



DEPARTMENT ORDER

IN THE MATTER OF

STATE OF MAINE,	)	PUBLIC BENEFIT
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL	)	DETERMINATION
SERVICES, BUREAU OF GENERAL SERVICES	)	
OLD TOWN, PENOBSCOT COUNTY, MAINE	)	
JUNIPER RIDGE LANDFILL EXPANSION	)	
S-020700-W5-CV-N	)	
(APPROVAL WITH CONDITIONS)	)	

Pursuant to the provisions of the *Maine Hazardous Waste, Septage, and Solid Waste Management Act*, 38 M.R.S. §§ 1301 through 1319-Y; *Solid Waste Management and Recycling*, 38 M.R.S. §§ 2101 through 2236; the *Maine Solid Waste Management Rules: General Provisions*, 06-096 C.M.R. ch. 400 (last amended February 9, 2021); and the *Maine Solid Waste Management Rules: Landfill Siting, Design, and Operation*, 06-096 C.M.R. ch. 401 (last amended April 12, 2015), the Department of Environmental Protection (“Department”) has considered the application of the STATE OF MAINE, acting through the Department of Administrative and Financial Services, Bureau of General Services (“BGS” or “the applicant”) with its supportive data, staff summary, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

- A. Application: BGS has applied for a determination of public benefit for a proposed expansion of the Juniper Ridge Landfill in Old Town.
- B. History: The following history is a summary and does not include all licensing actions:
  - (1) On July 28, 1993, James River Paper Company, Inc. was issued a license to construct and operate a 68-acre secure landfill, known as the West Old Town Landfill, to dispose of the James River Paper Company’s pulp and papermaking residuals (Department Order S-020700-7A-A-N).
  - (2) On August 25, 1997, James River Paper Company, Inc. changed its legal name to Fort James Operating Company; this name change did not necessitate a license transfer. On October 21, 2003, the Department issued conditional approval for the transfer of licenses for the West Old Town Landfill, from the Fort James Operating Company to the State of Maine, State Planning Office (“SPO”) (Department Orders S-020700-WR-M-T and L-019015-TH-C-T), with the transfer effective on the sale date of February 5, 2004.

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- (3) On February 5, 2004, the State of Maine, acting by and through the SPO, and Casella Waste Systems, Inc. (“Casella”) entered into an Operating Services Agreement (“OSA”) for the operation of the West Old Town Landfill.
- (4) On April 9, 2004, the Department approved an amendment application (Department Order S-020700-WD-N-A) for a vertical increase in the final elevation of the landfill and the disposal of additional waste streams. The license was subsequently affirmed by the Board of Environmental Protection (“Board”) on October 21, 2004.
- (5) In 2006, the West Old Town Landfill became known as the Juniper Ridge Landfill (“JRL”).
- (6) On January 31, 2012, the Department issued a partial approval of SPO’s application for determination of public benefit for an expansion. The Department approved a 9.35-million-cubic-yard expansion finding that the entire proposed 21.9-million-cubic-yard expansion was not needed to meet the immediate or short-term solid waste disposal capacity needs of the State.
- (7) Pursuant to P.L. 2011, ch. 655, § GG-69, on July 1, 2012, BGS, within the Department of Administrative and Financial Services (“DAFS”) became the state agency acting as the owner and licensee of JRL. The Department of Economic and Community Development was the manager of JRL, although BGS assumed the manager role in 2020. NEWSME Landfill Operations, LLC (“NEWSME”), a wholly owned subsidiary of Casella, operated the landfill for the State of Maine, acting through BGS.
- (8) On June 1, 2017, the Board approved the construction and operation of a 9.35-million-cubic-yard expansion at JRL (Board Order S-020700-WD-BI-N, hereafter “expansion license”) in a phased manner, designated as Cells 11 through 16.
- (9) Cells 11, 12, 13, 14, 15, and 16 of the expansion have been constructed and are operational. Department approval for the specific design of Cell 11 was incorporated in the expansion license. The approval of the design specifics of Cell 12 was issued April 30, 2020 (Department Order S-020700-WD-CB-C). During the design of Cell 12, the expansion cell layout was changed; initially, the expansion was to be constructed in 6

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cells, 11-16, but it was revised to be constructed in 7 cells, 11-17, with no change to the overall expansion footprint or fill height. Approval of the subsequent cell design specifics occurred as follows: Cell 13 was approved May 25, 2021 (Department Order S-020700-WD-CL-C), Cell 14 was approved April 15, 2022 (Department Order S-020700-WD-CP-C), Cell 15 was approved April 27, 2023 (Department Order S-020700-WD-CR-C); and Cell 16 (Department Order S-020700-WD-CU-C) was approved June 26, 2024. BGS submitted an application for approval of the specific design for the last cell of the currently permitted area, Cell 17, on January 14, 2026.

- (10) On August 30, 2023, BGS submitted a Preliminary Information Report (“PIR”) for a proposed 61-acre expansion of JRL as required by 06-096 C.M.R. ch. 401, § 1(E).
- (11) On June 7, 2024, BGS submitted an Application for Public Benefit Determination for the proposed expansion of JRL. The Department issued a positive Public Benefit Determination (“PBD”) with conditions for the proposed 61-acre expansion on October 2, 2024.
- (12) On November 12, 2024, the Conservation Law Foundation (“CLF”) and the Penobscot Nation submitted a Petition for Judicial Review of Final Agency Action to the Penobscot County Superior Court for the PBD (“Petition”). The Penobscot County Superior Court accepted the petition for review (PENSC-APP-2024-00014).
- (13) On November 21, 2025, the Department received an Application for a Landfill Expansion for the JRL Phase II Expansion Project from BGS. The application was determined to be complete and accepted for processing by the Department on December 9, 2025.
- (14) On January 7, 2026, the Penobscot County Superior Court issued an Order on 80C Appeal (“Court Order”). The Court Order remanded the PBD back to the Department to make further findings of fact for both the environmental justice and solid waste management hierarchy criteria and issue the revised public benefit determination within 75 days of the issuance of the Court Order.
- (15) On February 2, 2026, in accordance with 38 M.R.S. § 344(2-A), the Department sent a letter to BGS requesting the applicant’s consent to

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place the JRL Phase II Expansion Application on hold until the PBD is reissued pursuant to the Court Order, no later than March 23, 2026. The applicant consented to the request, and the Department placed the application on hold on February 3, 2026.

- C. Summary of Proposal: BGS proposes to expand JRL by approximately 61 acres, to provide 11.9 million cubic yards of additional capacity. At the most recent 5-year fill rate average of 860,771 tons or 1,049,721 cubic yards, this would provide approximately 11.3 additional years of use. The expansion would continue to accept construction and demolition debris (“CDD”), oversized bulky waste (“OBW”), residue from CDD processing facilities located in Maine, bypass municipal solid waste (“MSW”),<sup>1</sup> wastewater treatment plant sludge, ash, and a variety of other in-state non-hazardous solid wastes.

The application for a determination of public benefit (“Application”) was submitted to the Department on June 10, 2024 and was accepted for processing on June 24, 2024. Pursuant to 38 M.R.S. § 1310-AA(2) and 06-096 C.M.R. ch. 400, § 5(G), the Department shall issue a decision within 60 days of receipt of the Application. In an August 13, 2024 letter, the Department requested a 30-day extension to this timeframe. The Department’s request was granted in an August 13, 2024 letter from the applicant. The Department requested additional information on the Application in a July 30, 2024 letter. In an August 8, 2024 letter, the applicant provided a response to the Department’s request.

## 2. APPLICABLE LAW

38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5 establish the process and standards to be used in determining whether a proposed new or expanded solid waste disposal facility provides a substantial public benefit. The process and relevant standards follow.

- A. Process: The law requires the Commissioner to consider the state waste management and recycling plan required under 38 M.R.S. § 2122 (“State Plan”), written information submitted in support of the Application and any other written information the Commissioner considers relevant. The most recent version of the State Plan is the *Maine Materials Management Plan: 2024 State Waste Management and Recycling Plan Update and 2022 Waste Generation and*

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<sup>1</sup> JRL is licensed by the Department to accept bypass MSW from Maine incinerators and the Municipal Waste Solutions solid waste processing facility in Hampden.

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*Disposal Capacity Report*, dated January 2024. The law also requires the Commissioner to hold a public meeting in the vicinity of the proposed facility to take public comments, to consider those comments in making the determination, and to accept written public comment during the course of processing the Application.

B. Standards: In order for the Commissioner to find that the proposed landfill expansion provides a substantial public benefit, the applicant must demonstrate to the Commissioner that the proposed facility:

- Meets the immediate, short-term, or long-term capacity needs of the state. “Immediate” is defined as within the next 3 years; “short-term” is within the next 5 years; and “long-term” is within the next 10 years. The Commissioner shall consider relevant local and regional needs as appropriate and the regional nature of the development and use of disposal capacity due to transportation distances and other factors;
- Is consistent with the state waste management and recycling plan and promotes the solid waste management hierarchy;
- Is not inconsistent with local, regional, or state waste collection, storage, transportation, processing, or disposal; and
- Is not inconsistent with ensuring environmental justice for the community in which the facility or expansion is proposed.

