed since  
 20 yesterday.

21 HEARING OFFICER: But that has not been  
 22 changed since yesterday. Following -- following  
 23 questioning of the applicant by DEP staff,  
 24 presentations by the intervenors -- we've discussed  
 25 that. The Department will hear testimony from the

1 At this time I ask that all persons  
 2 testifying to stand and raise their right hand so I  
 3 can swear you in. Do you affirm that the testimony  
 4 you are about to give is the whole truth and nothing  
 5 but the truth?

6 **(Witnesses Respond in the Affirmative)**

7 HEARING OFFICER: Thank you. Are there any  
 8 questions about the procedure we will be following  
 9 during this hearing? Okay, in closing, the goal is a  
 10 fair and productive hearing. Please be aware of time  
 11 constraints and adhere to the time that has been  
 12 allotted to you. Please be concise and keep the  
 13 testimony relevant to the statutory and regulatory  
 14 criteria. Please be aware that the Department has  
 15 read the pre-filed direct and rebuttal testimony.  
 16 The Department is here to listen to and consider all  
 17 of the evidence placed before us. Thank you all for  
 18 your participation.

19 For your information, we plan to break at  
 20 approximately 1 p.m. for lunch and 5:00 p.m. for  
 21 dinner. With that, before we get to the proceedings,  
 22 we have two procedural issues that I had mentioned  
 23 that we should address this morning and then we'll  
 24 get started on the proceedings themselves.

25 With respect to the first procedural issue

1 general public tonight, April 9th, beginning at 6:30  
 2 p.m. here at the Governor Hill Mansion.

3 If there are any members of the public here  
 4 today that would like to ask questions of the  
 5 witnesses, you must submit your questions to me in  
 6 writing. Paper can be made available to you and you  
 7 would provide those questions to this table if you  
 8 would like to have me review those questions. I will  
 9 review those questions, make a determination as to  
 10 their relevance and that they are not repetitive and  
 11 I may ask the questions as time permits.

12 This hearing is being recorded and  
 13 transcribed. All witnesses at this hearing will be  
 14 sworn and all evidence already entered into the  
 15 record will be available during the course of the  
 16 hearing for inspection by anyone who wishes to do so.  
 17 After the hearing, the project file will be available  
 18 for public inspection during regular business hours  
 19 at the DEP office in Augusta.

20 At the conclusion of the hearing, no further  
 21 evidence or testimony will be allowed into the record  
 22 except for matters specifically identified by the  
 23 Hearing Officer. These matters will be identified  
 24 before the close of the hearing on Wednesday, April  
 25 10th.

1 we will address this morning, it deals with an  
 2 objection that we received from the applicant  
 3 yesterday with respect to an appeal to the  
 4 Commissioner on the Third Procedural Order. Because  
 5 the Commissioner has made her decision, I do not have  
 6 the authority to rule on that particular decision or  
 7 the process leading to that decision. There is an  
 8 issue, however, as to whether the chart in that  
 9 appeal is part of the hearing record. The chart is  
 10 one that the citizen intervenors compiled based upon  
 11 reports by Casella to the Department. I note that  
 12 the information of this nature is part of the JRL  
 13 licensing record and that these reports may be  
 14 considered by the Department in its licensing  
 15 decision. Recognizing that the Department can  
 16 consider this information, are the citizen  
 17 intervenors seeking to admit this chart as part of  
 18 this hearing? I'm looking to the representative of  
 19 the citizen intervenors to let me know.

20 MR. SANBORN: No.

21 HEARING OFFICER: That's a no?

22 MR. SANBORN: No.

23 HEARING OFFICER: Okay. Thank you very  
 24 much.

25 THE REPORTER: May I have his name?

1 MR. PARKER: Harry Sanborn.  
 2 HEARING OFFICER: That's a good point.  
 3 Because we have a court reporter here today, if any  
 4 of the parties are responding to me on anything,  
 5 please identify your name so that we can have it as  
 6 part of the record.  
 7 With respect to the second procedural issue,  
 8 Old Town Fuel and Fiber has asked to withdraw as an  
 9 intervenor and to withdraw its sworn pre-filed  
 10 testimony. Chapter 3, Section 11-A-7 provides that  
 11 "the presiding officer shall allow an intervenor to  
 12 withdraw from the participation in a licensing  
 13 proceeding. The presiding officer shall evaluate  
 14 whether any testimony or evidence presented by the  
 15 withdrawing party must be stricken from the record  
 16 because a witness is no longer available for cross  
 17 examination or inclusion of evidence would cause  
 18 undue prejudice to remaining parties." Also,  
 19 paragraph 4 of the Second Procedural Order states "if  
 20 an intervenor believes that he or she is not capable  
 21 of the level of participation expected of an  
 22 intervenor or if an intervenor for any reason no  
 23 longer desires to participate at the level of an  
 24 intervenor, he or she may send an e-mail or letter to  
 25 Michael T. Parker at the Department and state his or

1 her desire to participate as an interested person  
 2 and/or a member of the public rather than as an  
 3 intervenor. There is no time limit set to change  
 4 participation from that of intervenor to that of  
 5 interested person or a member of the public." As the  
 6 pre-filed testimony has been withdrawn, no ruling is  
 7 necessary with respect to that testimony. Old Town  
 8 Fuel and Fiber is permitted to withdraw and as such,  
 9 withdrawal together with the withdrawal of their  
 10 testimony will not result in prejudice of any party  
 11 to this proceeding. So that is with respect to the  
 12 Old Town Fuel and Fiber request for withdrawal. That  
 13 withdrawal has taken place.  
 14 We will now move on to the proceedings  
 15 beginning with the applicant. The applicant has -- I  
 16 apologize -- starting with a statement by the  
 17 Department staff and then following the statement by  
 18 the Department staff we will move on to the  
 19 applicant.  
 20 MR. PARKER: Thank you, Heather. My name is  
 21 Michael Parker. I'm the project manager for the  
 22 proceeding before us today. The applicant, the  
 23 Bureau of General Services, and its agent, NEWSME,  
 24 LLC, submitted the application on September 12th,  
 25 2012. The application was accepted as complete for

1 processing on October 3rd, 2012. Subsequent to that,  
 2 the applicant submitted and its agent submitted a  
 3 revised application in December of 2012. Subsequent  
 4 to that, included in the record right now before us,  
 5 includes the application, the amended application,  
 6 all the public comments that we've received to date,  
 7 all the procedural orders that have been issued by  
 8 the Department and the Hearing Officer. We have all  
 9 the pre-filed testimony. Within the procedural  
 10 orders there were certain documents that the Hearing  
 11 Officer noted were commonly available to the public.  
 12 Those have also been accepted in as part of the  
 13 record today, and that record in its entirety is  
 14 available today for all parties in these proceedings.  
 15 Thank you.  
 16 HEARING OFFICER: Before we get to the  
 17 applicant, if any additional parties have entered the  
 18 room who intend to testify today I can swear you in  
 19 at this time if you have not already been sworn in.  
 20 Are there any additional parties who have entered the  
 21 room who have not been sworn in who plan to testify  
 22 today?  
 23 Okay, applicant, you may proceed with your  
 24 -- with your testimony. Please note that your  
 25 testimony is limited to 120 minutes.

1 MR. DOYLE: And the clock begins at 9:14?  
 2 HEARING OFFICER: We're one minute early.  
 3 MR. DOYLE: Good morning, Madam Hearing  
 4 Officer, Ms. Macirowski, and Members of the Staff and  
 5 Ladies and Gentlemen. My name is Tom Doyle. I  
 6 represent NEWSME Landfill Operations, the operator of  
 7 the Juniper Ridge Landfill. Bill Laubenstein is here  
 8 today on behalf of the Bureau of General Services.  
 9 This proceeding is about allowing additional  
 10 municipal solid waste to be accepted at Juniper  
 11 Ridge, a waste that has been accepted safely at the  
 12 facility in bypass form since 2005. No one can  
 13 seriously question whether Juniper Ridge was designed  
 14 or built to be able to accept municipal solid waste  
 15 or whether it has the proper practices in place to  
 16 accept this waste safely and in an environmentally  
 17 suitable way. The DEP staff know it and have already  
 18 said as much in their review memos on this  
 19 application.  
 20 The evidence will show that the Maine waste  
 21 management infrastructure dramatically changed at the  
 22 end of 2012. Maine Energy, one of our four  
 23 incinerators, closed. The ash and FEPR for Maine  
 24 Energy will no longer be generated and, thus, does  
 25 not need to be disposed at Juniper Ridge. Much of

1 the in-state municipal solid waste that was delivered  
2 to Maine Energy is under contract to Casella and a  
3 disposal location that is environmentally and  
4 economically suitable is now needed for this in-state  
5 municipal solid waste. Juniper Ridge fits this need.

6 Casella reached agreement with PERC to send  
7 it at least 30,000 tons annually of in-state  
8 municipal solid waste that used to go to Maine  
9 Energy. The evidence will show that if this  
10 application is approved, this will mean an additional  
11 \$450,000 annually for PERC and indirectly to MRC  
12 communities because of the out-of-state waste it will  
13 displace. That leaves up to 93,000 tons of in-state  
14 MSW that BGS and NEWSME seek acceptance -- seek  
15 approval for acceptance to Juniper Ridge.

16 The evidence will also show that Casella  
17 offered to send a portion of this MSW volume to both  
18 ecomaine and MMWAC but they were either not able to  
19 agree on price in the case of ecomaine or not  
20 interested in the case of MMWAC. Ecomaine and MMWAC  
21 see the closure of Maine Energy and the 93,000 tons  
22 of municipal solid waste that needs a disposal home  
23 as a potential windfall for them. They suggest that  
24 they are somehow entitled to this MSW, claiming the  
25 Maine Waste Management Hierarchy requires that it be

1 sent to an incinerator like theirs, but the hierarchy  
2 was never intended to be applied and has never been  
3 applied in such a forced or rigid fashion nor in an  
4 individual facility licensing process like this to  
5 accept an additional volume of waste already accepted  
6 at a facility. In effect, what ecomaine and MMWAC  
7 want is not to have to compete for this MSW in an  
8 open marketplace but for the State to subsidize them  
9 by artificially shutting off an environmentally sound  
10 disposal site, Juniper Ridge, so they can seek to  
11 charge higher prices for this MSW volume, but the  
12 evidence will show that they didn't rely on this  
13 volume of MSW from Maine Energy when Maine Energy was  
14 operating. They didn't have contracts with these  
15 Maine Energy communities or customers and they now  
16 compete for this MSW in an open marketplace and they  
17 now can compete for this MSW in an open marketplace  
18 if they so choose. It is inappropriate for MMWAC and  
19 ecomaine or any of the other member communities to  
20 suggest that disposal options of other Maine  
21 municipalities outside of their service areas should  
22 be limited or somehow forced to use and, in effect,  
23 subsidize their facilities at a higher cost.

24 The evidence will show that this application  
25 meets all applicable DEP review standards and is

1 consistent with the Waste Management Hierarchy, even  
2 if that State policy has no standards that can  
3 lawfully be applied to an application of this type.

4 The evidence will show that there are  
5 significant benefits to many parties and the State if  
6 this application is approved. First, there will be  
7 an environmentally acceptable disposal location for  
8 up to 93,000 tons of in-state MSW for Maine  
9 communities and businesses; second, approximately  
10 200,000 tons of out-of-state waste will no longer  
11 need to be brought in to Maine; third, enhanced  
12 recycling opportunities will now exist for Biddeford,  
13 Old Town, all of the other 187 MRC communities and  
14 other Maine municipalities; fourth, PERC and  
15 indirectly the MRC communities will receive an  
16 additional \$450,000 annually from Casella delivering  
17 30 tons of in-state municipal solid waste to PERC and  
18 displacing the same amount of lower priced  
19 out-of-state MSW; fifth, Old Town will benefit from  
20 increased host fees from this additional MSW volume;  
21 sixth, the life of Juniper Ridge will be extended  
22 slightly compared to when Maine Energy was operating;  
23 seventh, traffic to Juniper Ridge will be reduced;  
24 eighth and finally, ecomaine and MMWAC will be able  
25 to compete on an open and level playing field for the

1 very same waste stream once the existing contracts  
2 expire and today for any MSW that is not currently  
3 under contract.

4 In summary, the evidence will show that this  
5 application meets all applicable licensing standards  
6 and is consistent with the Waste Management  
7 Hierarchy; therefore the Commissioner should approve  
8 it.

9 With that, let me give you a little roadmap  
10 of the rest of our presentation this morning. We  
11 have six witnesses. I'm not sure we're going to take  
12 the entire two hours. If we have time left over, I'd  
13 like to reserve that time for some additional cross  
14 examination for BGS and NEWSME. We're going to do  
15 this as efficiently and as focused as possible.

16 With that, let me introduce our first  
17 witness. Mike Barden is the manager of state-owned  
18 landfills, a position within the Department of  
19 Economic and Community Development. He has held this  
20 position since September of 2012. Previously Mike  
21 had been employed as the senior planner in the  
22 Governor's Energy Office, grants administrator for  
23 Efficiency Maine Trust and the Public Utilities  
24 Commission, environmental affairs director with the  
25 Maine Pulp and Paper Association and as a division

1 director with the Maine DEP. Mike holds a bachelor  
2 of science -- holds bachelor of science degrees in  
3 chemistry and microbiology and a master of science  
4 degree in regional resource planning. Mike.

5 MR. BARDEN: Thank you, Mr. Doyle. Again,  
6 my name is Mike Barden. I'm assuming this is on. Is  
7 this better?

8 HEARING OFFICER: Thank you.

9 MR. BARDEN: As Tom noted, my effective date  
10 of hire in this position was September 24th, 2012.

11 Juniper Ridge Landfill is one of three state-owned  
12 landfills in the state. We have Juniper Ridge, which  
13 obviously is an active landfill, Dolby Landfill in  
14 Millinocket is also an active landfill, Carpenter  
15 Ridge is a permitted but undeveloped site in an  
16 unorganized territory near Lincoln, Maine. Ownership  
17 of the state-owned landfills resides with the  
18 Department of Administrative and Financial Services,  
19 the Bureau of General Services.

20 HEARING OFFICER: If I can interrupt you,  
21 can you please speak into the microphone so that the  
22 people behind you can hear you? Thank you.

23 MR. BARDEN: The management oversight  
24 resides with the Department of Economic and Community  
25 Development and the duties, roles and

1 responsibilities of the respective agencies are  
2 implemented through an interagency MOU which we've  
3 included in our pre-filed testimony as Exhibit 1.

4 In regards to the Juniper Ridge Landfill, I  
5 have reviewed the 2011 Annual Report, the Operating  
6 Services Agreement which was signed between the State  
7 and Casella in 2004, the 2011 Water Quality  
8 Monitoring Reports, Cell 8 Construction Reports, I've  
9 conducted one site visit to the facility, attended  
10 two Juniper Ridge Landfill Advisory Committee  
11 meetings, and in addition, NEWSME or Casella provides  
12 me with monthly activity reports on landfill  
13 activities which I in turn provide copies to the  
14 Juniper Ridge Advisory Committee as well as  
15 interested parties, including municipal offices in  
16 Old Town, Alton and Orono.

17 The State, myself and the Assistant Attorney  
18 General reviewed this application, the pending  
19 application before us as well as the December 2012  
20 modification which was prepared by Casella which  
21 included insertion of minor editorial changes as well  
22 as what we felt was appropriate to put a cap on the  
23 municipal solid waste that was coming to the landfill  
24 which reflected the three-year average of MSW that  
25 was going from in-state waste to the Maine Energy

1 Recovery facility in-state communities as well as the  
2 soft layer and bypass which came to 123,000 tons.  
3 That was subsequently amended by the contract between  
4 PERC and Casella which is diverting 30,000 of that  
5 tonnage to the PERC facility leaving a cap at the  
6 Juniper Ridge Landfill for MSW of 93,000 tons which  
7 includes soft layer as well as bypass. So that would  
8 be the cap on the landfill.

9 Based on our review of the Operating  
10 Services Agreement as well as all applicable DEP and  
11 federal requirements, we believe the pending  
12 application is consistent with these provisions and  
13 we recommend that the DEP approve the application as  
14 submitted. Thank you.

15 MR. DOYLE: Thank you, Mike. I'm just going  
16 to do this next introduction from here rather than  
17 keep popping up to save time. Our next witness is  
18 Brian Oliver. Brian is the regional vice president  
19 for Casella Waste Systems and vice president of  
20 NEWSME Landfill Operations, LLC, the operator of  
21 Juniper Ridge. Brian has worked with Casella since  
22 1996. He earned his bachelor's degree in business  
23 administration from Bryant College and his master's  
24 of science in administration from St. Michaels  
25 College. He will discuss the events that led to the

1 submittal of this application, how it was consistent  
2 with the State's Waste Management Hierarchy and the  
3 multiple benefits that result from this application.  
4 He will also present his rebuttal testimony to  
5 certain aspects of the testimony of the Sanborns,  
6 MMWAC, ecomaine and Mr. Spencer. Brian.

7 MR. OLIVER: Thank you, Tom. Can everybody  
8 hear me okay? My responsibilities as vice president  
9 include oversight of all Casella facilities and  
10 operations in the state of Maine. I'm extremely  
11 proud of Casella as a company and of the 350  
12 hard-working Casella employees in the state of Maine  
13 who work every day to provide cost effective,  
14 comprehensive solid waste management solutions to the  
15 communities and businesses in the state of Maine.

16 This application asks that the bypass-only  
17 conditions in the current license that limit MSW  
18 disposal at JRL be modified to allow disposal of up  
19 to 93,000 tons of in-state MSW each year. This would  
20 provide the Maine communities and businesses that use  
21 the Maine Energy facility an environmentally and  
22 economically sound option to handle the part of their  
23 waste streams that cannot be reused or recycled. The  
24 JRL is a state-owned asset and the municipalities and  
25 businesses in Maine should be provided the ability to

1 utilize that asset. This amendment application is  
2 not proposing a new waste stream or a condition that  
3 was not anticipated in the granting of the facility  
4 license in April of 2004. In our application and as  
5 exhibits to my testimony, we've provided very clear  
6 documentation that accepting MSW at JRL has been  
7 anticipated throughout Casella's involvement with the  
8 state-owned landfill.

9 One event in particular that was  
10 contemplated was the potential shut down of one of  
11 the incinerators. With the closure of Maine Energy  
12 at the end of last year, we saw just such an event.  
13 In my pre-filed testimony, I explained the long  
14 process in which Casella and Biddeford have worked  
15 cooperatively to find a mutually-agreeable strategic  
16 approach for Maine Energy, including the possibility  
17 of it being closed. This closure of Maine Energy  
18 means that the in-state MSW that the plant was  
19 incinerating needs another disposal site. These are  
20 Casella customers and we have a responsibility to  
21 take their MSW to a disposal facility licensed to  
22 accept their material.

23 In our initial application, we agreed with  
24 the Bureau of General Services to limit the amount of  
25 MSW that would be sent to JRL to 123,000 tons per

1 year from in-state customers. This tonnage number  
2 was based on the three-year average of in-state MSW  
3 accepted at Maine Energy combined with bypass and  
4 soft layer MSW from Maine Energy sent to JRL. This  
5 tonnage cap would ensure that these in-state  
6 customers have a disposal option for their waste.  
7 All contracted out-of-state waste that previously was  
8 sent to Maine Energy would be diverted to facilities  
9 outside the state of Maine.

10 We amended the application and reduced the  
11 tonnage cap to 93,000 tons per year because we've  
12 recently executed an agreement with the Penobscot  
13 Energy Recovery Company that reduces the amount of  
14 MSW we were asking to be disposed of at JRL. If this  
15 application is approved, Casella will deliver at  
16 least 30,000 tons of in-state MSW to PERC each year  
17 until 2018. This provision will help stabilize  
18 PERC's MSW supply base which is necessary to keep  
19 electricity generation at full capacity, will allow  
20 PERC to displace out-of-state MSW currently being  
21 combusted at PERC and will generate approximately  
22 \$450,000 annually of additional tipping fees for  
23 PERC.

24 The Casella/PERC Agreement also contains a  
25 section providing for a very robust recycling

1 opportunity for the PERC communities. Currently  
2 communities using PERC run the risk of significant  
3 financial penalties if recycling causes the tonnage  
4 they deliver to PERC to go down. In the future, for  
5 any of PERC's charter municipalities that join  
6 Casella's Zero Sort Recycling Program, Casella will  
7 replace delivery shortfalls to PERC resulting from  
8 this recycling with additional MSW. Our intent is to  
9 source this with in-state MSW; therefore, there will  
10 be no financial penalty for these charter  
11 municipalities as a result of increased recycling  
12 with Casella and the PERC facility will receive the  
13 necessary fuel.

14 Multiple parties argue, in essence, that the  
15 application should be denied simply because the MSW  
16 in question could be incinerated instead of  
17 landfilled. As explained in the application and my  
18 prior testimony, this is a cramped view of the solid  
19 waste hierarchy which was never intended to be  
20 applied as a permitting standard to an individual  
21 applicant but rather as a guide to inform the State  
22 in adopting legislation and rules regulating solid  
23 waste.

24 This application is entirely consistent with  
25 Maine's Waste Management Hierarchy for multiple

1 reasons. First is waste reduction. With the closure  
2 of Maine Energy, Casella has stopped accepting the  
3 170,000 tons of out-of-state waste that used to be  
4 incinerated there. Casella has appropriately  
5 organized delivery of those out-of-state tons to  
6 licensed facilities outside the state in instances  
7 where we have contracts. The ash and other residues  
8 from Maine Energy that were disposed of at JRL have  
9 stopped as well resulting in a significant source  
10 reduction of in-state waste. In addition, the 30,000  
11 tons per year of in-state waste that Casella will  
12 deliver to PERC that I mentioned earlier will  
13 displace approximately the same amount of  
14 out-of-state MSW that was previously being combusted  
15 at PERC. In total, this represents a reduction of  
16 approximately 200,000 tons of out-of-state waste  
17 coming to Maine.

18 I'm going to look to Jeremy. I'd like to  
19 further clarify this topic by discussing a table  
20 that's Exhibit 15. There's confusion regarding the  
21 170,000 tons of out-of-state waste that's being  
22 pushed back out of state, the 30,000 tons of in-state  
23 waste that we've agreed to provide to PERC and the  
24 50,000 tons of category 4 and category 5 MSW in the  
25 PERC agreement. So hopefully this clarifies things.

1 If you look at 2011, the state brought in 264,137  
 2 tons of out-of-state MSW. PERC brought in 91,162.  
 3 Now, of this, 17,500 tons is committed to PERC -- has  
 4 been committed to PERC since 2001 per an agreement  
 5 and it will continue to be provided to PERC per the  
 6 existing agreement. So it's been going there for the  
 7 last 12 years and it will continue to go there per  
 8 the existing agreement. So third parties brought in  
 9 73,662 tons to PERC, MMWAC brought in 118 tons,  
 10 ecomaine 2,966 and Maine Energy brought in almost  
 11 170,000 tons. So if you fast forward to the future  
 12 and you look at Maine Energy has closed and if the  
 13 amendment application is approved, we will still  
 14 bring in the 17,500 tons to PERC that we're committed  
 15 to bring in that have been coming in from  
 16 out-of-state. Category 5 has us bringing in 32,500  
 17 tons that commercially reasonable efforts need to be  
 18 provided to bring that in if PERC requests it. Now,  
 19 those, 32,500 tons will replace some of the  
 20 deliveries by third parties of the 73,662. So those  
 21 will be tons that were going to PERC and will  
 22 continue to go to PERC but brought in by a different  
 23 vendor; 30,000 tons will be provided to PERC of  
 24 in-state MSW, so you're going to see that the third  
 25 parties instead of 73,662 will bring in about 11,000

1 tons. So PERC will bring in 30,000 tons less of  
 2 out-of-state waste. Maine Energy will not bring in  
 3 the 170,000. There is absolutely no linkage of the  
 4 50,000 tons of category 4 and 5 waste to the 200,000  
 5 tons that will not be coming in. Those 200,000 tons  
 6 will not come into the state of Maine and that's a  
 7 fact. It's a 76 percent reduction of out-of-state  
 8 waste coming in. Thank you, Jeremy.  
 9 The second is recycling. Expanding zero  
 10 sort recycling by Casella will significantly increase  
 11 recycling. Casella's zero sort system allows  
 12 residents and businesses to commingle all recyclable  
 13 materials into one container requiring no source  
 14 separation. When you make recycling easier, as zero  
 15 sort does, more volume is recycled, more people  
 16 recycle and much less waste is disposed. Biddeford  
 17 and the 13 tri-county communities that used to use  
 18 Maine Energy for waste disposal all have recycling  
 19 programs. These programs reduce the amount of MSW  
 20 that will be disposed at JRL. The acceptance of  
 21 these communities' residual MSW at the JRL will not  
 22 affect these programs and there is no contract  
 23 language in their agreements with Casella that limits  
 24 their ability to continue to expand their recycling  
 25 programs. Casella has met with the tri-county

1 communities and offered to work cooperatively with  
 2 them in an effort to enhance their recycling efforts.  
 3 Casella will also be initiating its Zero  
 4 Sort Curbside Recycling Program in Biddeford in July  
 5 2013 which will dramatically increase the recycling  
 6 rate in that city. Casella has also amended the  
 7 Residential Refuse and Collection Agreement with Old  
 8 Town to extend the agreement for an additional five  
 9 years subject to approval of this application. The  
 10 Old Town amendment would provide 64-gallon recycling  
 11 toters at Casella's expense to every household in Old  
 12 Town in an effort to further increase this recycling  
 13 percentage.  
 14 Lastly, as another example of its efforts to  
 15 expand recycling, Casella has just executed an  
 16 agreement with the city of Lewiston to construct a  
 17 zero sort processing facility. This facility will  
 18 handle the in-state recyclable materials currently  
 19 sent to Charlestown, Mass, and be the catalyst to  
 20 expand recycling efforts in the state of Maine and  
 21 further assist the state in achieving its recycling  
 22 goals.  
 23 Casella will also undertake commercially  
 24 reasonable efforts to dispose of non-recyclable  
 25 residue generated from the processing of these

1 recyclable materials in the Lewiston facility at the  
 2 Mid-Maine Waste Action Corporation incinerator  
 3 located in Auburn, Maine, unless that facility is  
 4 unable or unwilling to accept such material.  
 5 Third is incineration. As discussed earlier  
 6 and described more fully in our application, Casella  
 7 is providing a wide range of fuel supply  
 8 stabilization to PERC that also allows the  
 9 communities using PERC to recycle without suffering a  
 10 financial penalty if their deliveries to PERC go down  
 11 as a result of recycling. Two incinerators, MMWAC  
 12 and ecomaine, present nearly identical direct  
 13 testimony on the economic constraints of operating an  
 14 incinerator, arguing that the DEP should deny the  
 15 application to prevent them from having to compete  
 16 with JRL for MSW, both, therefore, want DEP to  
 17 artificially increase the supply of MSW to them by  
 18 denying the application in hopes that this new  
 19 guaranteed revenue source will offset their loss of  
 20 power sales revenue and thus allow them to stay  
 21 competitive with other facilities. They essentially  
 22 want the DEP to exercise state-wide flow control.  
 23 The JRL amendment application does not propose to  
 24 serve as a disposal site for MSW from any Maine  
 25 municipality under current contract to any of the

1 three remaining incinerators. In fact, one of those  
 2 three, PERC, has submitted testimony in support of  
 3 the JRL application. It is inappropriate and,  
 4 indeed, presumptive for MMWAC, ecomaine or any of  
 5 their member municipalities to suggest that the  
 6 disposal options of other Maine municipalities  
 7 outside of their service areas should be limited to  
 8 somehow force them to utilize and, in effect,  
 9 subsidize MMWAC or ecomaine at potentially a higher  
 10 cost.

11 They both also ignore the fact that other  
 12 Maine landfills, Tri-Community, Presque Isle, Hatch  
 13 Hill, Crossroads, Bath and Brunswick are currently  
 14 licensed to and do accept MSW from Maine communities;  
 15 in other words, what is being proposed for JRL is  
 16 already the norm at other landfills across the state.  
 17 Neither MMWAC or ecomaine has claimed in its  
 18 testimony that disposal of MSW at these landfills is  
 19 jeopardizing the economic viability of their  
 20 facilities. All this application asks is for JRL to  
 21 be regulated the same way as other Maine landfills  
 22 that are licensed to accept municipal solid waste.  
 23 They are not limited to only what is bypassed from  
 24 Maine incinerators and they have no annual tonnage  
 25 limit on the MSW they can accept for disposal.

1 In conclusion, there are many benefits to  
 2 several parties involved in this proceeding from the  
 3 decision to sell and close Maine Energy and the  
 4 approval of this application. PERC and its partners,  
 5 including the MRC communities, will get at least  
 6 30,000 tons per year of additional in-state MSW that  
 7 will generate approximately \$450,000 of additional  
 8 revenue annually because it will displace  
 9 out-of-state sources that pay significantly lower  
 10 disposal fees. The city of Old Town will get  
 11 additional host community revenue on this material  
 12 under the provisions in Casella's 2005 Host Community  
 13 Agreement with the city which specifically  
 14 contemplated MSW from the closure of Maine Energy  
 15 being permitted for disposal at JRL. If this  
 16 application is approved, Old Town will also begin  
 17 benefiting from an escalator on the \$2.50 per ton fee  
 18 on this MSW.

19 Although approval of this application is no  
 20 longer a precondition of the sale of Maine Energy,  
 21 Casella's commitment to its relationship with  
 22 Biddeford in proceeding with that transaction allows  
 23 the city to fulfill a decade-long goal of closing  
 24 Maine Energy, thereby unleashing opportunities for  
 25 economic development in Biddeford. Approximately

1 200,000 tons of out-of-state waste previously or  
 2 currently delivered to Maine will get pushed back  
 3 out-of-state; opportunities for robust recycling  
 4 opportunities will be pursued to help Maine reach its  
 5 recycling goals and to further reduce waste disposal;  
 6 fewer tons will be delivered annually to the JRL as a  
 7 result of this transaction saving valuable land  
 8 space; a transfer station has been constructed in  
 9 Westbrook to handle material that used to go to Maine  
 10 Energy, providing additional revenue and job creation  
 11 opportunities in that community.

12 Lastly, a state of Maine asset, JRL, will be  
 13 utilized for Maine communities and businesses. Thank  
 14 you.

15 MR. DOYLE: Thank you, Brian. Our next  
 16 witness is Michael Booth. Mike is a licensed  
 17 professional engineer in the state of Maine and is  
 18 employed as a senior project manager at Sevee and  
 19 Mahar engineers. Mike has over 30 years of  
 20 environmental engineering experience and his  
 21 principal area of focus has been solid waste  
 22 management with an emphasis on landfill design and  
 23 operations. Mike was involved with the Juniper Ridge  
 24 Landfill since its inception in 1993 when he assisted  
 25 with the siting and design of the facility for James

1 River. He also directed the design and preparation  
 2 of the permit application for the vertical increase  
 3 and the additional waste streams amendment at Juniper  
 4 Ridge that was approved by the Department in 2004.  
 5 He is familiar with the standards of practice  
 6 relating to landfill design, the DEP's landfill  
 7 licensing standards and disposal of MSW in secure  
 8 landfills like Juniper Ridge. Mike will testify on  
 9 various issues addressed in the application,  
 10 including liner design, leachate quantity and  
 11 quality, landfill capacity, landfill gas generation  
 12 and traffic. He will also present his rebuttal  
 13 testimony to certain aspects of the testimony of the  
 14 Sanborns. Mike.

15 MR. BOOTH: Thanks, Tom. Can you hear -- I  
 16 was wondering if that was --

17 HEARING OFFICER: Please use the microphone  
 18 at the table.

19 MR. BOOTH: Good morning. My testimony will  
 20 address the technical aspects of the application  
 21 describing a process undertaken to quantify the  
 22 effects of the proposal on various design related  
 23 issues. I will describe and summarize the various  
 24 conclusions I reached in this application associated  
 25 with these items. Finally, I will be rebutting

1 several points made in the Sanborns' pre-filed  
 2 testimony.

3 The starting point for this process was to  
 4 quantify what will change in the waste mix as a  
 5 result of this application. I did this by comparing  
 6 the types and amount of waste taken to the landfill  
 7 in 2011, including the Maine Energy residuals, to  
 8 what the values would be with Maine Energy closed and  
 9 the residuals no longer taken to the landfill and  
 10 replaced with the in-state MSW proposed in this  
 11 application. I completed a similar analysis using  
 12 three years of data from Maine Energy from the  
 13 periods between 2009 and 2011. I then evaluated  
 14 whether those changes made material changes in the  
 15 assumptions used to permit the landfill back in 2004  
 16 or the current site operation. I looked at items  
 17 such as liner configuration, leachate and landfill  
 18 gas generation and collection system design and  
 19 operational considerations such as traffic, cell  
 20 layout and cell capacity. From an engineering  
 21 standpoint, there are two items that most influence  
 22 the outcomes of this evaluation. They are, will the  
 23 proposal change the amount of material disposed of at  
 24 the landfill? The answer to this is no. Will this  
 25 proposal change the overall physical and chemical

1 properties of the landfill mass? Again, the answer  
 2 to this is no. Let me explain in a little more  
 3 detail. The proposal will reduce the total tonnage  
 4 accepted at the facility by about five percent as  
 5 shown in the initial tables in the application. As  
 6 an example, using 2011 data, the landfill took in  
 7 704,000 tons of material that was placed in the  
 8 landfill. With this proposal, that amount would be  
 9 669,600 tons. This affects issues such as truck  
 10 traffic, development capacity and landfill life.

11 Secondly, the proposal will only affect  
 12 about 30 percent of the materials placed in the  
 13 landfill. The remaining 70 percent of the materials  
 14 will remain the same. Again, this affects things  
 15 such as leachate quality, landfill life.

16 And, finally, the percentage of MSW type  
 17 materials will only increase by about three percent  
 18 as a result of this application from 20 to 23  
 19 percent. When I speak of MSW materials, I include  
 20 FEPR in that number as well as the MSW which is  
 21 bypassed as part of this application. This affects  
 22 things such as leachate quality. I'd like to review  
 23 and kind of give a basic overview of some of these  
 24 specific items and what the effects are. As far as  
 25 leachate quantity, the proposed change will have no

1 impact on leachate quantity. This was a conclusion  
 2 that was also reached by DEP staff in an independent  
 3 review. The reason for this is the amount of  
 4 leachate a facility will generate is based on a  
 5 number of variables such as the physical properties  
 6 of the waste, the amount of open operational area,  
 7 precipitation and the facility's cover practice. Our  
 8 estimates back in 2004, which is a basis for the  
 9 leachate design for this system and the agreement  
 10 with the Old Town mill to treat the leachate from the  
 11 facility, have proven to be conservative. We  
 12 estimated the annual leachate generation back in 2004  
 13 to range between 13 and 15 million gallons. Over the  
 14 last few years, the site has generated in the range  
 15 of 9 to 11 million gallons, principally because of  
 16 the aggressive covering practices the facility  
 17 follows. Since none of these items described above  
 18 will change, I anticipate the leachate generation  
 19 rates will stay similar to the current rates with  
 20 this application.

21 Leachate quality. Leachate quality will  
 22 also not change in any appreciable manner due to this  
 23 application. Again, this is a similar conclusion.  
 24 It has also been reached by the DEP staff in their  
 25 independent review. I base this assessment on a

1 comparison of JRL's current leachate with leachate  
 2 from MSW landfills and the small changes in the  
 3 amount of MSW that will be received at the site.  
 4 Based on this conclusion, the leachates will be very  
 5 similar.

6 Gas management. As part of this  
 7 application, we had Sanborn, Head Associates,  
 8 Casella's landfill gas consultant, evaluate the peak  
 9 landfill gas generation rates associated with this  
 10 proposal and compare them with the projections that  
 11 were done as part of the 2004 permit. This analysis  
 12 basically indicated that the original analysis was  
 13 conservative and the peak amount of leachate gas  
 14 generated from this proposal would be less than what  
 15 was used to permit the facility back in 2004. It is  
 16 also less than what was the basis for the recently  
 17 issued MDEP permit.

18 Landfill capacity consumption. The proposed  
 19 change in the additional MSW will not have a  
 20 significant impact on the in-place density and with  
 21 the reduced amount of overall waste received at the  
 22 landfill capacity consumption, in fact, the landfill  
 23 life will be slightly extended. I reach this  
 24 conclusion looking at the weighted average densities  
 25 before and after this proposal and the overall amount

1 of waste received at the site. As explained in the  
 2 application, the weighted average density is not the  
 3 actual in-place waste density, which is -- it would  
 4 be higher because of issues such as commingling,  
 5 consolidation and secondary decompositions of the  
 6 waste placed in the landfill.

7 Typically what the application showed in  
 8 table 3.1 was that the average waste density before  
 9 and after this proposal was the same at .53 tons per  
 10 cubic yard. The actual in-place waste density that  
 11 we measure in the active area of the landfill is .91  
 12 tons per cubic yard after placement, and after years  
 13 of placement, looking at yearly compaction rates, we  
 14 are seeing compaction rates -- long-term compaction  
 15 rates of over a ton per cubic yard; therefore, as  
 16 indicated, I project the landfill life will be  
 17 slightly greater than proposed because of the reduced  
 18 amount of material as part of this proposal and  
 19 similar in-place waste densities.

20 With respect to traffic, the proposal will  
 21 actually result in fewer truck trips to JRL. This  
 22 analysis was done starting with the actual waste  
 23 truck trips to the facility in 2011 to determine the  
 24 tons per load of the various types of materials taken  
 25 to the landfill and then applying the various

1 tonnages of the material associated with this  
 2 proposal using those truck loads of tons. Although  
 3 the MSW will be delivered to the facility, less  
 4 incinerator residual will be taken and when you  
 5 compare the truck size to handle these different  
 6 materials, you actually end up with fewer truck  
 7 trips.

8 So in conclusion, based on the analysis  
 9 we've completed on this proposal, I have determined  
 10 that there are no changes in the technical basis for  
 11 the findings of facts related to the design of the  
 12 Juniper Ridge Landfill back in 2004.

