



June 1, 2011

Senator Thomas B. Saviello
Rep. James M. Hamper
Joint Standing Committee on Environment and Natural Resources
100 State House Station
Augusta, ME 04333-0100

Re.: L.D. 1567

Dear Chairmen Saviello and Hamper:

We write to you in reference to L.D. 1567, "Resolve, To Authorize the State To Purchase a Landfill in the Town of East Millinocket." While we are sympathetic with the underlying intent of the bill to preserve jobs in the Millinocket area associated with the owner and operator of the landfill at issue, the Katahdin Paper Company, we have significant concerns with the practical impacts if the State were in fact to purchase the landfill at issue.

As we understand the situation, the Dolby Landfills have been accepting waste associated with the production of pulp and paper at the mill that is currently owned by Katahdin Paper. We also understand that for more than 20 years a permit renewal application for that landfill has been pending at the Department of Environmental Protection. We also understand that there are documented unpermitted discharges of leachate from the landfill to the groundwater and/or surface waters in the region. We also understand that the material underlying the landfill may be contaminated. In short, this landfill could well be in violation of State and federal laws that require a permit to discharge pollutants such as landfill leachate to Maine waters and/or regulations under State and federal solid waste statutes.

We also understand that the ongoing operations and maintenance costs are a minimum of \$250,000 and that the current estimate to close this landfill as prepared by the DEP, including post-closure operation and maintenance costs, is approximately \$17 million.

The Department's Solid Waste Regulations require an owner or operator of a landfill to provide financial assurance that it has the funds available to cover anticipated facility closure and post-closure costs. 06-096 C.M.R. ch. 400, § 11.A.(1). We understand that the current owner and operator of the landfill and its parent company, Brookfield Asset Management, have met that requirement by means of a reserve account as provided for in § 11.A.(4)(e). However, an owner and operator is also legally required under those regulations to make the facility closure funds available within 30 days of a request to do so by the DEP. 06-096 C.M.R. ch. 400, § 11.A.(4)(d)(i). It is our understanding that the current facility owner could not provide the Department with an estimated \$17 million within 30 days of a Department request for those



funds. Consequently, it appears that Brookfield Asset Management is not in compliance with sections 11.A.(1) and 11.A.(4)(d)(i) of the Solid Waste Regulations.

With respect to the bill itself, it is our understanding that there are currently, and have been over the past twenty years, unpermitted discharges of leachate from the site to groundwater and/or surface waters. If the Legislature were to approve this bill and the State were to relieve Brookfield of its responsibility to close the landfill and instead assume that burden by acquiring the landfill, as the new owner-operator of the Site, the State would assume liability not only for the current estimate of \$17 million to close the facility (up from a 2009 estimate of \$12-\$13 million) but also for any unpermitted discharges of leachate under the Clean Water Act, any failures to comply with the Resource Conservation and Recovery Act, and any other liability stemming from the past discharge of waste at the landfill.

We would urge the Committee to fully explore these issues of liability and how the State would provide the funds to properly close and cleanup the contamination associated with the landfill. Absent a source of funds that is dedicated to meeting those costs, Maine should be extremely wary of assuming this liability regardless of the parade of horrors conjured up by the corporation which will be the only certain beneficiary of such an action.

Thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in blue ink that reads "Sean Mahoney". The signature is written in a cursive, flowing style.

Sean Mahoney
Vice President and Director
CLF-Maine