3. TITLE, RIGHT OR INTEREST

06-096 C.M.R. ch. 400, § 4(A) requires an applicant to demonstrate to the Department's satisfaction sufficient title, right or interest in all of the property which is proposed for development or use. The Application includes a copy of the deed for the property, which is recorded in Book 9188, Page 152 of the Penobscot County Registry of Deeds. Casella Waste Systems’ subsidiary, NEWSME Landfill Operations, operates the landfill under the terms of the OSA with the State of Maine. The Department finds that BGS has demonstrated sufficient evidence of title, right or interest in the property, as required by 06-096 C.M.R. ch. 400, § 4(A).

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4. PUBLIC PARTICIPATION

- A. Notice of Intent to File: 06-096 C.M.R. ch. 400, § 5(F)(1) requires public notification prior to filing an application for determination of public benefit. A notice of Intent to File the Application was published in the Bangor Daily News on June 7, 2024. A copy of the notice was sent by certified mail to abutters, the Town of Alton, the City of Old Town, the Penobscot Nation, and the Juniper Ridge Landfill Advisory Committee members. The Department finds that the public notifications complied with the requirements in 06-096 C.M.R. ch. 400, § 5(F)(1).
  
- B. Public Meetings: 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(F)(1) require that the Commissioner hold a public meeting in the vicinity of the proposed expansion to receive public comments regarding the Application. The Commissioner held an in-person public meeting in Orono on July 16, 2024, from 1:00 pm to 3:00 pm and 5:30 pm to 7:30 pm with the option to attend, but not give comment, virtually. Notice of the meeting was published in the Bangor Daily News on July 3, 2024, and posted on the Department’s website, with interested parties notified by electronic mail. Comments were received orally and in writing at the meeting. The meeting was recorded, and a video and transcript posted on the Department’s website. Based on a request from a commenter, a virtual-only public meeting was held on July 26, 2024, at 9:00 am, to accept remote public comments. Notice of the virtual meeting was published in the Bangor Daily News on July 12, 2024, posted on the Department’s website, and sent to interested parties by electronic mail. The virtual meeting was also recorded, and the video and transcript posted on the Department’s website. The Department finds that a public meeting was held as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(F)(1).
  
- C. Public Comment: 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(F)(1) require that the Department accept public comments during the course of processing the Application. Public comments have been received throughout the course of processing the Application. In addition to comments received at the public meetings, comments were submitted to the Department by electronic mail. The comments received in writing and by electronic mail have been posted on the Department’s website. Those commenting include people living near the project site, people living elsewhere in Maine, members of the Penobscot Nation, local legislators, the City of Old Town, and people representing or associated with the following organizations: Conservation Law Foundation, Slingshot, Maine Climate Action Now, Maine Water Environment Association, Community Water

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Justice, Don't Waste ME, Defend Our Health, Friends of the Harriet L. Hartley Conservation Area, Upstream Watch, the Sierra Club, First Light, ecomaine, and the Houlton Water Company.

Issues raised by commenters included, but were not limited to, the following concerns: the Department's review may not be objective, considering statements in the State Plan, dated January 2024; landfill expansion does not support the solid waste management hierarchy and encourages disposal; landfill space has been consumed by out-of-state waste; it is premature to expand landfill capacity with the future of the Orrington waste-to-energy incinerator, Hampden waste processing facility, and treatment plant sludge management options being unclear; the State has failed to provide non-landfill options for waste management; there is insufficient incentive for people to reduce, reuse, or recycle waste and a financial incentive to landfill it; landfill leachate receives insufficient treatment prior to discharge; exposure of the public to odors, pollutants released during landfill fires, and leachate constituents discharged to the Penobscot River are inconsistent with environmental justice; the facility has changed from a landfill supporting residual disposal from a local pulp and paper mill to a facility accepting a wide variety of wastes from the entire State and other New England states with limited input from the host community and others; the application process does not provide for meaningful public involvement; duration and quantity of MSW bypass should be limited; it makes sense to expand an existing landfill rather than to place one in an unspoiled location elsewhere; and, the landfill expansion is needed to provide time for development and funding of infrastructure to support policies developed by the State.

The Department finds that public comments have been accepted and considered as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(F)(1).

- D. Draft License Decision Comment Period: In accordance with 06-096 C.M.R. ch. 2, § 18,<sup>2</sup> a draft Public Benefit Determination was made available for a five-working-day comment period on September 13, 2024, through notification to the applicant, the Town of Alton, the City of Old Town, the Penobscot Nation, Juniper Ridge Landfill Advisory Committee members, and interested persons. The draft Public Benefit Determination was also posted on the Department's website. In response to a request from the public, the Department sought concurrence from the applicant, on September 17, 2024, to provide an additional

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<sup>2</sup> *Rule Concerning the Processing of Application and Other Administrative Matters*, 06-096 C.M.R. ch. 2 (amended June 9, 2018) does not apply to this public benefit determination. To the extent the Department consulted the rule, it did so for guidance only.

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week for public comment and an additional 3 business days for Department review. The applicant agreed to this request on September 19, 2024. In addition to the topics described in Finding of Fact 4(C) above, issues raised included, but were not limited to, the following: Casella should be required to install a sludge dryer at the landfill; there should be a limit on annual capacity used; there should be a limit on the quantity of CDD processing fines accepted; MSW bypass that has been continuing for a lengthy period of time should no longer be considered bypass; JRL should use tarps, biologically active soil, or soil from agronomic sludge utilization sites as daily cover material instead of alternative daily cover (“ADC”) or virgin soil; additional continuous air monitors should be installed in the vicinity of JRL and Indian Island; a public alert warning system or siren should be established; and landfill capacity for sludge is needed because the few solutions that might marginally lower municipal sludge volumes would require financial investments out of reach of small utility districts.

5. CAPACITY NEEDS

38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(1) require the applicant to demonstrate that the proposed facility meets immediate, short-term, or long-term capacity needs of the State. 38 M.R.S. § 2124-A requires the Department to report to the Legislature regarding statewide generation of solid waste, statewide recycling rates, and available disposal capacity for solid waste. The State’s capacity needs are projected in the most recent update of the State Plan.

A. Requested Capacity: JRL is expected to exhaust its permitted capacity in 2028, if disposal continues at current rates. BGS requests an expansion providing additional capacity of 11.9 million cubic yards, which would add 11.3 years of landfill life, using JRL’s annual waste acceptance average over the most recent 5-year period, and assuming a compaction rate of 0.82 tons of waste per cubic yard. JRL currently accepts waste from all areas of the State of Maine and disposes of approximately 52% of the waste landfilled in Maine. JRL also accepts nearly 90% of the municipal wastewater treatment plant sludge disposed in Maine. The landfill provides a disposal location for residues from the Orrington waste-to-energy incinerator, bypass MSW from all three Maine waste-to-energy incinerators, and bypass MSW from some of the municipalities under contract with the Municipal Waste Solutions (“MWS”) waste processing facility under a waste swap agreement with the Crossroads Landfill in Norridgewock. The landfill is located between an active commercial landfill in Norridgewock and an active landfill in Fort Fairfield licensed to accept MSW, CDD, and some special wastes.

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The proposed expansion would provide for acceptance of the same types of wastes that are currently accepted, which include in-state CDD, OBW, residues from processing CDD, front end processing residue from waste-to-energy incinerators, bypass MSW, wastewater treatment plant sludge, and various non-hazardous special wastes. Based on waste volume information in the JRL annual reports, the average quantities of the major categories of waste received at JRL from 2020 through 2023 were: 38% CDD, 25% bypass MSW, 10% wastewater treatment plant sludge (both municipal and industrial), 9% OBW, 9% CDD processing fines, 4% miscellaneous waste, and 3% ash. In response to a question from the Department, the applicant calculated that if the Maine Regional Conversion Facility, LLC sludge dryer and the anticipated Brunswick AD, LLC anaerobic digester expansion projects are successful, sludge deliveries to the landfill may be reduced by 90%, in which case the proposed expansion would provide approximately 13 years of capacity.

Because the landfill accepts nearly 90% of the municipal wastewater treatment plant sludge disposed in Maine, and the licensed capacity is expected to be filled in 2028, the Application references a conclusion in the *Analysis of Sludge and State-Owned Landfills as Public Utilities Report*, dated January 2024 (“Biosolids Report”) that additional disposal capacity will be needed for wastewater treatment plant sludge as soon as 2028, and thus the expansion would meet Maine’s short-term need for capacity for wastewater treatment plant sludge.

The Application further concludes that an expansion of JRL is necessary to prevent a shortfall of disposal capacity for all wastes in less than 10 years based on a set of assumptions: the State’s recycling rate is consistent; waste generation continues to increase at approximately 5.6% per year; the quantity of waste exported from Maine remains consistent; the Maine Waste to Energy and ecomaine waste-to-energy incinerators continue operation at the current rates; the MWS waste processing facility in Hampden sends 30% of its contracted waste to landfills; the Orrington facility incinerates 50% of its contracted waste in 2025 and 60% thereafter; municipally operated landfills do not change significantly; and the Crossroads Landfill in Norridgewock could not handle all of the State’s landfill needs. With these assumptions and based on calculations presented by the applicant a shortfall of landfill disposal capacity for all wastes will occur in less than 10 years, and therefore the expansion is needed to meet Maine’s long-term capacity needs for all wastes.