13 My rebuttal testimony is associated with two  
 14 portions of the Sanborns' direct testimony. They  
 15 suggested that a compromise solution where the  
 16 in-state MSW could and should be directed to one of  
 17 the three remaining in-state incinerators to replace  
 18 the out-of-state waste which is currently going to  
 19 these facilities, and they're suggesting that somehow  
 20 this application is related to the grade of C minus  
 21 assigned by the American Society of Civil Engineers  
 22 to the solid waste infrastructure in the state. As  
 23 far as a compromise solution, they failed in their  
 24 testimony to consider a number of practical  
 25 considerations, not the least of which is the

1 contractual issues associated with implementing their  
 2 solution. The state is not a party to these  
 3 contracts and it's a fallacy to assume that all  
 4 parties that would be involved in the implementation  
 5 of their solution could reach an agreement to  
 6 implement their compromise solution. They appear  
 7 also not to consider the seasonal patterns in waste  
 8 generation in the state. There is nothing in their  
 9 testimony that demonstrates that the waste is  
 10 generated when it would be needed and the last thing  
 11 we need is excessive MSW sitting on a tipping floor  
 12 during the hot periods of the summer months when the  
 13 majority of -- the higher volumes of waste are  
 14 generated in the state.

15 They also suggest that the hierarchy  
 16 supports their proposal over what is proposed; yet,  
 17 I've reviewed permitting activities for guidance on  
 18 how MDEP has evaluated landfill conformance with a  
 19 hierarchy and as Brian indicated, there are currently  
 20 six landfills in the state that accept MSW and none  
 21 of them have been required to demonstrate that  
 22 they've exhausted all management options higher on  
 23 the hierarchy to accept MSW. As an example, I've  
 24 included in my rebuttal testimony a copy of  
 25 Crossroads Phase 6 landfill expansion application, a

1 facility that's very similar to JRL in that they  
 2 accept a number of different types of waste and they  
 3 accept MSW, however, without the current limitations  
 4 that are on the JRL permit. The Crossroads permits  
 5 contain findings of facts regarding the facility's  
 6 compliance with the hierarchy, identifying that all  
 7 MSW in the state of Maine is subject to voluntary and  
 8 mandatory recycling and resource reduction provisions  
 9 and goals. Compliance with these goals and the  
 10 requirements of the hierarchy is under the direction  
 11 of the state and not the disposal facility. There  
 12 are no requirements that solid waste disposal  
 13 facilities demonstrate or assume responsibility for  
 14 compliance of the generators with the hierarchy.

15 The Crossroads permits also relied on  
 16 evidence in that application similar to what's  
 17 included in our application as far as the applicant  
 18 reducing the amount of solid waste requiring  
 19 disposal. That information is contained in Section  
 20 2.6 of our application and Brian reiterated some of  
 21 those activities that are in there; namely, the  
 22 applicant is doing -- namely, what the applicant is  
 23 doing to promote the reuse, reduce and recycling  
 24 activities in the state and nothing in the contract  
 25 limits the user of that facility from expanding its

1 recycling and reuse programming. Again, Brian  
 2 reiterated that.  
 3 Section 2.6 of the application contains  
 4 detailed descriptions of these activities that Brian  
 5 previously described to expand the main focus of the  
 6 hierarchy; namely, the reduction and reuse -- reuse  
 7 and recycling program expansion and nothing in their  
 8 contracts would limit the ability of the customers to  
 9 recycle. As Brian identified, Casella encourages  
 10 recycling as demonstrated by the activities he  
 11 summarized.

12 The Sanborns suggest that the reason the  
 13 American Society of Civil Engineering assigned a  
 14 grade of C minus to the state's solid waste hierarchy  
 15 was the state's inability to reach the 50 percent  
 16 recycling goal in 2009. First, it's just illogical  
 17 to suggest the reason the state did not reach a goal  
 18 in 2009 has anything to do with an application  
 19 submitted in 2012. More important, if you look at  
 20 the study's recommendations, they have nothing to do  
 21 with Sanborn's direct outcome -- desired outcome for  
 22 this application.

23 I'd just like to review the state's  
 24 recommendations and challenge anyone to match what  
 25 Casella has put forth in the state to meet these

1 goals.  
 2 First, enhancing local/state solid waste  
 3 management programming; second, promote waste  
 4 reduction, recycling and beneficial use programming;  
 5 third, update the state's solid waste policies to  
 6 reflect advancements in the industry; fourth, respond  
 7 to the need for additional capacity and recognize the  
 8 need and time period required for this; and, fifth,  
 9 ensure that changes in the state's solid waste  
 10 management planning at the state, which have changed  
 11 from the State Planning Office to the DEP, do not  
 12 result in lost momentum. Thank you.

13 MR. DOYLE: Thank you, Mike. Our next  
 14 witness this morning is Jeremy Labbe. Jeremy is the  
 15 environmental manager for NEWSME Landfill Operations,  
 16 the operator of Juniper Ridge. He's a licensed  
 17 professional engineer in the state of Maine and a  
 18 Solid Waste Association of North America certified  
 19 manager of landfill operations. Do I have some  
 20 feedback here?

21 HEARING OFFICER: A little bit.

22 MR. DOYLE: Among Jeremy's responsibilities  
 23 at Juniper Ridge are the oversight of landfill  
 24 design, compliance and operations. He received his  
 25 bachelor's degree in civil engineering from the

1 University of Maine and will shortly be defending his  
 2 thesis as he pursues the last step toward his  
 3 master's degree in geotechnical engineering from UMO.  
 4 Jeremy will address the technical aspects of the site  
 5 operations associated with the application. He will  
 6 also present his rebuttal testimony to certain  
 7 aspects of the testimony of Mr. Spencer. Jeremy.

8 MR. LABBE: Thank you, Mr. Doyle. I guess  
 9 this is good preparation for my thesis defense. My  
 10 testimony, as Mr. Doyle stated, will address site  
 11 operations at the Juniper Ridge Landfill with respect  
 12 to this proposal. As I go through this presentation,  
 13 there are a few key points to keep in mind, some of  
 14 which have been discussed by Mr. Booth already.

15 The first is that JRL does currently handle  
 16 municipal solid waste, which we know in the industry  
 17 as MSW, on a regular basis. In fact, in 2011 we  
 18 accepted over 125,000 tons of FEPR and bypass and  
 19 soft layer MSW from Maine incinerators. Our  
 20 operations staff is very familiar with the properties  
 21 of MSW and the procedures to successfully handle this  
 22 material.

23 During the application with regard to  
 24 operations we evaluated two different things; first  
 25 was our current in-place operational procedures

1 relating to MSW, and second was to identify which  
 2 additional procedures, if necessary, should be  
 3 implemented. I will discuss both these items in my  
 4 testimony.

5 We currently operate the facility to  
 6 minimize the generation of odors, to control vectors  
 7 and wind-blown litter, to limit noise and to control  
 8 air emissions. We will continue these efforts in the  
 9 future.

10 I first want to discuss odor control. To  
 11 manage the potential for landfill odors, JRL  
 12 currently uses the following practices; first, we use  
 13 deodorizers and direct application odor neutralizers  
 14 on the waste; second, we use two types of cover as  
 15 part of landfill operations, they're intermediate and  
 16 daily and I'll explain those later; third, we utilize  
 17 an active gas management system that collects and  
 18 flares landfill gas generated by the decomposition of  
 19 landfilled waste; and, fourth, we have preventative  
 20 odor and gas protection surveys and monitoring that  
 21 we complete on a regular basis. Additionally, JRL  
 22 has an extensive odor complaint management and  
 23 response plan in place. These practices have been  
 24 effective in controlling landfill odor and we plan to  
 25 continue utilizing these same practices in the

1 future.

2 To preface a discussion on odors, it's  
 3 helpful to consider there are two main types of  
 4 odors; first is waste related or what we call daily  
 5 odors and the second is landfill gas related or  
 6 decomposition related odors. I first want to discuss  
 7 waste-related odors. From the time a truck arrives  
 8 at JRL, odor control is a very high priority for all  
 9 of our landfill staff. One of the preventative  
 10 measures we take is spray application of odor  
 11 neutralizer on both full and empty trailers of  
 12 odorous waste during warm weather, and there's a  
 13 picture here of one of our trailers we can use to  
 14 apply neutralizer to the waste. We also utilize  
 15 daily cover materials extensively to cover odorous  
 16 wastes and employ a mobile deodorizing spray system  
 17 on the working face of the landfill and a stationary  
 18 deodorizing spray system along the landfill perimeter  
 19 to further reduce the potential, and we only use this  
 20 as weather permits. Here's a picture of one of our  
 21 mobilizer -- mobile spraying units, excuse me.  
 22 Lastly -- excuse me -- I don't want to forget this.  
 23 We also have equipment that directly apply odor  
 24 neutralizers onto the waste as it is unloaded on the  
 25 working face if odors are detected in that waste.

1 And here's a picture of that being done.

2 Lastly we have direct application of  
 3 deodorizers and enzymes that we can apply in odorous  
 4 areas with manpower, and you can see that here. MSW  
 5 materials are currently handled this way successfully  
 6 at JRL and will continue to be done so in the future.

7 The second type of landfill gas related --  
 8 landfill odor is landfill gas related odor, and one  
 9 of the primary measures to contain and control  
 10 landfill gas related odors at the JRL is the use of  
 11 intermediate cover materials. There's a picture  
 12 there of intermediate cover materials with the black  
 13 synthetic material. Our intermediate cover material  
 14 is typically installed multiple times during the  
 15 year, and we typically use synthetic materials on the  
 16 side slope which comprise approximately 90 percent of  
 17 all of our intermediate cover and have found this  
 18 material to be very effective.

19 Soil is typically utilized on the remaining  
 20 top surface which is approximately 10 percent where  
 21 grade is reached and where it is less subject to  
 22 erosion, cracking and movement. In addition to  
 23 intermediate cover and equally important in  
 24 collecting and controlling landfill gas is early and  
 25 extensive gas collection which we install in every

1 cell built at Juniper Ridge.

2 The system employed by JRL goes above and  
 3 beyond industry standards and places horizontal gas  
 4 collection in the waste as the cell is being filled,  
 5 typically monthly, not just when the filling of a  
 6 cell has been completed. You can see here  
 7 installation of a horizontal trench. This  
 8 infrastructure and placement of intermediate cover  
 9 allows us to collect landfill gas from the active  
 10 cell soon after waste is placed, reducing landfill  
 11 gas odor potential. Additionally, vertical gas  
 12 collection infrastructure is placed once waste  
 13 reaches final grade. You can see us installing a  
 14 vertical well here. Each gas collection location can  
 15 be individually monitored and is individually  
 16 monitored as seen with what we call a wellhead here.  
 17 The collection infrastructure is connected to a  
 18 vacuum system which delivers the gas to a flare for  
 19 combustion. Combustion destroys odor causing  
 20 compounds such as hydrogen sulfide.

21 Now, as discussed by Mr. Booth, our current  
 22 landfill gas collection and treatment system is  
 23 adequately sized to handle the landfill gas generated  
 24 as a result of this proposal. These same procedures  
 25 will be used in the future. Additionally, our staff

1 are trained and certified to install landfill gas  
 2 collection infrastructure which gives us the ability  
 3 to install and repair our own gas collection piping  
 4 very rapidly and responsibly. Also, daily odor  
 5 surveys are typically performed around the active  
 6 landfill areas. These surveys include monitoring for  
 7 gas migration and landfill related odors. Also  
 8 additionally, quarterly methane emission surface  
 9 scans are typically completed on the inactive or  
 10 intermediate cover areas measuring methane emissions  
 11 from the landfill surface to assure the effectiveness  
 12 in containing, collecting and combusting landfill  
 13 gas.

14 We have worked very hard to control odor at  
 15 JRL. The effectiveness of our odor management  
 16 practices is evidenced by the decreasing trend in  
 17 odor complaints since we have implemented these  
 18 procedures. In the first few years of operation at  
 19 JRL odor was a significant concern. In 2007, we  
 20 received 241 odor-related complaints via our 24-hour  
 21 landfill complaint hotline. We have reduced these  
 22 complaints substantially year after year since 2007.  
 23 Here's a landfill complaint record form that's filled  
 24 out for every complaint that is received at the  
 25 Juniper Ridge landfill.

1 In 2012, we received only seven odor-related  
2 complaints, only one of which was confirmed to be  
3 from a landfill-related odor. You can see the trend  
4 here.

5 The next topics I will cover are vectors and  
6 wind-blown litter. The use of daily cover is our  
7 primary operational practice to control vectors and  
8 wind-blown litter. We make every effort to utilize  
9 waste products as daily cover. In the industry we  
10 know this as ADC, alternate daily cover, saving  
11 virgin soil materials and conserving resources. We  
12 have adequate waste materials that can be used as  
13 alternate daily cover for this proposal. If we do  
14 have temporary shortages of ADC, we also have sources  
15 of soil that can be utilized as daily cover material  
16 as is an industry practice.

17 Currently the vectors, which are typically  
18 seagulls, are being controlled effectively. In fact,  
19 NEWSME has received only one vector-related complaint  
20 since 2007. JRL currently monitors vectors and  
21 manages vector control closely and will continue to  
22 do so in the future. Should vectors increase, we  
23 would implement additional techniques, including  
24 fencing, overhead wires and outside third-party  
25 control techniques.

1 Now, in addition to daily cover, litter is  
2 also effectively managed using, one, compaction of  
3 waste material as it is offloaded; and, two, litter  
4 control fencing that is placed at the perimeter of  
5 each cell and regular litter patrols. To date,  
6 wind-blown litter at JRL has been effectively  
7 controlled with these procedures described. There  
8 have been no landfill litter-related complaints since  
9 2007. We are prepared to address the potential for  
10 increased wind-blown litter associated with this  
11 additional MSW by using either portable or fixed  
12 litter control fencing directly in the vicinity of  
13 the working landfill face, if necessary. We have  
14 utilized this technology at JRL and at other sites,  
15 including the Pine Tree Landfill in Hampden prior to  
16 its closure, and are very familiar with the proper  
17 techniques for utilization.

18 Next we evaluated noise. Noise due to truck  
19 traffic to and from JRL is exempt from regulation  
20 under DEP's rules; nevertheless, as Mr. Booth stated,  
21 trailer truck traffic to and from the site will be  
22 reduced from when MERC was operating. In addition,  
23 the material accepted will not require additional  
24 landfill-related industrial equipment other than what  
25 is currently used on site and that equipment is not

1 expected to operate in a materially different manner;  
2 therefore, increased noise associated with the  
3 landfill operations will not occur.

4 A site compliance noise study was completed  
5 by Warren Brown of EnRad Consulting during cell three  
6 operation in 2006 and hourly sound levels from all  
7 sources that were measured during the study,  
8 including ambient and exempt sources, were well below  
9 the regulatory limits contained in the DEP's Solid  
10 Waste Management Rules. Because no increased sound  
11 levels are expected from landfill sources regulated  
12 under DEP's rules and as a result of this additional  
13 MSW contemplated in this amendment application, we  
14 will continue to be in full compliance with DEP's  
15 rules.

16 In response to testimony regarding certain  
17 aspects of air emissions, I presented in my rebuttal  
18 testimony our newly-issued air license for the  
19 following reasons; one, JRL air emissions, including  
20 greenhouse gases or in the industry known as GHGs,  
21 were quantified and evaluated in JRL's recent air  
22 emissions license application and then approved by  
23 the Department as part of this new air license; and,  
24 two, the proposed MSW amendment was considered by  
25 both NEWSME and the DEP as part of this air licensing

1 process. The emissions estimates in this application  
2 demonstrated that emissions of greenhouse gases from  
3 JRL would be below regulatory thresholds established  
4 by the EPA and DEP air permitting regulations. The  
5 model results demonstrate that JRL's emissions will  
6 meet federal and state ambient air quality  
7 guidelines, including EPA's new, more stringent  
8 standards for nitrogen oxides, NOx, sulfur dioxides,  
9 SO2, and carbon monoxide, which is CO, at and beyond  
10 JRL's fence line, something that cannot be said of  
11 other facilities within the state.

12 Much time was given for public comment  
13 during this process. Although some members of the  
14 public asked questions of NEWSME during the pre-filed  
15 public hearing prior to the application being  
16 submitted, JRL understands that the DEP did not  
17 receive any formal comments from the public during  
18 any of the three public comment periods nor any  
19 requests for additional public meetings or hearings  
20 on the air license application or draft air license.  
21 The new air license was not appealed and is now  
22 final.

23 To summarize this, greenhouse gas emissions  
24 are regulated by the DEP Bureau of Air Quality and  
25 have already been determined to meet applicable DEP

1 requirements as part of the recent air emissions  
2 license process. Changes in landfill air emissions  
3 associated with this proposed MSW amendment were  
4 addressed in JRL's air license application and the  
5 public had ample opportunity to comment but chose not  
6 to.

7 So my conclusions would be as follows; first  
8 off, our staff is very experienced in handling MSW  
9 materials and has successfully handled these  
10 materials, including the handling of over 125,000  
11 tons of MSW materials in 2011; second, we recognize  
12 that MSW does have the potential to generate odor,  
13 wind-blown litter and to attract vectors, and we have  
14 procedures in place to effectively control these  
15 items; third, should additional items become  
16 necessary, our staff is qualified and prepared to  
17 implement them as necessary; and, fourth, the DEP has  
18 determined that emissions from JRL will meet all DEP  
19 air quality and air permitting requirements,  
20 including the new EPA ambient air quality standards  
21 as modeled using EPA's most up-to-date model. Thank  
22 you.

23 MR. DOYLE: My lapel mike appears to be on  
24 the fritz so I'm back at the podium. Our next  
25 witness is Don Meagher. Don is the manager of

1 planning and development for the eastern division of  
2 Casella. He has worked in the field of solid waste  
3 management for approximately 27 years, including  
4 eight years as vice president of planning at the  
5 Eastern Maine Development Corporation, and for the  
6 past 19 has worked in the private sector including  
7 with Sawyer Environmental and Casella. Don holds a  
8 bachelor of arts degree in biology from Beloit  
9 College and a master's in regional planning from the  
10 University of Pennsylvania. Don will be rebutting  
11 certain aspects of the testimony of Mr. Kazar and Mr.  
12 Roche related to the initial RFP for JRL and that of  
13 Mr. Spencer regarding the Operating Services  
14 Agreement. Don.

15 MR. MEAGHER: Good morning. Is the volume  
16 good?

17 HEARING OFFICER: It is, thank you.

18 MR. MEAGHER: Ed Spencer, ecomaine and MMWAC  
19 argue that the Operating Services Agreement or OSA  
20 between the state and Casella prohibits the disposal  
21 of MSW at JRL. This is incorrect. The types of  
22 waste that are allowed under the OSA are determined  
23 by the definitions of acceptable waste and excluded  
24 waste in the OSA. Acceptable waste according to the  
25 OSA is, and I quote, "such material as may from time

1 to time be legally accepted at the landfill in  
2 accordance with applicable DEP permits and other  
3 applicable laws and regulations excluding, however,  
4 all excluded waste. MSW is currently an acceptable  
5 waste at JRL approved by the DEP in 2004. This  
6 application is simply to have the bypass only  
7 conditions removed. The definition of excluded waste  
8 in the OSA only prohibits two specific categories of  
9 waste, waste generated outside Maine and hazardous  
10 waste. No other waste types, including MSW, are  
11 listed as excluded waste in the OSA. This  
12 application does not propose disposal of out-of-state  
13 waste or hazardous waste at JRL; therefore, the  
14 proposed application is not prohibited in any way by  
15 the OSA. Thank you.

16 MR. DOYLE: Our final witness this morning  
17 is Abbey Webb. Abbey is a senior environmental  
18 analyst at Casella Waste Systems where she manages  
19 Casella's company-wide greenhouse gas emission  
20 reporting and reduction projects. She holds a  
21 bachelor's degree in environmental geography from  
22 Colgate University and a master's degree in regional  
23 and environmental planning from Cornell. Abbey is  
24 addressing the greenhouse gas related comments  
25 provided by Mr. Spencer in his pre-filed testimony.

1 Abbey.

2 MS. WEBB: Can you hear me okay?

3 HEARING OFFICER: Yes, thank you.

4 MS. WEBB: So in his testimony, Mr. Spencer  
5 suggests two things, first that we have  
6 underestimated greenhouse gas emissions from the  
7 Juniper Ridge Landfill; and, second, that  
8 incineration necessarily produces less greenhouse gas  
9 emissions than landfilling. In support of these  
10 arguments he references four papers on the topic of  
11 greenhouse gas emissions from incinerators and  
12 landfills. I'm very familiar with each of these  
13 papers as well as the greenhouse gas calculations at  
14 Juniper Ridge. I will explain that the papers are  
15 irrelevant to Juniper Ridge and that Mr. Spencer's  
16 concerns are, in fact, unfounded.

17 So first I'd like to talk about these papers  
18 and why they are not applicable. One of the papers  
19 is a report from the Intergovernmental Panel on  
20 Climate Change, the IPCC. The report is written by a  
21 well-respected international panel of scientists  
22 coordinated by lead author Jeanne Bogner. It  
23 describes climate change mitigation strategies for  
24 the waste management sector and is referenced by all  
25 three of the other reports.

1 The Bogner chapter is often cited by groups  
 2 who advocate incineration over landfilling.  
 3 Specifically they commonly reference a specific  
 4 passage on page 600 which discusses landfill gas  
 5 recovery efficiencies, and it states -- and I'm  
 6 quoting now -- "lifetime recovery efficiencies may be  
 7 as low as 20 percent," end quote. This is an  
 8 important statement given that recovery efficiency is  
 9 the most important factor in determining greenhouse  
 10 gas emissions from landfills, but I'd like to show  
 11 you the full context of the statement. That's not  
 12 it. There we go. I'm going to put it up here  
 13 because it's a little dense and dry. So it says  
 14 "intensive field studies of the methane mass balance  
 15 at cells with a variety of design and management  
 16 practices have shown that over 90 percent recovery  
 17 can be achieved at cells with final cover and an  
 18 efficient gas extraction system. Some sites may have  
 19 less efficient or only partial gas extraction systems  
 20 and there are fugitive emissions from landfill waste  
 21 prior to and after the implementation of active gas  
 22 extraction; thus, estimates of lifetime recovery  
 23 efficiencies may be as low as 20 percent which argues  
 24 for early implementation of gas recovery." So I'm  
 25 going to stop there for a second. What they're

1 saying is that lifetime recovery efficiencies may be  
 2 as low as 20 percent at certain poorly designed and  
 3 operated landfills but that this can be remedied  
 4 through best practices. The quote goes on to  
 5 describe some of these best practices, quoting again,  
 6 "some measures that can be implemented to improve  
 7 overall gas collection are installation of horizontal  
 8 gas collection systems concurrent with filling,  
 9 frequent monitoring and remediation of edge and  
 10 piping leakages, installation of secondary perimeter  
 11 extraction systems for gas migration and emissions  
 12 control and frequent inspection and maintenance of  
 13 cover materials."

14 So these best practices, early installation  
 15 of gas collection infrastructure, the use of  
 16 horizontal collectors and regular monitoring and  
 17 maintenance of gas collection pipes and cover  
 18 materials, all of these best practices are in place  
 19 at Juniper Ridge Landfill; therefore, the 20 percent  
 20 worst-case scenario mentioned in the Bogner report  
 21 does not apply to Juniper Ridge.

22 The next report referenced by Mr. Spencer is  
 23 a paper by Peter Anderson of the Center for a  
 24 Competitive Waste Industry. His paper describes in  
 25 more depth the argument mentioned by Bogner which is

1 that landfill collection efficiencies should be  
 2 calculated on a lifetime basis rather than an  
 3 instantaneous snapshot. I'm going to try to break  
 4 that down a little bit starting -- so there's two  
 5 approaches to calculating collection efficiency. I'm  
 6 going to start with the instantaneous approach. So  
 7 this represents the percent of gas being captured at  
 8 a given point in time and it's based on the gas  
 9 collection infrastructure in place across the  
 10 landfill. So the way we calculate this is kind of  
 11 imagine you're flying over the landfill, you're  
 12 looking down, you can see that a portion of the  
 13 landfill is under final cover with active gas  
 14 collection and you can see that another portion is  
 15 maybe under intermediate soil cover with gas  
 16 collection and maybe another area has no collection  
 17 at all. So you can kind of see that across the  
 18 footprint. Based on that, you take an area weighted  
 19 average and come up with a collection efficiency for  
 20 that given point in time.

21 The other method, the lifetime method, the  
 22 one that's advocated by Bogner and Anderson, to  
 23 understand this one you have to picture a landfill  
 24 gas -- I guess I'll just -- if you have kind of a  
 25 chart with time on the X axis and gas production on

1 the Y axis, when waste is placed in a landfill, gas  
 2 production starts to ramp up, it peaks and then it  
 3 goes down kind of gradually. So it's kind of this --  
 4 you end up with this lopsided triangle more or less.  
 5 The specific shape is going to vary based on the  
 6 waste composition and the climate conditions but in  
 7 general, it's going to be kind of this lopsided  
 8 triangle with a long tail, and the area underneath  
 9 that is going to be your total gas production from  
 10 that given piece of waste.

11 So to understand what Bogner and Anderson's  
 12 concern is you have to add a couple more things to my  
 13 imaginary drawing up here, two vertical lines. The  
 14 first line is the point in time where we start  
 15 collecting the gas. The second line is the point in  
 16 time when we stop collecting the gas. Bogner and  
 17 Anderson point out, rightfully so, that the  
 18 collection efficiency really only applies to between  
 19 those two bars, those two lines. Outside of those,  
 20 before the gas collection is installed and after it  
 21 stops operating, the collection efficiency is  
 22 essentially zero. So they say when you look at it  
 23 averaged over time that the collection efficiency can  
 24 be much lower and they want that taken into account.  
 25 So, yeah, I mean, that pretty much sums up their

1 concern.

2 Using the lifetime approach and a series of  
3 assumptions that he thinks represent the average U.S.  
4 landfill, Mr. Anderson arrives at a calculated  
5 collection efficiency of only 19 percent, but it's  
6 important to understand the assumptions that he's  
7 using in that average scenario. First he says that  
8 no gas collection is installed for the first five  
9 years after waste placement. That's not true with  
10 Juniper Ridge. He assumes that collection efficiency  
11 is only 50 percent even upon closure of the landfill.  
12 Also not true at Juniper Ridge. He assumes that gas  
13 collection is shut off well before gas production has  
14 subsided. This is also untrue at Juniper Ridge. So  
15 in short, none of the assumptions that he used in his  
16 model are true in the specific case of the Juniper  
17 Ridge Landfill.

18 So the best practices that are in place at  
19 Juniper Ridge have been described in more detail  
20 specifically by Jeremy. Just to recap, Juniper Ridge  
21 aggressively installs horizontal gas collection  
22 piping as waste is placed in a cell; second,  
23 synthetic geomembrane material is used as the primary  
24 intermediate cover material; third, NEWSME conducts  
25 routine surface methane emissions scans to ensure the

1 integrity and effectiveness of the landfill cover  
2 material and gas collection system. All of these  
3 practices are at the forefront of industry operating  
4 standards and ensure very high instantaneous and  
5 lifetime gas collection efficiencies. So for all of  
6 these reasons, the 19 percent number from Anderson  
7 simply does not apply to Juniper Ridge, and I'll get  
8 into our specific numbers in a moment. Mr. Spencer  
9 also referred to Ozge Kaplan's 2009 paper in  
10 environmental Science Technology and a Sierra Club  
11 report on landfill gas to energy. The Kaplan article  
12 is very similar to the Anderson paper in that it  
13 makes a bunch of assumptions that are not applicable  
14 to Juniper Ridge. The Sierra Club paper is  
15 specifically about landfills with landfill gas to  
16 energy power plants and since Juniper Ridge doesn't  
17 have a power plant, it's not relevant. So I've  
18 walked through those four papers and talked about why  
19 they're not applicable to Juniper Ridge.

20 Next I'd like to point out that it's not  
21 true that incineration universally produces less  
22 greenhouse gas emissions than landfilling. The  
23 Bogner report's primary finding is that, quote,  
24 existing waste management practices can provide  
25 effective mitigation of greenhouse gas emissions from

1 the waste sector. A wide range of mature  
2 environmentally effective technologies are available  
3 to mitigate emissions, end quote. The others go on  
4 to list some of these technologies which include  
5 landfill gas recovery and improved landfill  
6 practices. Importantly, on the next page the authors  
7 clearly state that the chapter does not prescribe to  
8 any one particular technology. This is important  
9 because if this well-respected panel of scientists  
10 believed that all incineration was clearly and  
11 universally preferable over landfilling, they would  
12 have clearly stated this in their report.

13 So last I'd like to talk specifically about  
14 the high collection efficiency at Juniper Ridge.  
15 Because of the best management practices we've been  
16 talking about, Juniper Ridge Landfill achieves a high  
17 landfill gas collection efficiency. We've talked  
18 about the two different methods, instantaneous versus  
19 lifetime for -- for determining collection  
20 efficiency, and I'm going to pull up on the screen  
21 BGS/NEWSME Exhibit #21, and it's very tiny. I'll do  
22 my best to walk through this and read the numbers.  
23 So the top table there takes the instantaneous  
24 approach and then the second table uses the lifetime  
25 approach. So for the top table on the left, it

1 describes three different types of areas. So again,  
2 we're imagining we're flying over the landfill  
3 looking down upon it. The first area type is area  
4 without active gas collection. The next three are  
5 all areas with gas collection under different types  
6 of cover. There's daily cover, intermediate soil  
7 cover and then final and/or geomembrane cover is the  
8 fourth type. So I don't think you can read this but  
9 at Juniper Ridge 11 percent of the area is under  
10 daily cover, 7 percent is under intermediate soil  
11 cover and 82 percent is under final or geomembrane  
12 cover. None of the area is without gas collection.  
13 We then take the EPA standard assumptions for  
14 collection efficiency under each of these cover  
15 scenarios and so multiply the numbers across and then  
16 add them up down below and you end up with an  
17 instantaneous collection efficiency of 89.8 percent  
18 and that's as of December 31st, 2012. The -- I'll  
19 move to the second table as the lifetime collection  
20 efficiency. So again we're talking about that  
21 lopsided triangle that we were imagining before just  
22 here represented quantitatively in a graph or in a  
23 table. So we divide the time period into four  
24 different categories, the time when that piece of  
25 waste is under daily cover, the time when it's under

1 geomembrane cover, the time when it's under final  
 2 cover and then lastly the time when it's under final  
 3 cover but the gas collection system is turned off.  
 4 So in year one it's under daily soil cover, years two  
 5 through nine it's under geomembrane, years ten  
 6 through forty it's under final, and then from  
 7 forty-one to a hundred we're very conservatively  
 8 assuming that that is the time when there is no gas  
 9 collection. So, in fact, in general, that time  
 10 period would be shorter and the gas collection system  
 11 wouldn't be turned off that quickly.

12 So the next column over shows the percent of  
 13 total gas generation. So that's where we capture  
 14 that curve. So how much of that curve has been  
 15 produced in each of the categories -- each of the  
 16 timeframes. Year one I think it's about 7 percent of  
 17 total generation; years two through nine, 40 percent;  
 18 years ten through forty, 47 percent; and so by now  
 19 we've produced 94 percent of the gas that is going to  
 20 be generated by this waste and then the remaining 6  
 21 percent is going to be generated very slowly over the  
 22 remaining 60 years. We applied the standard  
 23 collection efficiencies for those different cover  
 24 scenarios, again multiply across 7 percent times 60  
 25 percent you get 4, 40 times 95 percent you get 38 and

1 so on. Out of those numbers you get 86.9. So in  
 2 short, using the lifetime collection efficiency  
 3 approach we come to about 86.9 percent collection.

4 So just to wrap up, I would like to emphasize two  
 5 points. First, from a greenhouse gas perspective,  
 6 incineration is not always preferable to landfilling.  
 7 Since every landfill and every incinerator is  
 8 different, the determination has to be made on a  
 9 site-by-site basis. Second, the very rigorous best  
 10 management practices in place at Juniper Ridge ensure  
 11 that the concern raised by Mr. Spencer that landfill  
 12 gas collection efficiency is only 20 percent is  
 13 simply not applicable to Juniper Ridge where  
 14 collection efficiency is, in fact, over 85 percent.  
 15 Thank you.

16 MR. DOYLE: Thank you, Abbey. Well, that  
 17 brings to a close our direct presentation and if I'm  
 18 calculating this correctly, we're at 10:32 or 3. I  
 19 think we've saved 41 minutes off of our 120, and I  
 20 would like to bank that for potential cross  
 21 examination if I need some additional time later  
 22 today or tomorrow. I would also, to the extent  
 23 they're not already in the record, I would like to  
 24 formally introduce our 21 exhibits into the record.  
 25 Perhaps they're already in since Mike put them in

1 this morning but they're in now.

2 HEARING OFFICER: Thank you, Attorney Doyle.  
 3 Addressing your second question first, all of your  
 4 exhibits are part of the record but with your  
 5 request, we've made sure to have that noted for the  
 6 record. With respect to your first request of  
 7 banking time, first of all, we very much appreciate  
 8 your efficiency this morning in summarizing your  
 9 testimony. Should you need additional cross  
 10 examination time, we will make those determinations  
 11 on a case-by-case basis at the end of your cross  
 12 examination time. The factors that will be involved  
 13 are whether or not the questions are repetitive,  
 14 whether or not the questions are relevant and we will  
 15 make a determination on a case-by-case basis how much  
 16 additional time would be allotted during the cross  
 17 examination. So when you get to the end of your  
 18 allotted time, if you need additional time, please  
 19 make the request at that time.

20 MR. DOYLE: Fair enough. So we will now  
 21 present our witnesses for cross examination by I  
 22 guess MMWAC, ecomaine and Citizens.

23 HEARING OFFICER: That is the next thing on  
 24 the agenda after our break. At this time we will be  
 25 having a 15-minute break. We will take a 15-minute

1 break until 10:50. This will give people an  
 2 opportunity to regroup in order to provide cross  
 3 examination.

4 **(OFF RECORD)**

5  
 6 HEARING OFFICER: We have reconvened the  
 7 hearing on the Juniper Ridge Landfill. The applicant  
 8 has finished its summary of testimony and we are now  
 9 moving into the cross examination of the applicant.  
 10 The order of the cross examination of the applicant  
 11 will be MMWAC for five to ten minutes, ecomaine for  
 12 five to ten minutes, the Citizens for 45 to 60  
 13 minutes and that will be followed by cross  
 14 examination of other intervenors, if any. So we will  
 15 start now with MMWAC for a maximum of ten minutes.

16 MR. BOWER: Thank you, Hearing Officer  
 17 Parent. Is this mike working okay?

18 MR. PARKER: No. Now it is.

19 HEARING OFFICER: Very good.

20 MR. BOWER: Just to start off, my name is  
 21 Mark Bower. I represent MMWAC and ecomaine in this  
 22 matter and for purposes of today's cross examination,  
 23 we would request from the Hearing Officer to combine  
 24 our time for efficiency because there will be a lot  
 25 of overlapping questions. So I would just request

1 that the time be combined for the two intervenors,  
2 ecomaine and MMWAC.  
3 HEARING OFFICER: You will have a maximum of  
4 20 minutes.

5 MR. BOWER: Okay. The first question is for  
6 Mr. Oliver. You briefly mentioned this in your  
7 remarks today but I just want to clarify for the  
8 record. It's true that MERC shut down at the end of  
9 2012, correct?

10 MR. OLIVER: That is correct.

11 MR. BOWER: And the shut down and the  
12 purchase and sale with the city of Biddeford is no  
13 longer contingent on this application being approved,  
14 correct?

15 MR. OLIVER: That is correct.

16 MR. BOWER: There was a letter agreement  
17 signed at the end of November that removed that  
18 contingency from the purchase and sale agreement,  
19 correct?

20 MR. OLIVER: Correct.

21 MR. BOWER: And so there's no -- regardless  
22 of what happens in this application for amending the  
23 license, MERC will not be reopened as a result,  
24 correct?

25 MR. OLIVER: That is correct.

1 MR. BOWER: Now, since the closure of MERC,  
2 I think you mentioned in your testimony that what I  
3 refer to as MERC waste has been taken to, I think you  
4 said, PERC, ecomaine and some out-of-state  
5 facilities, is that correct?

6 MR. OLIVER: Yes.

7 MR. BOWER: And what are those out-of-state  
8 facilities where it's being brought?

9 MR. OLIVER: North Country Landfill in  
10 Bethlehem, New Hampshire.

11 MR. BOWER: Is that a Casella facility?

12 MR. OLIVER: Yes, it is.

13 HEARING OFFICER: Can I ask you to make sure  
14 that all of the panel projects as much as possible  
15 during your responses so that the people behind you  
16 can hear as well. Thank you.

17 MR. BOWER: And this has been for the past  
18 essentially three months or so since the end of 2012?

19 MR. OLIVER: Yes.

20 MR. BOWER: And this has been working thus  
21 far?

22 MR. OLIVER: Yes, it has.

23 MR. BOWER: Now, you mentioned in your  
24 testimony the cap on tonnage -- and I'm just going to  
25 paraphrase what the request is -- is that initially

1 the application requested a cap on MSW to be --  
2 unprocessed MSW to be disposed at JRL of 123,000  
3 tons, correct.

4 MR. OLIVER: Yes.

5 MR. BOWER: And that was reduced in October  
6 or following an October agreement with PERC where  
7 contingent on this application, 30,000 tons would be  
8 brought to PERC, correct?

9 MR. OLIVER: Correct.

10 MR. BOWER: Bringing the cap that you're  
11 requesting down to 93,000 tons, correct?

12 MR. OLIVER: Yes.

13 MR. BOWER: Now, are you -- is it Casella's  
14 proposal to only open up Juniper Ridge for MERC waste  
15 under that 93,000 tons or will other haulers and  
16 communities be able to bring -- to use JRL to dispose  
17 MSW?

18 MR. OLIVER: It's a cap of 93,000 tons of  
19 in-state waste.

20 MR. BOWER: So any competitors of Casella  
21 can also bring waste under that 93,000 ton cap?

22 MR. OLIVER: Yes.

23 MR. BOWER: For example, if Waste Management  
24 wanted to bring some of their waste, rather than  
25 using their landfill in Norridgewock, they could

1 bring it to Juniper Ridge under that cap?

2 MR. OLIVER: Yes, it's capped at 93,000.

3 MR. BOWER: And if there's not enough  
4 capacity -- if other entities and communities are  
5 using that -- using up that 93,000 ton cap, what will  
6 Casella do with the MERC waste that is not able to be  
7 disposed under that 93,000 ton cap?

8 MR. OLIVER: We have -- as I said earlier,  
9 we have outlets in New Hampshire with North Country.  
10 We can utilize that facility.

11 MR. BOWER: So there are other options?

12 MR. OLIVER: Yes.

13 MR. BOWER: Now, is there a tipping fee for  
14 waste brought to Juniper Ridge from Casella's haulers  
15 from the Westbrook Transfer Station? Is there a  
16 tipping fee that's charged from Casella to Pine Tree,  
17 for example, or is it just brought there from the  
18 transfer station?

19 MR. OLIVER: No, there's a tipping fee,  
20 absolutely.

21 MR. BOWER: And what would be the tipping  
22 fee that you would charge Waste Management for -- if  
23 they wanted to bring waste under this 93,000 ton cap?

24 MR. OLIVER: We have in the OSA a couple of  
25 items. We have a cap, the highest amount we can

1 charge anybody for specific materials, and we also  
2 have a non-discrimination clause in the OSA which  
3 would prohibit us from charging a Casella entity less  
4 than a competitor to make sure that no competitor is  
5 disadvantaged.

6 MR. BOWER: And this cap of 93,000 tons is  
7 what you call a sort of self-imposed limitation by  
8 Casella? It's not something that -- it's something  
9 that you agreed to and is not being imposed on  
10 Casella?

11 MR. OLIVER: We agreed to it, yes.

12 MR. BOWER: And you also mentioned in your  
13 testimony that you're proposing the tonnage cap  
14 rather than carrying over specific customers because,  
15 the way you put it, it would be administratively  
16 impossible to attempt to track new or existing  
17 individual customers which are constantly changing  
18 that could ultimately go through various in-state  
19 transfer stations or direct to JRL, and that's a  
20 quote from your testimony at page 4. Is that your  
21 recollection of your testimony?

22 MR. OLIVER: Yes.

23 MR. BOWER: So in other words, it's  
24 difficult to sort of track where waste is coming from  
25 so rather than carrying over customers, you're just

1 wanting the cap to be representative of the waste  
2 that was being brought to MERC previously?

3 MR. OLIVER: It's not difficult to track  
4 specific wastes by customer and origin into a  
5 facility. So, for instance, at Maine Energy,  
6 historically any customer that brought material  
7 there, we would know exactly where it came from and  
8 what customers brought it. We would do the same  
9 thing at Westbrook or at any of our other facilities.  
10 The problem comes with the outbound material out of  
11 Westbrook and trying to track those specific  
12 customers to the ultimate disposal facility. So, for  
13 instance, a truck that would use Westbrook, a local  
14 route truck collection vehicle that might have ten  
15 tons on it, that's going to have a couple hundred  
16 customers that change all the time. They might be  
17 former customers of Maine Energy; they might not be,  
18 so that changes into Westbrook. Customers that come  
19 into Westbrook also change. So a customer that may  
20 not have used Maine Energy at a certain point may use  
21 Westbrook. So when that material gets tipped on the  
22 floor and you have 50 or 75 tons on the floor and  
23 that gets loaded into a trailer, you can't tie that  
24 specific customer in the outbound trailer to an  
25 inbound customer all the way back to the curb.

1 MR. BOWER: Okay. Now, at the Westbrook  
2 Transfer Station will there be any out-of-state waste  
3 processed at that transfer station facility?

4 MR. OLIVER: Well, nothing is processed.  
5 It's a transfer station.

6 MR. BOWER: Sorry, sorted. Will any  
7 out-of-state waste be brought to the Westbrook  
8 Transfer Station?

9 MR. OLIVER: There is a small amount of  
10 out-of-state waste that comes in from one of our  
11 existing customers, and we make sure we have certain  
12 policies and procedures in place to segregate that.  
13 So, for instance, if an out-of -- every customer that  
14 actually comes across the scale has to sign a  
15 certification under penalty of law that it's in-state  
16 waste. If it's not in-state waste, then we notify  
17 the operator and we segregate that on the tip floor  
18 and that load gets loaded into a trailer and then  
19 every subsequent ton that goes into that trailer then  
20 becomes out-of-state as well and that whole trailer  
21 then goes to a facility that's licensed to accept it.

22 MR. BOWER: Okay. So while it's  
23 administratively difficult to track some waste, it's  
24 not that difficult to track out-of-state waste is  
25 what you're saying?

1 MR. OLIVER: That's correct.

2 MR. BOWER: Okay. Now, in the application  
3 and your testimony, Casella argues that the pending  
4 proposal is consistent with the solid waste hierarchy  
5 and in your remarks this morning you hit a few points  
6 that I wanted to ask you about. First, the -- your  
7 first point on why this is consistent with the  
8 hierarchy is waste reduction, that the out-of-state  
9 tons that used to be going to Maine Energy will no  
10 longer be coming. This is already -- this is already  
11 happening, correct? The out-of-state tons that were  
12 previously going to Maine Energy are no longer coming  
13 in currently, right?

14 MR. OLIVER: That's correct.

15 MR. BOWER: So this will happen regardless  
16 of whether the application is granted, correct?  
17 Those 170,000 tons won't come into the state either  
18 way?

19 MR. OLIVER: Yes, I mean, we submitted the  
20 application based on that information, so that is  
21 correct.

22 MR. BOWER: Okay. So that -- so that waste  
23 reduction is not really -- is not contingent on  
24 approval of the Juniper Ridge license amendment,  
25 correct?

1 MR. OLIVER: That's correct.  
 2 MR. BOWER: It's just a function of Maine  
 3 Energy shutting down. The second point you made you  
 4 listed off a few recycling initiatives that Casella  
 5 has made that are both existing recycling initiatives  
 6 and planned initiatives, the first being the -- you  
 7 mentioned the tri-county communities. Now, those  
 8 communities currently have recycling programs in  
 9 place, correct?  
 10 MR. OLIVER: They do.  
 11 MR. BOWER: So those will not be affected by  
 12 either the approval or denial of a license amendment  
 13 at Juniper Ridge?  
 14 MR. OLIVER: Correct.  
 15 MR. BOWER: The second one is the Biddeford  
 16 recycling which is slated to begin July 1st under the  
 17 recycling agreement that was part of the purchase and  
 18 sale, correct?  
 19 MR. OLIVER: Yes.  
 20 MR. BOWER: And that recycling agreement is  
 21 not contingent on the approval of the Juniper Ridge  
 22 license amendment, correct?  
 23 MR. OLIVER: Correct.  
 24 MR. BOWER: In fact, the recital of that  
 25 agreement indicates that it was put in place as an

1 inducement to get Biddeford to agree on the purchase  
 2 and sale agreement, correct?  
 3 MR. OLIVER: It was part of the purchase and  
 4 sale, yes.  
 5 MR. BOWER: You also mentioned the plan for  
 6 a Lewiston processing facility and that -- and one of  
 7 the exhibits I think you have included is the lease  
 8 agreement with city of Lewiston. Now, that lease  
 9 agreement is not contingent on the approval of the  
 10 license amendment, the current proceeding, is it?  
 11 MR. OLIVER: It is not.  
 12 MR. BOWER: And then finally you mentioned  
 13 the PERC agreement which was signed in October as  
 14 supporting the hierarchy due to the recycling  
 15 initiatives that are contained in that agreement. I  
 16 just wanted to clarify, those recycling initiatives  
 17 which are -- that constitute several sections of the  
 18 agreement, that recycling initiative is not  
 19 contingent on approval of the Juniper Ridge license  
 20 amendment, correct?  
 21 MR. OLIVER: That's correct.  
 22 MR. BOWER: The only provision of that  
 23 agreement that's contingent on the approval of this  
 24 license amendment is those 30,000 tons that used to  
 25 be going to Maine Energy which will now be brought to

1 PERC, correct?  
 2 MR. OLIVER: Correct.  
 3 MR. BOWER: Now, you also testified in your  
 4 pre-filed direct that you understand from PERC that  
 5 the 30,000 tons per year of the Maine waste that will  
 6 be delivered to PERC under the agreement is -- is  
 7 approximately the same amount of out-of-state waste  
 8 that is currently combusted at PERC. Based on this  
 9 morning's testimony, would you concede that that's  
 10 inconsistent with other testimony that shows that  
 11 PERC imported over 90,000 tons of waste from  
 12 out-of-state?  
 13 MR. OLIVER: No. Actually what I said was  
 14 that the 30,000 tons of Maine waste that will be  
 15 delivered to PERC will offset 30,000 tons of  
 16 out-of-state waste being accepted. So they're a  
 17 complete offset.  
 18 MR. BOWER: Okay. So you weren't saying  
 19 that it would displace all of their out-of-state  
 20 waste, just it will displace 30,000 tons of their  
 21 out-of-state waste?  
 22 MR. OLIVER: Correct.  
 23 MR. BOWER: And why is it that these 30,000  
 24 tons are contingent on the Juniper Ridge Landfill  
 25 amendment?

1 MR. OLIVER: Well, when we looked at having  
 2 things conditioned on the approval, there's a couple.  
 3 There's PERC, the 30,000 tons, and then there's the  
 4 recycling agreement with Old Town with the 64-gallon  
 5 toters for recycling, and we look at the principle of  
 6 symmetry. So when you're looking at something of  
 7 this nature, you want to make sure that all parties  
 8 are linked, all parties are connected, all parties  
 9 are running to the same goal. So if there's value to  
 10 PERC in the 30,000 tons, we could have taken those  
 11 tons to one of our own facilities and made more money  
 12 on it. You know, we're paying for toters for Old  
 13 Town, we're paying for a scale for Old Town, so  
 14 there's tremendous value to everybody involved so  
 15 there's linkage.  
 16 MR. BOWER: That brings me to my next  
 17 question. So under the PERC agreement, Section 7.5  
 18 states that Casella will support the solid waste  
 19 hierarchy which is, quote, "structured so that the  
 20 maximum amount of solid waste possible will be  
 21 processed by facilities in Maine such as the PERC  
 22 facility in preference to landfills in Maine such as  
 23 the Juniper Ridge Landfill." Is it your  
 24 understanding that PERC could have handled more than  
 25 30,000 tons of waste?

1 MR. OLIVER: I'm not sure. You'd have to  
2 ask them if they could handle more. They would have  
3 to displace existing tonnage if they were going to  
4 handle more.

5 MR. BOWER: Assuming that they could, how  
6 would this represent under that section of the  
7 agreement the maximum amount possibly processed by  
8 waste to energy facilities? It doesn't, does it?

9 MR. OLIVER: Well, provided we can come to  
10 grips on a financial agreement.

11 MR. BOWER: So what's unstated in that  
12 provision is that it depends on the economics of it,  
13 correct?

14 MR. OLIVER: Absolutely.

15 MR. BOWER: Now, the other aspect of the  
16 out-of-state waste issue is that in your testimony  
17 you state that the contracted out-of-state waste that  
18 was previously sent to Maine Energy will be diverted  
19 back to facilities outside the state. What does that  
20 term "contracted" refer to, "contracted out-of-state  
21 waste?" The current contracts or future contracts or  
22 both?

23 MR. OLIVER: Well, we have a large portion  
24 of that tonnage under contract to Casella and we're  
25 responsible to make sure that we find an appropriate

1 home for that waste. So either we have internal  
2 homes or we have third-party homes that we were able  
3 to move that waste to.

4 HEARING OFFICER: Mr. Bower, you have two  
5 minutes.

6 MR. BOWER: Okay. Just a couple questions  
7 for Don -- sorry -- for Mr. Barden. Isn't the state  
8 contractually obligated under Section 4.1 of the  
9 Operating Services Agreement to cooperate reasonably  
10 with Casella and provide reasonable assistance in the  
11 pending application?

12 MR. BARDEN: Yes.

13 MR. BOWER: Now that there's no more State  
14 Planning Office, is the Bureau of General Services  
15 considered the counterparty to the Operating Services  
16 Agreement or is some other state agency considered  
17 the counterparty?

18 MR. BARDEN: That's a good question. We  
19 have not amended the Operating Services Agreement to  
20 take account of that transfer of ownership.

21 MR. BOWER: And under the Operating Services  
22 Agreement, doesn't it also require Casella to use its  
23 best efforts to operate the landfill following the  
24 state's solid waste management hierarchy?

25 MR. BARDEN: Yes, that's in the OSA.

1 MR. BOWER: And is it the state's -- well, I  
2 guess as a -- I guess my other question for you is  
3 that you mentioned in your testimony that the state  
4 was the one that requested the annual cap on tonnage.  
5 Is your understanding of the purpose of the cap the  
6 same as what Mr. Oliver explained, that it's for any  
7 in-state waste, not just for Casella to use?

8 MR. BARDEN: Well, I mean, our reasoning at  
9 the point when we recommended that change to the  
10 prepared application is because that tonnage was used  
11 in the analysis of all of the technical aspects of  
12 the application, the truck traffic, the operations,  
13 so we wanted it basically to be included in the  
14 application as a cap to reflect the analysis that  
15 went into that tonnage. So it wasn't necessarily  
16 directed totally at it had to be the same  
17 municipalities that were going to the incinerator.  
18 It's a tonnage cap.

19 MR. BOWER: And will that cap be enforceable  
20 by some state agency or is it self-imposed?

21 MR. BARDEN: It would be a condition of the  
22 agreement so it would be enforceable.

23 MR. BOWER: A question for Mr. Meagher. You  
24 mentioned in your remarks this morning that ecomaine  
25 and MMWAC have argued that the Operating Services

1 Agreement does not allow for the disposal of MSW. I  
2 couldn't find in their testimony where they argue  
3 that. Do you -- I think -- do you recall where in  
4 the testimony that was?

5 MR. MEAGHER: I believe I referenced that in  
6 my pre-filed rebuttal testimony. I will attempt to  
7 find that.

8 MR. BOWER: One moment.

9 HEARING OFFICER: Your time is up so when  
10 you resolve this question, I will ask you to move on.

11 MR. BOWER: Do I have anymore time  
12 remaining?

13 HEARING OFFICER: You do not.

14 MR. BOWER: Okay. Is Old Town Fuel and  
15 Fiber willing to give me their time?

16 HEARING OFFICER: Do you have a procedural  
17 question?

18 MR. SPENCER: Yes, Ed Spencer. The Citizen  
19 intervenors would like to cede some time to Mr. Bower  
20 so he can finish up.

21 MR. MEAGHER: Yes, I did. I had cited Kazar  
22 testimony at 4 and Roche testimony at 5 and their  
23 comment really pertained to MSW that was not being  
24 bypassed from the incinerator. In my remarks this  
25 morning if I did not make that clear, I apologize.

1 MR. BOWER: Okay. So they didn't argue that  
 2 the Operating Services Agreement prohibits  
 3 out-of-state -- any disposal of MSW, just that  
 4 out-of-state MSW is not allowed to be disposed under  
 5 the Operating Services Agreement?  
 6 MR. MEAGHER: Again, I believe their comment  
 7 pertained to bypass MSW, not MSW generally.  
 8 MR. BOWER: I just have one question for  
 9 Michael Booth, if I could.  
 10 HEARING OFFICER: Who is the feedback  
 11 person?  
 12 MR. DOYLE: It was my attempt to object.  
 13 HEARING OFFICER: Can you go to speak to the  
 14 other microphone, please, or just speak loudly where  
 15 you are?  
 16 MR. DOYLE: I guess I'd like to hear at  
 17 least some clarification about whether we're  
 18 borrowing time from other parties. I mean, I asked  
 19 to bank some time because we actually saved time over  
 20 what we had thought we'd use and I sort of got a  
 21 "we'll see" answer, and so are we now borrowing from  
 22 other people and, if so, I guess I'd like to  
 23 understand what the rules are going to be going  
 24 forward.  
 25 HEARING OFFICER: I was about to make a

1 ruling on Mr. Bower's request at the end of Mr.  
 2 Meagher's statement exactly answering that question.  
 3 I will grant the request of the Citizen intervenors  
 4 to provide some time to ecomaine and MMWAC and I will  
 5 be affording you similar latitude in your cross  
 6 examination time opportunities so that there is equal  
 7 fairness. As I had indicated in my response to you  
 8 when you asked for additional time, I wanted to make  
 9 those determinations on a case-by-case basis, and as  
 10 you need additional time, I will make sure that I  
 11 afford you similar fairness in your opportunity to  
 12 take additional time.  
 13 MR. DOYLE: Thank you.  
 14 HEARING OFFICER: Mr. Bower, you can have up  
 15 to an additional ten minutes of time. That time will  
 16 be deducted from the Citizen intervenors' time for  
 17 their cross examination of this applicant.  
 18 MR. BOWER: Thank you.  
 19 HEARING OFFICER: But if you don't have a  
 20 full ten minutes, please take only the time that you  
 21 need.  
 22 MR. BOWER: Of course. A question for Mr.  
 23 Booth. In your testimony or your remarks earlier  
 24 this morning, you mentioned or you questioned whether  
 25 the solid waste hierarchy is applicable to this

1 application. Do you recall those remarks?  
 2 MR. BOOTH: I think my testimony had to do  
 3 with how it was applied to this application.  
 4 MR. BOWER: Okay. So are you conceding  
 5 that -- would you concede that the solid waste  
 6 hierarchy is applicable to this application.  
 7 MR. BOOTH: I believe the Hearing Officer  
 8 has made that determination or the DEP has made that  
 9 determination.  
 10 MR. BOWER: Okay, one minute. Just a quick  
 11 follow-up, Mr. Booth. You mentioned that the Hearing  
 12 Officer determined that the solid waste hierarchy was  
 13 applicable. I guess I'm more interested in what --  
 14 in your perspective, since you made the comments this  
 15 morning about the hierarchy, are you familiar with  
 16 Chapter 400 of the DEP's regulations?  
 17 MR. BOOTH: Yes, I am.  
 18 MR. BOWER: Which is the Maine Solid Waste  
 19 Management Rules. One of the defined terms under  
 20 those regs is the term "Maine Solid Waste Logs." Are  
 21 you familiar with that term?  
 22 MR. BOOTH: Yes, I am.  
 23 MR. BOWER: Under that definition, Maine  
 24 Solid Waste Laws includes the Solid Waste Management  
 25 and Recycling Law, paren, 38 M.R.S.A. Section 2101,

1 et seq. Is it your understanding that that is a  
 2 reference to the waste hierarchy provision? Section  
 3 2101, do you recognize that as being a reference to  
 4 the waste hierarchy provision?  
 5 MR. BOOTH: I believe it is, yes.  
 6 MR. BOWER: Now, in Section 2 of the regs,  
 7 it states "it is unlawful for any person to locate,  
 8 establish, construct, alter, expand or operate a  
 9 solid waste facility or handle solid waste contrary  
 10 to the Maine Solid Waste Laws and these rules," and  
 11 that's a defined term, "Maine Solid Waste Laws."  
 12 Would you agree that that is a reference back to the  
 13 solid waste hierarchy provision which is included in  
 14 the term "Maine Solid Waste Laws?"  
 15 MR. BOOTH: As one of them, yes, I guess I  
 16 do.  
 17 HEARING OFFICER: Mr. Booth, can you please  
 18 speak up when you're responding?  
 19 MR. BOOTH: Yes.  
 20 MR. BOWER: And in Section 3 of those regs,  
 21 Chapter 400, it states "the Department shall issue a  
 22 license for a solid waste facility or activity  
 23 whenever it finds that the facility or activity  
 24 satisfies all applicable requirements of the Maine  
 25 Solid Waste Laws, all applicable requirements of this

1 chapter and other chapters of these rules." Would  
2 you agree that that is also a reference back to the  
3 defined term which includes the solid waste  
4 hierarchy?

5 MR. BOOTH: Yes.

6 MR. BOWER: Now, in Section 3-D, which the  
7 heading there is "Licensing Criteria for Solid Waste  
8 Facilities," provides in part that the Department  
9 must also find that the solid waste facility  
10 satisfies all the applicable requirements and  
11 criteria of the Maine Solid Waste Laws and these  
12 rules. Would you agree that that's also a reference  
13 back to the solid waste hierarchy which is in the  
14 defined term?

15 MR. BOOTH: Yes.

16 MR. BOWER: Just another question for Mr.  
17 Barden. In your testimony you referred to -- in your  
18 pre-filed testimony you referred to Public Law 2011  
19 Chapter 655 in which you explained eliminating the  
20 State Planning Office and transferring its duties to  
21 other agencies. One of those agencies was your  
22 agency, the Department of Economic and Community  
23 Development, correct?

24 MR. BARDEN: Correct.

25 MR. BOWER: Is it your understanding that

1 the -- that some of the duties for the State Planning  
2 Office were also transferred to DEP?

3 MR. BARDEN: Yes.

4 MR. BOWER: And are you familiar with the --  
5 what's been provided as BGS/NEWSME Exhibit 14 which  
6 is the 2011 Waste Generation and Disposal Capacity  
7 Report?

8 MR. BARDEN: Generally.

9 MR. BOWER: That report at page 2 provides,  
10 and I quote, "historically the Department has been  
11 responsible for licensing and compliance" -- and here  
12 "the Department" is referred to as DEP --  
13 "historically the Department has been responsible for  
14 licensing and compliance of solid waste management  
15 facilities to ensure appropriate handling of  
16 materials. This traditional regulatory approach is  
17 designed to protect the environment and public health  
18 from pollution. Consolidation responsibilities for  
19 waste management planning and recycling provide the  
20 Department with an opportunity to apply a more  
21 holistic approach to waste management and encourages  
22 waste diversion and narrows the stream of waste  
23 materials ultimately disposed at landfills." Is that  
24 -- whether you've reviewed that or not, is that your  
25 general understanding for how the elimination of the

1 State Planning Office -- how those duties were  
2 divvied up between the agencies?

3 MR. BARDEN: Again, I mean, I don't know the  
4 details of that division. I was not employed in the  
5 position before September 24th and all of this  
6 occurred before I came on board.

7 MR. BOWER: Okay. Were you reviewing that  
8 as I read it or not?

9 MR. BARDEN: What was the exhibit?

10 MR. BOWER: BGS/NEWSME Exhibit 14 and it was  
11 page 2, and I just wanted to make sure I read it  
12 correctly, but if you weren't reading it as I was  
13 reading it, then I'll withdraw that question.  
14 Nothing further, thank you.

15 HEARING OFFICER: Thank you, Mr. Bower. At  
16 this time I would ask a representative of the  
17 Citizens intervenors to begin your presentation. You  
18 have 50 minutes.

19 MR. SPENCER: Hello. Can you hear me okay?

20 HEARING OFFICER: I can, thank you.

21 MR. SPENCER: Okay. My name is Ed Spencer.  
22 I'm part of the Citizen intervenors, and it is my  
23 pleasure to be chosen to pursue some lines of  
24 questioning here. I'd like to thank Mr. Bower for  
25 some excellent questions, although he did steal quite

1 a bit of my thunder, so I don't think this is going  
2 to take 50 minutes.

3 For starters for Mr. Oliver, you've made  
4 statements that from the beginning at JRL that MSW  
5 was a waste stream that JRL was intended to handle,  
6 although the -- there's language in both the RFP, the  
7 OSA, the DEP license and the Old Town Host Community  
8 Agreement that say otherwise. What's your response  
9 to that and on what basis does Casella claim that the  
10 waste hierarchy is not intended to be regulatory or  
11 considered in a permitting procedure?

12 MR. DOYLE: Objection. There are at least  
13 two or three questions there, so if we could just get  
14 one at a time?

15 MR. SPENCER: Sure.

16 MR. DOYLE: What's the first question?

17 HEARING OFFICER: Proceed, Mr. Spencer.

18 MR. SPENCER: The first question is --

19 HEARING OFFICER: Can you repeat the first  
20 question?

21 MR. SPENCER: Sure. You made a statement  
22 that MSW was a waste stream that Juniper Ridge was  
23 intended to handle from the beginning. There is  
24 language in the RFP, OSA and DEP license and Old  
25 Town's Host Community Agreement that contradict that.

1 How would you explain your interpretation?  
 2 MR. OLIVER: If I look at the various  
 3 agreements that you just spoke about, in our proposal  
 4 to the state, there are a couple pages, page 27 and  
 5 page 28, that specifically identifies MSW in the  
 6 range of 15,000 to 167,000 tons. There's another  
 7 line item called non-contracted MSW which specifies  
 8 anticipated volumes of 200,000 tons. On page 41  
 9 there's also a statement that says this capacity is  
 10 available as a backup to Maine's existing disposal  
 11 facilities should they be deemed no longer  
 12 economically viable. So there's discussion in our  
 13 original proposal about taking in MSW. The OSA has  
 14 numerous clauses in there that talk about MSW, pages  
 15 25 and 26, 3.1, little a, triple little i, and I'm  
 16 paraphrasing here, but it says basically Casella will  
 17 have the exclusive right and authority to negotiate  
 18 contracts, including long-term contracts for the  
 19 disposal of local MSW at the landfill. There's also  
 20 a section in there on page 22 and 23, 2.11, little a,  
 21 that specifically talks about tip fees and it says --  
 22 there's a category MSW, including MSW designated as  
 23 bypass on an infrequent basis. So MSW is a category  
 24 that was discussed. It is specifically referenced in  
 25 the Old Town Host Agreement, as I said, the Maine

1 Energy tonnage, it's in the application in 2003. So  
 2 we reference this in numerous areas.  
 3 MR. SPENCER: On that Host Community  
 4 Agreement, isn't MSW specifically mentioned as bypass  
 5 only?  
 6 MR. OLIVER: Not in that section, no.  
 7 MR. SPENCER: Huh, I'll have to read that  
 8 again. I'm pretty sure that's in one of your  
 9 exhibits. Now, when a company bids, an RFP comes out  
 10 and under scope of services it says, maybe not in  
 11 exact words, but the operator will operate the  
 12 landfill in accordance with Maine's state waste  
 13 hierarchy and it lays it out, reduce, reuse, recycle,  
 14 compost, incinerate, landfill. Do you think, okay,  
 15 the hierarchy isn't really going to apply further  
 16 down the road? Go ahead.  
 17 MR. OLIVER: There are specific areas in the  
 18 OSA that identify areas of compliance for us in  
 19 regard to that.  
 20 MR. SPENCER: I guess what I'm thinking  
 21 about is if that's a requirement in the RFP, Casella  
 22 is the only bidder on the RFP, and then in your  
 23 response there seems to be language that, okay, we  
 24 can bring all this MSW in, while, in effect, other  
 25 companies may have looked at the RFP and said, you

1 know, based on this, we can't make any money if the  
 2 waste hierarchy really applies to the state-owned  
 3 landfill.  
 4 HEARING OFFICER: Mr. Spencer --  
 5 MR. DOYLE: I'm going to object. That was a  
 6 statement not a question.  
 7 HEARING OFFICER: Mr. Spencer, can you  
 8 please rephrase that into a question to ask the  
 9 panel? Your objection is noted. Please rephrase,  
 10 Mr. Spencer.  
 11 MR. SPENCER: Why don't we just strike that,  
 12 okay? I'll ask a new question. On what basis does  
 13 Casella claim that the waste hierarchy is not  
 14 intended to be regulatory or considered in a  
 15 permitting procedure such as this?  
 16 MR. OLIVER: Well, there's the -- what  
 17 statute is this -- 2101 and it says specifically in  
 18 here that it is the policy of the state to use the  
 19 order of priority in this subsection as a guiding  
 20 principle in making decisions related to solid waste  
 21 management and that's what I stated.  
 22 MR. SPENCER: Okay. Like Mr. Bower said,  
 23 this quote of yours in your original testimony that  
 24 it would be administratively impossible to attempt to  
 25 track new or existing individual customers, how can

1 we be assured that the Westbrook Transfer Station or  
 2 the Lewiston Recycling Facility will not become a  
 3 conduit for waste from outside of Maine's borders?  
 4 MR. OLIVER: The Maine law is very specific  
 5 in terms of what constitutes in-state waste. We're  
 6 not processing anything at Westbrook. It's strictly  
 7 a transfer station and we have very specific  
 8 procedures in place to identify what customers come  
 9 in and the origin and if there is out-of-state waste,  
 10 it is segregated and we make sure we handle it  
 11 appropriately.  
 12 MR. SPENCER: So why wouldn't out-of-state  
 13 waste just be prohibited in Westbrook? If all you're  
 14 taking there is MSW and non-Maine MSW is prohibited,  
 15 why would you even accept it at your Westbrook  
 16 Transfer Facility?  
 17 MR. OLIVER: Well, it's not prohibited in  
 18 our license at Westbrook and if we have customers  
 19 that we need to service, then we'll accept that waste  
 20 and we'll make sure that it goes to a licensed  
 21 facility.  
 22 MR. SPENCER: But being in business, as I am  
 23 in a very small way, it just seems very inefficient,  
 24 would you agree, to have something hauled from out of  
 25 state and then hauled back out of state? Do you

1 understand why that seems --

2 MR. OLIVER: The one customer right now  
3 that's bringing in from out of state, it's a Maine  
4 customer, their route dips into New Hampshire, they  
5 come back up through from a routing perspective into  
6 southern Maine and they tip it at Westbrook. So it's  
7 efficient for them and they're our customer.

8 MR. SPENCER: Okay. I guess I'll leave you  
9 alone. Thank you for your responses. I guess next  
10 up is Mr. Jeremy Labbe and you may consult with Ms.  
11 Webb if you'd like to.

12 MR. LABBE: Okay.

13 MR. SPENCER: When landfill gases are  
14 measured, okay, you said it's done quarterly?

15 MR. LABBE: We do many different types of  
16 landfill gas measurements.

17 MR. SPENCER: Okay. When -- your quantify  
18 tables that those numbers are based on, is that done  
19 quarterly?

20 MR. LABBE: I'm going to defer to Abbey.  
21 I'll explain one part of the question.

22 MR. SPENCER: Sure, go ahead.

23 MR. LABBE: And I'll defer to Abbey for the  
24 table itself. We do quarterly methane emissions  
25 scans to determine if the liner is, in fact -- to

1 MR. SPENCER: Okay. So that's like, what,  
2 six, seven, eight acres.

3 MR. LABBE: Yup.

4 MR. SPENCER: Now, when you do that, do you  
5 fill just a section of that, like an acre at a time  
6 and bring it all up at the --

7 MR. LABBE: Um-hum.

8 MR. SPENCER: Okay, and then that gets an  
9 intermediate cover?

10 MR. LABBE: No. What we do is we put  
11 intermediate cover on the side slopes as we come up  
12 and the surface keeps getting filled. So there's  
13 always waste being put in, and remember, like I  
14 mentioned with the horizontals, we put the first  
15 layer of horizontals in at 20 feet, after the waste  
16 reaches 20 feet above base grade, which is the  
17 leachate collection sand, and then at 40 feet from  
18 then on we put horizontals in as we're placing waste.  
19 So we can collect waste, and that's typically done on  
20 a monthly basis, and, you know, studies have shown  
21 that it's usually about three to six months before  
22 you reach that anaerobic stage and methane starts  
23 being produced.

24 MR. SPENCER: I might dispute that later on  
25 but --

1 make sure that the liner is, in fact, performing as  
2 we intend it to, and then Abbey will actually answer  
3 as to how the EPA provides guidance for the table.

4 MR. SPENCER: Well, what I'm asking and I  
5 want to know is if -- when you do this quarterly test  
6 for methane escape, is it done over an active part of  
7 the landfill or over a capped part of the landfill?

8 MR. LABBE: The quarterly surface scans are  
9 done in accordance with the EPA guidelines and they  
10 are done on the intermediate and final covered areas  
11 of the landfill. You have to remember that the  
12 active area of the landfill is where the waste is  
13 currently going in. So it hasn't reached that stage  
14 yet of anaerobic decomposition because basically  
15 what's going on is every new day you're putting in  
16 new waste on top of it. Does that make sense? And  
17 so what they tailored the gas monitoring for is your  
18 intermediate and final cover.

19 MR. SPENCER: Would you concede that there  
20 may be some methane escaping when you develop a new  
21 cell? Have you developed that cell -- was it cell 8  
22 we came out and did a tour?

23 MR. LABBE: Yup.

24 MR. SPENCER: So that's being filled now?

25 MR. LABBE: It is being filled now.

1 MR. DOYLE: Objection, move to strike.

2 HEARING OFFICER: His comment about  
3 disputing later is stricken.

4 MR. SPENCER: Would you offer an opinion on  
5 if you had an equal amount of MSW or an equal amount  
6 of other material, ash, CDD, which -- if put into an  
7 anaerobic situation, okay, which material is going to  
8 give off the most methane?

9 MR. LABBE: It all depends again and that's  
10 a number you have to run based on the composition of  
11 each material you're talking about. It all depends  
12 on the source of the construction debris, how much  
13 organics are in there, and the source of the MSW and  
14 how much organics are in the MSW. While you may  
15 think that C and D doesn't have a lot of organics, it  
16 does but it just takes a little longer to recover  
17 those organics. So when people like Mike Booth do  
18 the analysis, there's a decay rate they use for the  
19 rate of decay of waste and that's what determines the  
20 methane generation.

21 MR. SPENCER: Okay. I think I'm going to  
22 get some questions related to that later on, so let's  
23 just move ahead. Mr. Michael Barden, I've got a  
24 question for you. Mr. Barden, in your opinion, why  
25 did it take so long for the contract between PERC and

1 Casella to become null?

2 MR. BARDEN: I can't answer that. That was  
3 a private contract. I can't answer that question.

4 HEARING OFFICER: Mr. Barden, please speak  
5 up when you're responding.

6 MR. BARDEN: That was a private contract.  
7 The state was not a party to that contract.

8 MR. SPENCER: So when Casella/NEWSME  
9 presented a revised application, December 20th or  
10 whatever it was, was that the first time you had  
11 known about this agreement they had between PERC and  
12 Casella?

13 MR. BARDEN: That was the first that we'd  
14 seen a signed agreement. During our initial review  
15 of the application in September, Casella had  
16 indicated that they had ongoing discussions with PERC  
17 and that's all we knew at that point.

18 MR. SPENCER: Okay. I think that's it.  
19 That's all I've got for now. Thank you for bearing  
20 with me.

21 HEARING OFFICER: Mr. Spencer, are there  
22 other Citizen intervenors who will be asking  
23 questions as part of the group or does this conclude  
24 your cross examination of the applicant?

25 MR. SPENCER: I think we'll conclude right

1 now.

2 HEARING OFFICER: Thank you very much.

3 MR. SPENCER: Thank you.

4 HEARING OFFICER: At this time I would ask  
5 if there are any other intervenors who have cross  
6 examination questions. Are there any other  
7 intervenors who have cross examination questions?  
8 Seeing none, we will be breaking for lunch a bit  
9 early. It is approximately 11:40. We will resume  
10 here in one hour at 12:40, and we will pick up at  
11 that time with the redirect by the applicant, recross  
12 of the applicant and DEP staff questions of the  
13 applicant. We'll be back in one hour.

14 **(LUNCH RECESS)**

15  
16 HEARING OFFICER: Good afternoon. We are  
17 reconvening the Juniper Ridge Landfill hearing.  
18 Again, my name is Heather Parent. I'm the presiding  
19 officer. At this time we will pick up on the agenda  
20 where we left off with the redirect by the applicant.  
21 So, Mr. Doyle at this time.

22 MR. DOYLE: Okay, Mr. Booth, during his  
23 cross examination of you, Mr. Bower asked you whether  
24 the waste management hierarchy is a solid waste law.

25 MR. BOOTH: Yes, it is.

1 MR. DOYLE: But is the waste management  
2 hierarchy a permitting standard applicable to an  
3 application like this to accept additional MSW?

4 MR. BOOTH: No, it is not.

5 MR. DOYLE: Why not?

6 MR. BOOTH: There's no quantifiable  
7 standards to evaluate a project on. Over the years  
8 I've dealt with a number of different projects and  
9 how the hierarchy applies to them and there's nothing  
10 in the regulations which address the standard of how  
11 that would be applied typical to other permitting  
12 standards. As an example, leachate generation or,  
13 you know, stability analysis that are part of the  
14 solid waste rules that have specific standards which  
15 you have to demonstrate compliance with.

16 MR. DOYLE: Mr. Oliver, whether the  
17 hierarchy applies or not, do you think that this  
18 application is consistent with the waste management  
19 hierarchy?

20 MR. OLIVER: I do, and I've explained that  
21 in great detail in my testimony the consistency and  
22 the number of ways that value is added.

23 MR. DOYLE: Brian, Mr. Bower asked you about  
24 disposing of the former in-state Maine Energy MSW at  
25 other locations currently. If that's the case, why

1 do you need this application approved?

2 MR. OLIVER: Well, right now, as I said,  
3 we're taking tons to North County Landfill. We're  
4 also taking the majority of the tons from Westbrook  
5 to PERC under an interim agreement. That interim  
6 agreement expires at the end of April so we would  
7 have to renegotiate that agreement with PERC or we  
8 could take all 123,000 tons to that out-of-state  
9 landfill and that would require the waste to energy  
10 facilities to import a large amount of out-of-state  
11 waste to meet their needs at lower tip fees. I don't  
12 think that's what the state of Maine would have in  
13 mind or what the Governor would have in mind for the  
14 state. Really the best long-term option is to  
15 approve the application to have PERC be able to take  
16 the volume, to be able to take the tons to Juniper  
17 Ridge and to really just continue talking with the  
18 other incinerators and this really -- providing more  
19 options is better for the municipalities and the  
20 businesses in Maine because it allows for  
21 competition.

22 MR. DOYLE: Mr. Bower also asked you about  
23 various source reduction and recycling items not  
24 contingent on approval of this application. Can you  
25 explain why these are commitments that Casella and

1 NEWSME have undertaken nevertheless?

2 MR. OLIVER: Yes. Obviously we are  
3 committed to source reduction and recycling. We have  
4 made these commitments even though really they're not  
5 subject to the approval of the application, and when  
6 you look at what we've done, what commitments we've  
7 made, the Lewiston lease agreement, the PERC and the  
8 MRC recycling component of that agreement, the  
9 Biddeford curbside recycling, we closed Maine Energy,  
10 pushing 200,000 tons back out-of-state, we've built  
11 the Westbrook Transfer Station, and I believe this is  
12 a testament to Casella's core values as a company  
13 that we're moving forward with these commitments  
14 outside the framework of this application because we  
15 take our commitment seriously.

16 MR. DOYLE: Mr. Spencer asked you a question  
17 regarding the Host Community Benefit Agreement with  
18 Old Town and the MSW accepted at Juniper Ridge. Can  
19 you explain the municipal solid waste provision that  
20 you were referring to in responding to his question  
21 about the agreement?

22 MR. OLIVER: Yes. It's in Section 3.1B, and  
23 it states, and I quote, "Casella agrees that if Maine  
24 Energy ceases to operate permanently as a result of a  
25 decision by its management and/or owners or the

1 cities of Biddeford and/or Saco or by order of any  
2 governmental authority, then the \$2.50 per ton fee  
3 would apply from the date of such cessation of  
4 operations."