- B. Department Review: The Department considered the State Plan, the *Maine Solid Waste Generation and Disposal Capacity Report for Calendar Years 2020 &*

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2021, dated January 2023 (“Biennial Report”), the Biosolids Report, the Application and other supporting information, recent facility annual reporting information, and public comments during review of the Application. As noted in the Application, there are currently eight licensed landfills in Maine, in addition to JRL, that accept MSW, bypassed MSW, CDD and special waste. Four of these landfills (Bath, Hatch Hill in Augusta, Tri-Community in Fort Fairfield, and Presque Isle<sup>3</sup>) are municipally owned and primarily accept waste from the area municipalities. As stated in the Biennial Report, these landfills had 2,303,572 cubic yards of capacity remaining as of December 31, 2021, about two-thirds of which is capacity in Aroostook County. Two landfills, ecomaine (in Scarborough and South Portland) and Lewiston, accept primarily ash from associated or nearby waste-to-energy incinerators. These landfills had 1,328,969 cubic yards of capacity as of December 31, 2021. The Crossroads Landfill in Norridgewock is a commercial landfill accepting waste from a wide service area, and had 8,533,231 cubic yards of capacity available as of December 31, 2021. The remaining licensed landfill is the State-owned Carpenter Ridge Landfill, which has not yet been developed. Carpenter Ridge Landfill has a licensed capacity of 1,800,000 cubic yards and is licensed to accept only special waste. Nineteen additional municipally owned small landfills accept wood wastes and CDD, and seven generator-owned landfills accept wastes only from the generators. As stated in the JRL annual report, the landfill had 6,332,172 cubic yards of capacity remaining as of December 31, 2021. By the end of 2022, available capacity of the nine landfills combined was approximately 17,792,907 cubic yards. Based on 2023 annual reports, available capacity of the nine landfills combined at the end of 2023 was 15,951,479 cubic yards.

The State Plan reported that 1,547,594 tons of MSW and CDD (including CDD used as ADC) was placed in landfills in 2022, including the 8 currently licensed and operating landfills described above and 19 smaller municipally owned landfills. Review of annual report information for 2023 for only the 8 currently licensed and operating landfills described above showed 1,507,497 tons of waste received (assuming ecomaine’s ash landfill received waste at its 5-year average rate). Over the time period from 2018 to 2022, JRL accepted approximately 52% of the landfilled waste; Crossroads Landfill accepted approximately 27%, Hatch Hill Landfill in Augusta accepted approximately 5%, two Aroostook County landfills (in Presque Isle and Fort Fairfield) accepted approximately 5%, and municipally owned landfills accepted the remaining 11%. The 2024 State Plan

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<sup>3</sup> The Presque Isle Landfill is currently inactive as its owner, Aroostook Waste Solutions, has transitioned operations to its landfill in Fort Fairfield; however, available capacity remains in Presque Isle and will be used once operations in Fort Fairfield have ceased.

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analyzed licensed disposal capacity at the three waste-to-energy incinerators and licensed landfill capacity for the larger landfills in the State. The waste-to-energy incinerators accepted approximately 44% of the MSW disposed in Maine; the remaining 56% was landfilled. A minor percentage of CDD generated in Maine is disposed at small municipally owned facilities, but the majority must be managed at a processing facility or landfilled.

In addition to receiving bypass MSW, waste-to-energy incinerator residue, processing facility residue, and wastewater treatment plant sludge, JRL accepts CDD and special waste from sources that include: municipal transfer stations; municipal bulky waste collection events; commercial waste haulers providing disposal services; construction debris from new developments; remediation projects; disaster cleanups; and individuals who generate waste such as debris from home renovations. JRL's location meets local and regional needs for a disposal location for these wastes. With the exception of Crossroads Landfill, the other existing landfills are either not available for use by the generators currently using JRL or, in the case of the Aroostook County landfills, not a viable option due to transportation distances. JRL has been used as the location for disposal of some of the bypass MSW from the MWS processing facility in Hampden because of transportation distances, efficiency, and logistical challenges. MWS contracted with Crossroads Landfill for disposal of waste generated by its members from the effective date of contracts until facility startup ("bridge waste"), bypass, and residue, but the location of Crossroads Landfill made it difficult for some municipalities utilizing curbside collection to complete a collection route and still have time to travel to the Crossroads Landfill for disposal before it closed for the day. Other municipalities would have travelled past JRL to go to Crossroads Landfill.

Regarding available licensed capacity, the information in the Application is consistent with the State Plan. As noted in the Application, the State Plan concluded that expansion of JRL would be needed to ensure adequate disposal capacity for the entire State for the next 10 years. The Department determined, after review of the State Plan and landfill annual reports, that the State Plan's conclusion is still valid.

Uncertainties regarding the quantity of bypass MSW needing landfill disposal (depending on future status of the Orrington waste-to-energy incinerator and MWS processing facility), quantity of municipal wastewater treatment plant sludge needing disposal (depending on startup of and sources of sludge for the new Maine Regional Conversion Facility, LLC sludge dryer, possible restart of

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the Brunswick AD, LLC anaerobic digester in Brunswick, and availability of bulking material for sludge at JRL) and possibility of legislative initiatives make prediction of future disposal capacity needs challenging. Many of the public comments received stated that too much landfill space has been consumed by waste originating in other states. Others commented that the amount of CDD should be reduced or more should be recycled. Current statute allows placement of a certain amount of waste from a processing facility located in Maine that accepts waste from out-of-state. Unless the statute is revised, JRL may legally accept a certain amount of residues from in-state CDD processing facilities.

The Application states that JRL needs OBW from CDD processing facilities to bulk the increased quantity of wastewater treatment plant sludge being landfilled, and needs the processing fines in order to avoid using virgin soil material for daily cover. Casella has used more virgin soil in 2022 and 2023, when the quantity of processing fines decreased. The Department notes that JRL's daily cover, as a percentage of the total waste received, appears reasonable in comparison to similar landfills in Maine. Discounting the space consumed by CDD processing fines used as ADC, since the space would otherwise be consumed mostly by virgin soil (the other materials approved as ADC are a small percentage of the total waste received, and are not always available), approximately 6% of landfill space (average from 2020 through 2023) has been used by OBW that originated out-of-state. In contrast, approximately 38% of landfill space (average from 2020-2023) has been used for disposal of CDD originating in Maine.

Data from the two CDD processing facilities operating in Maine are an indication that the recyclable content of the mixed CDD they receive is very low. Reducing the amount of CDD generated in Maine and requiring generators to separate CDD components at the site of generation is beyond the ability of the operator of JRL to control. Commenters expressed the concern that, if the landfill capacity is increased, the incentive to find ways to reduce the volume of waste being disposed will disappear until the next capacity shortfall. Licensing and construction of landfill capacity can take three years or more to complete, so planning must begin well in advance of when capacity is needed. During this time, changes in waste management methods, pricing, and availability of alternatives to landfills can change, but it would be irresponsible to ignore the current projected capacity need. Moreover, the Department has already begun working toward alternative methods for diverting waste from landfills through its numerous product stewardship programs including the new extended producer responsibility for packaging program anticipated to be in full implementation in

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2027. The State Plan acknowledges that, even with an expansion of JRL, waste disposal capacity will be limited in 15 years.

- C. Findings: The Department finds that in consideration of the State Plan, expansion of JRL meets short-term and long-term capacity needs of the State, as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(1). The Department further finds that adding 11.9 million cubic yards of capacity is reasonable, considering the amount of time it takes to license new or expanded disposal capacity or waste processing facilities, uncertainty surrounding waste management options in the Eastern Maine region, uncertainty surrounding the future municipal wastewater treatment plant sludge management options, the fact that waste generation rates fluctuate but as noted in the State Plan, per capita waste generation appears to be increasing, the need to support waste-to-energy incinerators and disposal needs of the Eastern Maine region, and the lack of existing infrastructure to increase waste diversion.

6. CONSISTENCY WITH STATE WASTE MANAGEMENT PLAN AND HIERARCHY

38 M.R.S § 1310-AA(3)(B) and 06-096 C.M.R. ch. 400, § 5(E)(2) require the applicant to demonstrate that the proposed expansion is consistent with the State Waste Management and Recycling Plan (“State Plan”) and to promote the solid waste management hierarchy. The State Plan is based on the waste hierarchy established in 38 M.R.S. § 2101 and the State’s goals for recycling, composting, and waste reduction established in 38 M.R.S. § 2132. The solid waste management hierarchy establishes priorities for the State to use when making solid waste management decisions. The solid waste management hierarchy, from highest to lowest priority is as follows: reduction of waste (in amount and toxicity) at the source; reuse of waste; recycling of waste; composting of biodegradable waste; processing of waste to reduce the volume needing land disposal, including incineration; and land disposal of waste.

The State’s goals are to recycle or compost at least 50% of the MSW tonnage by January 1, 2021; to reduce the per capita disposal rate to 0.55 tons per person per year by January 1, 2019, with further reduction of 5% every 5 years thereafter; and for municipalities to demonstrate reasonable progress toward these goals. The State Plan described several studies that have been or are being undertaken to understand and characterize waste streams; the results will be used for future solid waste management planning. In the meantime, the State Plan includes some strategies for consideration, including but not limited to the following: use of subsidies, tax incentives, low-interest loans, and “pay as you throw” programs to increase waste diversion; increasing participation in product stewardship programs; encouraging municipal efforts through education, cooperative

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work, and publicizing waste diversion grant opportunities and future extended producer responsibility reimbursement; and encouraging regionalization.

A. Application Discussion: The Application and supporting documents describe a number of actions and programs to demonstrate that expansion of the landfill is consistent with the State Plan and promotes the solid waste management hierarchy.

(1) Landfill gas at JRL has been flared, but Casella, with an energy partner, developed a renewable natural gas facility that converts landfill gas to biogas. The biogas will eventually be directed to a natural gas pipeline; currently the gas is compressed and trucked, while awaiting extension of the gas line.