5 MR. DOYLE: So that's MSW from the  
6 closure --

7 MR. OLIVER: Correct.

8 MR. DOYLE: -- going to Juniper Ridge?

9 MR. OLIVER: Yes.

10 MR. DOYLE: And the benefit to Old Town?

11 MR. OLIVER: Correct.

12 MR. DOYLE: That's it. Thank you.

13 HEARING OFFICER: Thank you, Mr. Doyle. At  
14 this time I would ask if any parties wish to do what  
15 is called recross of the applicant. Essentially at  
16 this time if during this redirect there has been  
17 additional information that you would like to ask  
18 them about, this is your opportunity to recross them.  
19 Are there any parties who wish to at this time?

20 MR. BOWER: Yes.

21 HEARING OFFICER: Okay. We'll start in  
22 order of the parties and start with MMWAC and  
23 ecomaine.

24 MR. BOWER: Mr. Oliver, just a question on  
25 your comments that you just made about what happens

1 if the application is denied. You mentioned that the  
2 123,000 tons may be taken out-of-state and then PERC  
3 and other incinerators may have to import. PERC --  
4 if the -- if the application is denied under the  
5 disposal agreement PERC would lose out on the 30,000  
6 tons, correct?

7 MR. OLIVER: Correct.

8 MR. BOWER: But they are still getting the  
9 50,000 tons of the class 4 and 5 waste, correct?

10 MR. OLIVER: Correct.

11 MR. BOWER: So they would just need to make  
12 up that 30,000 tons that they're losing if the  
13 application is denied, is that correct?

14 MR. OLIVER: That is correct.

15 MR. BOWER: And you mentioned that you have  
16 an interim agreement with PERC that expires soon. Is  
17 there any reason why that cannot be extended? Is  
18 there an extension provision in that?

19 MR. OLIVER: No, but we would look to do  
20 some sort of an extension with them.

21 MR. BOWER: And then finally in your -- in  
22 Casella's or Pine Tree Waste's application for the  
23 Westbrook Transfer Station a representation was made  
24 that Casella has capacity at the Southbridge Landfill  
25 in Massachusetts. Is there any reason why that could

1 not be used as another option?

2 MR. OLIVER: There is no reason, no.

3 MR. BOWER: Thank you. No further  
4 questions.

5 HEARING OFFICER: Thank you, Mr. Bower. Do  
6 the Citizens have some recross at this time? Mr.  
7 Spencer.

8 MR. SPENCER: Thank you. I've got one  
9 question for Mr. Oliver. You were saying how there  
10 are other smaller landfills in Maine that are  
11 licensed to take MSW, and would you concede that  
12 Juniper Ridge Landfill because it is state owned  
13 might want to adhere more strictly to our waste  
14 hierarchy than the other landfills are required to?

15 MR. OLIVER: I think, as we've stated, this  
16 application is consistent with that hierarchy.

17 MR. SPENCER: So you don't think there's any  
18 special responsibility on the part of the state to be  
19 a little stricter with its policies -- applying its  
20 own policies to its own landfill?

21 MR. OLIVER: I do not.

22 MR. SPENCER: Okay, thank you.

23 HEARING OFFICER: Thank you, Mr. Spencer.

24 At this time I am looking for the DEP staff to ask  
25 questions of the applicant.

1 MS. LOYZIM: I had a clarifying question for  
2 Abigail regarding the table that you showed with the  
3 estimated collection efficiencies. Does the EPA  
4 formula and subpart double H include in the  
5 calculation differences based on different waste  
6 types?

7 MS. WEBB: It does. The subpart HH  
8 calculations actually calculate the emissions in two  
9 ways and then they take the higher number of the two  
10 methods. So one method is based on the gas curve  
11 which integrates the decay -- the decay rate and the  
12 waste composition is all factored into that method.  
13 It is not reflected in the other method, the one that  
14 was shown in the table. I think I answered that  
15 right.

16 MS. LOYZIM: So for the -- the calculation  
17 of the decay rate and the collection efficiency  
18 that's been determined for Juniper Ridge is that with  
19 the current waste stream or an estimation based on  
20 adjusting some of the volume for MSW instead of FEPR  
21 and ash?

22 MS. WEBB: For the purposes of this it  
23 represents the new proposed waste stream.

24 MR. BOWER: Could I just inject, could the  
25 speakers from DEP staff identify themselves so we can

1 identify them later in the transcript and so forth?

2 MS. LOYZIM: I'm sorry, I'm Melanie Loyzim,  
3 the director of the Bureau of Remediation, waste  
4 management, at the DEP. And then I had another  
5 follow-up question for Jeremy Labbe. If I recall,  
6 you had stated -- and maybe I misunderstood -- that  
7 active cell where waste is being disposed you're  
8 estimating there is not anaerobic activity generating  
9 methane from that cell?

10 MR. LABBE: Well, again, it all depends on  
11 the lifetime of that cell, and if the lifetime of the  
12 cell is longer than three to six months, then  
13 anaerobic does start. The great thing about what we  
14 do is that we put infrastructure in on a monthly  
15 basis so that if it does begin in the cell as it's  
16 being placed, we can actually collect it while --  
17 from below where the waste is actively being placed  
18 so the new material that's continually added gets gas  
19 collection infrastructure. I don't know if that  
20 answers your question.

21 MS. LOYZIM: So then you would estimate that  
22 there is methane generated from an active cell that  
23 has waste in place that's more than six months old?

24 MR. LABBE: Yes.

25 MR. PARKER: I'm Mike Parker, the DEP

1 Project Manager. We'll stay with you, Jeremy, since  
2 we left off with you. Again, referring to the  
3 placement of the horizontal collectors, you said  
4 those are put in approximately after every 40-foot  
5 lift, is that correct?

6 MR. LABBE: Um-hum.

7 MR. PARKER: Is it possible to install those  
8 if -- if your gas generation starts sooner, could you  
9 install those at a more frequent rate?

10 MR. LABBE: Absolutely we could and we have  
11 done so in the past as necessary. That's one of the  
12 points I made in the testimony about our site  
13 personnel being certified to actually install this  
14 gas piping on their own so if, contrary to our  
15 design, you know, that we've gone through, if we do  
16 notice any issues, we can proactively install stuff  
17 as it arises.

18 MR. PARKER: Thank you. You talked about  
19 the quarterly scans that you do. Is there any other  
20 corroborating data that's generated around the  
21 facility that supports your contention that there's  
22 no off-site odors being generated?

23 MR. LABBE: Well, obviously odor complaints  
24 are a big one for us. We like to get feedback from  
25 the neighbors, and then additionally, we have

1 hydrogen sulfide monitors, stationary monitors, six  
2 of them, stationed around the landfill footprint in  
3 strategic locations that were developed with the DEP  
4 to determine and make sure that our collection is  
5 working properly.

6 MR. PARKER: This is a tossup for either you  
7 or Abigail. You talked about the waste generation  
8 curve. You had projections for waste -- I'm sorry --  
9 for gas generation. Is that somehow corroborated  
10 with what you're actually collecting? If you project  
11 you're going to generate 3,000 cubic feet per minute  
12 of gas, is that actually what you're collecting right  
13 now and how does that factor into your collection  
14 efficiency calculations?

15 MR. LABBE: Well, if I understand the  
16 question correctly, it's are we comparing empirical  
17 data, the data we're seeing at the site, to  
18 theoretical, is that correct?

19 MR. PARKER: That's correct.

20 MR. LABBE: Yeah, absolutely, and Sanborn  
21 does take that into account and they have all the  
22 data that we produced from our well tuning activities  
23 as well as our flare run rates and flow rates, and  
24 they make corrections and adjustments to that gas  
25 projection analysis based on what we're actually

1 seeing on the site.

2 MR. PARKER: Thank you. How finely can  
3 you -- you talked about your well field and balancing  
4 that. How finely can you tune that? Is that to the  
5 individual collection well itself or do you have to  
6 project that over a larger area? How sensitive is  
7 your tuning ability?

8 MR. LABBE: It is very sensitive. We have  
9 the ability to tune each individual horizontal  
10 collector and each individual vertical well. We have  
11 over 125, we're probably closer to 130 now,  
12 individual locations that are monitored and that can  
13 be adjusted on a very frequent or infrequent basis  
14 depending on what's going on, typically at least once  
15 a month, and it's something that we can address as  
16 necessary, yes.

17 MR. PARKER: Again, and not picking on you,  
18 Abigail, but at one point you talked about after year  
19 40 you're not collecting any gas. Why is that?

20 MS. WEBB: So that was a very conservative  
21 assumption just for the sake of discussion purposes.  
22 That would be the case maybe for the last truck load  
23 of waste that gets placed in the landfill because of  
24 the requirement that the system continue for 30  
25 years. We might continue running it longer. I just

1 handled. So can you speak a little bit to that?

2 MR. LABBE: I might have to defer to Don on  
3 this but I believe we have an agreement in place with  
4 Old Town Fuel and Fiber for disposal or at least a  
5 guarantee of ability to dispose of our leachate. Is  
6 that what you're referring to?

7 HEARING OFFICER: And does that agreement  
8 account for the change in leachate both for Old Town  
9 Fuel and Fiber and the city of Brewer, who I believe  
10 is the secondary?

11 MR. LABBE: Yeah, I'll speak a little bit to  
12 the city of Brewer because we have a specific  
13 permit -- an industrial wastewater discharge permit  
14 with the city of Brewer and as part of that permit  
15 there is requirements for concentrations -- parameter  
16 concentrations that we have to meet prior to disposal  
17 over there and that basically -- you know, assuming  
18 we meet those parameters, we can dispose of leachate  
19 at Brewer.

20 HEARING OFFICER: And you've provided that  
21 documentation to the Department?

22 MR. LABBE: Yes, we have.

23 HEARING OFFICER: Do we have any other  
24 questions?

25 MR. PARKER: I have some questions. Jeremy,

1 made that assumption just for discussion purposes.

2 MR. PARKER: Okay. A question for Mr.  
3 Oliver. In your testimony today you said under  
4 "penalty of law" referencing out-of-state waste.  
5 What law are you referencing to I guess?

6 MR. OLIVER: That's a good question. That's  
7 just how our weight ticket reads.

8 MR. PARKER: Okay. Is it like they don't  
9 want to perjure themselves? Is that what they're --

10 MR. OLIVER: It actually says specifically  
11 perjury, yes.

12 MR. PARKER: Okay. Thank you.

13 HEARING OFFICER: I have one additional  
14 question for -- I believe Mr. Labbe would be the  
15 appropriate person. Given that the applicant must  
16 demonstrate -- has the burden of proof of  
17 demonstrating that each of the criteria are  
18 satisfied, has the -- has the applicant provided to  
19 the Department or will it be providing to the  
20 Department documentation that it has satisfied the  
21 leachate disposal method with both its primary and  
22 secondary options, primary obviously being Old Town  
23 Fuel and Fiber and secondary being Brewer? We have  
24 seen some estimates about the ability to handle but  
25 we also need to see the documentation that it will be

1 sticking with the Brewer leachate contract, there was  
2 a comment made from one of the interested persons  
3 that that contract had expired with the city of  
4 Brewer. Is that correct and have you renegotiated  
5 that for an additional term?

6 MR. LABBE: That is correct and we have a  
7 new permit in place as of 2013.

8 MR. PARKER: Okay, thank you. This one is  
9 directed to Mr. Booth following up on Heather's  
10 comments. You've seen the memo that came out a week  
11 or so ago regarding the Department's review of  
12 leachate quality and quantity. Do you have any  
13 follow-ups or response to that or are you in  
14 agreement with what the Department reached on its own  
15 accord or do you have any comments on that at all?

16 MR. BOOTH: I totally agree with what was in  
17 that analysis. They came to similar conclusions that  
18 we did on the quality, and they also identified, you  
19 know, that it met the standards in both the Old Town  
20 Fuel and Fiber and the city of Brewer pretreatment  
21 requirements, and I agree that there's nothing that  
22 I've gone through in the analysis that said that this  
23 material wouldn't meet any of the requirements of  
24 either Old Town Fuel and Fiber or for the city of  
25 Brewer.

1 MR. PARKER: I think this is directed at Mr.  
 2 Oliver. It may not even require a response, but I  
 3 just want to reiterate, you have at this point no  
 4 intention or plans to bring out-of-state waste to the  
 5 Westbrook facility other than that one contract you  
 6 talked about, is that correct?  
 7 MR. OLIVER: Specifically one thing we did  
 8 was reroute our own collection vehicles so all of  
 9 Pine Tree's collection vehicles stop at the border  
 10 and then come back. We do not collect out-of-state  
 11 waste and bring it to Westbrook. We'll evaluate it  
 12 on a customer-by-customer basis and if we do have  
 13 requests, then we'll deal with it and we'll handle it  
 14 appropriately.  
 15 MR. PARKER: And you would agree with the  
 16 statement that it is a transfer station and that the  
 17 mythical truck of out-of-state waste couldn't come  
 18 there, you pull out one tin can for recycling and  
 19 send the remainder up to Juniper Ridge as processing  
 20 residue?  
 21 MR. OLIVER: Correct. It is a transfer  
 22 station. It's not a processing facility.  
 23 MR. PARKER: Thank you.  
 24 HEARING OFFICER: I believe that's all the  
 25 questions that the Department has. So thank you to

1 the applicant for the presentation and the answers to  
 2 questions you provided. We will now be moving on to  
 3 the summary of testimony by MRC.  
 4 MS. McBRADY: Good afternoon, Presiding  
 5 Officer Parent, Assistant Attorney General  
 6 Macirowski, Director Lozjim and Members of the  
 7 Department.  
 8 HEARING OFFICER: Please be sure to speak  
 9 up.  
 10 MS. McBRADY: My name is Nancy McBrady. I  
 11 am an attorney with Preti, Flaherty, and I am counsel  
 12 to the Municipal Review Committee here today.  
 13 I would like to introduce the three  
 14 witnesses that will be providing summaries of the  
 15 testimony that they have already filed within the  
 16 record. The first to speak today will be Mr. Chip  
 17 Reeves. He is board president of the MRC and also  
 18 the director of public works for the town of Bar  
 19 Harbor. There's Greg Lounder second, who is the  
 20 executive director of the MRC and then George  
 21 Aronson, principal of Commonwealth Resource  
 22 Management Corporation who has provided consulting  
 23 services to the MRC for the past two decades. To the  
 24 extent that their testimony is less than the allotted  
 25 time, similar to other parties earlier today, we

1 would like to reserve the remainder for either  
 2 redirect or cross examination purposes. Thank you.  
 3 MR. REEVES: Good afternoon, Presiding  
 4 Officer Parent and Members of the Department of  
 5 Environmental Protection. As stated before, my name  
 6 is Chip Reeves. I'm the board president of the  
 7 Municipal Review Committee. I'm also director of  
 8 public works for the town of Bar Harbor.  
 9 The MRC is a nonprofit organization that  
 10 represents 187 municipalities in central and eastern  
 11 Maine whose citizens, businesses and institutions  
 12 generate municipal solid waste that is currently  
 13 disposed of at the Penobscot Energy Recovery Company  
 14 waste to energy facility in Orrington, Maine, and  
 15 which owns roughly 25 percent of the limited  
 16 partnership interest. The member municipalities have  
 17 each contracted with PERC to dispose of their MSW  
 18 through March 31st of 2018.  
 19 The MRC has intervened in this hearing  
 20 regarding the amendment application because it has an  
 21 interest in affordable, long-term and environmentally  
 22 sound disposal of its charter municipalities' MSW.  
 23 Casella's amendment application proposes to allow  
 24 acceptance of unprocessed MSW for disposal at the  
 25 Juniper Ridge Landfill in Old Town from in-state

1 sources, including some of the MSW that had  
 2 previously been processed by the now closed Maine  
 3 Energy waste to energy facility that was located in  
 4 Biddeford; however, Casella and PERC's private  
 5 partners have negotiated a contract that delivers a  
 6 portion of the in-state waste MSW stream that  
 7 previously went to Maine Energy to the PERC facility.  
 8 In the short-term, the contract between Casella and  
 9 PERC, together with closure of the MERC facility,  
 10 offers significant benefits to the charter  
 11 municipalities regarding a long-standing concern of  
 12 the MRC; namely, the provision of an adequate supply  
 13 of MSW to the PERC facility from in-state sources.  
 14 The new Casella/PERC contract would have Casella  
 15 deliver up to 100,000 tons per year of MSW to the  
 16 PERC facility, including up to 30,000 tons per year  
 17 of MSW that had previously been delivered to the  
 18 Biddeford facility from in-state sources. As a  
 19 result, the new contract assists the PERC facility in  
 20 operating at or near full capacity with reduced  
 21 reliance on out-of-state MSW and the contract's tip  
 22 fees are more favorable than what PERC would have  
 23 received by accepting the out-of-state MSW. This  
 24 results in economic benefit both to PERC and to the  
 25 charter municipalities which will share the benefits

1 of PERC's improved financial performance.  
 2 Another long-standing concern of the MRC and  
 3 its member municipalities is the proper  
 4 implementation of the state solid waste management  
 5 hierarchy. After careful consideration of the  
 6 application amendment, MRC believes that the  
 7 Casella/PERC contract offers the following benefits;  
 8 number one, delivery of additional MSW to the PERC  
 9 facility will divert a significant volume of MSW away  
 10 from the Juniper Ridge Landfill and extend somewhat  
 11 the life of the landfill. This will preserve the  
 12 landfill's airspace for disposal of PERC's residual  
 13 materials and other materials from separate sources  
 14 for which landfilling is the best disposal option.  
 15 Number two, under certain provisions of the  
 16 contract Casella would deliver additional MSW to the  
 17 PERC facility to replace materials that charter  
 18 municipalities recycle through a Casella facility,  
 19 thus charter municipalities can increase recycling  
 20 efforts without incurring increased tipping fees or  
 21 contract term penalties regarding minimum MSW  
 22 deliveries to PERC.  
 23 Third, the Casella/PERC contract contains  
 24 several other provisions that would reduce charter  
 25 municipality exposure to delivery shortfall

1 penalties; for example, it contains insurances to  
 2 preclude MSW collected by Casella within charter  
 3 municipalities from being delivered to any other  
 4 facility other than the PERC facility.  
 5 MRC is confident that the Casella/PERC  
 6 contract will benefit the charter municipalities to  
 7 the extent PERC continues to operate at capacity and  
 8 existing licensed airspace continues to be available  
 9 for PERC residuals. MRC is not opposed to the excess  
 10 MSW going to Juniper Ridge Landfill. As a result,  
 11 MRC does not object to this particular Casella  
 12 amendment application currently before the Maine DEP.  
 13 MR. LOUNDER: Thank you, Chip. Good  
 14 afternoon, Presiding Officer Parent, Members of the  
 15 DEP. My name is Greg Lounder. I'm the executive  
 16 director of the MRC.  
 17 The MRC was formed back in 1991 for the  
 18 benefit of the member municipalities. The principal  
 19 job through these years has been to ensure that our  
 20 mission of affordable, long-term,  
 21 environmentally-sound disposal of MSW continues to be  
 22 met.  
 23 All together we represent 187 Maine  
 24 municipalities. Our role has evolved considerably  
 25 through these 21 or 22 years and through time we have

1 evolved as needed to ensure that the interests of our  
 2 communities continue to be met.  
 3 I want to touch briefly on longer-term  
 4 issues related to today's proceeding. Repeating  
 5 points made by others earlier, the closure of Maine  
 6 Energy is certainly a significant state-wide event.  
 7 The MRC has carefully considered the long-term  
 8 implications of this change. We have evaluated a  
 9 number of approaches and options in response to this  
 10 change and we ultimately worked with PERC to  
 11 implement the PERC/Casella contract. I want to be  
 12 clear, the PERC facility is very reliable, has been  
 13 for a number of years and it remains our preferred  
 14 extension option for after 2018.  
 15 The application amendment and the  
 16 PERC/Casella contract have not changed our effort to  
 17 extend PERC; however, I do want to discuss a couple  
 18 key challenges that we face in relation to that  
 19 endeavor; number one, project scale. Clearly the  
 20 PERC facility requires more MSW than the existing  
 21 municipalities can provide. The new MSW that would  
 22 be available to PERC as a result of this amendment  
 23 application being approved would not be enough MSW to  
 24 fully satisfy that challenge, but our sense at this  
 25 time is that it is a clear step in the right

1 direction.  
 2 I also want to be clear on another point,  
 3 and I do want to express appreciation. There have  
 4 been a number of suggestions, theories that have been  
 5 discussed in the context of this proceeding that  
 6 contemplate circumstances where we may ultimately  
 7 have been able to acquire more MSW than is currently  
 8 available and I just want to make the strong point  
 9 that we've considered any and all possibilities to  
 10 addressing the needs of the communities here and we  
 11 ultimately decided that the contract route pursued  
 12 was the best solution for our municipalities in this  
 13 case.  
 14 The second issue in relation to long-term  
 15 reliability of waste to energy relates to revenue  
 16 loss from the sale of energy products, and we are  
 17 exploring a number of approaches to securing value  
 18 post 2018, including state financial support. We're  
 19 looking at a number of emerging processing  
 20 technologies that could lead to the production of  
 21 higher value energy products, and, again, that needs  
 22 to be at a scale that is a good fit for the MSW that  
 23 our municipalities could be expected to generate over  
 24 the long-term; however, we're at a point where we  
 25 cannot guarantee that our mission will continue

1 beyond 2018 without some change in facility scale or  
 2 revenue enhancement for existing or new energy  
 3 products.  
 4 So in light of these challenges, the MRC and  
 5 PERC's private partners recently took action to  
 6 secure new tons and to begin to look at a post 2018  
 7 MSW contingency plan, and that contingency plan being  
 8 an option possibly for the municipalities that we  
 9 serve to potentially transition their disposal needs  
 10 after 2018. The contingency plan referenced in the  
 11 PERC/Casella contract, however, has no bearing on  
 12 this proceeding and would be the subject of a  
 13 separate licensing process.  
 14 And I also want to make the point, and I'll  
 15 do this truly as a contingency plan, all the terms  
 16 that would be required to implement such a plan are  
 17 not nearly fully developed, it's all quite new, but  
 18 our feeling is that it's just good, straightforward  
 19 advance contingency planning for our members, and  
 20 I've discussed this prospect in my recent travels  
 21 with member communities and they have expressed some  
 22 sense of relief that we're taking a very broad-based  
 23 approach to our post 2018 planning process rather  
 24 than just remaining in the confines of the box we  
 25 built, so to speak, at any cost. In the past, MRC --

1 HEARING OFFICER: You have about two minutes  
 2 to summarize the rest of your testimony.  
 3 MR. LOUNDER: Thank you. Moving forward,  
 4 just a closing thought on the hierarchy. We've  
 5 always been supportive of the state's hierarchy and  
 6 that remains so and we feel its strength and enduring  
 7 quality is its flexibility as a guiding principle.  
 8 The MRC has supported and will continue to support  
 9 the hierarchy for the guiding principle that it is.  
 10 We also appreciate the flexibility built into the  
 11 declaration of policy that makes it clear the state  
 12 is not committed to a particular disposal method  
 13 where such commitment would cause other options to be  
 14 foreclosed upon or eliminated, and that is very  
 15 consistent with our thinking with respect to post  
 16 2018. So I'll close. Thanks.  
 17 MR. ARONSON: Good afternoon, Presiding  
 18 Officer Parent, Members of the DEP. My name is  
 19 George Aronson. I am a principal with Commonwealth  
 20 Resource Management Corporation based in Boston,  
 21 Mass. I've been involved in the waste to energy  
 22 industry since 1982. I've been a technical and  
 23 economic consultant for the MRC since its inception  
 24 in 1991; in fact, I helped negotiate the long-term  
 25 waste disposal agreements between PERC and the member

1 communities in 1990 and '91 which gave rise to the  
 2 MRC and since then I have represented MRC on an  
 3 ongoing basis regarding compliance with the amended  
 4 and restated waste disposal agreements, oversight of  
 5 technical performance, capital and major projects for  
 6 sustaining the PERC facility and efforts to acquire  
 7 waste to enable PERC to operate at capacity and on  
 8 terms favorable to the charter municipalities for  
 9 these last 22 years.  
 10 Just to -- my testimony focuses on the  
 11 impacts of the contract between Casella and PERC that  
 12 allows the acceptance of unprocessed MSW for disposal  
 13 to the Juniper Ridge Landfill from in-state sources,  
 14 some of which had been previously processed by the  
 15 now closed Maine Energy facility. The contract also  
 16 allows for the delivery of some of Maine Energy's MSW  
 17 to the PERC facility, in short, a contract in concert  
 18 with Casella's amendment application attempts to  
 19 comply with the state's waste management hierarchy  
 20 while also supporting and improving certain aspects  
 21 of the continued operations of PERC.  
 22 It's my view that the Casella/PERC contract  
 23 will assist in reducing the amount of out-of-state  
 24 waste needed for the PERC facility to operate at  
 25 capacity. The guaranteed in-state MSW delivered to

1 PERC by Casella will further assist with the  
 2 diversion of some MSW away from landfills, which  
 3 supports the state's hierarchy. As a result, the  
 4 Casella/PERC contract and this particular amendment  
 5 application, if implemented as intended, will provide  
 6 significant economic benefits to the MRC member  
 7 municipalities.  
 8 HEARING OFFICER: Thank you very much. At  
 9 this time we will do cross examination of MRC and the  
 10 witnesses that are before us. MMWAC and ecomaine  
 11 have both indicated that they would like to cross  
 12 examine. I have allotted five minutes for each one  
 13 of them.  
 14 MR. BOWER: Again, if we could, we would  
 15 like to combine the time for MMWAC and ecomaine in  
 16 which case we would have ten minutes.  
 17 HEARING OFFICER: Ten minutes is allotted.  
 18 Please stay within the ten minutes.  
 19 MR. BOWER: Okay. A question for Mr.  
 20 Lounder. You close your pre-filed testimony with the  
 21 statement, "therefore, MRC does not object to the  
 22 application pending before Maine DEP." You state you  
 23 don't object but do you support the application?  
 24 MR. LOUNDER: Given the benefits potentially  
 25 available to charter municipalities we're certainly

1 supportive of it.

2 MR. BOWER: In the past MRC -- and you made  
3 reference to this in your testimony -- MRC has  
4 expressed significant concerns about allowing for the  
5 landfill of raw MSW at Juniper Ridge, at Pine Tree  
6 Landfill in Hampden, and you also testified against  
7 the licensing of the Westbrook Transfer Station more  
8 recently. Has something changed such that MRC now  
9 takes a different approach and is not objecting to  
10 this application other than the 30,000 tons?

11 MR. LOUNDER: I think our position in  
12 relation to the Westbrook Transfer Station was prior  
13 to the terms of this arrangement being fully  
14 developed.

15 MR. BOWER: So it's really just the contract  
16 for the 30,000 tons that has changed the way that MRC  
17 views the issue of landfilling raw MSW?

18 MR. LOUNDER: The contract addresses a  
19 number of concerns that have been longstanding at MRC  
20 related to that, yeah.

21 MR. BOWER: In your remarks a moment ago you  
22 discussed that -- you made reference to the disposal  
23 agreement but also commented that 30,000 tons is not  
24 necessarily enough to meet MRC -- or PERC's long-term  
25 needs for that incinerator. Wouldn't -- wouldn't the

1 MR. BOWER: To move 93,000 tons of waste  
2 from a higher rung in the hierarchy to the lowest  
3 rung in the hierarchy in your opinion is consistent  
4 with that solid waste hierarchy?

5 MR. LOUNDER: Well, in relation to the  
6 reality that one of the four incinerators closed.

7 MR. BOWER: In Brian Oliver's testimony  
8 earlier he mentioned an interim agreement with PERC  
9 that is about to expire. Have there been discussions  
10 that you know of between PERC and Casella to extend  
11 -- what's going to happen when that interim agreement  
12 expires?

13 MR. LOUNDER: Not to my knowledge.

14 MR. BOWER: There have been no discussions  
15 to your knowledge?

16 MR. LOUNDER: Not to my knowledge, no.

17 MR. BOWER: And then finally, you mentioned  
18 in the event that PERC were to shut down and this is  
19 contemplated in the disposal agreement, that Juniper  
20 Ridge could be an option for MRC communities for the  
21 disposal, is that correct?

22 MR. LOUNDER: I characterized that as an  
23 arrangement that's less than fully developed. There  
24 would be a fair amount involved for that to reach a  
25 point where it was a plausible solution.

1 status quo -- by status quo I mean no MSW at Juniper  
2 Ridge except for bypass from incinerators, wouldn't  
3 that situation be more beneficial to the MRC  
4 communities in the long-term?

5 MR. LOUNDER: If we felt so, we likely would  
6 have had an adjusted position in the proceeding.

7 MR. BOWER: I'm not sure I understand the  
8 answer. I guess I'm comparing would the status quo  
9 of no MSW at Juniper Ridge except for bypass be more  
10 beneficial than the agreement to have 30,000 tons  
11 which does not satisfy the needs of the incinerator  
12 currently?

13 MR. LOUNDER: I don't agree with that  
14 assessment.

15 MR. BOWER: Do you -- if the status quo were  
16 to remain, do you think you would get more or less  
17 than 30,000 tons at the PERC facility?

18 MR. LOUNDER: Less.

19 MR. BOWER: In your opinion -- and this is  
20 my last question -- does a proposal to landfill  
21 93,000 tons of waste that used to be incinerated, do  
22 you believe that's consistent with the solid waste  
23 hierarchy?

24 MR. LOUNDER: Given certain conditions it  
25 could be.

1 MR. BOWER: If that contingency occurred,  
2 how much MRC waste would need to be disposed of at  
3 Juniper Ridge in order to provide a disposal option  
4 for all MRC communities? How many tons are we  
5 talking about?

6 MR. LOUNDER: The total MSW generated by the  
7 charter municipalities?

8 MR. BOWER: Right.

9 MR. LOUNDER: It's about 182,000 tons at  
10 present.

11 MR. BOWER: Okay. No further questions.

12 HEARING OFFICER: Thank you. Are there  
13 other intervenors who wish to cross examine MRC at  
14 this time? Mr. Spencer, please come forward.

15 MR. SPENCER: Thank you. I'll be brief.  
16 We've been hearing about a \$450,000 annual savings  
17 if this -- once this unappealable permit is provided  
18 to Casella and BGS. Of that \$450,000, is that  
19 \$450,000 total to PERC?

20 MR. LOUNDER: Annually, yup, total to PERC.

21 MR. SPENCER: Annually, okay. So MRC owns  
22 about 25 percent of PERC so would MRC towns be saving  
23 \$450,000 for the towns or 25 percent of the \$450,000  
24 for the towns?

25 MR. LOUNDER: Well, given the overall

1 structure of our arrangement, we're going to do a  
2 little better than 25 percent because we have  
3 contractual rights to a share of the revenue, but to  
4 sum it up, the value to the charter municipalities  
5 would be about 41 percent of the total.

6 MR. SPENCER: Okay. Well, thank you.

7 MR. LOUNDER: Sure.

8 HEARING OFFICER: Are there other  
9 intervenors who wish to cross-examine MRC at this  
10 time? Moving on to the redirect by MRC, Ms. McBrady.

11 MS. McBRADY: Just very briefly. I wanted  
12 to touch on the benefits of the PERC/Casella contract  
13 and I'm going to open this to any of you three. It's  
14 correct that the 30,000 tons that will be brought to  
15 PERC is from in-state MSW that is replacing  
16 out-of-state waste, is that correct?

17 **(All three witnesses nod in the affirmative)**

18 MS. McBRADY: Could you also address some of  
19 the other opportunities and attributes of the  
20 Casella/PERC contract that directly impacts MRC?

21 MR. ARONSON: There are other benefits that  
22 are contractual going to the ongoing relationship  
23 between Casella and PERC where there had been some  
24 questions in open areas on the operations level that  
25 were resolved. There's been concern about accounting

1 MR. BOWER: What is the basis of that  
2 understanding that those other parts of the agreement  
3 are contingent on --

4 MR. ARONSON: No, no, that's not what I  
5 said.

6 MR. BOWER: Oh, okay.

7 MR. ARONSON: My understanding is that the  
8 30,000 are contingent but the other --

9 MR. BOWER: The other attributes are not  
10 contingent, correct?

11 MR. ARONSON: That's correct.

12 MR. BOWER: It's just the 30,000 tons that  
13 were not previously going to PERC, that's contingent  
14 on the granting of this application, correct?

15 MR. ARONSON: Yes.

16 MR. BOWER: Okay, nothing further.

17 HEARING OFFICER: Are there other  
18 intervenors who wish to recross MRC at this time?  
19 Seeing none, we can take a brief recess and I can see  
20 -- oh, excuse me, does the staff have questions?

21 MR. PARKER: Mike Parker again, project  
22 manager. Getting back to one of Mr. Bower's earlier  
23 points, Mr. Lounder, if 30,000 tons going to the PERC  
24 facility is good, why isn't it even better that the  
25 full 90,000 tons goes to PERC and we flip this around

1 for waste originating within the charter  
2 municipalities. That has been addressed as well.  
3 That's been a longstanding concern of the MRC. There  
4 are some changes to some escalation provisions and  
5 those also provided some benefits to the MRC as well.  
6 So it's not just the 30,000 tons, and also in terms  
7 of acquiring tonnage from out-of-state, that requires  
8 a significant amount of effort to do from multiple  
9 sources for the PERC staff and to the extent that  
10 comes from a single source, there's an advantage in  
11 having -- basically in having that come from one  
12 source rather than from multiple sources as well.

13 MS. McBRADY: Thank you. No other  
14 questions.

15 HEARING OFFICER: At this time would any of  
16 the intervenors like to recross? And I see Mr. Bower  
17 coming forward.

18 MR. BOWER: Just quickly to follow up on  
19 that point that Mr. Aronson made. The other  
20 attributes of the PERC disposal agreement are not  
21 contingent on the approval of the pending  
22 application, correct?

23 MR. ARONSON: They are part of the agreement  
24 and my understanding is that the agreement is in  
25 force.

1 and only 30,000 tons go to Juniper Ridge? Is there  
2 some detail in the contracts that I'm missing?  
3 MR. LOUNDER: No, I think not. It's more a  
4 matter of if here in the spring of 2013 we could have  
5 developed an approach that would have secured 90,000  
6 tons in some way, we certainly would have acted  
7 toward that end.

8 MR. PARKER: Are you aware of what those  
9 roadblocks are to preventing that from happening,  
10 from securing that full 90,000 tons that would pretty  
11 much replace what you take in currently for  
12 out-of-state waste?

13 MR. LOUNDER: The approach we took was one  
14 that we believed would secure as much of that tonnage  
15 as possible. So it's a competitive marketplace out  
16 there. Well, I should point out, you know, PERC's  
17 the signatory of the contract and, you know, this  
18 question may also be well suited to them as the  
19 signatory to that agreement, but I guess I'll try to  
20 close by saying all factors considered in a  
21 competitive marketplace, we took the best action we  
22 could to secure as much MSW as we could.

23 MR. PARKER: But you would agree if you  
24 could secure more tons either through Casella or  
25 someone else, that would certainly be more beneficial

1 to the facility and to MRC?

2 MR. LOUNDER: Yeah, yeah, and there's --  
3 yeah, there's more job left to do certainly.

4 MR. PARKER: Okay. Mr. Aronson, do you have  
5 anything to add to that?

6 MR. ARONSON: I think that was a straight  
7 answer. I should point out that the MRC was  
8 indirectly involved in this negotiation. We were  
9 giving input to the partners but we were not directly  
10 involved and so questions were asked of us as to what  
11 our opinions were on certain issues that have been  
12 longstanding concerns and we gave our responses as  
13 best we could.

14 MR. PARKER: Thanks, all set.

15 MS. LOYZIM: Again, I'm Melanie Loyzim,  
16 bureau director for Bureau of Remediation, Waste  
17 Management, Maine DEP. There's been a number of  
18 references to an interim agreement and reference to  
19 an expiration in the near term. Are you aware of  
20 what the expiration date of that interim agreement  
21 is?

22 MR. LOUNDER: I'm not certain to the day.  
23 I'm thinking mid-to-late April.

24 MS. LOYZIM: Is that April 2013, this month?

25 MR. LOUNDER: Yes.

1 MS. LOYZIM: And what is the expectation of  
2 what will happen after expiration of that agreement?  
3 What are the changing conditions for the waste stream  
4 pertaining to MRC's communities?

5 MR. LOUNDER: In relation to the interim  
6 disposal agreement? There have not been extension  
7 discussions between PERC and Casella that I'm aware  
8 of.

9 MS. LOYZIM: So what is the impact on the  
10 waste stream for the MRC communities upon expiration  
11 of that interim agreement?

12 MR. LOUNDER: Well, we would have to return  
13 to the out-of-state marketplace and make every effort  
14 to secure those tons.

15 MR. ARONSON: If I can add something, April  
16 is the start of the seasonal uptick in waste  
17 deliveries and generation in Maine in general and so  
18 we would typically expect to see waste quantities  
19 increase in April and through the summer months in  
20 any event. So there tends to be a greater need for  
21 waste particularly in February and March than there  
22 are in later months so it's a somewhat different  
23 marketplace. We have not been involved in any way  
24 with those -- if there are discussions, we have not  
25 been involved with them so we can't give you

1 particulars on what those discussions are.

2 MS. LOYZIM: Thank you.

3 MR. PARKER: I have a couple of follow-ups  
4 for you. We've talked about shortages to the MRC  
5 communities. Greg, up to this point is there some  
6 average amount in tonnage or cubic yards that in  
7 aggregate those communities have been short?

8 MR. LOUNDER: In relation to --

9 MR. PARKER: Up to this point, going back,  
10 not moving forward yet.

11 MR. LOUNDER: I'm unsure I understand the  
12 question.

13 MR. PARKER: The MRC communities have an  
14 obligation to deliver a certain amount of tonnage.  
15 Is there some aggregate number of those that are  
16 short in their tonnage obligations?

17 MR. LOUNDER: The aggregate tonnage  
18 obligation I think is 182,000 tons, give or take.

19 MR. PARKER: Okay, and given this proposal  
20 before us, you're comfortable that they could -- that  
21 Casella could at least fill in some of that as part  
22 of their contractual obligations, is that correct?

23 MR. LOUNDER: That's correct.

24 MR. PARKER: That's it. No further  
25 questions.

1 HEARING OFFICER: This concludes MRC's  
2 portion of the testimony. Thank you very much. At  
3 this time could I have one representative of each  
4 party come up to discuss a scheduling issue I wanted  
5 to work through, and then I'll let you all know what  
6 the schedule is from there.

7 **(OFF RECORD)**

8  
9 HEARING OFFICER: Can I have your attention  
10 for just a moment? Do to the fact that we are a  
11 little ahead of schedule, we're going to take a  
12 slightly longer break for our afternoon break. It's  
13 1:41 now. We will reconvene at 2:15 so you have  
14 about a 35 minute break. Thank you and I'll see you  
15 at 2:15.

16 **(OFF RECORD)**

17  
18 HEARING OFFICER: Good afternoon again.  
19 Again, my name is Heather Parent. I'm the Hearing  
20 Officer for the Juniper Ridge Landfill proceedings.  
21 We are reconvening at 2:15 in the afternoon for the  
22 last party for the day -- last two parties for the  
23 day, the summary testimony of ecomaine and MMWAC and  
24 the cross examination of those parties. So at this  
25 time I would ask that the representatives for

1 ecomaine and MMWAC begin your presentation. You have  
2 a collective time for the two parties of 20 minutes  
3 for your summary of testimony, and I was just  
4 reminded that a number of people have not been sworn  
5 in. So if you would please stand if you have not  
6 been sworn in yet and plan to testify. Raise your  
7 right hand. Do you affirm to tell the truth and  
8 nothing but the truth?

9 **(Witnesses respond in the affirmative)**

10 HEARING OFFICER: Thank you. Please  
11 proceed.

12 MR. BOWER: Thank you, Hearing Officer  
13 Parent. My name again is Mark Bower. I'm an  
14 attorney at the law firm of Jensen, Baird, Gardner  
15 and Henry. I represent both ecomaine and MMWAC in  
16 this proceeding. They are testifying as a panel and  
17 our first witness is Kevin Roche who is the general  
18 manager of ecomaine.

19 MR. ROCHE: Thank you for the opportunity to  
20 testify today on the Juniper Ridge Landfill  
21 amendment. My name is Kevin Roche and I'm the  
22 general manager for ecomaine. I've been in that  
23 position for about nine years. I have 24 years of  
24 experience in several different states in this  
25 industry, both private and public experience.

1 For those of you who are not all that  
2 familiar with ecomaine, we are a quasi-municipal  
3 nonprofit organization. We have 47 member  
4 communities, 21 of those communities are owner  
5 communities and 26 are contract communities.  
6 Ecomaine owns and operates a waste energy facility, a  
7 single sort recycling facility and also a landfill.  
8 Our -- all three of our facilities of ISO 14001  
9 certified, which is proof of our environmental  
10 performance, as well as OHSAS 18,001 certified, which  
11 is proof of our safety performance.

12 Interestingly, the decision that's before  
13 you is very similar to the decision that is always  
14 before our communities because, like the state,  
15 ecomaine owns and operates -- actually, ecomaine owns  
16 a landfill and ecomaine does operate our landfill.  
17 In your case, you have a private operator. During  
18 the year and in my career with ecomaine over the last  
19 nine years several times it has come up as to how we  
20 use our landfill, and our communities have been  
21 dedicated or committed to the solid waste hierarchy  
22 as a way of managing our landfill. So we look first  
23 at reduce, reuse, recycle, then at composting and  
24 digestion and then at waste to energy and then the  
25 very bottom rung, as we all know, is landfilling.

1 When I say we're committed to that, we could easily  
2 open up our landfill and landfill unprocessed waste,  
3 and financially we would be better off by doing that  
4 and each year we can consider doing that, but our  
5 communities have never done that and the reason why  
6 they haven't done that is they're in this for the  
7 long-term. They don't want to use up that valuable  
8 asset because once it's filled up, it's no longer an  
9 asset. It becomes a huge liability.

10 And so we have in our landfill, which is  
11 only two miles from downtown Portland, we have about  
12 25 years of capacity left in that landfill. If we  
13 didn't have waste to energy and we didn't have  
14 aggressive recycling, that landfill would have been  
15 filled up long ago and we, too, would have been  
16 shipping our waste to far away places and dependent  
17 upon small communities, such as Old Town, to manage  
18 our waste for us, but that isn't the case because I  
19 think our communities did the right thing. They had  
20 a lot of foresight in looking at proper, sound solid  
21 waste management strategies and conserved our  
22 landfill for future generations.

23 Here are some other reasons why we believe  
24 this amendment should not be granted. Landfilling is  
25 a storage strategy. We've actually gone back 15, 20

1 years and dug up a lot of the waste and a lot of the  
2 newspapers can still be read and a lot of the oak  
3 leaves actually can still be identified.

4 MR. DOYLE: Objection. You know, all of  
5 this is not in his testimony. He's supposed to stay  
6 within the confines of his pre-filed direct testimony  
7 and so far none of it, other than his introduction  
8 and the number of communities in his organization,  
9 are in his pre-filed testimony. So I ask that all of  
10 this be struck.

11 HEARING OFFICER: To the extent that the  
12 information that you have provided is not in the  
13 testimony, that information will be struck from the  
14 record. I ask that you please stick to the testimony  
15 that you provided in your pre-filed testimony.

16 MR. ROCHE: Moving along, out-of-state  
17 waste, we wouldn't have to take so much out-of-state  
18 waste if there wasn't so much in-state waste being  
19 landfilled. That's part of the problem right now  
20 with the state policy, and if we open up -- if we  
21 grant the landfill amendment, that issue will only  
22 get worse.

23 Recycling in many of our communities has  
24 been very successful. Our communities are recycling  
25 30 to 40 percent of our waste. We are now looking at

1 other solid waste management strategies such as  
 2 organic diversion. These cutting edge or leading  
 3 edge technologies won't happen if landfill is the  
 4 easy way out.  
 5 MR. DOYLE: Objection. This is not in his  
 6 pre-filed testimony.  
 7 HEARING OFFICER: Mr. Roche, please stick to  
 8 your pre-filed testimony. As it is, you are eating  
 9 up time talking about things that are being stricken  
 10 from the record and collectively as a group you have  
 11 20 minutes. So if you want to speak for 20 minutes  
 12 on things that won't enter the record, that's going  
 13 to be the end result here.  
 14 MR. ROCHE: Okay.  
 15 HEARING OFFICER: If perhaps you have a copy  
 16 of your pre-filed testimony in front of you, that  
 17 would be helpful.  
 18 MR. ROCHE: Regarding energy captured from  
 19 waste to energy versus landfills, landfilling -- the  
 20 capture of gas from landfilling --  
 21 MR. DOYLE: Objection, objection. Show me  
 22 in your pre-filed testimony where any word that just  
 23 came out of your mouth is located.  
 24 HEARING OFFICER: Mr. Doyle, please direct  
 25 your objections and your statements to me.

1 MR. DOYLE: I'm sorry.  
 2 MR. ROCHE: Thank you.  
 3 MR. DOYLE: Objection. This is not in his  
 4 pre-filed testimony. What he appears to be doing is  
 5 reading testimony that he used for another purpose.  
 6 MR. ROCHE: Okay, I will close and turn over  
 7 to our board chairman.  
 8 MR. McGOVERN: Thank you. Can I ask the  
 9 amount of time we have in our initial testimony?  
 10 HEARING OFFICER: For the collective of  
 11 ecomaine and MMWAC you have 12 minutes.  
 12 MR. McGOVERN: Okay, great. I'll probably  
 13 take about two of those minutes, thank you. I'm Mike  
 14 McGovern. I serve as the board chair of ecomaine.  
 15 It's -- as Kevin explained, we have various member  
 16 communities and I'd like to briefly highlight that  
 17 the municipalities are responsible for waste, that  
 18 there's a statutory basis for waste to energy in the  
 19 hierarchy and to speak also briefly about the  
 20 economics.  
 21 The municipal responsibility for waste has  
 22 been founded in Maine law for quite some time. We  
 23 are responsible for the disposal of the solid waste  
 24 in our communities, no questions asked. Within the  
 25 hierarchy of the state, the statutory basis for it,

1 it's very clear in our view of our board of where we  
 2 fall and where the different methods fall with  
 3 reduce, reuse, recycle, methods of incineration and  
 4 then with landfills. Landfills, in our view, is at  
 5 the very bottom. To that degree, we've made  
 6 investments at ecomaine, the member communities, of  
 7 over 130 million dollars in waste to energy. We  
 8 believe in the economics of it. We have gone to  
 9 tremendous expense to do that. We've even paid down  
 10 our debt, and to have an entity look for an amendment  
 11 to a permit where, you know, suddenly they want the  
 12 rules changed as we see them. They don't want to  
 13 follow the hierarchy. They don't want to follow the  
 14 economics. You know, the economics aren't the  
 15 greatest for municipalities in the state of Maine;  
 16 you know, we're getting hit left and right and this  
 17 is just another example of an entity that is trying  
 18 to get the rules changed to benefit a private  
 19 corporation instead of a public benefit for the  
 20 citizens of Maine.  
 21 And I do have -- if I might, we had  
 22 submitted some letters from our member communities  
 23 stating our concerns with the hierarchy and I have a  
 24 few more letters today that came in after the early  
 25 deadline and I would ask for your permission to

1 submit those.  
 2 MR. BOWER: We would just move to supplement  
 3 the Exhibit A to his testimony with additional  
 4 letters from communities.  
 5 MR. DOYLE: Objection. We haven't seen  
 6 them, and they're not pre-filed.  
 7 HEARING OFFICER: Why do these letters --  
 8 why were they not able to submit these letters at the  
 9 time you submitted your testimony?  
 10 MR. McGOVERN: I think some of the managers  
 11 and other officials were too busy trying to figure  
 12 out what was going on in balancing budgets and  
 13 probably just didn't meet the deadline.  
 14 HEARING OFFICER: I will not be admitting  
 15 these into the hearing record; however, there is a  
 16 public comment period that is part of the application  
 17 process. I will be providing information at the  
 18 close of the hearing tomorrow as far as how long that  
 19 written public comment period is open, and anybody  
 20 who wishes to provide information through that  
 21 mechanism can do that at that time, but I will not be  
 22 admitting those letters into the hearing record.  
 23 MR. McGOVERN: Okay, Ms. Parent. I call  
 24 your attention to the letters we did submit that make  
 25 many of the same points as the ones that won't be

1 officially submitted into the record, but we ask you  
 2 to follow the hierarchy, we ask you to look at the  
 3 economics and we ask for fairness. Thank you.  
 4 HEARING OFFICER: Thank you.  
 5 MR. DESCHENE: Good afternoon. I'm Clint  
 6 Deschene, city manager for the city of Auburn, host  
 7 community for MMWAC. I wanted to start and highlight  
 8 some of the points of my testimony and wanted to  
 9 highlight, most importantly, the business investment  
 10 and the economics of the hierarchy the city of Auburn  
 11 undertook more than 25 years ago when making these  
 12 investments. Sound business investments is an  
 13 important part of how you run your private sector  
 14 business as well as a municipality, and in doing  
 15 that, the opportunity Auburn saw was to invest in a  
 16 hierarchy that prioritized the way we handle our  
 17 waste. The city of Auburn took that opportunity and  
 18 took out over 45 million dollars in principal bonds.  
 19 That's a significant investment for a community of  
 20 any size at any time in the state of Maine. Based  
 21 upon this business investment, I'm here today to tell  
 22 you that the decision you will give will severely  
 23 impact how that investment was made and to change the  
 24 decision that was made decades ago to determine  
 25 whether this was a good business judgment and that's

1 why I'm here to say that the hierarchy is important  
 2 not only for what it does for waste but also what it  
 3 does to support the business decisions of many  
 4 municipalities in the state of Maine. Other  
 5 businesses are allowed to do this on regular basis.  
 6 Business decisions made by large corporations in our  
 7 city also take on the hierarchy and understand the  
 8 benefits of that and a decision here today to change  
 9 that will also change the economic benefits that the  
 10 city of Auburn can provide them.  
 11 Every day businesses decide to leave the  
 12 state of Maine for different reasons. I could cite  
 13 multiple examples but I think it would be better for  
 14 people to visit and see the businesses and speak to  
 15 them themselves in Auburn that have made those  
 16 choices to say that instilling the values of the  
 17 hierarchy are important goals that the state of Maine  
 18 has always operated under. I think that more of  
 19 these goals are important to sustaining those  
 20 investments and a decision here today to change that  
 21 would change the value of every business investment  
 22 and every investment that the city of Auburn has made  
 23 to that end. If we are going to move landfilling to  
 24 a higher level in the hierarchy, I think the best  
 25 motive that we could do now is say that there is no

1 more hierarchy and find the largest landfill in the  
 2 state of Maine and say let's just bury it there with  
 3 everything else because we're not going to follow it.  
 4 I'd like to talk more on business  
 5 investments but I think it's important at this point  
 6 that we let Mr. Kazar speak on some of the other  
 7 issues that have faced the city of Auburn.  
 8 MR. KAZAR: Hello, my name is Joseph Kazar.  
 9 I'm the executive director of MMWAC, Mid-Maine Waste  
 10 Action Corporation in Auburn. I've been active in  
 11 the solid waste field, primarily in waste to energy  
 12 for more than 30 years.  
 13 MMWAC is a nonprofit quasi-municipal  
 14 corporation. We were formed in 1986. We took over  
 15 the Pioneering Auburn Resource Recovery facility and  
 16 built an even newer facility there. Auburn, our host  
 17 community, has been joined by 11 partner  
 18 municipalities to form and support MMWAC. We also  
 19 provide services to 14 other contract municipalities  
 20 and a number of other municipalities for their  
 21 private haulers. We own and operate one of the two  
 22 publically-owned waste to energy plants, ecomaine  
 23 being the other one, which is why so much of our  
 24 testimony is similar. We have very similar interests  
 25 in regard to the hierarchy. We also operate a

1 transfer station and recycling center.  
 2 The primary purpose of my testimony is to  
 3 express the concern that the application currently  
 4 pending before the Department is inconsistent with  
 5 Maine's solid waste hierarchy, which is set forth in  
 6 statute. The application requests the removal of  
 7 certain important restrictions currently contained in  
 8 the JRL license. If the Department were to grant the  
 9 application, thus allowing the significant disposal  
 10 of large amounts of MSW at the state-owned landfill,  
 11 the net result would be to move a large quantity of  
 12 MSW previously processed at MERC down to the lowest  
 13 rung in the hierarchy.  
 14 My pre-filed testimony explained in detail  
 15 the origin of Maine's solid waste hierarchy, the  
 16 reasons that the Legislature had adopted and later  
 17 reaffirmed this policy and the many reasons why waste  
 18 to energy is ahead of landfill in that hierarchy.  
 19 Yes, we need landfills but no, they are not above  
 20 waste to energy, and if they directly compete with  
 21 waste-to-energy, they will starve those facilities  
 22 and keep them from running at full capacity. We need  
 23 to run at full capacity in order to be efficient and  
 24 to survive. We need a secure source of waste in  
 25 order to operate efficiently, as I say, and to

1 deliver the power that it's obligated to supply under  
 2 our power purchase agreements. In addition, progress  
 3 in recycling throughout the state has been terrific.  
 4 We see all the towns involved in recycling and we see  
 5 them recycling more and more, composting looks to be  
 6 the next big thing. These will lessen the amount of  
 7 solid waste that's left for processing at waste to  
 8 energy facilities which is another reason why we feel  
 9 that this application is inappropriate.

10 If JRL were to become the primary option for  
 11 the disposal of raw MSW, as the applicant has  
 12 proposed, the potential of this steady supply would  
 13 be threatened and our future, therefore, would be  
 14 threatened, the future of a facility that is  
 15 supported by taxpayers in our area.

16 So for MMWAC, this is not about the ability  
 17 to enter into limited-term contracts for the supply  
 18 of MSW. This is about long-term state policy and our  
 19 long-term future.

20 The hierarchy was not developed, as I  
 21 understand it, based on cost. It was based on what  
 22 was best for the environment, what was best for the  
 23 people of the state of Maine. It was a very  
 24 thoughtful policy and reaffirmed by the Legislature  
 25 and it hasn't been changed. We haven't reversed any

1 of the preferences. We fully subscribed to it and we  
 2 support it.

3 Unlike landfills with inherently limited  
 4 capacity and limited lives, waste to energy has a  
 5 constant capacity that is never used up. If we are  
 6 used to our full capacity, we can extend scarce and  
 7 valuable landfill life by a multiple of times. We  
 8 can extract many of -- many more times the energy of  
 9 the landfill, even the best landfills, can extract  
 10 through their gas extraction systems. The EPA has  
 11 underscored that we do -- we are a net reducer in  
 12 greenhouse gas emissions and we serve the local  
 13 community for their disposal needs, for their  
 14 processing needs without wasteful long-haul trash.  
 15 Landfills should be reserved for the solid waste that  
 16 waste to energies lack the capacity for or for the  
 17 inert sterile ash that we produce and for those  
 18 materials that we were not designed to process.

19 The applicant initially proposed to bring  
 20 MSW which previously had been incinerated at MERC to  
 21 Juniper Ridge for disposal. Now they have altered  
 22 that concept and they're proposing not to bring that  
 23 specific waste but to bring an amount equal to that.  
 24 We have concerns that this could be a loophole that  
 25 would allow even more municipal solid waste to be

1 diverted from waste-to-energy plants.

2 Specifically, the application seeks to  
 3 remove all restrictions and limitations with the  
 4 existing license that's in place at Juniper Ridge.  
 5 Chief among the restrictions is that MSW goes there  
 6 only if it's bypassed from waste to energy. That's  
 7 worked so far and that could work under this  
 8 situation.

9 HEARING OFFICER: You have one minute, sir.

10 MR. KAZAR: There's three waste to energy  
 11 facilities that remain, and if none of them require  
 12 the capacity, then it would seem fine under the  
 13 current license for that waste to be landfilled at  
 14 Juniper Ridge. It's working now, it can work in the  
 15 future.

16 Lastly, JRL is a state asset. It's a  
 17 valuable source of capacity and it's one that we need  
 18 to retain for the future. A waste to energy plant  
 19 could have problems like MERC and be forced to shut  
 20 down, economic problems or technical problems and  
 21 where is the waste going to go? We shouldn't  
 22 prematurely fill it. Thank you.

23 HEARING OFFICER: Thank you. That concludes  
 24 the direct testimony presentation of ecomaine and  
 25 MMWAC. Before we move on, I would like to ask Mr.

1 Roche, you provided some pre-filed testimony to us.  
 2 Do you have that in front of you today?

3 MR. ROCHE: I do.

4 HEARING OFFICER: Is it your wish that that  
 5 be part of the testimony that you provide to the  
 6 Department today?

7 MR. ROCHE: Yes.

8 HEARING OFFICER: And you're prepared to  
 9 answer cross examination questions on that testimony?

10 MR. ROCHE: Yes.

11 HEARING OFFICER: Thank you.

12 MR. BOWER: My understanding was that the  
 13 pre-filed testimony already is a part of the record.  
 14 Is that not accurate?

15 HEARING OFFICER: That is correct, however,  
 16 the only testimony that can be provided today is  
 17 testimony that has been pre-filed and I wanted to  
 18 just make sure that every party, including Mr. Roche,  
 19 is clear that that's the testimony that is being put  
 20 into the record.

21 MR. BOWER: Okay.

22 HEARING OFFICER: At this time we will begin  
 23 the cross examination of the panel starting with the  
 24 applicant. Mr. Doyle, you've been allotted 20  
 25 minutes. You'll let me know if you need more time.

1 MR. DOYLE: If I recall correctly, I gained  
 2 ten minutes earlier today, correct?  
 3 HEARING OFFICER: Absolutely. As you were  
 4 walking over I said if you need more time, please let  
 5 me know, and that's what you're doing right now.  
 6 You have 30 minutes, Mr. Doyle.  
 7 MR. DOYLE: Thank you. Mr. Deschene, on  
 8 page one of your testimony you state that you're  
 9 concerned that allowing Juniper Ridge to serve as  
 10 the, quote, primary disposal option, closed quote,  
 11 for in-state MSW could lead to the demise of MMWAC,  
 12 is that correct?  
 13 MR. DESCHENE: Yes.  
 14 MR. DOYLE: I'm going to show you Exhibit 14  
 15 which is attached to Mr. Oliver's testimony. I  
 16 assume you don't have it before you?  
 17 MR. DESCHENE: No.  
 18 MR. DOYLE: I'm referring there to table 3  
 19 of that testimony. Can you find table 3?  
 20 MR. DESCHENE: Yes.  
 21 MR. DOYLE: This is on page 15 of that  
 22 exhibit which is the state's 2011 disposal capacity  
 23 report, the most recent disposal capacity report, is  
 24 that correct?  
 25 MR. DESCHENE: It would appear so.

1 MR. DOYLE: If you look at table 3 in that  
 2 year, MMWAC took in 71,410 tons of in-state waste,  
 3 correct?  
 4 MR. DESCHENE: Yes.  
 5 MR. DOYLE: And ecomaine took in 174,312  
 6 tons of in-state waste?  
 7 MR. DESCHENE: Yes.  
 8 MR. DOYLE: In-state MSW, correct?  
 9 MR. DESCHENE: Yes.  
 10 MR. DOYLE: And PERC took in 228,813 tons of  
 11 MSW?  
 12 MR. DESCHENE: 222.  
 13 MR. DOYLE: 222,813, thank you.  
 14 MS. DESCHENE: Yup.  
 15 MR. DOYLE: Tons in that year. Let's turn  
 16 to table 1, which is on page 13. In the same year  
 17 Crossroads took in 70,841, correct, of in-state MSW  
 18 in column 1?  
 19 MR. DESCHENE: Yes.  
 20 MR. DOYLE: And Tri-Community 14,460  
 21 in-state MSW tons?  
 22 MR. DESCHENE: Yes.  
 23 MR. DOYLE: And Hatch Hill, they took in  
 24 26,438 tons in 2011, correct?  
 25 MR. DESCHENE: Hatch Hill?

1 MR. DOYLE: Augusta Hatch Hill?  
 2 MR. DESCHENE: Yes.  
 3 MR. DOYLE: And Bath, they took in 10,282  
 4 tons of in-state MSW, correct?  
 5 MR. DESCHENE: Yes.  
 6 MR. DOYLE: And Brunswick, they took in  
 7 3,543 tons of in-state MSW, right, just below that?  
 8 MR. DESCHENE: Yes. It doesn't say in-state  
 9 but it does say MSW.  
 10 MR. DOYLE: MSW, and Presque Isle, they took  
 11 in 5,573 tons of in-state MSW, is that right?  
 12 MR. DESCHENE: Yes.  
 13 MR. DOYLE: Given this, table 3 and table 1,  
 14 in-state MSW, how does allowing 93,000 tons of MSW at  
 15 Juniper Ridge make JRL the primary disposal option  
 16 for in-state MSW in Maine?  
 17 MR. DESCHENE: I guess as I would  
 18 understand, you are the largest landfill in the state  
 19 of Maine. Is that not accurate?  
 20 MR. DOYLE: This is time for me to ask  
 21 questions of you, not you of me.  
 22 MR. DESCHENE: Well, I guess my answer then  
 23 is as the largest landfill in the state of Maine, to  
 24 my knowledge, that would make you primary. Largest  
 25 to me also means primary.

1 MR. DOYLE: But if it's capped at 93,000  
 2 tons and all of these other waste facilities are  
 3 taking as much or more than Juniper Ridge, how does  
 4 Juniper Ridge become the primary disposal option for  
 5 in-state MSW?  
 6 MR. DESCHENE: But, again, that's what  
 7 you're currently taking. What's your capacity? I  
 8 don't -- your total capacity would exceed this.  
 9 MR. DOYLE: We're not currently taking  
 10 93,000 tons. We're asking to take 93,000 tons.  
 11 MR. BOWER: I'm going to object. He's  
 12 testifying.  
 13 HEARING OFFICER: Mr. Doyle, please --  
 14 MR. DOYLE: Isn't that correct?  
 15 MR. DESCHENE: I'm answering your question  
 16 to the best of my knowledge. What I would say is  
 17 this is what you're taking but your capacity is the  
 18 size of your landfill. Primary to me is based upon  
 19 the size of your landfill.  
 20 HEARING OFFICER: In response to the  
 21 objection, Mr. Doyle, your statement will be  
 22 stricken. You can rephrase if you would like.  
 23 MR. DOYLE: This proposal doesn't interfere  
 24 with the supply of waste from Auburn to MMWAC, does  
 25 it?

1 MR. DESCHENE: This proposal doesn't  
2 interfere? Yes, I would say it does.  
3 MR. DOYLE: This procedure interferes with  
4 the supply of waste from Auburn to MMWAC?  
5 MR. DESCHENE: Oh, from Auburn to MMWAC, no,  
6 it would not interfere with Auburn to MMWAC.  
7 MR. DOYLE: And it doesn't interfere with  
8 the supply of municipal solid waste from any of the  
9 MMWAC towns or contracted customers to MMWAC, does  
10 it?  
11 MR. DESCHENE: So long as they remain  
12 members, no, it would not.  
13 MR. DOYLE: Nothing about this proposal  
14 prevents MMWAC from competing for the former -- for  
15 the former Maine Energy in-state customers, does it?  
16 MR. DESCHENE: Compete? No.  
17 MR. DOYLE: Mr. Kazar, on page 2, line 10 of  
18 your pre-filed testimony you state that MMWAC has the  
19 capacity to accept approximately 70,000 tons of MSW  
20 annually, correct?  
21 MR. KAZAR: That's right.  
22 MR. DOYLE: Could you take that Exhibit 14  
23 from Mr. Deschene that I showed to him and turn to  
24 that same table 3?  
25 MR. KAZAR: Where am I going to find it?

1 MR. DOYLE: It's on page 15.  
2 MR. DESCHENE: I closed it. I didn't know  
3 you were going back.  
4 MR. DOYLE: We're looking at table 3 again.  
5 Did you find it?  
6 MR. KAZAR: Yes, I have it.  
7 MR. DOYLE: In that year, this table shows  
8 that MMWAC actually disposed of slightly more than  
9 70,000, 71,529 tons in 2011, correct?  
10 MR. KAZAR: That's right.  
11 MR. DOYLE: So MMWAC is taking MSW at its  
12 capacity, correct?  
13 MR. KAZAR: In that year, yes.  
14 MR. DOYLE: And only 119 tons, according to  
15 this table, were from out-of-state, correct?  
16 MR. KAZAR: That's right.  
17 MR. DOYLE: On page 4, line 27 of your  
18 testimony you state that MMWAC is a facility, quote,  
19 available, closed quote, to take MSW that used to go  
20 to Maine Energy but MMWAC is already at its capacity,  
21 isn't it?  
22 MR. KAZAR: Yes, we are right now.  
23 MR. DOYLE: Do you think MMWAC is entitled  
24 to the MSW that used to go to Maine Energy?  
25 MR. KAZAR: I think that a waste to energy

1 plant, including MMWAC, would be entitled to waste  
2 before a landfill is entitled to waste if the  
3 capacity needs were there.  
4 MR. DOYLE: So it's your testimony that  
5 MMWAC is entitled to the former Maine Energy MSW?  
6 MR. KAZAR: If the hierarchy is followed,  
7 this permit application will not be approved and that  
8 waste will become available should there be a need.  
9 MR. DOYLE: Is it entitled to that MSW at  
10 any price?  
11 MR. KAZAR: Probably not.  
12 MR. DOYLE: On page 6 of your testimony you  
13 claim to reduce MSW by 90 percent in an incinerator,  
14 correct?  
15 MR. KAZAR: That's right.  
16 MR. DOYLE: Let's look at table 2 of that  
17 capacity report again on page 15. In that year, it  
18 says MMWAC combusted 41,207 tons in 2011 and it had  
19 17,673 ash tons to dispose but that's not 90 percent  
20 reduction, is it?  
21 MR. KAZAR: No, and that's not real science  
22 either. This came from the State Planning Office  
23 years ago and was a misunderstanding of what occurs  
24 during combustion and they came up with this term  
25 combusted which has no scientific basis. It's an

1 arithmetic calculation that there's all kinds of  
2 apples and oranges.  
3 MR. DOYLE: So the state's capacity report  
4 is wrong, is that what you're saying?  
5 MR. KAZAR: This particular column is not  
6 very meaningful, no. Our 90 percent is a volume  
7 reduction between what comes in and what goes out as  
8 ash. It's well documented.  
9 MR. DOYLE: And does it show here on these  
10 numbers?  
11 MR. KAZAR: No, it doesn't.  
12 MR. DOYLE: Okay, I didn't think so.  
13 MR. KAZAR: And these numbers, if I could  
14 clarify, are weight. The 90 percent is a volume  
15 reduction which is what's important in a landfill.  
16 Landfills are volume machines and capacity is based  
17 on volume, not tonnage. So this table is not  
18 particularly useful for that exercise.  
19 MR. DOYLE: Has MMWAC modeled for compliance  
20 with DEP's new carbon monoxide, NOx and SO2 air  
21 quality standards?  
22 MR. KAZAR: MMWAC has no new requirements  
23 with regard to those.  
24 MR. DOYLE: So you have not modeled for  
25 compliance with those standards?

1 MR. KAZAR: There's no need to do that, no.

2 MR. DOYLE: On page 7 of your testimony, the  
3 first full paragraph, you state, and I'm quoting you,  
4 "Additionally the USEPA has stated that the  
5 electricity produced by the nation-wide waste to  
6 energy industry has fewer impacts than almost any  
7 other source of electricity" and also confirmed that  
8 waste to energy is a net reducer of greenhouse gases  
9 and you cite to Exhibit B of your testimony at page 1  
10 and page 22 and 23. Now, I've read those pages in  
11 their entirety of your Exhibit B and there's no such  
12 statement by EPA on those pages. Where is your  
13 support for these statements?

14 MR. KAZAR: That could be an incorrect cite.  
15 I can't answer that right now.

16 MR. DOYLE: Do you have a correct citation?

17 MR. KAZAR: Not in my possession. I could  
18 provide that at a later date.

19 MR. DOYLE: Also on page 7 of your testimony  
20 you state without any citation that EPA has estimated  
21 the rate of greenhouse gas reduction to be one ton of  
22 carbon dioxide for every ton of MSW processed into  
23 energy. Where and when did EPA say this?

24 MR. KAZAR: I'd have to supply that at a  
25 later date. I don't have that here.

1 MR. DOYLE: You don't have that here?

2 MR. KAZAR: I don't have that here.

3 HEARING OFFICER: Mr. Kazar, please speak up  
4 when you're responding to questions.

5 MR. DOYLE: On page 9 of your testimony at  
6 the top, you state that you're concerned about the  
7 supply of municipal solid waste to MMWAC if this  
8 proposal is accepted, but Brian Oliver offered to  
9 supply MMWAC with in-state MSW but you never got back  
10 to him, did you?

11 MR. KAZAR: Brian Oliver made no specific  
12 proposal to MMWAC. Brian Oliver visited me a day or  
13 two after a news article indicating we were going to  
14 intervene in this case. We talked about a number of  
15 things that I've talked to Casella about in the past,  
16 among them waste supply, but there was no specific  
17 proposal offered at that time; and, frankly, it  
18 seemed somewhat inappropriate given the process that  
19 we're involved in to be negotiating simultaneously.  
20 As I indicated in my testimony and in my summary, for  
21 MMWAC this is more about long-term policy and less  
22 about short-term contracts.

23 MR. DOYLE: This proposal isn't interfering  
24 with the supply of MSW from any of MMWAC's  
25 communities or contracted customers, is it?

1 MR. KAZAR: Not at the current time.

2 MR. DOYLE: According to the recently  
3 published capacity report which is still in your  
4 possession, Exhibit 14, for calendar year 2011, MMWAC  
5 bypassed 10,572 tons, is that correct?

6 MR. KAZAR: Lead me to that, if you would.

7 MR. DOYLE: Well, let's see, it's the third  
8 column down on table 2.

9 MR. KAZAR: Yeah, and actually I believe  
10 that I corrected that with Mike Parker who brought  
11 that to my attention that there was a significant  
12 difference in the numbers between 2010 and 2011. We  
13 looked at it and we made a mistake on the filing.  
14 The bypass that MMWAC's done in the last several  
15 years has been approximately equal to our two annual  
16 outages that are a week long, so about 2,800 tons a  
17 year, give or take, is what we've been bypassing.  
18 The 10,000 included -- we operate a transfer station,  
19 I mentioned that in my testimony. The transfer  
20 station is there for bulky waste and construction and  
21 demolition waste that we don't incinerate. We don't  
22 run that through the waste energy plant and that was  
23 inadvertently included as bypass when it shouldn't  
24 have been. It's not MSW and it wasn't bypassed from  
25 our facility.

1 MR. DOYLE: But this is the amount that you  
2 reported on your annual report to the DEP, correct?

3 MR. KAZAR: Yes, and it --

4 MR. DOYLE: 10,500 --

5 MR. KAZAR: -- has since been corrected.

6 MR. DOYLE: Can I finish my question?

7 MR. KAZAR: Sure.

8 MR. DOYLE: 10,572 was reported in MMWAC's  
9 annual report as bypass to DEP, correct?

10 MR. KAZAR: It was incorrectly recorded, as  
11 I just explained in detail.

12 MR. DOYLE: Where did you dispose of the MSW  
13 bypass in 2011?

14 MR. KAZAR: Waste Management operates our  
15 transfer station and they hauled that to their  
16 location. I don't know which location that might  
17 have been.

18 MR. DOYLE: Could it have gone to their  
19 landfill?

20 MR. KAZAR: It could have gone to their  
21 landfill.

22 MR. DOYLE: Consistent with your theory of  
23 the waste management hierarchy, why didn't you send  
24 it to ecomaine, PERC or Maine Energy?

25 MR. KAZAR: Well, as we heard from PERC, the

1 outages are in April and October during a period when  
 2 the state is flush with trash and frankly, nobody  
 3 needs trash at that time. It's in the wintertime  
 4 when the trash is low. That's not when we're  
 5 bypassing.  
 6 MR. DOYLE: In April the incinerators are  
 7 flush with trash?  
 8 MR. KAZAR: April is when there's an uptick.  
 9 MR. DOYLE: An uptick or flush?  
 10 MR. KAZAR: In our case, enough to be full.  
 11 MR. DOYLE: So you didn't feel that the  
 12 waste management hierarchy required you to offer this  
 13 MSW to another incinerator, did it?  
 14 MR. KAZAR: Their facility wasn't subject to  
 15 any permit hearing like this nor was it a state  
 16 landfill so it did not come up.  
 17 MR. DOYLE: So the waste management  
 18 hierarchy only applies to state facilities?  
 19 MR. KAZAR: No, it should apply throughout.  
 20 MR. DOYLE: It should apply to all  
 21 facilities, right? In 2001 and '2 Waste  
 22 Management/Crossroads applied for and obtained a  
 23 public benefit determination and a DEP license to  
 24 expand its landfill, Phase 8, by 75 acres. In that  
 25 application Waste Management applied to take MSW both

1 in-state and out-of-state without any limitation on  
 2 volume. Did MMWAC object to the Crossroads  
 3 application to take MSW without any limitations on  
 4 volume in that expansion?  
 5 MR. KAZAR: We didn't participate in that.  
 6 MR. DOYLE: Didn't object at all?  
 7 MR. KAZAR: We didn't participate in that at  
 8 all.  
 9 MR. DOYLE: Did you object?  
 10 MR. KAZAR: Well, no.  
 11 MR. DOYLE: Mr. Roche, these are questions  
 12 about your pre-filed direct testimony. On page 5 and  
 13 6 of your direct testimony you stated that there are  
 14 other available facilities, including ecomaine, to  
 15 take the MSW that formerly went to Maine Energy.  
 16 Brian Oliver offered to provide you in-state MSW  
 17 tons. If ecomaine is really available, why did you  
 18 not accept his offer?  
 19 MR. ROCHE: Could you repeat the question?  
 20 MR. DOYLE: You talked about being available  
 21 on page 5 and 6 of your pre-filed testimony.  
 22 MR. ROCHE: Yup.  
 23 MR. DOYLE: Brian Oliver offered to send you  
 24 MSW from Maine Energy, in-state MSW, but you didn't  
 25 accept his offer. Why not?

1 MR. ROCHE: When did I not accept his offer?  
 2 MR. DOYLE: When he offered to send you  
 3 in-state MSW.  
 4 MR. ROCHE: When was that? What year?  
 5 MR. BOWER: I'm just going to object.  
 6 MR. DOYLE: 2012.  
 7 MR. BOWER: Is this pursuant to his  
 8 testimony, Brian Oliver's testimony; and, if so,  
 9 which section of it?  
 10 MR. DOYLE: It's right in his pre-filed  
 11 testimony. He spoke about it this morning.  
 12 MR. ROCHE: Okay. Well, you got me on the  
 13 first one earlier today, I'll get you on this one. I  
 14 actually have an e-mail sitting in front of me. I  
 15 reached out to Brian Oliver December 31st at the  
 16 closure of Maine Energy and I said, "Brian, we're  
 17 looking for tons; we'd like to create a deal." Brian  
 18 writes back, "Kevin, unfortunately we are going  
 19 through some budgeting of our own simulation with the  
 20 BBI acquisition and I really don't have an answer for  
 21 you right now; give us a few months and we'll get  
 22 back to you." He's pretty stressed right now I'm  
 23 sure.  
 24 MR. DOYLE: Who's that?  
 25 MR. ROCHE: Brian. They overwork him, poor

1 guy.  
 2 MR. DOYLE: Do you think ecomaine is  
 3 entitled to this MSW?  
 4 MR. ROCHE: I agree with Joe. I believe in  
 5 waste hierarchy wholeheartedly, and the waste should  
 6 not go to a landfill, it should go to one of the  
 7 higher rungs in the hierarchy, and since waste to  
 8 energy is higher than the landfiling, yes, I believe  
 9 it should go to a landfill.  
 10 MR. DOYLE: So you think ecomaine is  
 11 entitled to --  
 12 MR. ROCHE: I don't use the word "entitled."  
 13 I don't think that's the proper word.  
 14 MR. DOYLE: Do you think ecomaine should be  
 15 able to charge whatever it wants to for the waste?  
 16 MR. ROCHE: I think ecomaine should do what  
 17 it's done in the past and, that is, compete for that  
 18 waste at reasonable market prices and that's what our  
 19 track record has been.  
 20 MR. DOYLE: Isn't it true that ecomaine  
 21 recently signed a multi-year hauling contract with a  
 22 hauling company known as Oceanside to dispose of its  
 23 MSW at ecomaine?  
 24 MR. ROCHE: We have multiple --  
 25 MR. BOWER: I'm just going to object. This

1 is not in -- he's not responding to testimony that  
 2 Kevin Roche has given. This is a new subject.  
 3 MR. DOYLE: This is cross examination.  
 4 HEARING OFFICER: Cross examination is  
 5 limited to the pre-filed testimony.  
 6 MR. DOYLE: And this is related to his  
 7 pre-filed testimony.  
 8 MR. BOWER: I don't believe he mentioned  
 9 that in his pre-filed testimony.  
 10 HEARING OFFICER: Can you identify where in  
 11 his pre-filed testimony you're --  
 12 MR. DOYLE: We're talking about their  
 13 ability -- he talked about his ability to compete for  
 14 waste if this application is approved. This goes to  
 15 that question. I should be allowed to probe that  
 16 statement and that assertion in their testimony.  
 17 HEARING OFFICER: If you can identify where  
 18 in Mr. Roche's pre-filed testify you're gleaning that  
 19 statement, then you're allowed to pursue that line of  
 20 questioning.  
 21 MR. DOYLE: It's -- throughout his pre-filed  
 22 testimony he's talking about the ability of  
 23 waste-to-energy facilities to compete for waste if  
 24 this application is approved. That's the thrust of  
 25 his testimony.