(2) Casella operates a single sort recycling facility in Lewiston and a commercial recycling facility in Scarborough, and provides brokerage operations; over 93,000 tons per year of recyclables are managed through these programs. JRL’s 2023 annual report states that 101 tons of residue from the Casella operated single sort recycling facility was delivered to the Maine Waste to Energy waste-to-energy incinerator. Additional residue and trash from the Casella operated single sort recycling facility disposed at JRL totaled 8,239 tons. Casella provides recycling capability for traditional recyclable materials (paper, plastics, glass, cans) at 11 out of 15 Casella-owned or operated transfer stations and provides curbside collection of or drop-off locations for recyclables in 39 municipalities. Casella states that 3,251 businesses in Maine participate in its single sort recycling program.

(3) Casella also collects and manages universal waste, electronic waste, and tires at most of its owned or managed transfer stations. Metals are accepted for recycling at all of its owned or operated transfer stations. Four of its transfer stations collect wood separately; wood waste processed from two of them is used for alternative daily cover or other landfill use, and the other two send wood waste to other processors.

(4) Casella manages 15,000 to 30,000 tons per year of residuals for agronomic utilization, including seaweed residual, wood-fired boiler ash, and paper mill lime wastes.

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- (5) Casella provides education and outreach for recycling customers through its website, at schools, businesses, and community events; with student internships focused on recycling education; and with a mobile recycling application (“app”) that it has deployed to six communities so far, with plans to deploy to additional municipalities. Casella worked with one large municipality to perform recycling audits and bin tagging to reduce contamination in recycling, and is willing to work with other interested towns.
- (6) Casella’s August 9, 2024 response to the Department states that it intends to initiate a mattress recycling program in Maine in 2025.

B. Department Review: The Application demonstrates that Casella has existing programs in place to reduce and reuse waste and to encourage recycling at the facilities it owns and, to a lesser extent, facilities it operates for municipalities, including single sort recycling, commercial recycling, universal waste and electronic waste recycling, metal recycling, tire recycling, agronomic utilization of residuals, wood waste recycling, and converting landfill gas to renewable natural gas. The categories of waste accepted by the landfill in the greatest volumes in recent years have been bypass MSW, CDD, residue from CDD processing facilities, and municipal wastewater treatment plant (“WWTP”) sludge. The Department evaluated Casella’s current management strategies for these waste streams to determine whether they are consistent with the priorities specified by both the State Plan and solid waste management hierarchy: maximizing existing landfill capacity, ensuring sufficient disposal capacity for waste generated in the state, and supporting waste management activities of higher priority in the solid waste management hierarchy.

- (1) CDD Fines: Casella currently accepts CDD fines that are generated as a byproduct of the processing of CDD at ReSource Waste Services of Lewiston LLC (“ReSource”) for disposal at JRL. Although the use of CDD fines as ADC at landfills is characterized as disposal rather than recycling in statute, it should be noted that Casella uses CDD fines as a substitute for virgin soil for construction and cover purposes. Therefore, the CDD fines accepted for disposal at JRL do not consume landfill capacity in the same way that other waste does. Finally, CDD fines have no alternate use of higher priority in the solid waste management hierarchy than disposal in a landfill. Therefore, the Department concludes that Casella’s management of CDD fines at JRL is consistent with the State Plan and solid waste management hierarchy.

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(2) Unprocessed MSW Accepted as Bypass: Bypass, as defined by 38 M.R.S. § 1303-C(1-C), refers to solid waste (in this case primarily unprocessed MSW) that cannot be managed by a waste-to-energy incinerator or solid waste facility due to the “facility's temporary malfunction, temporary insufficient capacity, temporary inability to process or burn or temporary downtime.” In 2024, JRL received a total of 300,835 tons of MSW bypass from such facilities for disposal compared to 24,138 tons of MSW bypass in 2018. While the factors driving this increase in disposal vary by facility, the Department anticipates that the amount of MSW bypass will decrease in the near future as necessary upgrades to those facilities are completed. Maintaining sufficient landfill capacity to receive unprocessed MSW bypass from waste-to-energy and other solid waste processing facilities during periods of downtime and temporary insufficient capacity is a critical component of functional and resilient waste management systems. Therefore, the Department concludes that Casella’s management of unprocessed MSW bypass at JRL is consistent with the State Plan and solid waste management hierarchy.

(3) Municipal WWTP Sludge and CDD: JRL is currently the state’s primary outlet for municipal WWTP sludge, accepting approximately 90% of the municipal WWTP sludge produced in Maine. Due to the prohibition on the land application of sludge and sludge-derived materials pursuant to 38 M.R.S. § 1306(7), landfill disposal is currently the only option for the management of sludge in Maine leading to higher financial costs to municipalities. While many municipal WWTP’s have sludge thickening and/or mechanical dewatering capabilities, the resultant sludge will typically have an average solids content of approximately 20%. Casella manages the low solids content in municipal WWTP sludge by bulking the material at a 4:1 ratio to ensure the integrity and stability of the landfill. Casella’s preferred bulking material is OBW, a subset of CDD that consists primarily of larger items such as furniture. However, the volume of OBW available has not been sufficient to meet the rising demand for materials to bulk the municipal WWTP sludge that JRL is receiving, which has led Casella to use other types of CDD for that purpose.<sup>4</sup>

Furthermore, P.L. 2023, ch. 283, § 2 established a temporary allowance characterizing a specific amount of CDD residue, including OBW and

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<sup>4</sup> Waste Bulking Study Report, Study for Evaluating Availability of Traditional and Alternative Bulking Agents Originating with the State of Maine, prepared for State of Maine Department of Administrative & Financial Services, Bureau of General Services, prepared by TRC Companies, February 2025.

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CDD fines generated by ReSource and received for disposal at JRL, as “waste generated within the state” for the purposes of 38 M.R.S. § 1303-C(40-A), thereby increasing the amount of CDD residue that JRL may accept. The expiration date of the temporary allowance was extended to July 1, 2027 by P.L. 2025, ch. 373, after which the amount of CDD residue that JRL may accept will be reduced (absent further statutory changes). In addition, Maine law at 38 M.R.S. § 1310-N(5-A)(B) requires increasing reuse and recycling rates for CDD that will reduce the amount of CDD residue available from ReSource. ReSource will be required to reuse or recycle at least 50% of the CDD it accepts for processing through methods other than placement in a landfill by July 1, 2030, which will further reduce the available materials for bulking municipal WWTP sludge and increase the need to reduce sludge volume disposed at JRL.

Casella reported that it accepted approximately 63,000 tons of municipal WWTP sludge and approximately 310,000 tons of CDD for disposal at JRL in their 2024 Annual Report to the Department. While the amount of WWTP sludge generated by municipalities and commercial entities is outside of Casella’s control, the Application did not include an evaluation of potential alternative management strategies for municipal WWTP sludge that prioritize maximizing landfill capacity, such as by utilizing sludge drying technology (either by installing an on-site sludge dryer or using a dryer operated elsewhere and transporting dried sludge for disposal at the landfill), or by evaluating whether limitations should be placed on the total amount of WWTP sludge to be accepted for disposal at JRL.

Casella’s current management of WWTP sludge does not prioritize the maximization of landfill capacity and is therefore inconsistent with both the State Plan and solid waste management hierarchy. Reducing the volume of municipal WWTP sludge reduces the amount of bulking materials needed for stability, which more efficiently manages landfill capacity. In April 2024, the Department issued a license to Maine Regional Conversion Facility, LLC (“MRCF”), an indirect subsidiary of Waste Management Disposal Services of Maine, Inc. (“WMDSM”), for a municipal WWTP sludge drying facility located at WMDSM’s Crossroads Landfill Facility located in Norridgewock. The MRCF sludge drying facility is designed to process 200 wet tons of WWTP sludge per day, or 70,000 wet tons of WWTP sludge per year, in a closed-loop system. The MRCF facility is scheduled to come online in spring 2026, and has the

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capacity to manage approximately 80% of Maine’s municipal WWTP sludge when it is fully operational.

In consideration of the ability and availability to reduce the volume of WWTP sludge by MRCF and considering the possibility that similar drying facilities and other sludge processing facilities (i.e., gasification) to treat and reduce the volume of Maine’s sludge may be licensed in the future,<sup>5</sup> the Department concludes that requiring the applicant to design and construct an on-site sludge dryer is not necessary to determine that the proposed expansion is not inconsistent with the State Plan and solid waste management hierarchy. However, the Department concludes that it is appropriate to establish limits on the volume of certain wastes that can be accepted at JRL and to require the applicant to evaluate the best means to achieve these limits, as discussed further below.

The previous expansion license (S-020700-WD-BI-N), dated June 1, 2017, included a condition that limited the amount of OBW that can be accepted for disposal on an annual basis in the expansion area. Condition 3 of Public Benefit Determination S-020700-W5-AU-N, dated January 21, 2012, required the Department to establish a limit on the tonnage of OBW that could be accepted at JRL, and for the applicant to comply with the limit, if a license was issued for the construction and operation of an expansion. A similar condition should be established that would require the development of a limit on the quantity of municipal WWTP sludge and CDD, including OBW, accepted at JRL if the Department issues a license for the proposed expansion. Several commenters suggested imposing a maximum annual fill rate for the proposed expansion. Although a maximum annual fill rate would provide certainty regarding the lifespan of JRL, it would not provide the flexibility necessary to ensure there is sufficient capacity for waste generated in Maine such as bypass MSW or the increasing amounts of CDD generated in the state each year.<sup>6</sup>

The Department concludes that it is reasonable and appropriate to impose a condition that limits the amount of municipal WWTP sludge and CDD, including OBW, that can be accepted for disposal in the proposed expansion area if a license is issued for the construction and operation of

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<sup>5</sup> NEWEA 2026 Annual Conference, Regulatory Roundtable Biosolids Issues, Maine Department of Environmental Protection, January 26, 2026, pages 14-16.