1 HEARING OFFICER: Okay. So limit your  
 2 questions to that line of questioning.  
 3 MR. DOYLE: And this goes to that issue.  
 4 Isn't it true that ecomaine recently signed a  
 5 multi-year hauling contract with a hauling company  
 6 called Oceanside to dispose of MSW at ecomaine?  
 7 MR. BOWER: Same objection. That statement  
 8 is not in the -- I mean, I can't tell from his  
 9 question if this relates to a competition issue but I  
 10 guess we'll have to take his word for it.  
 11 MR. DOYLE: Can I be allowed some latitude  
 12 here to tie this up?  
 13 HEARING OFFICER: Actually I believe Mr.  
 14 Doyle did explain --  
 15 MR. BOWER: Okay, he'll answer.  
 16 HEARING OFFICER: I will give you a short  
 17 opportunity, Mr. Doyle, but I will cut you off if it  
 18 seems to be going too far astray.  
 19 MR. ROCHE: We have a delta of between  
 20 capacity and what's being received from our member  
 21 communities. We fill that delta as best we can with  
 22 spot. We sign some of that spot with contracts.  
 23 We've had contracts, yes, with Oceanside, with  
 24 Casella, with other entities, to enable us to operate  
 25 at full capacity.

1 MR. DOYLE: Did you sign a recent one with  
 2 Oceanside?  
 3 MR. ROCHE: You said "multi-year." I don't  
 4 believe it's multi-year but we did sign recently with  
 5 them, yes.  
 6 MR. DOYLE: And that company is a former  
 7 customer of Maine Energy, isn't it?  
 8 MR. ROCHE: I'm sure they brought some of  
 9 their waste to Maine Energy.  
 10 MR. DOYLE: And isn't it also true that  
 11 ecomaine signed a multi-year, five-year contract with  
 12 the town of Limerick, a former customer of Maine  
 13 Energy, to dispose of MSW at ecomaine?  
 14 MR. ROCHE: That is correct.  
 15 MR. DOYLE: This shows that ecomaine can  
 16 successfully compete for MSW that formerly went to  
 17 Maine Energy, doesn't it?  
 18 MR. ROCHE: Went to Maine Energy -- went to  
 19 a waste energy plant. Where I think we have trouble  
 20 competing is when it goes to a landfill.  
 21 MR. DOYLE: And you didn't need denial of  
 22 this application to compete successfully for the MSW,  
 23 did you?  
 24 MR. ROCHE: At that point in time, obviously  
 25 we didn't.

1 MR. DOYLE: On page 7 of your pre-filed  
 2 testimony, you state that "Juniper Ridge is a state  
 3 asset and the policy of the state should be to  
 4 maximize the value of that asset for, quote, the  
 5 people of Maine," is that correct?  
 6 MR. ROCHE: Correct.  
 7 MR. DOYLE: Do you consider the citizens of  
 8 Biddeford to be the "people of Maine."  
 9 MR. ROCHE: Some of the people in Maine.  
 10 MR. DOYLE: How about the citizens of the 13  
 11 other tri-communities, are they "people of Maine?"  
 12 MR. ROCHE: That's correct.  
 13 MR. DOYLE: Are the citizens of the 187 MRC  
 14 communities "people of Maine?"  
 15 MR. ROCHE: Yes.  
 16 MR. DOYLE: They all benefit significantly  
 17 if this application is approved, don't they?  
 18 MR. ROCHE: I disagree.  
 19 MR. DOYLE: They don't benefit from this  
 20 application if it's approved?  
 21 MR. ROCHE: No. We get -- we get a huge  
 22 land -- we get another huge landfill in this state  
 23 and that's what we don't need.  
 24 MR. DOYLE: The landfill is already there,  
 25 sir.

1 MR. ROCHE: We can make it a lot smaller.  
 2 MR. DOYLE: How are we going to diminish the  
 3 capacity of the landfill? It's already at its --  
 4 MR. ROCHE: By conserving the space for as  
 5 long as we can and that's exactly what the ecomaine  
 6 communities have done with their landfill two and a  
 7 half -- two miles away from the city of Portland.  
 8 MR. DOYLE: In 2001 and '2, Waste  
 9 Management's Crossroads facility applied for and  
 10 obtained a PBD and expansion permit for its landfill  
 11 to expand it by 75 acres. In that application, it  
 12 took -- it takes MSW, both in-state and out-of-state  
 13 without any limit on volume. Did ecomaine or RWS  
 14 object to the Crossroads application?  
 15 MR. ROCHE: We did testify. You're  
 16 challenging my memory. We provided testimony. We  
 17 felt that it didn't jive with the waste hierarchy. I  
 18 can't remember if we were objecting or neither for  
 19 nor against, but we did testify.  
 20 MR. DOYLE: Could you take hold of that same  
 21 testimony?  
 22 MR. DESCHENE: Exhibit 14?  
 23 MR. DOYLE: Exhibit 16, please, turn to page  
 24 4 and 5. This is the exhibit of the Waste Management  
 25 expansion, public participation, pages 4 and 5 and

1 the top of 6. Exhibit 16, do you have it there, page  
 2 4 and 5?  
 3 MR. ROCHE: Yup.  
 4 MR. DOYLE: This is a summary of everybody  
 5 who testified on the application or participated. Do  
 6 you see ecomaine or RWS' name there?  
 7 MR. BOWER: Are you referring to the  
 8 intervenor section?  
 9 MR. DOYLE: I'm referring to public  
 10 participation.  
 11 MR. BOWER: I don't see a list.  
 12 MR. DOYLE: No, it summarizes the public  
 13 participation. There's no mention of ecomaine or  
 14 RWS, is there?  
 15 MR. ROCHE: I mean, I don't know where  
 16 you're referencing.  
 17 MR. DOYLE: I'm referencing on pages 4, 5  
 18 and 6, public participation.  
 19 MR. ROCHE: Number 3.  
 20 MR. DOYLE: Number 3.  
 21 MR. ROCHE: I mean, quite frankly, as I  
 22 said, we were -- we were active in the legislation in  
 23 the last session and that was one that we spoke on  
 24 and I spoke to the Natural Resources Committee on. I  
 25 don't know exactly in what context I did that.

1 MR. DOYLE: I'm talking about this permit in  
 2 2001 or '2, the last expansion of the Crossroads  
 3 landfill by 75 acres to take MSW, the very waste  
 4 stream we're talking about here.  
 5 MR. ROCHE: I'm sorry, this --  
 6 HEARING OFFICER: Mr. Doyle --  
 7 MR. ROCHE: -- is 2001 you're talking about?  
 8 MR. DOYLE: 2001 and '2.  
 9 MR. ROCHE: Okay. I misunderstood. I  
 10 thought you were talking about the last amendment to  
 11 the expansion which was last session.  
 12 HEARING OFFICER: Mr. Doyle, you are making  
 13 statements now. Please try to direct him to what  
 14 you're getting at and ask some questions, please.  
 15 MR. DOYLE: I thought it was pretty clear  
 16 that I was talking about this permit and those pages.  
 17 MR. ROCHE: Yeah, and I was talking about  
 18 the last expansion in the last legislative session  
 19 that we -- we worked pretty hard on. I wasn't even  
 20 around in 2001. I couldn't answer that question.  
 21 MR. DOYLE: Okay. On page 9 of your  
 22 pre-filed testimony, lines 15 and 17 -- through 17  
 23 you state, quote, if the application were granted,  
 24 the only thing to prevent the applicant from bringing  
 25 out-of-state waste to Juniper Ridge is the OSA which

1 may be amended at any time, closed quote, is that  
 2 right?  
 3 MR. ROCHE: That's what I said in my  
 4 testimony.  
 5 MR. DOYLE: Isn't it true that the DEP  
 6 license for Juniper Ridge prevents out-of-state waste  
 7 from entering the landfill?  
 8 MR. ROCHE: I thought the license was going  
 9 to prevent unprocessed solid waste to go into the  
 10 landfill and here we are today. So my worry is that  
 11 that might be the next step.  
 12 MR. DOYLE: But this proposal doesn't  
 13 interfere with any of the ecomaine member communities  
 14 or contracted customers' ability to send their waste  
 15 to ecomaine, does it?  
 16 MR. ROCHE: If they choose to leave  
 17 ecomaine, it does.  
 18 MR. DOYLE: But this proposal doesn't  
 19 interfere with member communities or contracted  
 20 customers' ability to send their waste to ecomaine,  
 21 does it?  
 22 MR. ROCHE: If they get a better price from  
 23 landfilling waste, which you usually can, then we  
 24 could stand to lose municipalities.  
 25 MR. DOYLE: But not if they're contracted,

1 right?

2 MR. ROCHE: Well, they could leave the

3 contract.

4 MR. DOYLE: They could breach their

5 contract?

6 MR. ROCHE: No, they could exit. They could

7 withdraw from the contract.

8 MR. DOYLE: Without breaching it?

9 MR. ROCHE: Without breaching it.

10 MR. DOYLE: How does that work? How can you

11 leave a contract without breaching it?

12 MR. ROCHE: They can provide a notice of

13 withdrawal from our waste handling agreement and send

14 their waste someplace else.

15 MR. DOYLE: But this application doesn't

16 prevent ecomaine from competing for MSW from anywhere

17 in Maine or elsewhere, correct?

18 MR. ROCHE: We will continue to compete for

19 solid waste to keep running at capacity.

20 MR. DOYLE: You didn't rely on the terms or

21 customers who went to Maine Energy when Maine Energy

22 was operating, did you?

23 MR. ROCHE: There were times when some of

24 those customers would go to Maine Energy; there were

25 times when some of those same generators would come

1 to us. So, yes, I would argue that --

2 MR. DOYLE: When they were under contract to

3 Maine Energy they would go to you?

4 MR. ROCHE: Well, I know that the town of

5 Biddeford was under a contract with Maine Energy and

6 they showed up at our door.

7 MR. DOYLE: Ecomaine stores MSW in its ash

8 landfill, doesn't it?

9 MR. ROCHE: We store it for a short period

10 of time, correct.

11 MR. DOYLE: How short?

12 MR. ROCHE: Our general business plan is

13 that we bring in excess waste during the tourist

14 season in the summer and we usually return that waste

15 during the winter months and that's what happened

16 this year.

17 MR. DOYLE: Is it stored for longer than

18 three months?

19 MR. ROCHE: Yes.

20 MR. DOYLE: Longer than six months?

21 MR. ROCHE: Yes.

22 MR. DOYLE: Do you have a landfill gas

23 collection system in the area where the MSW is

24 stored?

25 MR. ROCHE: We don't.

1 MR. DOYLE: Are you reporting greenhouse gas

2 emissions to EPA from the landfill?

3 MR. ROCHE: We are.

4 MR. DOYLE: You are?

5 MR. ROCHE: We -- let me just get my note on

6 that. Ecomaine -- yes, we continue to submit all

7 reports of greenhouse gas emissions to the regulators

8 in conformance with the law.

9 MR. DOYLE: Okay, that may be for your

10 incinerator. I'm asking about your landfill. Are

11 you reporting greenhouse gas emissions from your MSW

12 storage area which has no gas collection to the EPA?

13 MR. BOWER: Again, I'm going to object to

14 this question. It's not in his pre-filed testimony.

15 We're not addressing issues in his pre-filed

16 testimony.

17 HEARING OFFICER: I'm sorry, I need to hear

18 the question that's at issue.

19 MR. DOYLE: The question at issue is I'm

20 asking whether he stores MSW in his landfill. He

21 said yes. I asked him whether he has a landfill gas

22 collection system in the area where the MSW is

23 stored. He said no. I asked him are you reporting

24 the greenhouse gas emissions to EPA. He talks about

25 greenhouse gas emissions in his pre-filed testimony,

1 and he said -- I'm not sure of your answer, sir.

2 MR. BOWER: We're waiting for a ruling on

3 the objection. This proceeding is not about

4 ecomaine's landfill. I don't know why -- where these

5 questions are relevant to his pre-filed testimony.

6 HEARING OFFICER: I will sustain Mr. Bower's

7 objection. I've given you a lot of latitude and

8 we're going to stop at that line of questioning.

9 MR. DOYLE: So greenhouse gas emissions are

10 no longer relevant?

11 HEARING OFFICER: You're asking questions

12 with respect to their facility and their landfill and

13 his testimony with respect to greenhouse gases was

14 with respect to the other facility. I've given you a

15 fair amount of latitude and you cannot go further

16 down this line of questioning. I would ask you how

17 many more questions do you have?

18 MR. DOYLE: Just two more.

19 HEARING OFFICER: Okay, because I've given

20 you a couple extra minutes due to the exchange, so if

21 you can ask those last two questions.

22 MR. DOYLE: If I could just make an offer of

23 proof here to tie this up.

24 HEARING OFFICER: Yes.

25 MR. DOYLE: The Department has said that the

1 waste management hierarchy is a consideration in this  
 2 proceeding. They brought up greenhouse gas emissions  
 3 in their testimony, Mr. Spencer has brought it up in  
 4 his testimony, and what they're suggesting is that  
 5 greenhouse gas emissions are lower from  
 6 waste-to-energy facilities and their associated  
 7 facilities than landfills and so greenhouse gas  
 8 emissions, they've made it an issue in this  
 9 proceeding and now you're saying I can't ask him  
 10 about it. So I object for the record.

11 HEARING OFFICER: They are not the  
 12 applicants here so their facilities are not at issue  
 13 here. The issue of greenhouse gas we've addressed in  
 14 the pre-hearing orders.

15 MR. DOYLE: Let's talk about your facility  
 16 again, waste-to-energy facility. Isn't it true that  
 17 ecomaine is the number one emitter of mercury among  
 18 all point source air emission sources in Maine?

19 HEARING OFFICER: Mr. Doyle, that's another  
 20 question on the line of questioning I just shut down.

21 MR. DOYLE: Mr. Roche, who wrote your  
 22 testimony?

23 MR. ROCHE: My attorney, Mark Bower.

24 MR. DOYLE: I'm going to move to strike his  
 25 entire pre-filed testimony. This is supposed to be

1 was a lot of dialogue between him and I on this  
 2 testimony. He drafted it, I finalized it, I edited  
 3 it and then I signed my name to this.

4 HEARING OFFICER: And what does it say?

5 MR. BOWER: Read it out loud.

6 MR. ROCHE: Personally appeared to the --  
 7 "personally appeared the above-named Kevin Roche  
 8 before me this 28th day of February 2013 and made  
 9 oath that the above-stated facts are upon his own  
 10 personal knowledge, information or belief and he  
 11 swears that he believes them to be true."

12 HEARING OFFICER: And you signed that,  
 13 correct?

14 MR. ROCHE: I did sign it.

15 HEARING OFFICER: I'm denying your motion,  
 16 Mr. Doyle. Let's move on.

17 MR. DOYLE: But you just admitted that --  
 18 you just admitted, didn't you, that Mr. Bower wrote  
 19 the testimony, correct?

20 HEARING OFFICER: Mr. Doyle, let's move on.  
 21 Do you have any other questions?

22 MR. DOYLE: I do.

23 HEARING OFFICER: I'll allow you one more  
 24 question because we're well beyond the time I've  
 25 allotted for you.

1 the testimony of Mr. Roche not Mr. Bower, and so I'm  
 2 not cross examining the right person.

3 HEARING OFFICER: Mr. Bower, would you like  
 4 to address that motion?

5 MR. BOWER: I would. This testimony was, as  
 6 I'm sure their testimony was, drafted in conjunction  
 7 with all the witnesses. All the information came  
 8 from them. The fact that I drafted it does not mean  
 9 -- impede the attesting to the testimony. I would --  
 10 I would venture a guess that Mr. Doyle also assisted

11 his witnesses in drafting their testimony. So I  
 12 don't see -- I mean, I think it's a fairly common  
 13 practice that witnesses will consult with the  
 14 attorney when they're drafting testimony.

15 MR. DOYLE: We do not draft testimony.

16 HEARING OFFICER: Mr. Roche -- hold on one  
 17 moment.

18 MR. BOWER: I'll also just add that --

19 HEARING OFFICER: Did you review and sign  
 20 the testimony indicating that -- can you go to the  
 21 signature page of your testimony, please?

22 MR. ROCHE: Yes.

23 HEARING OFFICER: And what did you attest to  
 24 in the signature line of the testimony?

25 MR. ROCHE: Right, and our attorney, there

1 MR. DOYLE: Mr. Roche, can you explain why  
 2 your testimony is virtually identical to the  
 3 testimony of MMWAC's Mr. Kazar?

4 HEARING OFFICER: Mr. Doyle, that's along  
 5 the same lines as the last testimony. Do you have  
 6 any other questions that are relevant?

7 MR. DOYLE: I have one for Mr. McGovern.  
 8 I didn't want him to think that he came all this  
 9 way without --

10 MR. MCGOVERN: That's okay.

11 MR. DOYLE: I think I'll sit down. Thank  
 12 you.

13 HEARING OFFICER: At this time can I have a  
 14 representative of the Citizens come up and cross  
 15 examine the panel?

16 MR. SPENCER: Thank you. Let's take a deep  
 17 breath here, Mr. Roche. If we take a ton of MSW  
 18 waste, okay, we take a ton of MSW waste and we send  
 19 it through an incinerator, not necessarily yours, say  
 20 an average incinerator, average pollution controls,  
 21 average facility, okay, and then we take the same ton  
 22 of MSW and we send it to a landfill and at the  
 23 landfill it's turned into energy either by burning  
 24 the gas and generating electricity directly or  
 25 harvesting it for another purpose, you know, for

1 example, like for heating a building, the relative  
2 amount of energy efficiency, energy capture, if you  
3 will, between the average incinerator and the average  
4 landfill?

5 MR. ROCHE: I would direct you to a report  
6 that we hold that I would be happy to share copies  
7 of, Environmental Science and Technology, 2009, and  
8 that report states that energy from one ton of waste  
9 from a waste-to-energy facility generates about ten  
10 times the amount of energy from that of landfilling  
11 and a lot of that is simply because plastic or those  
12 types of items isn't going to generate any energy in  
13 a landfill, and I will add that it does frustrate me  
14 and I am troubled that a lot of landfill owners are  
15 using gas recovery as a way to promote landfilling  
16 and I do object to that line of thinking.

17 MR. SPENCER: As far as overall pollution, I  
18 realize this is a really hard thing to do and I'm not  
19 trying to do apples to apples, I admit this might be  
20 apples to kumquats or something else, but what's the  
21 accepted science as far as relative amounts of  
22 overall pollution with the same -- going to the same  
23 facilities, that is, your average incinerator or your  
24 average in-compliance landfill?

25 MR. DOYLE: Objection. I wasn't allowed to

1 pursue this line of questioning talking about  
2 pollution from a waste-to-energy facility and now Mr.  
3 Spencer is asking the same question.

4 HEARING OFFICER: Can you narrow the  
5 question to the focus of Mr. Roche's testimony,  
6 please, Mr. Spencer? The question has been stricken.

7 MR. SPENCER: Okay. Is there more pollution  
8 created by incinerating a ton of MSW or landfilling a  
9 ton of MSW?

10 MR. DOYLE: Objection. It's the same  
11 question.

12 HEARING OFFICER: This objection is  
13 overruled. My responses to your earlier lines of  
14 questioning were with respect to their particular  
15 facility. This goes directly to Mr. Roche's  
16 testimony.

17 MR. ROCHE: It is my belief that the full  
18 footprint of a waste-to-energy strategy creates less  
19 pollution than that of a landfill which is probably  
20 why it's a preferable solid waste management strategy  
21 in the EPA's eyes, as well as the state of Maine's  
22 eyes, as well as many other states in the country.

23 MR. SPENCER: Thank you for that. I have  
24 one question for Mr. Kazar. When we were talking  
25 about bypass, as Mr. Doyle was pressing you on how

1 you would bypass material from your facility to  
2 others, and, you know, why didn't it go to -- why did  
3 some of it end up at the landfill, what happens if  
4 you get a tractor-trailer load of mattresses? That  
5 would be oversized bulky waste, that's how that's  
6 probably categorized. Now, if you -- if you are  
7 bypassing oversized bulky waste, doesn't that mean  
8 you can't burn it? If you follow me, if -- okay,  
9 I'll rephrase that. If you bypass -- passed on some  
10 oversized bulky waste to another incinerator for  
11 whatever reason, you're over capacity, will they be  
12 able to burn it, to transform it and to reduce that  
13 volume?

14 MR. KAZAR: I can't really speak to whether  
15 or not other facilities are trying to handle bulky  
16 waste. I think for the most part they don't. There  
17 might be some streams they take. Bypass is MSW.  
18 It's not construction demolition and it's not bulky  
19 waste. MMWAC is unique among waste-to-energy plants  
20 in Maine in that we operate a transfer station for  
21 the benefit of the local residents in the Auburn  
22 area. They and small contractors are bringing us  
23 bulky waste and construction demolition waste and we  
24 send that right to a landfill. It's not really  
25 bypasses. It's the C and D waste that we shouldn't

1 be trying to incinerate so we don't. We normally  
2 report it differently. In 2011 there had been an  
3 error that we made in the report which has since been  
4 corrected.

5 MR. SPENCER: I think that clarifies it for  
6 me and thank you both for your answers. Thank you.

7 HEARING OFFICER: Thank you, Mr. Spencer.  
8 At this time is a representative for MRC -- would you  
9 please come forward and cross-examine?

10 MS. McBRADY: This will be very quick. I'm  
11 Nancy McBrady for MRC. We do not have any questions  
12 for cross examination.

13 HEARING OFFICER: Are there any other  
14 intervenors who wish to cross-examine either ecomaine  
15 or MMWAC at this time? Okay. So at this -- there  
16 doesn't appear to be any other intervenors who wish  
17 to cross-examine so at this time I will -- ecomaine  
18 and MMWAC, you can have redirect at this time. Mr.  
19 Bower?

20 MR. BOWER: Yeah, could I just have one  
21 moment, please?

22 HEARING OFFICER: Yes.

23 MR. BOWER: Thank you. No questions. Thank  
24 you.

25 HEARING OFFICER: No redirect at this time?

1 MR. BOWER: No.  
 2 HEARING OFFICER: So DEP staff.  
 3 MR. PARKER: More a point of clarification  
 4 than a question. Mr. Kazar, you mentioned the  
 5 discrepancy in your annual report. That was for 2010  
 6 which we have since resolved. I think that the issue  
 7 that Mr. Doyle was getting to, the 10,000 tons of  
 8 bypass, that's a combination of your bypass and your  
 9 -- your bypass and your OBW and that does amount to  
 10 10,947 tons, is that correct?  
 11 MR. KAZAR: Yes, that's what I tried to  
 12 clarify.  
 13 MR. PARKER: Thank you.  
 14 MR. KAZAR: It included that transfer  
 15 station bulky waste that I don't believe should have  
 16 been recorded in that same column.  
 17 MR. PARKER: Correct. Mr. Roche, again,  
 18 just for clarification, did you actively solicit any  
 19 of the former MERC communities about taking their  
 20 waste to your facility?  
 21 MR. ROCHE: Actually if you're referring to  
 22 the 13 down in southern Maine, they approached me.  
 23 They indicated to me that when they signed on with  
 24 Biddeford, they signed on for waste-to-energy, not  
 25 for landfilling, and when they learned that there was

1 a possibility that their waste might be landfilled,  
 2 they basically said we're not paying \$86 a ton for  
 3 landfilling waste. We might have paid that for  
 4 waste-to-energy but we're not going to pay it for  
 5 landfilling. So we did enter into negotiations with  
 6 them and offered them a price and ultimately Casella  
 7 was able to offer or at least match that price.  
 8 MR. PARKER: Thank you.  
 9 HEARING OFFICER: There appear to be no more  
 10 questions for ecomaine and MMWAC. So thank you very  
 11 much. We are going to recess in just a moment for an  
 12 extended dinner break and we will be returning here  
 13 at 6:30 in the evening for the public testimony  
 14 portion of the hearing. When we recess, we will be  
 15 picking it up then and we will start again tomorrow  
 16 morning at 9 a.m., and start in with the summary  
 17 testimony of PERC tomorrow morning. So we have the  
 18 public testimony portion this evening and we're  
 19 starting with PERC tomorrow morning at 9 a.m. So at  
 20 this time we will recess until 6:30 in the evening.  
 21 **(OFF RECORD)**  
 22  
 23 HEARING OFFICER: Good evening. I now call  
 24 to order this public comment portion of the hearing  
 25 of the Department of Environmental Protection on the

1 application from the State of Maine Bureau of General  
 2 Services prepared by its operator and agent, NEWSME  
 3 Landfill Operations, LLC to amend Department Order  
 4 S-20700-WD-N-A in order to accept municipal solid  
 5 waste from sources within the State of Maine at  
 6 Juniper Ridge Landfill as a result of the closure of  
 7 Maine Energy Facility in Biddeford.  
 8 My name is Heather Parent. I'm the policy  
 9 director at the Department of Environmental  
 10 Protection and I will be the presiding officer at  
 11 this hearing. Other people present with me this  
 12 evening are Nancy Macirowski, our Assistant Attorney  
 13 General and counsel to the Department; Melanie  
 14 Loyzim, the Director of the Bureau of Remediation and  
 15 Waste Management; Paula Clark, the Director of the  
 16 Division of Solid Waste Management; additional DEP  
 17 staff, Cyndi Darling and Michael Parker. Our court  
 18 reporter is Joanne Alley of Alley & Morrisette.  
 19 Our goal is a fair and productive hearing.  
 20 We are here to listen to and consider all of the  
 21 evidence placed before us. I do know that there are  
 22 highly emotional issues for many of you but it is our  
 23 job to ensure that everybody has the opportunity to  
 24 speak so I ask that you all respect each other's  
 25 right to present his or her viewpoint. Also, I

1 realize that there are many issues related to this  
 2 proposal and we can only consider those issues which  
 3 pertain to the environmental statutes and regulations  
 4 that are applicable to this amendment application.  
 5 Please make this as productive a public session as  
 6 possible by limiting your comments to the issues over  
 7 which we can decide, and please, because of limited  
 8 time and because it is our desire to hear all of the  
 9 various environmental concerns try not to repeat  
 10 testimony that has already been given. New testimony  
 11 is important to us but many repetitive statements do  
 12 not assist us in our responsibilities. Also, in  
 13 order to keep this as productive as possible, please  
 14 do not applaud or make other comments when it is not  
 15 your turn to speak. Thank you all for your  
 16 understanding and your participation here tonight.  
 17 This hearing is being held by the Department  
 18 pursuant to the Maine Administrative Procedures Act  
 19 Title 5, Sections 9051 to 9053 in Chapter 3 of the  
 20 Department of Environmental Protection Rules. Notice  
 21 of the hearing was published in the Bangor Daily News  
 22 and the Journal Tribune on March 14th and March 30th,  
 23 2013. Notice was also sent to the parties and all of  
 24 those specifically requesting notification.  
 25 Additionally, press releases and public service

1 announcements were distributed to regional media  
 2 outlets on March 12th and April 1st, 2013.  
 3 Today the Department began hearing testimony  
 4 from the parties. The Department will continue to  
 5 hear testimony from the parties tomorrow. This  
 6 hearing is being recorded and transcribed. All  
 7 witnesses at this hearing will be sworn and all  
 8 evidence entered into the record will be available  
 9 during the course of the hearing for inspection by  
 10 anyone who wishes to do so. After the hearing, the  
 11 project file will be available for public inspection  
 12 during regular business hours at the DEP office in  
 13 Augusta.  
 14 There are sign-up sheets located at the  
 15 front of the room and at the table to my left for any  
 16 member of the public who would like to offer  
 17 testimony to the Department. There are separate  
 18 sheets for those who want to testify in support of  
 19 the project, in opposition to the project and those  
 20 that are neither for nor against. If you wish to  
 21 speak this evening and have not already signed up to  
 22 do so, please do so now. If you do not want to  
 23 testify this evening, the record in this matter will  
 24 remain open to receive your written comments until  
 25 April 30th, 2013. That's April 30th. Written

1 but the truth?  
 2 **(Witnesses answer in the affirmative.)**  
 3 HEARING OFFICER: Thank you. Are there any  
 4 questions before we begin this evening? There's a  
 5 person with a question in the back.  
 6 AUDIENCE MEMBER: Do I have to come up?  
 7 Will there be some sort of time indication given to  
 8 people so they know when their six minutes are going  
 9 to run out?  
 10 HEARING OFFICER: I will be trying to give  
 11 an indication of one to two minutes left when people  
 12 get close to the end of their time limit.  
 13 AUDIENCE MEMBER: Thank you.  
 14 HEARING OFFICER: I will be identifying the  
 15 person to testify and then the next two people who  
 16 are planning on testifying so that you will have  
 17 advance notice that you are next.  
 18 The first person on the list -- we are going  
 19 to start with testimony now -- the first person to  
 20 testify is -- and I apologize for messing up these  
 21 names. I'll do that blanket apology at the  
 22 beginning. The first person to testify will be Steve  
 23 Perry, followed by Charles Leithiser and then Craig  
 24 Pendleton. So Steve Perry, please come forward.  
 25 MR. PERRY: Good evening. My name is Steve

1 comments should be sent to the Department of  
 2 Environmental Protection, attention Michael Parker,  
 3 at the Department of Environmental Protection, 17  
 4 State House Station, Augusta, Maine, 04333. You may  
 5 also e-mail comments to michael.t.parker@maine.gov by  
 6 the deadline of April 30th. I will call upon those  
 7 who have signed up to testify. When your name is  
 8 called, you should come to the podium and clearly  
 9 identify yourself by name, place of residence and  
 10 affiliation, if any, before beginning your testimony.  
 11 Based on the number of people who have signed up to  
 12 testify, I will be allotting six minutes per person  
 13 to testify this evening.  
 14 Again, I will limit irrelevant or unduly  
 15 repetitious testimony to ensure that as many people  
 16 as possible have a chance to participate and make  
 17 their views known, and thank you very much.  
 18 One more note before we swear in the  
 19 testifiers and begin the proceeding, if you have a  
 20 cell phone or another electronic device that makes  
 21 noise, please turn off the sound to that device now.  
 22 At this time would all persons who are  
 23 planning on testifying this evening stand and raise  
 24 your right hand? Do you affirm that the testimony  
 25 you are about to give is the whole truth and nothing

1 Perry, and I'm here representing H.E. Sargent of  
 2 Sargent Corporation in Stillwater, Maine, and I'm  
 3 here to support the amendment. Sargent Corporation  
 4 is a construction company located in Stillwater,  
 5 Maine, just a few miles south of the Juniper Ridge  
 6 Landfill. We employ over 300 employees. Most of  
 7 these folks are from Maine and have -- a lot of them  
 8 have worked on the landfill project and are from the  
 9 local community.  
 10 As a construction company, we've been  
 11 involved with landfill construction since the early  
 12 eighties and even though we're a Maine-based company,  
 13 we've had the opportunity to construct projects in  
 14 Maine, New Hampshire, Vermont, Maryland, Virginia,  
 15 Pennsylvania and as far south as North Carolina.  
 16 These projects are state-of-the-art projects and we  
 17 have had a large experience and reputation in  
 18 building landfills. I'd like to say that we've had  
 19 the opportunity to construct Juniper Ridge Landfill  
 20 from the first cell and I can say that the projects  
 21 and the construction of that project is  
 22 state-of-the-art. There's nothing any better from  
 23 here to North Carolina as far as protecting our  
 24 environment.  
 25 Juniper Ridge has been a good neighbor for

1 us in the community providing well-paying jobs and  
 2 supporting the community. The solid waste disposal  
 3 cost has improved our opportunities for businesses to  
 4 come in and be competitive, regardless of whether  
 5 it's power or transportation or solid waste. We need  
 6 to be competitive in this state in all arenas to  
 7 encourage business to come here, and Juniper Ridge  
 8 has been a big facility in that cause.

9 In closing, I'd just like to say that I'd  
 10 like to encourage you to support the amendment.  
 11 Thank you. If you have any questions, I'll be glad  
 12 to answer.

13 HEARING OFFICER: Thank you very much.  
 14 Charles Leithiser.

15 MR. LEITHISER: Thank you very much. I'm  
 16 Charles Leithiser from Old Town, Maine. I'm not  
 17 affiliated with the applicant or anybody else at this  
 18 point. I did submit written comments regarding this  
 19 application. In the BGS and NEWSME's response to  
 20 public comments, Mr. Tom Doyle cited some of my  
 21 written testimony. In his response to Leithiser  
 22 comment #5, he quotes me as saying MSW could simply  
 23 be sent to landfills that are already licensed for  
 24 large amounts of municipal solid waste. Mr. Doyle  
 25 claims there's an inconsistency between this

1 for that waste, especially when the other uses reduce  
 2 the amount of waste being landfilled at Juniper Ridge  
 3 and help save a valuable resource for waste that can  
 4 only be landfilled. Juniper Ridge should only be  
 5 used when no other options exist.

6 Speaking of supporting the hierarchy and a  
 7 waste policy and plan that makes sense, the municipal  
 8 solid waste that was being sent to MERC was subject  
 9 to source reduction and recycling at that plant. If  
 10 the waste were sent directly to Juniper Ridge  
 11 instead, that sorting will not occur. While Mr.  
 12 Doyle notes that only two percent of the waste metals  
 13 were recycled at the MERC plant, that amounted to  
 14 approximately 6,000 tons per year. Even if only a  
 15 third of that amount actually came from the State of  
 16 Maine in-state waste, that's still 2,000 tons a year.

17 I had a Toyota Corolla. Toyota says it  
 18 weighs 2,734 pounds. If you take out the plastic and  
 19 glass, it probably comes in at about a ton, 2,000  
 20 pounds. So that would mean 2,000 Toyota Corollas  
 21 going into Juniper Ridge every year of metal that had  
 22 been previously recycled at the MERC plant. That  
 23 metal should and could be recycled if the municipal  
 24 solid waste goes to other waste-to-energy plants  
 25 instead. All of their annual reports do indicate

1 statement and my logic regarding the hierarchy, the  
 2 solid waste hierarchy. If Mr. Doyle had only  
 3 included the remainder of my statement, I believe any  
 4 inconsistency would have quickly been cleared up.  
 5 The rest of my statement continued to say or more  
 6 preferably would be sent to -- send the MSW to other  
 7 waste to energy incinerators. I do support the  
 8 hierarchy. I believe that incineration and the bio  
 9 reduction accomplished by incinerators is much more  
 10 appropriate than simply sending the municipal solid  
 11 waste to the landfill.

12 This is important for many reasons. For  
 13 starters, Casella first made closure of the MERC  
 14 plant contingent on the municipal solid waste coming  
 15 to Juniper Ridge. That's no longer the case.  
 16 Evidently that municipal solid waste has found  
 17 another home or homes. It is not currently coming to  
 18 Juniper Ridge. There's been an appreciable and  
 19 appreciated decrease in truck traffic to Juniper  
 20 Ridge since January.

21 Secondly, as my complete comments make  
 22 obvious, I do support Maine's solid waste hierarchy.  
 23 There's no good reason for the State of Maine to  
 24 accept additional municipal solid waste at Juniper  
 25 Ridge when there are more preferable uses and options

1 that they separate out metals before incineration.

2 Casella boasts about their recycling efforts  
 3 which makes me question why they would allow this to  
 4 happen or support this happening. Would I like to  
 5 see that recycled at the Westbrook transfer station?  
 6 Absolutely not. We all know what happens to  
 7 out-of-state waste when it hits a processing  
 8 facility. I'd prefer that that stays a transfer  
 9 station only and that the municipal solid waste go to  
 10 other waste-to-energy incinerators.

11 Mr. Doyle requested this morning of Mr.  
 12 Kevin Roche, the source for his statement that  
 13 waste-to-energy facilities produce fewer greenhouse  
 14 gas emissions, and I believe -- I'm not speaking for  
 15 Mr. Roche -- I did find a source, Environmental  
 16 Science and Technology 2009 Policy Analysis, is it  
 17 better to burn or bury waste for clean electricity  
 18 generation. That study states that greenhouse gas  
 19 emissions are reduced by one-half to 1.3 tons of CO2  
 20 equivalents per ton of municipal solid waste  
 21 combusted rather than landfilled, and that is  
 22 assuming that the landfill does have a landfill gas  
 23 recovery and reuse system in place.

24 Again, I fully support the Maine solid waste  
 25 hierarchy. I surely hope the Commissioner will also.

1 Maine is currently talking about a climate change  
 2 plan that needs to be adopted by the state; we should  
 3 be focusing on greenhouse gas and methane reduction  
 4 whenever possible. We also need to reserve our state  
 5 landfill capacity for waste that truly has no other  
 6 outcome or possibility for it, save that capacity for  
 7 waste that truly needs to be landfilled. Denying  
 8 this application would greatly help achieve those  
 9 goals and would adhere to established Maine policy.  
 10 Thank you.

11 HEARING OFFICER: Thank you very much. Next  
 12 we have Craig Pendleton testifying in support; after  
 13 him we have Mark Bower testifying in opposition.

14 MR. PENDLETON: Good evening. My name is  
 15 Craig Pendleton. I'm a resident of Saco and I'm the  
 16 executive director of the Biddeford/Saco Chamber of  
 17 Commerce.