<sup>6</sup> Maine Materials Management Plan: 2024 State Waste Management and Recycling Plan Update and 2022 Waste Generation and Disposal Capacity Report, Maine Department of Environmental Protection, January 2024.

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the proposed expansion. The specific limitations should be developed during the processing of an application for the proposed expansion based on the Department’s thorough review of the application including operational considerations to ensure compliance with all applicable standards, and comments from the applicant, the public, and other interested parties. Further, the license condition should include a schedule that phases in the limitations for the purposes of providing waste generators with sufficient time to make alternative disposal arrangements.

C. Department Finding: The Department finds that expansion of the JRL as proposed by BGS is consistent with the State Plan and promotes the solid waste management hierarchy as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(2), provided:

- Casella submits a report to the Department detailing its plans and schedule for implementing the mattress recycling program within six months of the date of this Order;<sup>7</sup>
- Casella continues to expand deployment of its mobile recycling app, and includes information in each landfill annual report regarding where the app has been deployed;
- Casella includes a detailed summary in each landfill annual report regarding Casella’s work to encourage and assist towns to engage in all possible recycling and diversion activities;
- Casella submits an evaluation of the availability and capacity of infrastructure for the volume reduction of municipal WWTP sludge in each annual report; and
- If a license is issued for the proposed expansion, the Department must impose a condition that establishes annual limits and a schedule to achieve these limits on the amounts of municipal WWTP sludge and CDD, including OBW, that can be disposed in the expansion area. The limits must be established in consideration of statewide and regional operational

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<sup>7</sup> Casella satisfied this condition on March 28, 2025 by submitting a Plan and Schedule for Implementing a Mattress Recycling Program in Maine. Casella submitted an Application for a Solid Waste Processing Facility to the Department for a mattress recycling facility in Scarborough on February 18, 2025. The Department issued an Order for the construction and operation of the mattress recycling facility on February 20, 2026.

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disposal capacity and with the intent to significantly decrease the amount of municipal WWTP sludge that can be disposed of in the expansion area by 2030.

7. NOT INCONSISTENT WITH LOCAL, REGIONAL, OR STATE WASTE COLLECTION, STORAGE, TRANSPORTATION, PROCESSING, OR DISPOSAL

38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(3) require the applicant to demonstrate that the proposed expansion is not inconsistent with local, regional, or state waste management.

Casella provides collection and/or recycling services to approximately 60 municipalities, including curbside collection, drop-off locations, transfer stations, and brokerage services for recyclables, consistent with local, regional, and statewide collection practices. JRL is located centrally and is accessible to many municipalities. Vehicles performing curbside collection have time to complete their route and go to the landfill on the same day. A large part of Maine is within 50 miles of the landfill; it is close to Bangor, the second largest city in the state, and nearly the entire state is within 150 miles, so the landfill meets local, regional, and statewide needs. Tipping fees at the landfill are capped in accordance with the OSA, and are subject to annual adjustment in accordance with the consumer price index. The not-to-exceed tipping fees for bypass MSW are slightly above the average and median cost of MSW disposal stated in the State Plan. The CDD tipping fees are a little lower than the average and median cost stated in the State Plan. The landfill provides a disposal location for special wastes that require disposal in a secure landfill. The landfill supports existing processing facilities and waste-to-energy incinerators in the state by providing a disposal location for bypassed waste and residues that require landfilling.

The landfill has existed as a State-owned landfill for 20 years, and was purchased by the State to provide for disposal capacity for nonhazardous waste generated within the state. The landfill continues to accept wastes similar to those it has accepted over the past 20 years, although the 2017 expansion limited acceptance of MSW to bypass from Maine waste-to-energy incinerators and the MWS processing facility, and the quantity of sludge accepted as a percentage of the waste stream has increased in recent years. Continued operation of the landfill in a manner similar to which it has been operated is consistent with past waste management practices in the state.

The Department finds that the proposed expansion is not inconsistent with local, regional, or state waste collection, storage, transportation, processing, or disposal, as required by 38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(3).

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8. NOT INCONSISTENT WITH ENSURING ENVIRONMENTAL JUSTICE

38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(5) require the applicant to demonstrate that the proposed project is not inconsistent with ensuring environmental justice for the community in which the expansion is proposed. Environmental justice is defined by 38 M.R.S. § 1310-AA(3)(E) as “the right to be protected from environmental pollution and to live in and enjoy a clean and healthful environment regardless of ancestry, class, disability, ethnicity, income, national origin, or religion.” The statute further provides that environmental justice “includes the equal protection and meaningful involvement of all people with respect to the development, implementation and enforcement of waste management laws, rules, regulations and licensing decisions.” The Department has not received further direction or guidance from the Legislature since the enactment of the environmental justice statute, and there have been no other public laws enacted in Maine regarding environmental justice that the Department can look to for guidance. In the absence of further guidance from the Legislature, the Department applies its expertise, as the agency tasked by the Legislature with conducting the public benefit determination, to interpret the “not inconsistent with ensuring environmental justice” standard. In addition, in issuing this revised PBD determination, the Department is subject to the Order on Appeal of the Penobscot County Superior Court issued on January 7, 2026. Therefore, not only is the Department interpreting the statutory language based on its own expertise, but it is also incorporating certain considerations as ordered by the Superior Court.<sup>8</sup>

Accordingly, for purposes of this revised PBD determination as ordered by the Superior Court, the Department interprets the environmental justice standard to require the Department to determine that the proposed expansion of JRL: (1) does not unduly burden the potentially affected community, considering the cumulative effect of the existing environmental burdens borne by that community; and (2) is subject to a fair review process that includes the meaningful engagement of all people in the potentially affected community.

For purposes of the environmental justice analysis for this PBD, the Department considers the proposed project’s impacts on the municipalities in which JRL is sited, the City of Old Town and the Town of Alton; and the Penobscot Nation, whose Indian Island Reservation is about 3.5 miles from JRL at the shortest straight-line distance.<sup>9</sup> Old Town

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<sup>8</sup> The Department respectfully objects to the Superior Court’s interpretation of the environmental justice standard and reserves its right to appeal or otherwise dispute that interpretation.

<sup>9</sup> 38 M.R.S. § 1310-AA directs the Department to consider “environmental justice for the community in which the facility or expansion is proposed.” The statute does not further define the scope of “community;” however, for purposes of this PBD, the Department elected to consider the project community as described herein.

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and Alton have historically been considered JRL’s “host communities” for the purposes of host community benefit agreements and assessment of impacts pursuant to the definition of “host community” in 38 M.R.S. § 1303-C(15-B). Although the Penobscot Nation is not a “host community” as defined in 38 M.R.S. § 1303-C(15-B), the Department recognizes that the Penobscot Nation has an interest in the proposed project due to the project’s potential impact on, and the Penobscot Nation’s special relationship with, the Penobscot River. Chief Kirk Francis of the Penobscot Nation declared in Exhibit A of the Petition that the “[t]he Penobscot River is a citizen of [their] tribe, and the environment is full of fish, wildlife and plants that are our relatives.” Therefore, for the purposes of this review, the Department will use “project community” to refer collectively to the Penobscot Nation and the host communities of Old Town and Alton.

Based on EPA’s former Environmental Justice Screening and Mapping Tool (Version 2.3),<sup>10</sup> Indian Island and the Penobscot River to just above the Mattaseunk Dam is part of a block group identified as a Designated Disadvantaged Community according to EPA’s former Justice40 criteria (designated for energy, health, and American Indian Reservation Lands) and EPA Inflation Reduction Act (“IRA”) Data 2.0 criteria. The tract of land where JRL is located is identified as disadvantaged according to EPA IRA Data 1.0. There are 20 disadvantaged tracts in Penobscot County and 127 disadvantaged tracts in Maine according to EPA’s former Justice40 criteria.

A. Department Review: Undue Burden on Project Community: To assess whether the proposed project will unduly burden the project community, the Department considers both existing environmental burdens and the burden of the proposed project itself.

(1) Existing Burdens on the Project Community:

(a) EPA Environmental Justice Census Tract Information: Based on environmental justice indicators, the block group that includes Indian Island is above the 95<sup>th</sup> percentile when compared to state data for several indexes, including wastewater discharge,<sup>11</sup>

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<sup>10</sup> The EPA’s Environmental Justice Screening and Mapping Tool was available on EPA’s website when the Department issued the original PBD determination, and the Department continues to rely on information it obtained by using the tool. The tool is not currently available on the EPA website.

<sup>11</sup> The environmental burden indicator for wastewater discharge measures how much relative risk there is of being exposed to pollutants from wastewater that flows into rivers or other bodies of water downstream.

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hazardous waste proximity,<sup>12</sup> underground storage tanks,<sup>13</sup> and toxic releases to air.<sup>14</sup> Within the 19.36-square-mile block, 7 regulated sites (1 water discharger and 6 brownfields) report data to EPA. For the block group that includes JRL, there are 2 environmental justice indexes (toxic releases to air and wastewater discharge) that are in the 50<sup>th</sup> to 80<sup>th</sup> percentile range when compared to state data. As part of this block group, there is one regulated water discharger and two regulated air emitters that are required to report data to EPA.

- (b) Penobscot River Water Quality Information: The Penobscot River watershed spans over 8,500 square miles from the St. John River in the north to the Atlantic Ocean in the south, and from the Kennebec River in the west to the St. Croix, Machias, and Union Rivers in the east, making it the largest river watershed in Maine. The Department has classified the water quality of the main stem of the Penobscot River as Class B, with some tributaries rated as high as Class AA (the highest standard). Class B waters generally maintain high water quality criteria and are of sufficient quality to support all aquatic species indigenous to those waters. The West Branch and mainstem receive wastewater discharges from five pulp and paper mill outfalls, one of which is ND OTM, LLC (“Nine Dragons”) in Old Town. Maine has established safe eating guidelines for fish from the Penobscot River below Lincoln of no more than one to two meals per month of any fish species based on testing for PCBs, dioxins, and DDT.

P.L. 2021, ch. 641, required the sampling of effluent for per- and polyfluoroalkyl substances (“PFAS”) from facilities licensed by the Department to discharge wastewater to groundwater or any waters of the State. PFAS are a group of manufactured chemicals that have been used in industry and consumer products since the

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<sup>12</sup> The environmental burden indicator for hazardous waste proximity measures how close people might live to a facility that handles hazardous waste.

<sup>13</sup> The environmental burden indicator for underground storage tanks measures how many underground storage tanks and release sites are near where people live. This indicator is based on the sum of tanks and releases within a 1,500-foot buffered block group.

<sup>14</sup> The environmental burden indicator for toxic releases to air measures the average annual chemical concentrations in air weighted by the toxicity of each chemical. This indicator includes chemicals covered by [EPA’s Toxics Release Inventory \(TRI\) Program](#).

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1940s. There are thousands of different PFAS, some of which have been more widely used and studied than others. Many PFAS are known to break down very slowly and can bioaccumulate in people, animals, and the environment over time. For ease of reporting, the Department presented the Sum of 6 PFAS<sup>15</sup> (PFOA, PFOS, PFHxS, PFNA, PFHpA, and PFDA) in its November 2023 Wastewater Effluent Monitoring Report which includes the compounds used in Maine’s then-current interim drinking water standard. The Sum of 6 PFAS from samples taken at Outfall 001-A at Nine Dragons ranged from a low of 11 parts per trillion (“ppt”) in March 2023 to a high of 311 ppt in September 2023.

In 2025, the Department, as part of its Surface Water Ambient Toxics Monitoring Program, sampled fish tissue and surface water from the Penobscot River and its tributaries at points that are upgradient and downgradient of JRL.<sup>16</sup> All of the fish tissue sample results were below Maine’s perfluorooctane sulfonate (“PFOS”) fish tissue action level of 3.5 nanograms/gram (same as parts per billion or ppb). The fish tissue action level was established by the Maine Center for Disease Control and Prevention as the level below which there is a negligible risk of adverse health effects. Maine does not have any enforceable surface water standards or screening levels for PFOS or any PFAS; however, surface water sample results for PFOS at the same locations where fish tissue was sampled were either too low for standard laboratory equipment to detect, or at or below 1.0 ppt for PFOS.

In general, historical pollution from industrial and waste management sites has undoubtedly impacted the Penobscot River. However, this impact to the Penobscot River is not unique in Maine. Maine’s reliance on the timber and paper industry drove the establishment of many towns, and resulting industry and waste sites, along every major river in Maine. For example, there are 125 landfills within the Kennebec River watershed and 93 landfills within the Penobscot River watershed (most of them closed).

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<sup>15</sup> Maine does not have any standards or screening levels for wastewater effluent. The use of the Sum of 6 PFAS in this paragraph is for reference only.

<sup>16</sup> Maine Department of Environmental Protection, Environmental and Geographic Analysis Database, data extracted on March 18, 2026.

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Further, the Department’s *2024 Integrated Water Quality Report* lists portions of other major rivers, such as the Androscoggin and Kennebec, among the Chemical-specific River and Stream Fish Consumption Advisories due to elevated levels of total PCBs and DDTs.

- (c) Existing Impacts to Local Water Quality from JRL: The risk of groundwater contamination from JRL is minimal because the entire landfill footprint is fully lined and the facility has a robust environmental monitoring plan that is used to detect landfill leakage should it occur. JRL is a modern-day landfill and the only solid waste landfill facility in Maine that is fully lined. Other active landfills in Maine have both lined and unlined portions as older unlined waste areas gave way to newer lined areas meeting current well-established landfill design standards.

Cells 11-17 at JRL are double-lined and have composite primary (geosynthetic clay liner, geomembrane, and clay) and composite secondary (geomembrane and clay) liner systems that include leak detection and leak collection/transport systems. According to Section 1.8 of the PIR, Casella proposes to use the same double-lined design used for Cells 11-17 for the new cells included in the proposed expansion. As part of the facility’s environmental monitoring plan, the applicant monitors 50 groundwater monitoring wells, 5 surface water monitoring locations, 5 pore-water monitoring locations, 2 stormwater monitoring locations, 13 underdrain monitoring locations, 7 leak detection monitoring locations, and 1 leachate monitoring location.

Based on the Department’s most recent review of JRL’s annual monitoring report, the Department concluded that “[g]roundwater, surface water, porewater, underdrain and leak detection monitoring results continue to show minimal evidence of impact from landfill leachate.”<sup>17</sup> Although the Department noted that some groundwater monitoring locations exhibit low concentrations of chloride, these results appear to be caused by the application of

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<sup>17</sup> Maine Department of Environmental Protection Memorandum from Sean Dougherty, Licensed Geologist #504 to Karen Knuuti, Project Manager, 2022 Annual Water Quality Report, September 8, 2023, page 3.

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road salt or other site-related maintenance and construction activities rather than leachate from the landfill.

Nine Dragons is licensed under Maine Pollutant Discharge Elimination System permit #ME0002020 and Maine Discharge License #W002226-5N-S-M. In 2023, 26,531,525 gallons of landfill leachate from JRL were generated and hauled off-site for treatment at the Nine Dragons wastewater treatment facility. The Sum of 6 PFAS<sup>18</sup> (PFOA, PFOS, PFHxS, PFNA, PFHpA, and PFDA) from an October 2023 landfill leachate sample from JRL was approximately 2,920 ppt. The lowest Sum of 6 PFAS concentration was 410 ppt from a December 2021 sample. The Nine Dragons wastewater treatment facility does not specifically include treatment for PFAS.

- (d) Existing Impacts to Local Air Quality from JRL: As part of landfill operations, the applicant conducts daily odor surveys around the active waste areas, continuous hydrogen sulfide monitoring with stationary monitors, and quarterly methane emission surface scans on the landfill intermediate cover. Four locations just beyond the property boundary are also monitored for hydrogen sulfide. The facility operates a sulfur removal system to remove total reduced sulfur compounds, primarily hydrogen sulfide, from the landfill gas prior to flaring. The applicant also conducts monitoring for landfill gas within manholes and groundwater monitoring wells, and at underdrain, leak detection, and leachate collection locations.

Through surface scan monitoring, improvements are made to ensure the effectiveness of the intermediate cover and active gas collection and control system. If a hydrogen sulfide monitor detects hydrogen sulfide over 15 parts per billion (“ppb”), the scale house is automatically alerted, and scale house staff report the detection to landfill supervisory staff. If there is a detection over 30 ppb, the Old Town code enforcement officer is to be notified. These action levels were established during licensing of the landfill expansion in 2017, based on the recommendation of Old Town’s consultant. For comparison purposes, the Department’s acute

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<sup>18</sup> The Department is reporting the Sum of 6 PFAS in this paragraph for ease of reference only. Maine does not have any standards or screening levels for landfill leachate.

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ambient air guidelines include a level of 30 ppb (30-minute rolling average) for hydrogen sulfide. Based on JRL’s 2023 Annual Report, JRL received a total of 49 odor complaints; 44 were confirmed as likely coming from the landfill. During 2023, there were 20 hydrogen sulfide readings from the monitors that were above 15 ppb. Of these, none were above 30 ppb. While the odor threshold for hydrogen sulfide is variable, hydrogen sulfide can typically be detected by people at concentrations in air ranging from 0.5 to 300 ppb.

JRL’s Operations Manual includes an Odor Control Plan and Odor Complaint Management and Response Plan. The Odor Control Plan outlines specific provisions to control and mitigate the off-site migration of odors associated with landfill operations including the placement of daily cover, minimizing the active waste area, use of an odor neutralizer spray at the working face and on waste within incoming waste loads, and the use of a perimeter odor misting system during warmer months. As each landfill cell is filled and cover is placed, a series of lateral gas collection pipes is installed to control fugitive landfill gas emissions that could result in landfill odors. Vertical landfill gas extraction wells are installed once certain waste grades are reached. Once extracted, landfill gas is either compressed and trucked off-site while awaiting extension of a natural gas pipeline or combusted with on-site flares.