18 Dear Committee Members, on behalf of the  
 19 Biddeford/Saco Chamber of Commerce and Industry I'm  
 20 here to lend our support of the application before  
 21 you to accept municipal solid waste at the Juniper  
 22 Ridge Landfill. Our chamber has played an active  
 23 role in the purchase of the Maine Energy Recovery  
 24 Corporation site in downtown Biddeford by the city of  
 25 Biddeford. We set up a dedicated website where we

1 posted official documents issued between the parties  
 2 and several relevant news stories on the issue as a  
 3 way to provide the public with accurate information.  
 4 The Biddeford/Saco Chamber, while recognizing that  
 5 Casella and Maine Energy were active supportive  
 6 members, publicly supported the purchase and closing  
 7 the Maine Energy plant. It was the right thing to do  
 8 after so many years of complaints regarding the odor  
 9 in our downtowns. We weighed the loss of good-paying  
 10 jobs against the long-term benefits of future  
 11 economic development and prosperity in our two  
 12 cities. Removing the trash incinerator from our  
 13 downtown has immediately spike interest in new  
 14 economic development. The cities of Biddeford and  
 15 Saco, our local economic development corporation, our  
 16 two Main Street Maine organizations and the Chamber  
 17 recently developed a regional brand. This brand is  
 18 now being launched and will specifically focus on  
 19 recruiting new economic development into our  
 20 communities. Simply stated, none of this positive  
 21 momentum would be possible without the negotiated  
 22 purchase of the Maine Energy property. We applaud  
 23 the city of Biddeford and Casella for engaging in  
 24 civil and respectful negotiations which was not the  
 25 case in the past. We are excited that the city of

1 Biddeford and Casella have reached an agreement on  
 2 curbside single sort recycling. This alone will  
 3 significantly reduce the amount of municipal waste  
 4 that will be required -- will require transportation  
 5 to Juniper Ridge. We strongly support taking care of  
 6 our own waste here in Maine. This agreement will  
 7 eliminate nearly 200,000 tons of waste that comes in  
 8 from out-of-state that was burned at MERC.

9 The Chamber respectfully requests that you  
 10 weigh the positive outcomes created by the purchase  
 11 of Maine Energy and grant approval to the amendment  
 12 application before you. Thank you very much.

13 HEARING OFFICER: Thank you. Next we have  
 14 Mark Bower testifying in opposition. On deck is Will  
 15 Armitage.

16 MR. BOWER: Thank you. I'm not actually  
 17 filing --

18 MR. DOYLE: Madam Hearing Officer, I'm going  
 19 to object at the outset. Mr. Bower is representing  
 20 two parties in this proceeding and so he should not  
 21 be testifying as a witness either in his -- either  
 22 for his parties or here in the public session, and I  
 23 believe he also would be violating a Maine Bar Rule  
 24 on professional responsibility that prevents an  
 25 attorney where he's an advocate also being a witness

1 in the same case, Rule 3.7(a).

2 HEARING OFFICER: As the Hearing Officer, I  
 3 am not -- I am overruling your objection with respect  
 4 to his testifying despite the fact that he's  
 5 participating in these proceedings. There's nothing  
 6 in Chapter 3 that prohibits it and in situations  
 7 where people are grouped together, this is an  
 8 opportunity for an individual viewpoint to be  
 9 provided. Once again, there's nothing in Chapter 3  
 10 that prohibits it. With respect to the Bar Rules,  
 11 that is not within my purview to rule upon.

12 MR. BOWER: Thank you, Madam Hearing  
 13 Officer. If I had a chance to complete my sentence,  
 14 I'm not actually offering testimony. As you already  
 15 understand, I'm the attorney for ecomaine and MMWAC.  
 16 In this afternoon's testimony, some letters from  
 17 municipalities were offered as exhibits to Mike  
 18 McGovern's testimony. Those were denied and I'm just  
 19 here to offer those letters as written comments and  
 20 they're from 20 ecomaine municipalities, the town of  
 21 Gray, the town of Bridgton, the town of Hollis, the  
 22 town of Gorham, the town of North Yarmouth, the town  
 23 of Falmouth, the town of Harrison, the city of  
 24 Portland, the town of Cape Elizabeth, the town of  
 25 Bridgton, the town of Lyman, the town of Freeport,

1 the town of Yarmouth, the town of Cumberland, the  
2 city of South Portland, the town of Waterboro, the  
3 town of Scarborough, the town of Ogunquit, the town  
4 of Windham and the town of Casco. So I'm just  
5 submitting those. I'm not offering testimony.

6 HEARING OFFICER: And these letters will be  
7 considered along with all the other written comments  
8 that must be provided by April 30th.

9 MR. BOWER: Thank you. Should I submit them  
10 to you?

11 HEARING OFFICER: Yes. Will Armitage  
12 speaking in support and then Cheryl Spencer is next  
13 after that speaking in opposition.

14 MR. ARMITAGE: Good evening. My name is  
15 Will Armitage. I'm a resident of Falmouth, and I am  
16 the executive director of the Biddeford/Saco Area  
17 Economic Development Corporation, and I'm here to  
18 testify in support of the Maine Energy closure and  
19 Juniper Ridge amendment application.

20 I urge your support of this application  
21 because it's a reasonable proposal that benefits the  
22 entire state. As a former town councilor, I  
23 appreciate the concerns being raised by other  
24 citizens of our state. This is an emotional and  
25 complex issue, but when we look at the big picture,

1 this is a win-win scenario for the citizens of our  
2 state. This proposal -- while there will be economic  
3 benefits for Biddeford/Saco, this proposal will  
4 benefit the entire state by eliminating 170,000 tons  
5 of waste currently being brought into Maine from  
6 out-of-state, generating an estimated 450,000 in  
7 annual benefit to PERC and its member communities,  
8 reducing the overall waste currently being shipped to  
9 Juniper Ridge from MERC by over 20,000 tons,  
10 stimulating a 4.1 million dollar investment in a new  
11 transfer station in Westbrook and providing the  
12 opportunity for new curbside recycling programs to be  
13 started in Biddeford, Old Town and Westbrook.

14 The city of Biddeford has taken the  
15 initiative to solve a long-standing concern in its  
16 downtown. All the parties involved have negotiated  
17 in good faith and have arrived at a reasonable,  
18 responsible solution that involves compromise. In  
19 short, this proposal is not just about the closure of  
20 MERC. It does not just benefit Biddeford. I  
21 encourage you to support this proposal because of the  
22 overall benefit to our state. Thank you.

23 HEARING OFFICER: Thank you. Next we have  
24 Cheryl Spencer speaking in opposition. After Cheryl  
25 we have Randy Sever speaking in support.

1 MS. SPENCER: Hello. Thank you for the  
2 opportunity to address the Department. My name is  
3 Cheryl Spencer and I live in West Old Town. I've  
4 been a resident there for 34 years. From my home I  
5 can see the landfill -- I can see the landfill on my  
6 morning commute and from my home I can smell and hear  
7 it. When the bedroom windows are open in summer I  
8 need no alarm clock as Casella's machines begin the  
9 day at 6 a.m., with the clanging of tracked vehicles  
10 and truck bodies.

11 Earlier today we heard Casella tout the  
12 benefits of this license being approved. One thing  
13 they included was free recycle cans for residents of  
14 Old Town. They're very carrot and stick oriented and  
15 I think a new recycle can -- they think a new recycle  
16 can will make the hardships of hosting a landfill go  
17 away. They already have us doing their advertising  
18 on our pay-per-throw bags boldly emblazoned with  
19 "Casella."

20 We heard from Mr. Doyle that MSW was  
21 intended to be taken from early on. I know you are  
22 aware that Casella uses common language very craftily  
23 and I do not mean that in a good way. So early on we  
24 had bypass which was actually MSW, but it wasn't MSW,  
25 it was called bypass. There would be no MSW. Then

1 we received again MSW in the form of soft layer  
2 construction materials. It was not yet MSW. It was  
3 soft layer construction materials. Now finally we  
4 hear the plea to have raw MSW. Craftily.

5 In the resolve that made this landfill a  
6 state resource, it said the state shall control the  
7 landfill. Today we heard Michael Barden say that he  
8 has visited there once since taking oversight in  
9 September 2011, not exactly control. I do know that  
10 the DEP engineer, Amanda Wade, has a regular presence  
11 there and we do appreciate that.

12 Control to a layperson means directing the  
13 activity and having oversight. I would like the  
14 state to take control of this landfill. The state  
15 has the hierarchy in place to encourage best  
16 management practices and waste handling. It is the  
17 guiding policy -- guiding -- in statute that charts  
18 the course for agency decision making. The hierarchy  
19 provides for a nominal level of sustainability in a  
20 world that should be working on a forward progressive  
21 goal of zero waste. I encourage the agency to reject  
22 this license. Let's not move backwards in our  
23 collective actions and allow landfilling of a  
24 material that has a higher use.

25 Approval of this license to accept raw MSW

1 is just opening the door to future expansions of  
 2 volumes, waste streams and manipulations of the  
 3 language to suite Casella's business model.  
 4 Normally I provide some type of scientific  
 5 evidence to the Department because I am a scientist;  
 6 however, after ten years of this, I'm really tired of  
 7 searching for more evidence, and I'm asking you to  
 8 help us preserve our sense of place and that's said  
 9 in a cultural way as well as an environmental way.  
 10 It is our landfill, and I ask the state to  
 11 control it by rejecting this application. Thank you.  
 12 HEARING OFFICER: Thank you. Next we have  
 13 Randy Sever and following Randy Sever, we'll have  
 14 Paul Schroeder.  
 15 MR. SEVER: Good evening. My name is Randy  
 16 Sever. Number one, I am a resident of Biddeford. I  
 17 have been for a long time, but it should also be  
 18 noted that I have provided professional and continue  
 19 to provide professional consulting services to  
 20 Casella. I'm here tonight to speak to you as a  
 21 resident of Biddeford and to offer you a bit of  
 22 perspective about solid waste and the lessons our  
 23 city has learned in relation to the Juniper Ridge  
 24 landfill which we have watched closely. For more  
 25 than 30 years my community has been a host community

1 for a regional waste incinerator. Although I support  
 2 the hierarchy and I believe most people support  
 3 Maine's solid waste hierarchy as a matter of  
 4 philosophy, it should be noted that the Maine Energy  
 5 Recovery Company was somewhat unique. Unlike the  
 6 facilities located at Orrington, Auburn or Portland,  
 7 Maine Energy was in the center of our downtown area.  
 8 If you wonder what it's like to live within close  
 9 proximity --  
 10 HEARING OFFICER: Can you please slow down a  
 11 little bit so we can get the words down?  
 12 MR. SEVER: Okay, I'm sorry. I apologize.  
 13 Maine Energy has been a source of controversy.  
 14 Whether that's been imaged or real is up for debate  
 15 perhaps but it has been a source of controversy and  
 16 it has been a detriment to the economic wellbeing of  
 17 my community. A lot of people who are here tonight  
 18 would also tell you about their concerns about health  
 19 impacts about Maine Energy, but Maine Energy has been  
 20 closed so really Biddeford has nothing really to gain  
 21 or to lose at this point except this: when I look at  
 22 this application, I look at the future for Maine's  
 23 solid waste landscape. Maine communities beyond  
 24 Biddeford, including Bangor, Brewer, Buckfield,  
 25 Bucksport, any community in Maine is better served

1 when we have a diversity of options and when we have  
 2 a diversity of companies. We have six landfills  
 3 operating in the state of Maine. They should all be  
 4 on a level playing field. Communities such as mine  
 5 and other communities across the state are right now  
 6 grappling with very serious and very real budget  
 7 concerns. This deal that Biddeford was able to  
 8 negotiate with Casella was originally contingent on  
 9 Juniper Ridge. People in my community knew that,  
 10 they accepted it and they voted in favor of it -- my  
 11 city council did rather and it should be noted that  
 12 they voted overwhelmingly eight to one.  
 13 Juniper Ridge is a state-owned landfill.  
 14 That means people in my community have been  
 15 financially supporting Juniper Ridge, including its  
 16 purchase. Juniper Ridge also has a history. It did  
 17 not appear ten years ago out of thin air. It's been  
 18 there. I understand the concerns of some people in  
 19 Old Town. I also understand those in Old Town who  
 20 would welcome the new revenue. There are no perfect  
 21 solutions in Maine's solid waste landscape, none. In  
 22 an ideal world we would not have municipal waste.  
 23 Unfortunately, we do not live in an ideal world.  
 24 For us, Juniper Ridge makes sense for a lot  
 25 of other reasons which I also have bulleted out in my

1 written testimony submitted to you so I won't bother  
 2 going through those points.  
 3 I urge you to accept this application. It  
 4 makes sense on an economic, on an environmental and  
 5 on a responsible planning for Maine's solid waste  
 6 future. Thank you.  
 7 HEARING OFFICER: Thank you. Paul Schroeder  
 8 and after Paul we have Connie, I believe, Gemmer.  
 9 MR. SCHROEDER: Good evening, Hearing  
 10 Officer Parent, Members of the Panel, everyone else  
 11 who is attending here tonight. I found that today  
 12 particularly provided a great opportunity to reflect  
 13 on the permitting and history of the Juniper Ridge,  
 14 formerly West Old Town, Landfill. Because today, the  
 15 9th of April, is to the day the ninth anniversary of  
 16 the granting of the license amendment that allowed  
 17 for the -- that authorized many more waste streams  
 18 and much larger volumes to be brought in at a much  
 19 more rapid pace to Old Town.  
 20 Now, in 2003, just before that -- you know,  
 21 this started in the spring of 2003. In 2003 -- by  
 22 the end of 2003, the state was under a lot of  
 23 pressure to get the deal done. That pressure was  
 24 coming from G.P. which was demanding certain  
 25 financial returns from their mill in Old Town. So

1 December was an important month. In January of 2004  
2 was the first public informational meeting on this  
3 issue that was held in our community. Over 300  
4 people turned up and that public informational  
5 meeting was held about seven weeks after the closing  
6 of the period for public requests for public  
7 hearings, and actually, as everyone knows, there  
8 hasn't been an actual public hearing on any issue  
9 around this landfill since day one until today.

10 So here we are today and we're wondering are  
11 we going to find out that a major promise that the  
12 people of our region were given at that time, which  
13 was that raw municipal solid waste would not be  
14 coming to this landfill, we're going to find out  
15 whether or not this promise is going to hold. Now,  
16 we know that the -- this issue today is of critical  
17 importance to the applicants. That was obvious from  
18 the strenuousness of their various objections and  
19 comments this afternoon and this morning. We also  
20 know that this application opens a huge gateway for  
21 some kind of change in the waste streams in Maine and  
22 we don't know what its implications are.

23 Where is the actual state in this process?  
24 The state is the owner and this morning Mr.  
25 Laubenstein, the Assistant Attorney General, was

1 identified as co-representing Casella and the state  
2 and he never spoke and he never did speak, and  
3 actually the public is rubbed the wrong way when the  
4 corporate partner is writing the briefs and carrying  
5 the argument for the public entity.

6 I see that this is an opportunity for the  
7 state to take control of waste policy. Who is going  
8 to be responsible for this? We found out this  
9 morning that the DECD won't. Mr. Barden, although he  
10 claimed that the state has management oversight of  
11 the facility, he allowed his team to argue against  
12 strict application of the hierarchy. So I don't  
13 think we can look to them for stewardship of Maine  
14 waste policy. Meanwhile, Casella economically  
15 undercuts their public sector competitors who are  
16 trying to do a good job environmentally and socially  
17 in their communities by offering below market or at  
18 least cheaper landfill dumping space so that their  
19 communities can truck it to Old Town. Now, if the  
20 state had taken responsibility sometime along this  
21 line for its own waste policy, we wouldn't be here  
22 tonight. We'd all be operating operations like  
23 ecomaine and MMWAC and working together to solve  
24 these problems.

25 So I'd like to suggest that the DEP today

1 takes a step back, denies this application and makes  
2 today the day they take the first step in undertaking  
3 their new responsibilities of stewardship for solid  
4 waste policy in Maine. Thank you very much.

5 HEARING OFFICER: Thank you. Next we  
6 have -- I believe it's Connie Gemmer and then after  
7 that is Joanne -- I think it's Gurney -- Tummey,  
8 sorry.

9 Ms. Gemmer: Good evening. My name is  
10 Connie Gemmer and actually I'm here to read a letter  
11 that was given to me by Daniel Cote of Auburn. I,  
12 myself, live in Portland. Although I am unable to be  
13 at the public hearing in Augusta, I do want to  
14 express my support for Casella in their efforts to  
15 move ahead with a plan to transfer in-state municipal  
16 solid waste from the former MERC plant to the Juniper  
17 Ridge Landfill in West Old Town. I have reviewed the  
18 elements of their plan and believe that it makes  
19 sense from an environmental and an economic  
20 standpoint. Our company has done business with  
21 Casella and KTI for 17 years. We have found them to  
22 be a good organization to deal with and appreciate  
23 their efforts to help the state of Maine achieve its  
24 goals with regard to solid waste disposal and a  
25 greater emphasis on recycling.

1 This is not an easy industry for the public  
2 to fully understand or support. Casella is working  
3 diligently to do what is in the best interest of many  
4 Maine communities and deserves to have their  
5 application supported by the state agencies and  
6 communities across the state. We commend their  
7 efforts, sincerely, Daniel A. Cote.

8 HEARING OFFICER: And you're submitting that  
9 letter? Thank you. Now we have Joanne Tummey  
10 testifying in opposition and next up after Joanne is  
11 Dan Thornton testifying in support.

12 MS. TUMMEY: Good evening. Thank you very  
13 much for having this public hearing. My name is  
14 Joanne Tummey. I live in Biddeford. I am the former  
15 mayor of Biddeford for four years, I served in the  
16 Maine State Legislature for eight years and I served  
17 on the Natural Resource Committee. So I was on the  
18 committee when all of these things happened. I have  
19 to tell you that the reason I ran for public office  
20 was because of the incinerator. I'm not a scientist  
21 and I've decided that science isn't going to solve  
22 this. I was also put on the Blue Ribbon Commission  
23 on Solid Waste. Paula and I used to see each other  
24 quite often when she came to our committee.

25 I'm on record for being opposed to

1 incineration. It's Neanderthal to take all our waste  
 2 and burn it and to pollute the air and then to  
 3 pollute the ground. Now, I am very happy that this  
 4 incinerator is closed, but I drove an hour and a half  
 5 and I'll drive an hour and a half back tonight  
 6 because morally I cannot send our lifestyle to  
 7 northern Maine, to Old Town, to my friends who I made  
 8 in the Maine State Legislature. Laura Sanborn and I  
 9 were -- not seat mates but we served together. I  
 10 joined with We The People and I stood for many, many  
 11 years about solid waste and I want to go on record  
 12 telling you that I came tonight because it's always  
 13 been about the health of my community, and I was glad  
 14 to see that they were going to sell it. What I was  
 15 not glad to see was the test results that we never  
 16 had a public hearing about. There are two hot spots  
 17 and I have to tell you, and I'm not pointing fingers  
 18 at you, but the DEP was not there for us. That was a  
 19 lesson I learned when I came to the Maine State  
 20 Legislature because I believed anybody who worked for  
 21 the DEP wore L.L. Bean boots and they liked to  
 22 mountain climb and they were my people. I found out  
 23 early on it isn't about that, it's about politics,  
 24 and that saddened me.

25 On the Blue Ribbon Commission I was the only

1 one that tried to struggle to have recycling in the  
 2 hierarchy as number one. The State Planning Office,  
 3 which Paula was part of at the time, was not pushing  
 4 recycling as fast as I thought we should.

5 We have responsibility for the waste we  
 6 generate, but I have a responsibility to my fellow  
 7 Mainers. I love all of Maine. I live in southern  
 8 Maine but I love northern Maine, and I have a  
 9 responsibility to stand here telling you that the  
 10 people did not vote for Juniper Ridge. Eight  
 11 councilors and one who did not support it is not the  
 12 people's vote of Biddeford and they never sent it out  
 13 to referendum for a vote whether we should buy it for  
 14 6.5 million dollars either, and they're getting all  
 15 our recyclables.

16 Somebody loves Casella and I have to tell  
 17 you that I worked with them when I was mayor for over  
 18 a year in hopes -- I put all my activism aside and I  
 19 have to tell you that I collected ash samples that  
 20 brought a two million dollar fine to Biddeford.  
 21 Those samples -- Dr. Frakes was the state  
 22 toxicologist at the time and because he said there  
 23 was mercury in those fish, they got rid of Dr.  
 24 Frakes. He was the best scientist we ever had;  
 25 anyway, unacceptable levels of lead and dioxin were

1 spewed. Those are in your DEP records, okay? A two  
 2 million dollar fine against that company. We  
 3 couldn't eat our gardens anymore, we couldn't eat our  
 4 herbs and to this day we've got two hot spots. My  
 5 councilor, my best friend, one of my best friends at  
 6 the time said there's no deal here, nothing is  
 7 written in stone until we get the test results and  
 8 that validated me in saying this is a good way to  
 9 approach it, but the test results were never made  
 10 public and there are two hot spots, one they say was  
 11 from a former company. Prove it. How do we know it  
 12 was from a former company? The other hot spot is  
 13 dioxin. Dioxin comes with incineration. The two  
 14 million dollar fine against that facility was  
 15 unacceptable levels of dioxin and lead. It was  
 16 spewing all over us and people in open cars were  
 17 getting spewed with this stuff. Landfills, you're  
 18 going to have to have a liner. I know this is tied  
 19 into the methane gas at the university but common  
 20 sense, science aside, how much is it going to cost to  
 21 transport the garbage from Biddeford to Juniper  
 22 Ridge? Casella has some great friends in the  
 23 Legislature, some great lawyers, and I saw that when  
 24 I was on the committee.

25 HEARING OFFICER: You have one minute.

1 MS. TUMMEY: Okay, and I believe that their  
 2 friendship and John Baldacci was part of helping them  
 3 along. Way back when I served on the committee and  
 4 they had them come in to do the landfill -- it was  
 5 for jobs. It's always been about jobs and no one  
 6 cares, including the DEP, about the cancers that  
 7 we've had in our community. Thank you.

8 HEARING OFFICER: Thank you. Next we have  
 9 Dan Thornton testifying in support and after that we  
 10 have Bob Duchesne testifying in opposition.

11 MR. THORNTON: Hey, thanks for having us  
 12 tonight. My name is Dan Thornton. I'm representing  
 13 Thornton Construction, a construction company up in  
 14 Milford. We employ annually 50 to 60 people. We  
 15 work directly with Juniper Ridge on certain things  
 16 from waste hauling into the landfill as well as out.  
 17 We transport their leachate that's collected from the  
 18 lined landfill to a treatment plant.

19 I wanted to talk to you tonight from three  
 20 different perspectives, one as a neighbor, one as a  
 21 business person and one as a selectman in the town of  
 22 Milford. The first being a neighbor. Casella as a  
 23 company has been outstanding. A family member of  
 24 mine had called when this had all started with an  
 25 odor complaint and she told me that she was having

1 some issues and within two hours a representative  
 2 from the landfill was at her house with a sniffing  
 3 machine to verify any kind of odor and then I got a  
 4 phone call to bring in some cover material. Within  
 5 three hours her complaint was addressed and solved.  
 6 In most respect, she was wild at first and the way  
 7 that they handled it was so professional she was  
 8 smiling, shaking hands at the end. It was  
 9 unbelievable and it was really great to see from a  
 10 business side because we were involved in bringing  
 11 some cover material up as well as, you know,  
 12 personally with my aunt. So from a neighbor, they're  
 13 outstanding. There's no better company that cares  
 14 about the area around them. They take -- the  
 15 environmental concerns are -- it's their most  
 16 important thing that they do there. Like I said, we  
 17 transport material in. They have us brushing off our  
 18 tailgates before we leave the landfill, cleaning our  
 19 tires so we're not tracking out. The precautions  
 20 they take are outstanding, and if you don't do it,  
 21 you get a phone call and it's not a nice phone call.  
 22 They really take it very serious.

23 From the selectman point of view, Milford  
 24 and Old Town have always worked pretty closely  
 25 together. We're neighbors. Old Town recently

1 switched over to this single-sort recycling and  
 2 pay-per-bag disposal. I was in opposition of the  
 3 paper bag. I think it creates an expense on the  
 4 citizens that they have to spend every week that a  
 5 lot of people haven't budgeted for. We just had an  
 6 article in the paper of people taking their trash  
 7 because they didn't buy the \$2 bag and bringing it  
 8 over to Orono for collection because they didn't have  
 9 the money to dispose of their trash. The other side  
 10 of that, we were lucky enough that that person went  
 11 to Orono and had their trash collected. We own some  
 12 land in Milford and it's all dirt roads and it's a  
 13 big piece of land, logging roads, and we get couches,  
 14 TVs, bags of trash, everything, that we have to deal  
 15 with and as a big property owner around the area, we  
 16 put gates up because we can't do it anymore. If we  
 17 continue to add costs to waste disposal, it's going  
 18 to come back on us and Casella does a great job  
 19 managing it and that's where it needs to be. It  
 20 doesn't need to be out in our streams, in our ditches  
 21 along the roads for us to pick up.

22 A business person, like I said, we employ 50  
 23 to 60 people around the area right local in Milford.  
 24 Those are direct employees that work every day in the  
 25 landfill. They're also employees that work every day

1 in the mill in Old Town. One of the several reasons  
 2 that the Old Town mill is around is in cooperation  
 3 with the state but one of the largest is cooperation  
 4 with the landfill. If that landfill was not there,  
 5 you can forget about all of those jobs, the 250 jobs  
 6 in the Old Town mill. That doesn't even go outside  
 7 the realm of the mill. I have 14 employees also in a  
 8 logging operation that work directly with that mill.  
 9 Without that, those jobs are gone. Business point of  
 10 view, again, if we can't manage trash expense and  
 11 disposal expense for these mills, they're going to  
 12 shut down. It has to go somewhere. It's an  
 13 environmentally safe landfill, lined, all the  
 14 leachate is collected, it's the best place for it and  
 15 that's where it needs to go. Like any other  
 16 business, we're looking for additional revenue  
 17 streams. If this is an additional revenue stream to  
 18 manage costs for the Juniper Ridge Landfill, then it  
 19 needs to be done. I've seen the direct effect. We  
 20 also demolish buildings and houses and haul into the  
 21 landfill. If they can keep their prices down, people  
 22 are going to continue doing these projects. We've  
 23 already seen it. I've cut my waste hauling of  
 24 demolition by 90 percent since the economy has  
 25 turned. If we cannot keep the price of demolition,

1 all of that is going to go away and if they can get  
 2 beneficial revenue from taking MSW, then that's what  
 3 we need to do.

4 So that's my support for the landfill.  
 5 Thank you.

6 HEARING OFFICER: Thank you. Next we have  
 7 Bob Duchesne testifying in opposition. After Bob  
 8 Duchesne we have Paul Blair, I believe, testifying in  
 9 support.

10 MR. DUCHESNE: For starters, you're going to  
 11 have to watch me carefully and slow me down. You  
 12 know how I get.

13 Madam Presiding Officer and members of the  
 14 DEP staff, Attorney General's Office, my name is Bob  
 15 Duchesne. I'm from Hudson. I'm a recovering  
 16 representative, no longer in the Legislature but for  
 17 the eight years I was in the Legislature, I was on  
 18 the Environment and Natural Resources Committee,  
 19 chaired it for awhile and so I'm familiar with the  
 20 issues. I was actually the chairman of the Blue  
 21 Ribbon Commission on Solid Waste Management, and I  
 22 know Mike and Paula are certainly familiar with me  
 23 from that. So I do have some familiarity with these  
 24 issues. I'm pleased to submit my written comments  
 25 and you'll be pleased I'm not reading them all.

1 First, I'm just going to do some quick bullet points.  
 2 I've got six points that I would like to be able to  
 3 make and then three quick conclusions.  
 4 First, I think Section 1.1 of the  
 5 application needs a little more background  
 6 information. The application acknowledges that there  
 7 was a 310,000 ton limit agreed to by all parties on  
 8 how much waste Casella could take between Maine  
 9 Energy and its landfills. The application doesn't  
 10 actually explain why and why that number. The  
 11 reasons are expressed in a couple of the earlier  
 12 permits granted by DEP, but it all comes down to a  
 13 resistance to use that landfill for municipal solid  
 14 waste. In the early days we thought about bypass and  
 15 later the soft layer and these were just small  
 16 amounts. Now you're getting a whopping amendment for  
 17 93,000 tons. So all of a sudden this fight has  
 18 exponentially grown.  
 19 Second, Section 2.6 misconstrues a ruling by  
 20 the Board of Environmental Protection to imply that  
 21 the hierarchy cannot be the basis for the  
 22 Commissioner's decision. Paragraph 2 of that section  
 23 states that the proposed amendment is in accordance  
 24 with the State's solid waste management hierarchy and  
 25 then uses the footnote to assert that the solid waste

1 management hierarchy cannot be applied in making a  
 2 decision on the application. That finding by the  
 3 Board, as it says in the footnote, was about  
 4 permitting decisions of a technical nature. This  
 5 isn't a technical nature. This is the solid waste  
 6 management planning and implementation measure that  
 7 the Board was talking about. This is what the  
 8 guiding principle in the statute is supposed to apply  
 9 to.  
 10 Third, Section 2.6 also makes a claim that  
 11 should be further clarified for the record as  
 12 evidence that Casella is doing a lot of good  
 13 recycling at numerous geographic locations in Maine  
 14 as it says in the application. The application fails  
 15 to mention how much of that recycling isn't actually  
 16 Maine waste. The application asserts that Casella's  
 17 KTI facility in Lewiston generated 145,300 tons of  
 18 recyclables but the Department's own waste generation  
 19 and disposal capacity report reveals that only 6  
 20 percent of that construction and demolition debris  
 21 was actually from Maine. This is not illegal. It's  
 22 not even reprehensible and, quite frankly, I think  
 23 KTI has improved their operation and they're doing a  
 24 pretty good job of recycling Massachusetts' waste.  
 25 HEARING OFFICER: Please be sure to slow

1 down.  
 2 MR. DUCHESNE: All I'm suggesting is the  
 3 Commissioner should weigh those figures carefully  
 4 when examining the evidence.  
 5 Fourth, the application is not consistent  
 6 with DEP rules. DEP rules require that an amendment  
 7 to the license be consistent with licensing criteria.  
 8 Now, you can read about my written remarks or you can  
 9 wait for the movie to come out but I think it was  
 10 covered pretty well by Mr. Bower earlier in the  
 11 testimony so I don't need to repeat that to get that  
 12 on the record.  
 13 Fifth, the application would create uneven  
 14 competition between Casella and waste-to-energy  
 15 facilities using a state asset as the lever. Now,  
 16 this threatens to undermine the solid waste  
 17 management system in the state. Earlier today  
 18 Casella characterized this as ecomaine and MMWAC  
 19 seeking subsidy. It's actually a concern of being  
 20 competitively undercut. I didn't actually hear  
 21 ecomaine or MMWAC ever say they deserved the waste,  
 22 that they deserved a subsidy. What they said was  
 23 they did not want to be undercut by cheaper capacity  
 24 suddenly created by the state in its own landfill.  
 25 Number six, the application is in conflict

1 with Title 38, 2101. It should concern the  
 2 Commissioner that the application supposedly pushes  
 3 200,000 tons of imported waste back out-of-state and  
 4 there's almost no change to the fill rate at Juniper  
 5 Ridge. I put some things in the record that I think  
 6 you'll be able to examine at your leisure to possibly  
 7 explain that, but that's a weird situation to arrive  
 8 at.  
 9 So three quick conclusions. One, while the  
 10 hierarchy is the bedrock principle of state solid  
 11 waste policy, it is not the role of the Department of  
 12 Environmental Protection to direct specific waste  
 13 streams. You don't control waste flow to higher  
 14 priority disposal options. It is also not the role  
 15 of DEP to approve permits that inhibit waste streams  
 16 from going to higher priority disposal options. The  
 17 state should not be in the business of forcing  
 18 Casella to pay higher tipping fees merely because  
 19 incinerators are a higher priority in the hierarchy,  
 20 nor should the state allow its own property to be  
 21 used to uncut those incinerators by permitting  
 22 cheaper competition. The Department should simply  
 23 deny the application and let the marketplace work.  
 24 Conclusion two, the amendment is not needed  
 25 and should be denied. Municipal solid waste can

1 already go to JRL as bypass. Casella is free to make  
 2 whatever contractual arrangement it wishes with any  
 3 of the waste-to-energy facilities and the legitimate  
 4 bypass from those facilities is authorized already to  
 5 go to JRL. No change to the current permit is needed  
 6 because Casella is also free to make other disposal  
 7 arrangements if it cannot reach a satisfactory  
 8 agreement. That's how the marketplace works. I was  
 9 amused a little bit by the suggestion that they'll be  
 10 able to divert some of that waste out of state. The  
 11 two options they were talking about is North Country.  
 12 If they took all the waste that's in this application  
 13 and took it up to New Hampshire --

14 HEARING OFFICER: You have 30 seconds.

15 MR. DUCHESNE: -- that would double the flow  
 16 rate for that one year. It's a small landfill. The  
 17 other one, Southbridge is on the Connecticut border,  
 18 six miles north of the Connecticut border, and so  
 19 that's a long way away.

20 So my -- my last conclusion I guess is few,  
 21 if any, of the benefits of the proposal asserted by  
 22 the applicant actually require an amendment to the  
 23 permit, not the recycling, not the PERC deal, not the  
 24 170,000 tons of waste pushed out of state, not the  
 25 Biddeford, Westbrook, Lewiston, Old Town deals, none

1 of that is actually required -- is required to happen  
 2 because of this permit application. You get the  
 3 benefits. You don't have to pay this cost of the  
 4 solid waste hierarchy. Thank you.

5 HEARING OFFICER: Thank you. I'm glad we  
 6 have a recording of that. Next we have Paul Blair, I  
 7 believe that name is, testifying in support, followed  
 8 by Paul McCarrier testifying in opposition.

9 MR. BLAIR: Hello. My name is Paul. I grew  
 10 up in Old Town and when I was growing up we had a  
 11 dump in Old Town and the dump was right beside a  
 12 stream and the dump is still there. It has some  
 13 little candy canes on it to let out methane but that  
 14 old dump is literally leaching into that stream.  
 15 Okay, nowadays we, the people of Maine, own a really  
 16 nice landfill that's state-of-the-art, nothing  
 17 leaches out anywhere. It's just positively  
 18 contained. It's something we should all be proud of.  
 19 I don't think we should be condemning it. There's no  
 20 Toyota Corollas in there, and if someone would like a  
 21 state person to come and check -- I'm a little  
 22 nervous -- if someone would like a state person to  
 23 come and check and watch the work being done there,  
 24 the people of Casella would be more than happy to  
 25 have that done because they're proud of what they do

1 and they have really good people that do it. A lot  
 2 of money is spent in the Old Town/Orono area.  
 3 Without that money, the taxes would be astronomically  
 4 high. An incinerator is nothing but a soot machine.  
 5 I don't know about you people but I don't want to go  
 6 through soot. I would rather have it in a landfill  
 7 creating what could be a massive amount of energy,  
 8 enough to supply 10,000 students at the University of  
 9 Maine with methane for their heat for the winter  
 10 instead of buying fossil fuels from overseas.

11 The landfill is there. It's not going  
 12 anywhere. Why don't we all work together. It's  
 13 already great. Let's work together and make it  
 14 better, make it more useful for the state of Maine  
 15 instead of putting soot in the air with garbage.  
 16 Thank you.

17 HEARING OFFICER: Thank you. Next we have  
 18 Paul McCarrier testifying in opposition. Following  
 19 Paul McCarrier, we'll have John Leslie testifying in  
 20 support.

21 MR. McCARRIER: Good evening. My name is  
 22 Paul T. McCarrier and I grew up in Belfast, Maine,  
 23 and I would like to thank the Hearing Officer and  
 24 other committee members, thanks for hearing the  
 25 testimony of concerned citizens about Casella's

1 proposal to send out-of-state municipal solid waste  
 2 to Maine's state-owned landfill.

3 I would like to read 11 headlines that have  
 4 concerned Casella and lawsuits they have filled in  
 5 these towns. With this, I wish to show you how  
 6 Casella is a failing company that lacks integrity and  
 7 will be deceitful in working with the state and  
 8 different municipalities.

9 These headlines include, Biddeford plans to  
 10 sue KTI over merger, PERC's co-owners' suit echoes  
 11 complaints in town's claim, shareholders sue, refuse  
 12 handler KTI accused of hiding financial woes,  
 13 councilor seeks document release, with the byline of  
 14 city councilor Mark Johnson wants the city to release  
 15 several privileged documents before a planned March  
 16 19th public hearing on a proposed contract settlement  
 17 with Maine Energy Recovery Company, Casella Waste  
 18 Systems, Incorporated, from bags to riches, couple  
 19 sues over sludge truck accident, byline, the suit  
 20 alleges the truck was not inspected, maintained or  
 21 properly operated before and at the time of the  
 22 accident, New England Organics is an assumed name, in  
 23 quotes, of New England Waste Services of Maine,  
 24 Incorporated, according to court documents filed at  
 25 the Kennebec County Superior Courthouse. The

1 companies are divisions of Casella Waste Systems,  
 2 Incorporated, MERC and city to settle disputes, the  
 3 agreement would tighten environmental controls but  
 4 reduce the company's tax bill, Herman business sues  
 5 Casella Waste Disposal for alleged violations of  
 6 antitrust laws, Casella sues city over zoning  
 7 changes, New York Attorney General, quote, state  
 8 recycling probe uncovers abuses by Casella, town of  
 9 Seneca files suit against county, Casella.

10 I would also like to pose to you and the  
 11 members of the general public as a representative of  
 12 the 125th Legislature questions that were presented  
 13 to the Government Oversight Committee concerning  
 14 Casella. What percentage of waste being sent to  
 15 Juniper Ridge Landfill is generated outside Maine's  
 16 borders; is Casella operating Juniper Ridge and its  
 17 other facilities in a manner that follows the state's  
 18 solid waste management hierarchy; the hierarchy,  
 19 reduce, reuse, recycle, compost, waste-to-energy and  
 20 landfill prioritizes waste management practices in an  
 21 effort to reduce the amount of landfill waste in the  
 22 state; have the terms of the Operating Services  
 23 Agreement been followed; has there been a misuse of  
 24 public funds related to Casella's operation of the  
 25 Juniper Ridge Landfill; has Casella complied with the

1 terms of the Host Community Agreement with Old Town;  
 2 are there conflicts of interest involving the State  
 3 Planning Office's oversight of Juniper Ridge, and if  
 4 the Planning Office is eliminated in 2012, are there  
 5 potential conflicts of interest with the oversight of  
 6 the landfill by the DEP; have there been  
 7 anti-competitive actions relating to requests for  
 8 proposal in the processes of awarding state-funded  
 9 contracts to Casella.

10 Wrapping up, I would like to encourage you  
 11 to please reject this license that would accept  
 12 out-of-state municipal solid waste into the Maine  
 13 state-owned landfill. I believe this violates the  
 14 intent of the original agreement and continues to  
 15 break promises not only to Old Town and the  
 16 surrounding communities but the whole state of Maine.  
 17 Casella has proved we cannot trust them and if you  
 18 need to ask someone about Casella and trust, please  
 19 talk to New York Attorney General Eric T.  
 20 Schneiderman. Thank you very much.

21 HEARING OFFICER: Thank you. Next we have  
 22 John Leslie testifying in support. Following John  
 23 Leslie we have Sam Hunting testifying in opposition.

24 MR. LESLIE: Good evening. I'll keep it  
 25 short and sweet. I'm a resident of Orrington, Maine,

1 and I support Casella's application. I just -- we  
 2 have two commercially-operated landfills in this  
 3 state, one that's commercially owned, and it would  
 4 hurt northern Maine to not have competition for  
 5 commercial landfill space. I can't imagine where the  
 6 prices would go. That's all I have. Thank you.

7 HEARING OFFICER: Thank you. Next we have  
 8 Sam Hunting testifying in opposition, followed by  
 9 Ralph Coffman testifying in opposition.

10 MR. HUNTING: Hearing Officer Parent and  
 11 Members of the Panel, I represent -- I live in Orono,  
 12 Maine, and I'm from the Orono Forums and basically  
 13 I'm -- the only thing I really do for them is hold  
 14 the key to the office so we can have our meetings  
 15 every week but at this meeting we're talking about a  
 16 key of another kind. We're building a record for  
 17 Commissioner Aho and we're fashioning a key that's  
 18 going to open the door to future solid waste policy  
 19 for the state of Maine. Even bigger than that, we're  
 20 determining the role of the state in promoting our  
 21 common welfare which the preamble of the Maine State  
 22 Constitution says is the object of government. So it  
 23 isn't only a landfill issue here. The issues are  
 24 much, much larger.

25 To refresh my memory at least on the solid

1 waste hierarchy so I don't get it wrong, at the top,  
 2 reduce, reuse, recycle, then compost, then  
 3 waste-to-energy, then the landfill down at the  
 4 bottom, and I have to presume that the law was passed  
 5 with the benefit of the people of the state of Maine  
 6 in mind to promote our common welfare, and we just  
 7 have to take that as read that the law was enacted  
 8 for that purpose and, you know, we enacted the law so  
 9 people should obey it. The permit -- this amendment  
 10 to the permit ignores the solid waste hierarchy in a  
 11 couple of ways, and I'm going to briefly summarize  
 12 what I heard this morning and I hope it's not  
 13 repetitive.

14 First, the permit -- under the permit,  
 15 landfill -- landfilling trumps energy and, of course,  
 16 that violates the hierarchy. Commissioner Parker  
 17 asked why is 30 better than 90? Well, 30 is better  
 18 than 90 if you think the highest and best use is  
 19 dumping trash wherever the margin is greatest, but  
 20 that wasn't what the solid waste hierarchy was set up  
 21 to do, and 30 is not better than 90 if you want to  
 22 serve the public purpose by getting the most energy  
 23 possible from a ton of trash, as Ed Spencer pointed  
 24 out in his cross examination.

25 Second, the landfill also trumped reduce,

1 reuse and recycle because under the amendment if a  
 2 town successfully recycles, it reduces input to the  
 3 waste stream. That's great, we all want that to  
 4 happen. What happens then? Out-of-state trash comes  
 5 in to make up the difference. So that may make sense  
 6 from Casella's perspective, right, because they get  
 7 to make money on the trash, but why does it make any  
 8 sense at all from the perspective of the people of  
 9 the state of Maine? It's filling up their landfill  
 10 space, they're not making any more of it, and there's  
 11 no public purpose to be served by it. So these are  
 12 crazy up is down, black is white type outcomes.  
 13 They're so crazy that if this permit goes through,  
 14 there is no solid waste hierarchy. In fact, I'd  
 15 paraphrase Brian Oliver's testimony this morning as  
 16 boiling down to exactly that. I hope I'm doing it  
 17 accurately because I'm not a transcriber. He's  
 18 asked, do you believe the solid waste hierarchy can  
 19 be used for purposes of regulation, and what he says  
 20 is it's only principles, right? There's no real way  
 21 to obey it because there aren't any metrics to show  
 22 you that you've actually obeyed it and he gives the  
 23 example of measuring leachate. Well, I submit that  
 24 if we are moving landfilling above energy and we're  
 25 moving landfilling above reduce, reusing and

1 recycling, which we are, then that's all the metric  
 2 we need. We don't need to worry about leachate. We  
 3 know everything we need to know already from the  
 4 testimony here today.  
 5 Larger than the landfill, larger than the  
 6 inversion of the solid waste hierarchy is the role of  
 7 the state in promoting the common welfare. People  
 8 are going to be harmed by this proposal that the  
 9 state should be protecting.  
 10 First, the people of the state of Maine  
 11 generally. Again, the solid waste hierarchy was put  
 12 in place to serve the common welfare. We shouldn't  
 13 violate it. By definition, it's hurting the people  
 14 of the state of Maine to violate it.  
 15 Second, there are entities that did follow  
 16 the solid waste hierarchy as Casella is arguing that  
 17 nobody should. For example, corporate citizens that  
 18 we've heard from this morning placed a bet that the  
 19 solid waste hierarchy was something that the state  
 20 would adhere to. That was their business model and,  
 21 you know, fine, it's business, they placed the bet,  
 22 they lost their profit, just business as the  
 23 Godfather would say, but this administration wants to  
 24 be business friendly. I agree with that. Being  
 25 business friendly is good, but how is it business

1 friendly to change the rules in the middle of the  
 2 process to benefit one company and to disfavor  
 3 another company that played by those rules?  
 4 HEARING OFFICER: You have one minute.  
 5 MR. HUNTING: I'm almost done. So I think  
 6 it's Civics 101. I don't think this is hard or  
 7 complex at all. The state should play its proper  
 8 role. The role is, number one, do not approve this  
 9 amendment; number two, do enforce the solid waste  
 10 hierarchy, write the necessary rules, write the  
 11 necessary regulations, take control of the landfill  
 12 and that way you're going to be protecting the public  
 13 welfare of the citizens of the state of Maine. Thank  
 14 you.  
 15 HEARING OFFICER: Thank you. Next we have  
 16 Ralph Coffman and following Ralph Coffman, we have Ed  
 17 Spencer.  
 18 MR. DOYLE: Madam Hearing Officer, Ralph  
 19 Coffman is an intervening party. You're not supposed  
 20 to be able to have the opportunity to testify as a  
 21 party and then also testify as a member of the  
 22 public. He didn't testify but that was his choice.  
 23 He really can't have it both ways.  
 24 HEARING OFFICER: Speaking of Chapter 3  
 25 Rules, Chapter 3 does not prohibit a person from

1 testifying both as an intervening party and within  
 2 the public hearing session. One example of a time  
 3 when it might be relevant is if I have grouped a  
 4 group of individuals together, their testimony needs  
 5 to be harmonious and this would be an opportunity for  
 6 the individual parties to express their testimony. I  
 7 am overruling your objection.  
 8 MR. DOYLE: Just for clarification, so can  
 9 any member of a company who is also the applicant  
 10 then testify at night?  
 11 HEARING OFFICER: If they choose to sign up  
 12 and to provide their testimony, that is the case.  
 13 MR. DOYLE: Thank you for that clarification  
 14 because from your prior procedural orders that was  
 15 not our understanding.  
 16 HEARING OFFICER: Mr. Coffman, you may  
 17 proceed.  
 18 MR. COFFMAN: Thank you. As has been  
 19 stated, it's been almost ten years to get to this  
 20 point where we have a real public hearing. Reduce,  
 21 reuse, recycle and landfill, that's at the bottom.  
 22 So how did this get reversed? I don't know. I've  
 23 been in Maine for quite awhile. I've been living in  
 24 Old Town for 40 years. I've had businesses in Old  
 25 Town and watched this town go from the gateway to the

1 North Maine Woods, Henry David Thoreau came up here  
 2 to Old Town, Maine and went to the Penobscot Nation  
 3 and picked up a Native American guide and went for a  
 4 walk in the Maine woods up to Mount Katahdin, wrote a  
 5 book and made us famous, made us sort of an outdoor  
 6 environmental state, a location that people hungered  
 7 for. People moved here from all over for that reason  
 8 and that's why people live here for that reason; yet,  
 9 in Old Town -- I mean, we had everything. We had Old  
 10 Town Canoe. I mean, it's like Cabella's. You know,  
 11 we should have had outlet stores. We should have  
 12 had -- I've seen cities in other places around the  
 13 world, even in Munich, Germany, that have diverted  
 14 the waters so that they have whitewater rafting all  
 15 year-round. We could have done that. We could have  
 16 done all kinds of things but instead what did we do?  
 17 We tried to accept responsibility for the mill that  
 18 was in our town by giving them a place to put their  
 19 garbage, their toxic waste. Well, what happened  
 20 then? They sold themselves and they made several  
 21 tens of millions of dollars just on the fact that  
 22 they had a dump for their refuse. So we got taken by  
 23 that. Then the state came in and took over and here  
 24 we are.  
 25 Juniper Ridge, I walked that ground before

1 there was a bag of trash on there. I was a  
 2 representative from that area. The fellow who owned  
 3 that property took me around and showed me test wells  
 4 that were underwater. You go out there now, it's all  
 5 flooded. Junipers grow in swamps. I just want to  
 6 remind you. They don't grow on ridges. This is a  
 7 total artificial environment built on a swamp in  
 8 between Pushaw Stream and Birch Stream. I was told  
 9 by an engineer that you could have two test wells  
 10 three feet apart and you could have a fracture of  
 11 toxic waste going out in between them and those test  
 12 wells would not pick it up. So what's -- what good  
 13 is that? And eventually the liners are going to  
 14 break. They all do, and even Casella's people have  
 15 testified, their engineers have testified that  
 16 they'll break.  
 17 Today listening to the different testimony,  
 18 I was kind of -- well, I knew before that we -- we've  
 19 been subsidizing for how many years out-of-state  
 20 trash coming in here? We charge our towns like what,  
 21 \$70 a ton, is that what the figure was, but yet  
 22 out-of-state waste is \$21 a ton. That was the figure  
 23 that I heard. I mean, were subsidizing out-of-state  
 24 garbage to come into Maine because why, PERC and MERC  
 25 want to generate electricity. Look, I was in the

1 Legislature, I was on the Utility Committee. I saw  
 2 so much fraud and corruption, 300 million dollars  
 3 paid out to the owners of Enfield and Jonesboro wood  
 4 chip plants, you know, which brings me to another  
 5 thing in Old Town. We not only have the largest  
 6 toxic waste site in New England pretty soon but we  
 7 also have an incinerator. That's what that is over  
 8 there that used to be a paper mill. Isn't that the  
 9 boiler that was brought over from Solon or wherever  
 10 it was that's all defective? Now we read every day  
 11 in the paper -- well, not every day but a lot that  
 12 the mill -- that whatever that incinerator is is in  
 13 constant violation of air standards. They're  
 14 releasing pollutants in the air. So we get it from  
 15 the dump, we get it from the air, and yeah, you fine  
 16 them, the Department of Environmental Protection  
 17 fines them and takes their money, but what do we get?  
 18 We just get to breathe that air.  
 19 I feel bad for the people in Bradley. Like  
 20 the other representative said, you know, she loves  
 21 the people in this state.  
 22 HEARING OFFICER: You have one minute.  
 23 MR. COFFMAN: I do too and it isn't just my  
 24 community. Biddeford and Saco say, oh, wow, economic  
 25 development since we got rid of that incinerator.

1 Yeah, at our expense. I can't even sell a piece of  
 2 property I have because it's located by the dump. I  
 3 had dreams of a campground at one time to fit in with  
 4 the outdoorsy part of Old Town, but it isn't  
 5 happening. You know, the state has no control over  
 6 this toxic waste site. It's Casella's baby to make  
 7 money on and lots of it, and when Casella has friends  
 8 like Baldacci and Cashman, well, there you go, and  
 9 now we're going to continue to protect them and their  
 10 financial interest. You know, it's wrong.  
 11 Solution? We should -- if you want to take  
 12 a proactive stand, why don't you look into like  
 13 plasma arc technology? Why don't we have a bond  
 14 issue, like 27 million dollars, and give it to the  
 15 University of Maine to solve this problem? It's a  
 16 land grant institution developed -- signed into law  
 17 by Abraham Lincoln and a land grant institution is  
 18 supposed to solve the problems of the community that  
 19 they're in. So why don't we talk about something  
 20 like that, a real solution and get rid of that pile,  
 21 and incidentally, plasma arc technology creates  
 22 temperatures hotter than the surface temperature of  
 23 the sun and it can decrease the volume of what's  
 24 there to 20 percent of what's there and encapsulate  
 25 it like in glass. It looks like Obsidian.

1 HEARING OFFICER: Thank you for your  
 2 testimony.  
 3 MR. COFFMAN: Thank you. So there are  
 4 solutions.  
 5 HEARING OFFICER: Next we have Ed Spencer  
 6 and following Ed Spencer we have Hillary Lister.  
 7 MR. DOYLE: Same objection.  
 8 MR. SPENCER: Yeah, on that front, I  
 9 remember our very first meeting over at DEP for the  
 10 intervenors and the concerned parties we kind of  
 11 resented being grouped as we were individual  
 12 intervenors and if you recall, we were assured that  
 13 we would still be able to come up here and testify as  
 14 individuals, and if you go back and read the  
 15 transcript, you will see that. It might even have  
 16 been your own words.  
 17 HEARING OFFICER: Please address me and  
 18 you'll want to get right to it.  
 19 MR. SPENCER: Yup, okay, let's get right to  
 20 it. Something I neglected to point out today in the  
 21 rebuttal testimony of Jeremy Labbe, first page,  
 22 halfway down the page, it goes -- and this is in  
 23 relation to he was talking about the new air license  
 24 for the landfill by the DEP as part of the new air  
 25 license and, two, that the proposed MSW amendment was

1 considered by both NEWSME and the DEP as part of the  
 2 air licensing process and this was taking place  
 3 mid-to-late summer of 2011. Now, I think there's  
 4 something wrong with the chronology here because I  
 5 believe that the public benefit determination was  
 6 happening at about that same time and I also believe  
 7 there wasn't any mention of large new amounts of MSW  
 8 coming in. So when you get time, would you please  
 9 check that out?  
 10 And, you know, it was brought up today that  
 11 somebody for the applicants questioned whether some  
 12 of the intervenors' testimony was actually their own  
 13 testimony, whether it was authored by them, whether  
 14 it was their work, and I just have to point out that  
 15 if you look in this rebuttal document, I'm not naming  
 16 names but some of it all sounds like the same  
 17 language.  
 18 One more thing, lastly, with all due respect  
 19 to Mr. Thornton, I'm glad there's jobs, I'm glad --  
 20 someone has to do that work for now and I'm glad it's  
 21 them. He's in a very responsible position as, you  
 22 know, a selectman in Milford, but when you start to  
 23 give credit to Casella for the jobs at the Old Town  
 24 mill, if you really know the history there, that is  
 25 nuts. Give credit to G.P. fattening their pockets

1 but as far as I'm concerned not this mill owner but  
 2 the one before, Red Shield Environmental which went  
 3 bankrupt, cost Mainers 17 million dollars. That was  
 4 in part due to the failures of Casella to furnish  
 5 clean enough wood, fuel derived from CDD to run that  
 6 mill, okay, 16 of the 31 DEP samples tested in  
 7 excess, okay, followed by the hazardous waste ash  
 8 into the landfill where it wasn't supposed to go  
 9 followed by bankruptcy. So I just wanted to set the  
 10 record straight, nothing personal.  
 11 And lastly, I really appreciate everyone  
 12 coming here and speaking out both for and against.  
 13 It's part of what democracy should look like. Thank  
 14 you.  
 15 HEARING OFFICER: Thank you. Next is  
 16 Hillary Lister and following Hillary is Charles --  
 17 I'll need help with that name after.  
 18 MS. LISTER: Hello. Thank you for finally  
 19 having a public hearing on this issue. My name is  
 20 Hillary Lister. I live in Athens, Maine, which was  
 21 host to the just recently mentioned biomass burner  
 22 that was shut down in Athens when it switched from  
 23 burning plain waste wood to construction demolition  
 24 debris. There was a fuel pile fire, a number of  
 25 problems and as part of the penalty for those

1 problems the burner was then basically donated to the  
 2 mill in Old Town. So that was how I started  
 3 following this issue and seeing that certain promises  
 4 that were made about these waste facilities have not  
 5 always been followed through on.  
 6 My major concern here on this application is  
 7 I've heard the claim multiple times that the increase  
 8 in municipal solid waste that Casella would be taking  
 9 to JRL would only be Maine generated waste. That's  
 10 been a claim pretty well from the start of the  
 11 permitting for this facility that it would only take  
 12 Maine waste. It was soon after that that the  
 13 Legislature's definition of Maine waste changed to  
 14 include anything processed in Maine. Now I also see  
 15 a claim in the papers that they would only be taking  
 16 waste that's currently going to the Westbrook  
 17 Transfer Station but from reading through the  
 18 application and from hearing testimony today, it does  
 19 not seem that there's any actual limit in the  
 20 application to the waste just coming from the  
 21 Westbrook facility. It looks like it's an overall  
 22 tonnage increase and allowing raw MSW, and please  
 23 correct me if I'm wrong on that. And with that,  
 24 there had also been the claim in the application that  
 25 the Westbrook facility was only taking Maine

1 generated waste and then from testimony today from  
 2 Casella representatives it came out that the  
 3 Westbrook facility is also taking some out-of-state  
 4 waste, though, it is somehow being segregated.  
 5 Again, it seems like there's not enough funding for  
 6 oversight of these things and we just need more  
 7 reassurances that there really will be no  
 8 out-of-state waste.

9 Also, with Casella recently signing a lease  
 10 agreement with the city of Lewiston for a recycling  
 11 facility, there were a number of concerns that came  
 12 up at the hearings on that facility that it would be  
 13 allowing out-of-state waste. Again, originally they  
 14 had claimed that there would be no out-of-state  
 15 waste, and then when the final language of the lease  
 16 came out, it showed that they would be accepting  
 17 out-of-state waste from KTI, anything that KTI --  
 18 construction demolition debris that could not be  
 19 recycled could be going over to the new Lewiston  
 20 recycling facility and KTI has been shown to be  
 21 taking at least almost 90 percent of their waste  
 22 coming in from out-of-state. The estimates for the  
 23 amount of waste from KTI that would not be able to be  
 24 recycling that would be going through the Lewiston  
 25 facility ranged from 3,000 to seven and a half

1 thousand tons per year and the question that came up  
 2 at those hearings that was unanswered was could that  
 3 waste be then sent to JRL. So I think we really need  
 4 clear definitions of what Maine waste would be and  
 5 what out-of-state waste would be.

6 Just another side issue, I was here for the  
 7 intervenor testimony earlier and there was testimony  
 8 from a representative of Commonwealth Consulting on  
 9 behalf of MRC in favor of this application and I  
 10 didn't hear it disclosed but Commonwealth Consulting  
 11 has consulted with projects relating to Casella  
 12 including recommending that the town of Houlton  
 13 contract with Casella for private waste hauling  
 14 services. So once again, I would just be concerned  
 15 about conflicts of interest and it should be  
 16 something that people are aware of, and I appreciate  
 17 you folks having a public hearing here and I hope the  
 18 public's concerns are really listened to and followed  
 19 through on. Thank you.

20 HEARING OFFICER: Thank you. Charles Gibbs,  
 21 I believe, and after Charles is Tracie Konopinski.

22 MR. GIBBS: Hi, Charlie Gibbs, LLP, from  
 23 Alton, Maine. LLP is limited liability person. I  
 24 thought I'd just throw that out there. Everyone is  
 25 wearing a suit and they're all someone special,

1 they're a mayor of a town or, you know, they have a  
 2 business to run or they just want to take and deal  
 3 with trash. When the Old Town farm, now referred to  
 4 as Juniper Ridge, was at its planning stages, the  
 5 propaganda thrown out at that time was mixing sludge  
 6 with wood chips would keep the smell of the dump to a  
 7 minimum. Due to the cost of wood chips, gravel was  
 8 used, no point in using good clean wood chips when  
 9 you can use gravel because they can make paper out of  
 10 wood chips. That was the thought process back then.  
 11 So the dump stunk and it shifted as it filled.  
 12 Casella comes to the rescue. So they obligated  
 13 themselves to the state to supply construction  
 14 demolish debris wood chips to fuel the mill in Old  
 15 Town. Now, the reason this was going to happen is  
 16 they didn't really give a crap about the mill in Old  
 17 Town as much as they did being obligated to bring in  
 18 the construction demolition debris because there's  
 19 more money in bringing it in because a lot of other  
 20 states don't allow it in their dumps. So if they get  
 21 this in, they'll bring in the construction demolition  
 22 debris chips, they're going to burn. As has been  
 23 mentioned here before, the only mistake that's been  
 24 made tonight is where the boiler was from. It was  
 25 from Athens. It poisoned our community. They didn't

1 give a care. The fight was on. They were going to  
 2 bring it to Old Town, gonna save that mill, gonna  
 3 save those jobs, gonna give them a lower cost per ton  
 4 for those wood fuel chips so these men and women can  
 5 continue to work, and I'm thinking, this is great, I  
 6 have a lot of friends that work at that mill,  
 7 probably lost a lot since I've been talking about  
 8 this because you're familiar to me and I'm familiar  
 9 to you in a lot of meetings we've been at, but the  
 10 fact is we're all getting duped here, the same way  
 11 the MERC plant, PERC plant brought in -- they can't  
 12 just bring in something just to generate electricity  
 13 from some trash, they have to build this behemoth  
 14 that requires out-of-state waste because we don't  
 15 create enough waste in Maine, we're too damn poor, no  
 16 money, no trash to throw away. It's that simple. If  
 17 you can't buy it, you can't throw it away. So 60  
 18 percent of out-of-state waste went into the MERC  
 19 plant and 40 percent in-state-waste is what's  
 20 reported. The PERC plant, 60 percent Maine waste, 40  
 21 percent out-of-state waste. I'm not real good at  
 22 math but 60 and 40 comes to 100. There's no reason  
 23 why anyone should stand in front of this microphone  
 24 and say, hey, listen, we've got a business to run,  
 25 we've got jobs, we've got a community, they're all

1 going to fall apart if Casella can't bring in garbage  
 2 from out-of-state or anywhere else in the state and  
 3 say it's Maine waste because they've been saying that  
 4 now for the eight, nine years I've been dealing with  
 5 this. Once you get this train running to bring this  
 6 garbage in, it's not going to stop. The only one  
 7 that's going to benefit is going to be Casella.  
 8 They'll be subsidized because they're going to make  
 9 the methane plant and send that pipeline to the  
 10 University of Maine, all subsidized by me and you. I  
 11 would suggest the DEP take this time to take the high  
 12 road and join us. Thank you.

13 HEARING OFFICER: Thank you. Tracie  
 14 Konopinski.

15 MS. KONOPINSKI: Good evening. Hearing  
 16 Officer Parent and other Members of the Panel, thank  
 17 you for the opportunity to weigh in on this process.  
 18 My name is Tracie Konopinski, and I live in Portland.  
 19 I'm here to testify in opposition to Casella Waste  
 20 System's amendment to bring municipal solid waste to  
 21 the Juniper Ridge Landfill. So by way of  
 22 introduction, I'm the community organizer with Toxics  
 23 Action Center. Toxics Action Center is a Maine  
 24 nonprofit organization that works side by side with  
 25 residents to clean up and prevent pollution.

1 Since our start in this state in 1999, we've  
 2 worked actively with concerned citizens from Old  
 3 Town, Lewiston, Biddeford, Westbrook, among others,  
 4 who have approached us for help in minimizing the  
 5 environmental and public health risks associated with  
 6 how we manage our waste in this state. So in each of  
 7 these places concerned residents have come together  
 8 with their neighbors to learn how to best protect the  
 9 health of their families, their neighborhood, their  
 10 wellbeing and their sense of place.

11 We have a waste problem in this state. We  
 12 produce too much waste, our waste is toxic and the  
 13 corporate need of waste companies to make a profit  
 14 largely outweighs the community's need to reduce  
 15 waste and to protect public health and the  
 16 environment from potentially destructive waste  
 17 management practices.

18 When faced with the problem of waste, we  
 19 shouldn't be frantically figuring out where to put it  
 20 but instead we should be deciding how to reduce the  
 21 amount of waste we create.

22 At Toxics Action Center, we celebrate the  
 23 closure of the MERC incinerator, however, there are  
 24 clear winners and losers in this deal. The clear  
 25 winners are the residents of Biddeford and

1 surrounding communities who can expect to breathe  
 2 easier with the closure of the incinerator. As I'm  
 3 sure you know, incinerators spew a wide array of  
 4 dangerous pollutants into the air, including  
 5 hazardous dioxins for which there is no safe level of  
 6 exposure and heavy metals. Airborne pollutants from  
 7 incineration settle to the ground potentially  
 8 contaminating soil and water or combining with  
 9 atmospheric moisture leading to acid rain.

10 Maine is also a winner. The closure of the  
 11 state's largest incinerator is not insignificant when  
 12 it comes to public health and the environment,  
 13 however, waste is not a zero sum gain. Biddeford's  
 14 gain doesn't have to equal a loss for other  
 15 communities like Old Town. We know that the folks in  
 16 Old Town will become the clear losers if change does  
 17 not happen at the statewide level. The EPA says that  
 18 all landfills eventually leak so claims that  
 19 state-of-the-art technology will protect our  
 20 groundwater in our communities by waste industry  
 21 representatives are simply not true. In addition to  
 22 threats to groundwater, landfills give off  
 23 potentially harmful gases and odors which often  
 24 permeate neighborhoods.

25 The perennial question when it comes to

1 trash, particularly in a case like this one, is where  
 2 will it go. The answer, again, waste is not a zero  
 3 sum gain. So we encourage the Department of  
 4 Environmental Protection to take a two-pronged  
 5 approach when it comes to reducing trash.

6 First, the Department should focus on  
 7 increasing diversion of waste generated here in Maine  
 8 from landfills and incinerators.

9 HEARING OFFICER: You have one minute left.

10 MS. KONOPINSKI: Thank you. The solid waste  
 11 hierarchy exists for a reason and Maine encourages  
 12 its implementation and enforcement. Our recycling  
 13 rate has hardly budged for more than a decade and  
 14 there are steps that we can take to fix this. There  
 15 are programs like SMART, the Saving Money And  
 16 Reducing Trash program, which financially  
 17 incentivizes waste reducing and can help  
 18 municipalities jump start their recycling rate.  
 19 Large scale composting can begin to tackle the  
 20 organic wastes, the food scraps, the yard waste and  
 21 the like that makes up about a third of our waste  
 22 stream.

23 The second prong is to really draw a line in  
 24 the sand when it comes to out-of-state waste. We've  
 25 been importing half a million tons of waste each year

1 from other states. This is approaching about  
2 one-third of our waste stream.

3 So Maine should not be a dumping ground for  
4 the rest of New England. State leaders should not  
5 look to continue the trend of importing waste from  
6 our neighbors to the south. MERC's closure should be  
7 a tipping point when it comes to Maine's waste.

8 Let's reduce, reuse and recycle and stop importing  
9 trash. Thank you.

10 HEARING OFFICER: Thank you. We have  
11 reached the end of the sign-in sheets for testimony  
12 either in opposition, in support of or neither for  
13 nor against. Are there -- is there anyone here who  
14 wishes to testify who has not signed up? Before  
15 testifying, please sign in on the sheet right here.  
16 When you're done signing in, please let me know, sir.  
17 Anybody else who is wishing to testify, please sign  
18 in and I will swear you in and then I will provide an  
19 order in which you can go.

20 MR. BOYD: Madam Presiding Officer --

21 HEARING OFFICER: Hold on, sir, please. I  
22 need to take anybody else who is testifying and swear  
23 you in and make sure that you're testifying under  
24 oath. Your time won't begin until we make sure that  
25 that happens.

1 plan was to go to -- ti try to have state-of-the-art  
2 landfills that are regional. I watched that  
3 progress. I was on the ground floor when the  
4 recycling started. I'll just be honest with you,  
5 recycling came on to us, I owned my own business at  
6 the time, recycling wasn't a profitable thing to get  
7 into but we understood from the entrepreneurship  
8 perspective that that was the wave and that was the  
9 right thing to do. We took it upon ourselves to  
10 start the recycling. It was really crude back then,  
11 but we took it upon ourselves as a local trash hauler  
12 to do that. It's progressed to the point where only  
13 entrepreneurship could put it to where it is today.  
14 The reason that I'm mentioning that, I'll come full  
15 circle, backing up to the landfill, the landfill is  
16 the same thing. We've come to where the DEP -- at  
17 that time way back in the seventies, the late  
18 seventies and the early eighties, we've come full  
19 circle to where we're -- the plan was to have  
20 regional landfills. Yes, many people here this  
21 evening I'm sure recognize me, again, as the general  
22 manager of Juniper Ridge Landfill and, yes, it is the  
23 largest regional landfill in the state. It's exactly  
24 what the DEP wanted. That was always the intent. I  
25 can tell you through this testimony that we operate

1 At this time, would you raise your right  
2 hand? Do you affirm that the testimony you're about  
3 to give is the whole truth and nothing but the truth?

4 **(Witnesses respond in the affirmative.)**

5 HEARING OFFICER: Thank you. Especially  
6 since the information is not in front of me, would  
7 you please state your name and your location and  
8 affiliation?

9 MR. BOYD: Sure. I'm Wayne Boyd. I live in  
10 Holden, Maine. I do work for Casella. Before I  
11 start, it is my understanding -- it was not my intent  
12 to testify this evening but due to the resent  
13 decision to let others testify, it's my understanding  
14 it's okay, is that correct?

15 HEARING OFFICER: Please proceed.

16 MR. BOYD: Okay, thank you. I've been in  
17 the trash business for 35 years, started in Aroostook  
18 County and I remember -- I remember the first dump.  
19 That's what we used to call them, was dumps. I  
20 unloaded the first load of trash and if you didn't  
21 light it on fire before you left, the town manager  
22 would usually call and be upset with you. That was  
23 the time when DEP started taking a hard look at all  
24 these small dumps that were across the state and they  
25 started to make a real detailed plan. The detailed

1 the largest landfill in the state of Maine right now  
2 anyway that from an environmental perspective is  
3 second to none. It's state-of-the-art. I have a  
4 crew that works there and many of them are here this  
5 evening. Many have stickers on supporting Juniper  
6 Ridge this evening. We work diligently every day  
7 from an environmental perspective. I've scratched my  
8 head a couple times and I've said, hum, every other  
9 landfill in the state of Maine can take MSW but  
10 Juniper Ridge cannot. It doesn't make sense. It  
11 doesn't make sense. Again, I've watched this over 35  
12 years. Coming back to the recycling side of it,  
13 Casella has stuck to the plate from a recycling  
14 perspective that is second to none in this state. We  
15 do an outstanding job, and I'm proud of it.

16 You know, earlier today it was mentioned  
17 that more -- how do you get more BTUs out of a mouth  
18 jug, well, if you burn it, you get BTUs but you also  
19 get emissions. It's Casella's intent through zero  
20 sort to put it in neither place. It shouldn't be in  
21 the landfill, that mouth jug, and it should not be in  
22 an incinerator. You know, when you really stop and  
23 you understand it, and I'm not real good at this  
24 public part of it, but when you really start to  
25 understand this and you really understand the issue

1 with recycling and MSW and solid waste, it's become  
 2 very complex over the last 35 years. It was very  
 3 simple 35 years ago. The fact is if it wasn't for  
 4 private enterprise such as the Casellas of this  
 5 world, we would not be where we are from a recycling  
 6 perspective. MSW, it is our intent and we will work  
 7 diligently when this MSW permit is approved --

8 HEARING OFFICER: You have one minute.

9 MR. BOYD: Thank you. We will work  
 10 diligently to implement zero sort and then  
 11 hopefully -- it is my dream to see when a load is  
 12 unloaded at the landfill that there is no plastic in  
 13 it, there is no paper in it. That is our goal. That  
 14 is the company's goal as a whole.

15 Again, thank you for your time. I was not  
 16 planning on testifying this evening, but I thought it  
 17 was important with the decision that was recently  
 18 made. Thank you.

19 MR. SNOWMAN: Hi, my name is Dana Snowman.  
 20 I'm from Alton. I think I'm in opposition. I really  
 21 came to ask some questions and learn something. What  
 22 is the current air space volume at Juniper Ridge  
 23 Landfill right now at this point?

24 HEARING OFFICER: This is not an opportunity  
 25 for us to respond to you. This is an opportunity for

1 HEARING OFFICER: Thank you. The public  
 2 hearing opportunity is an opportunity for us to hear  
 3 from you and gather information that's relevant to  
 4 our licensing decisions. That is why we're not  
 5 answering questions this evening.

6 With that, I believe that there are no other  
 7 people -- I would ask that anybody else who is  
 8 wishing to testify, this is your last call. I don't  
 9 want people coming up to and from. So any other  
 10 person -- this is your last opportunity. If you do  
 11 not sign up now, I will assume that you do not wish  
 12 to testify this evening. Mr. Bales, you may proceed.  
 13 You're testifying in support, I believe?

14 MR. BALES: Yes, thank you. Chris Bales,  
 15 Buxton, Maine. I've been involved with solid waste  
 16 and recycling for well over 30 years. I started  
 17 teaching school right out of college in Vermont and  
 18 it was talking about the great idea of recycling. It  
 19 was very small, very token in the seventies. I got  
 20 married, moved to Maine, my wife is from Buxton, been  
 21 there since '77. I got a chance to get my hands  
 22 dirty and walk the walk, not just talk the talk, and  
 23 I've been essentially involved in this industry ever  
 24 since, and that led me from a hands dirty job on  
 25 Warren Avenue recycling material from S.D. Warren and

1 you to provide testimony.

2 MR. SNOWMAN: Oh, okay. The 93,000 tons  
 3 that is in question here, that is -- I can't ask you,  
 4 for instance, is that the -- is that equal to the  
 5 amount of waste that Maine communities contributed to  
 6 MERC last year approximately?

7 HEARING OFFICER: We're not in a position to  
 8 answer any of your questions this evening, sir.

9 MR. SNOWMAN: Okay. I just wanted to say a  
 10 lot of broken promises. I don't see how anybody in  
 11 their right mind could proceed any farther until they  
 12 get a handle on what's going on up there. It seems  
 13 like a massive fraud has been perpetrated on the  
 14 citizens of the state. It's high time that you guys  
 15 essentially, you're the watch dog, the state of  
 16 Maine, and they're going to -- of course, we know  
 17 what they want to do and you guys are supposed to --  
 18 you know, you're on our side supposedly, not on  
 19 theirs, and, you know, we live in a large state, not  
 20 a lot of people, not a lot of Maine garbage. It  
 21 would seem there are all kinds of places you could  
 22 put these stinking incinerators and dumps instead of  
 23 around people.

24 That's about all I've got to say, a lot of  
 25 broken promises.

1 shredding paper and baling it, that led me to the  
 2 town of Brunswick where I was the solid waste --  
 3 well, I was called the recycling director but that  
 4 was a euphemism for the head trash man because we  
 5 picked up recycling one day a week and we picked up  
 6 trash four days a week. At the time we were running  
 7 the worst landfill on the top ten list in the state  
 8 and at the same time, I was in Buxton on the Solid  
 9 Waste Committee where we also had the distinction of  
 10 having one of the top ten worst landfills in the  
 11 state. Both of those got closed, and in Buxton on  
 12 that committee I was involved in making a decision to  
 13 go to MERC, and that seemed to be the right choice  
 14 based on what was available at the time, and in the  
 15 connect of solid waste decisions, there's an ideal  
 16 and then there's the reality of what are the cards  
 17 we've got to work with today. It's not going to  
 18 vanish, it's not going to go away. Being able to  
 19 reduce, reuse, recycle, I'm all for it and I believe  
 20 what I've seen from Casella -- and I will disclose  
 21 that I am a Casella employee. I work for a company  
 22 that was founded -- well, let's see -- this week it's  
 23 28 years I've been with the outfit. I call it "the  
 24 outfit" because it's had three name changes. Casella  
 25 is the most recent owner. They bought us because we

1 were an organics recycling company and they liked  
 2 what we did. John Casella and his team wanted to  
 3 expand his vision of recycling material, and as  
 4 you've heard, food waste, organic waste, municipal  
 5 treatment plant waste are all organic materials that  
 6 can be recycled, and I'm proud to say that back when  
 7 Sherry Huber's group was trying to site landfills  
 8 around the state there was a lot of opposition  
 9 everywhere, including my town. I was on a  
 10 committee that actually I got recruited to help  
 11 oppose it, but in that the outcome was that I've  
 12 actually made a living selling material that was  
 13 destined to go into those landfills years ago because  
 14 we now recycle the material and it's useful.

15 And there's a very simple thought I want to  
 16 leave you with on the organics recycling is that I  
 17 couldn't have been here for 28 years doing what I do  
 18 but for one reason, people reorder and they only  
 19 reorder for two reasons, the recyclable organic  
 20 material must have worked the first time and the  
 21 price must be right. So we're doing a good thing and  
 22 Casella -- I'm pleased to tell you that I was anxious  
 23 at first, who are these guys, what is their agenda in  
 24 buying our company -- I call it "our company," but I  
 25 just work there, but I really feel it's our company,

1 and we end up doing a good thing and that's what John  
 2 Casella and his team wants to do. This stuff is not  
 3 going to evaporate, you've got to deal with it.  
 4 What's wrong with in-state to in-state? Thank you  
 5 very much.

6 HEARING OFFICER: Thank you. With that, we  
 7 have no more people testifying this evening. I will  
 8 close the public testimony portion of the hearing on  
 9 the application amendment. We will be resuming our  
 10 public hearing tomorrow with the testimony of the  
 11 remaining parties where the parties and the  
 12 intervenors will have testimony and cross examination  
 13 opportunities.

14 Thank you all for a very productive,  
 15 efficient evening. I do appreciate your cooperation  
 16 and have a good evening.

17 **(Whereupon, the hearing was suspended until 9:00**  
 18 **a.m., April 10, 2013.**

**CERTIFICATE**

1  
 2  
 3  
 4 I, Joanne P. Alley, a Notary Public in and for  
 5 the State of Maine, hereby certify that on the 9th day  
 6 of April, 2013, personally appeared before me the  
 7 within-named witnesses who were sworn to testify to the  
 8 truth, the whole truth, and nothing but the truth in the  
 9 aforementioned cause of action and that the foregoing is  
 10 a true and accurate record as taken by me by means of  
 11 computer-aided machine shorthand.

12  
 13 I further certify that I am a disinterested  
 14 person in the event or outcome of the aforementioned  
 15 cause of action.

16  
 17 IN WITNESS WHEREOF, I have hereunto set my hand  
 18 this 2nd day of May, 2013.

19  
 20 \_\_\_\_\_  
 21 Joanne P. Alley  
 22 Court Reporter/Notary Public

23  
 24 My commission expires: July 17, 2015  
 25

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