Based on air quality complaints received pertaining to the landfill, the Department’s Bureau of Air Quality installed a dedicated hazardous air pollutant sampler in November 2023 to collect 24-hour samples and a particulate matter sensor at a residence near the entrance to JRL in Old Town. Data evaluated to date do not show any exceedances of the Department’s acute ambient air guidelines. The Department will be installing a dedicated continuous hydrogen sulfide monitor in the near future, likely before any decision on the JRL expansion application is issued. It is the Department’s understanding that the Penobscot Nation received funding from the U.S. Environmental Protection Agency to purchase a hazardous air pollutant sampler to operate on Indian Island.

- (e) Existing Impacts from Other Landfills: In the Petition, CLF and the Penobscot Nation claimed that there are over 70 closed

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landfills in the area. The Department identified a total of 93 landfills within the Penobscot River watershed according to publicly available maps maintained by Maine GeoLibrary.<sup>19</sup> The vast majority of the 93 landfills<sup>20</sup> are former municipal waste sites that are closed and not operating. These 93 landfills are spread throughout the Penobscot River watershed, which occupies over 8,500 square miles—approximately 25% of the state’s land mass. For perspective, five of these landfills (including JRL) are located within a five-mile radius of Indian Island. This is not unusual because historically, each municipality typically had at least one landfill with some having two separate ones for MSW and CDD. This history of municipal landfills in Maine is reflected in the four closed former municipal landfills located within five miles of Indian Island.<sup>21</sup>

In 1988, the Department, at the direction of the Maine Legislature, established a remediation and closure program for solid waste landfills, in part to accomplish the prompt closure of solid waste landfills to eliminate hazards posed by these landfills. To accomplish these objectives, the Department ranked and evaluated all municipal solid waste landfills on the basis of hazards posed to public health and the environment. Each evaluation resulted in a Department-recommended closure plan. As an incentive, the Department reimbursed participating municipalities for 75% of their closure costs and 90% of their remediation costs. Between 1989 and 2000, the Closure and Remediation program oversaw the expenditure of \$79,000,000 in State funds to municipalities for the

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<sup>19</sup> Maine GeoLibrary Website: <https://mainegeolibary-maine.hub.arcgis.com/>.

<sup>20</sup> These historic waste disposal sites may not all be accurately characterized as “landfills” as that term is used today, but for ease of reference, they are referred to herein as landfills.

<sup>21</sup> These five landfills include the Old Town MSW Landfill, Old Town CDD Landfill, Milford CDD Landfill, Orono MSW and CDD Landfill, and JRL. All but JRL and the CDD portion of the Orono MSW and CDD Landfill are closed. Waste from the Old Town CDD Landfill on Gilman Falls Avenue was removed in 2023 and disposed at JRL but groundwater monitoring wells around the former landfill are still sampled. Groundwater monitoring around the Old Town MSW Landfill was last completed in 2025 with arsenic noted as the only parameter above the Maximum Contaminant Level. Groundwater monitoring last occurred at the Milford CDD Landfill in 2022 with PFAS found in one of two monitoring wells at a concentration of 321 ppt for the Sum of 6 PFAS. The Orono MSW and CDD Landfill was last inspected by the Department in 2025 with groundwater monitoring completed in 2024. PFAS was also monitored at one private drinking water well determined to be at-risk for potential impacts from the Orono MSW and CDD Landfill; those test results showed levels of PFAS below Maine’s standard for drinking water.

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successful closure of 397 unlined landfills.<sup>22</sup> Final cover systems for these municipal landfills varied from soil-only barrier systems to composite systems with soil and geosynthetic barriers. The Closure and Remediation program exists today although municipalities no longer qualify for funding if closure work occurred after December 31, 2025. As an example of a project within the Penobscot River watershed, the City of Old Town completed the reclamation of CDD from their unlined municipal landfill and relocated the waste to the lined JRL in February 2023, thereby removing the risk posed by this waste, with the Department providing \$389,610 in reimbursement.

The Department continues to reimburse eligible municipalities 90% of the planning and implementation costs of landfill remediation, subject to the availability of funds. The Department continues to inspect these landfills on a periodic basis based on priority and has established a program to evaluate PFAS at drinking water wells considered to be at-risk for contamination from these unlined landfills. To date, the Department has sampled wells in the immediate proximity of over 100 of the closed municipal solid waste landfills across the state. The Department has installed drinking water filtration systems or extended public water lines at 70 residences near 24 closed, unlined municipal landfills based on the results of the sampling. Based on priority, the Department will also sample or recommend the sampling of groundwater monitoring wells, if available at these landfills, for PFAS. As an example, the Department reimbursed the Town of Greenville \$4,000 for PFAS sampling that they conducted at their landfill, an unlined landfill within the Penobscot River watershed.

Aside from JRL, the other two state-owned landfills located in the Penobscot River watershed are the Dolby Landfill in East Millinocket (Department License S-000796) and the Carpenter Ridge Landfill site in T2R8 NWP (Department License S-002137-WD-A-N). The Carpenter Ridge Landfill site was purchased by the State in 1992 and licensed as a potential site for a special waste landfill in 1996. However, the Carpenter Ridge Landfill site has

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<sup>22</sup> Municipal Landfill Closure & Remediation Program: History and Future Program Requirements for Protecting our Investment in Maine’s Future, Maine Department of Environmental Protection, January 23, 2012.

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not been developed and is therefore not impacting the Penobscot River. As for the Dolby Landfill, the State Planning Office (succeeded by BGS) acquired ownership and licenses for Katahdin Paper Company LLC’s landfill facilities (known as Dolby I, II, and III) in East Millinocket in 2011. At the time of acquisition, Dolby I and II had been filled to capacity and closed. In 2016, the Department issued a final closure license (S-000796-WO-AO-N) to BGS for the closure of Dolby III and upgrades to the cover systems of Dolby II and previously closed cells of Dolby III. The final closure of the 68.2-acre Dolby III landfill, which included upgrading the cover system of previously closed cells, was completed in phases with the last phase completed in 2024. Since the completion of the Dolby III cover upgrade project, leachate generated on site has been reduced from an average of 74.2 million gallons per year (“MGY”) to 22 MGY in 2025.<sup>23</sup> The Department received an application for the Dolby II final cover upgrade project on January 8, 2026, which is expected to further reduce leachate generation upon completion.

- (f) Burdens Experienced by the Penobscot Nation: The Penobscot Nation is a federally recognized tribe whose ancestral homeland is situated within the Penobscot River watershed. As stated by Chief Kirk Francis of the Penobscot Nation in his declaration provided in Exhibit A of the Petition, “[t]he Penobscot Nation lives in concert with the Penobscot River Watershed and strives to be life giving as opposed to destroying.” Chief Kirk Francis further stated that “water ceremonies are deeply significant to our people” and that they are “already overburdened by pollution.” In modern day, the Penobscot Nation is centered on Indian Island which is located between tributaries of the Penobscot River. The Penobscot Nation’s identity and culture are, and have always been, inextricably rooted in their sacred relationship with the Penobscot River.

Industrialization along the Penobscot River has impacted the Penobscot Nation’s ability to safely engage with cultural traditions such as eating fish caught from the river. Reports from both the

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<sup>23</sup> Application for Landfill Closure, Dolby II Landfill Cover Upgrade, East Millinocket, Maine. Appendix G - Engineering Design Report, Section 3.8, prepared for Maine Department of Administrative and Financial Services, Bureau of General Services, prepared by Sevee & Maher Engineers, December 2025.

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United States Environmental Protection Agency<sup>24</sup> and the United States Department of Health and Human Services<sup>25</sup> calculated the potential risks of adverse health outcomes associated with the consumption of specific traditional foods from the Penobscot River. Both reports concluded that several traditional foods such as snapping turtle, fish, and eel caught in any part of the Penobscot River south of the Mattaseunk impoundment near Mattawamkeag have a cancer risk of potential concern due to high levels of Dioxin Toxic Equivalents. As a result, members of the Penobscot Nation were advised to limit their consumption of these traditional foods to no more than 1-2 meals per month.

As noted above, there are 93 landfills located within the 8,500 square miles of the Penobscot River watershed. This number is not unusually high for a populated watershed in Maine. For example, the Kennebec River watershed hosts approximately 30 more landfills than the Penobscot River watershed. Further, these 93 mostly closed landfills in the Penobscot River watershed are subject to closure plans, post-closure monitoring, remediation, and water quality testing to monitor groundwater, surface water, and waterways. The Department acknowledges that the Penobscot River and, therefore, the Penobscot Nation have been burdened by the historic siting of landfills within the watershed. However, based on the information in the record, including the ongoing efforts to monitor and remediate closed landfills, the Department finds that the Penobscot River watershed is not unduly burdened by the presence of JRL and other historical landfills.

- (2) The Proposed Project’s Potential Burden on the Project Community: Department regulation 06-096 C.M.R. 401, § 2(F)(7) requires applicants to design a landfill for its phased construction, operation, and closure with the goal of minimizing leachate generation and limiting the amount of open, uncovered waste areas. An applicant must submit a cell development plan that consists of a conceptual plan for the life of a landfill and a detailed plan for an initial two-year period so the Department can approve whether this standard is met. The cell

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<sup>24</sup> The Penobscot River and Environmental Contaminants: Assessment of Tribal Exposure through Sustenance Lifeways, U.S. EPA Region 1, August 2015.

<sup>25</sup> Public Health Assessment: Review of Sediment and Biota Samples: Penobscot River, U.S. Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, July 2014.

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development plan must be designed based on estimated waste acceptance rates to sequence cover placement and limit the amount of open, uncovered waste areas at any one time (“phased construction”), among other design and operational considerations specified in 06-096 C.M.R. 401, § 2(D)(6). The phased construction of the proposed expansion, as well as the required phased closure of inactive cells where waste is not being placed, serves to minimize the generation of leachate thereby mitigating risks associated with leachate transportation and its ultimate disposal and mitigating the burdens on the project community. Phased construction and cover placement also serves to minimize the generation of odors and any potential off-site impacts.

Department records reflect a long history of Casella’s management of JRL either meeting or exceeding the relevant regulations found in 06-096 C.M.R. chs. 400 and 401, and the *Maine Solid Waste Management Rules: Water Quality Monitoring, Leachate Monitoring, and Waste Characterization*, 06-096 C.M.R. ch. 405 (last amended April 12, 2015). The Department has not issued any Notices of Violation to Casella regarding its management of JRL. The Department is frequently on-site at JRL during the construction of cover systems and new cells. For example, Department staff were on-site at JRL approximately 20 times in the 2023 calendar year and did not observe any significant compliance issues. The Department’s inspections of JRL, including both routine, site-wide inspections and inspections of construction projects, have indicated that Casella meets or exceeds the Department’s standards for both the operation and design of landfill cells.

The applicant maintains a dedicated website devoted to State-owned landfills and JRL which includes notices of public meetings, information about PFAS, various monthly reports, annual reports, and operating services agreements. Monthly reports include information about significant construction and operational activities; licenses applied for, received, or renewed; volume of leachate transported for disposal; volume of landfill gas flared; and quantity and origin of wastes received. A summary of complaints received including the nature and location of the complaint, wind direction and speed at the time of the complaint, hydrogen sulfide monitoring data, and information about whether the complaint was confirmed to be landfill related and its resolution is also provided on a monthly basis and posted on the applicant’s website. Reports for the current month are posted in the following month.

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Casella provides financial benefits through host community agreements to the City of Old Town and Town of Alton. According to Section 1.8 of the Application, NEWSME, as operator of JRL, has provided the City of Old Town with \$28,745,251 and the Town of Alton with \$2,667,884 since 2004. Casella also provides disposal of up to 3,000 tons per year of CDD at no cost to the City of Old Town. Further, Casella provides financial benefits to people living near JRL such as property tax reimbursements and a property value guarantee. As detailed in Section 1.8 of the application, since 2004, NEWSME has provided \$5,526,458 in property tax reimbursement and property value guarantee to people living near JRL.

Casella proposes to establish a program to support area youth to supplement existing benefits in conjunction with the proposed expansion. The proposed program would consist of two components: a scholarship program and an annual contribution to a program designed to increase access to opportunities for area youth. Casella has implemented a similar program in partnership with the Ontario County Landfill that could be used as a model for success.

The Department received several comments relating to the lack of real-time information available to residents in communities surrounding JRL during events such as the May 2023 landfill fire. Potential adverse impacts to the project community may be mitigated if residents receive near real-time notifications about major incidents such as large fires that could impact local air quality for members of the project community.

The Department also received several comments about nuisance odor emanating from JRL and impacts to the enjoyment of property. Casella's current Department-approved odor mitigation and complaint response plan exceeds measures implemented at other similar landfills in Maine according to Department experience. However, the guidance provided by a study conducted by a third-party consultant could provide critical insight to improve the assessment and mitigation of odors at JRL. The Department concludes that increasing the number of surface scans conducted per year will provide more opportunities to identify potential sources of odors, which will ensure the effectiveness of the intermediate cover and active gas collection and control system, thereby mitigating the potential for off-site odor.

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Regarding leachate, the Department concludes, based on existing JRL operations and the demonstrated minimal effects of those operations on groundwater and surface waters, that the proposed expansion will have a limited impact, if any, on groundwater and surface waters. However, the Department received several comments expressing concern about PFAS in JRL’s landfill leachate and in the discharge to the Penobscot River from the Nine Dragons wastewater treatment facility in Old Town, where JRL leachate is treated. As discussed above, JRL’s leachate contains PFAS ranging from 410 ppt in December 2021 to 2,920 ppt in October 2023 for the Sum of 6 PFAS. Current state laws do not require WWTPs such as Nine Dragons to treat for PFAS before discharging effluent. Additionally, the Department does not have any pretreatment standards for landfills that discharge leachate to WWTPs. However, based on an evaluation of public comments, consideration of the Penobscot Nation’s cultural relationship to the Penobscot River, and the availability and efficiency of technologies for the treatment of leachate for PFAS, the Department concludes that it is reasonable and appropriate to require Casella to design, install, and operate a PFAS treatment system for its leachate prior to the operation of the proposed expansion, if a license is issued by the Department.

This is the first time the Department has ever required a landfill to design, install, and operate a PFAS treatment system for its leachate.<sup>26</sup> In part, the Department is imposing this requirement in consideration of the Penobscot Nation’s deep spiritual connection to the Penobscot River as well as cumulative environmental burdens borne by the Penobscot Nation from impacts from unlined historic landfills within the Penobscot River watershed. As noted in Finding of Fact 8(A)(1)(e) above, the Department periodically inspects and monitors these unlined landfills and funds remediation projects as necessary to ensure the safety of public health and the environment.

The Department concludes that its ongoing efforts to inspect, monitor and remediate closed landfills, combined with the unprecedented requirement that JRL’s leachate be treated for PFAS before it is delivered to Nine Dragons, support a finding that the proposed expansion of JRL will not unduly burden the project community, even considering the cumulative

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<sup>26</sup> WMDSM voluntarily installed a PFAS treatment system for leachate at its Crossroads Landfill in Norridgewock in 2025.

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effect of the existing environmental burdens that are borne by that community.

- B. Department Review: Equal Protection and Meaningful Involvement: The environmental justice standard requires the Department to provide a fair review process that offers a meaningful opportunity for all project community members, including those who have been historically marginalized, to express their concerns and to weigh the concerns of the entire project community, as provided through public comment, meetings, and hearings, in its evaluation of whether a proposed project is consistent with environmental justice for the purposes of making a public benefit determination.

Casella exceeded the Department’s requirements regarding public notice of the intent to file the public benefit determination application, as described in 06-096 C.M.R. 400, § 5(F)(1). In addition to providing public notice to the required parties, the applicant also mailed the public notice to the Penobscot Nation and the Landfill Advisory Committee. The applicant also circulated a public notice in both the Morning Sentinel and Bangor Daily News.

The applicant and Casella exceeded the Department’s requirements regarding public meetings for the Application for a Determination of Public Benefit. The applicant held four public meetings on the investigation and design portions of the proposed project prior to submitting an application for the proposed expansion.<sup>27</sup>

As stated in Finding of Fact 4(B) of this Order, the Commissioner held an in-person public meeting in Orono on July 16, 2024 and a virtual-only public meeting on July 26, 2024. Notice of both meetings was published in the Bangor Daily News, posted on the Department’s website, and sent to interested parties by electronic mail. Public comments were received during these meetings and during the course of processing the application. All comments were reviewed and considered by the Department.

In addition to these opportunities for public involvement, the Department’s tribal liaison sought to engage the Penobscot Nation’s leaders in a listening session to hear their specific concerns about the PBD. The Department’s liaison wrote to the Nation’s leadership before the PBD application was submitted, and again after it was submitted, but received no response from the Nation.

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<sup>27</sup> The applicant held four public informational meetings on November 7 and 21, 2024 and December 4 and 17, 2024. Responses to questions posed at the meetings are posted on the applicant’s website. Recordings of the meetings are also posted on the applicant’s website.

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The Department concludes that the PBD application has been subject to a fair review process that included the meaningful engagement of all people in the potentially affected community, including, but not limited to, the Penobscot Nation.

C. Department Finding: The Department finds that the proposed expansion of JRL is not inconsistent with ensuring environmental justice for the community in which the facility is proposed, as required by 38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(5), provided that if a license is issued for the construction and operation of the expansion:

- (1) Casella designs and installs a Department-approved system for the treatment of landfill leachate for PFAS prior to expansion operations and submits an implementation schedule with tasks to the Department for review and approval to meet this timeframe. The schedule should be submitted to the Department within 90 days of issuance of this public benefit determination;<sup>28</sup>
- (2) Casella pays for all applicable costs associated with a third-party odor consultant, working on behalf of the Department, to complete an odor analysis of the landfill and surrounding area, including evaluation of historical air quality sampling results, odor complaint history, field investigation, and recommended actions, to be submitted to the Department for review;
- (3) Casella conducts two additional surface scans per year, during periods of low barometric pressure, if possible, of the landfill intermediate cover using a Department-approved method, to determine if there are fugitive landfill gas emissions and conducts repairs of the cover material accordingly; and
- (4) The applicant establishes a system to inform residents of the project community about significant landfill events in near real time such as through a website or other means as approved by the Department.

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<sup>28</sup> The PFAS treatment system implementation schedule was submitted by Casella to the Department for review and approval on December 27, 2024. The Department approved the PFAS treatment system implementation schedule on January 10, 2025. Casella conducted two pilot projects to aid in the selection of the technology and design of the leachate PFAS treatment system with both the proposal for and reports of the pilot projects reviewed by the Department and posted on the Department’s website at <https://www.maine.gov/dep/waste/juniperridge/index.html>.

STATE OF MAINE	37	PUBLIC BENEFIT
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL	)	DETERMINATION
SERVICES, BUREAU OF GENERAL SERVICES	)	
OLD TOWN, PENOBSCOT COUNTY, MAINE	)	
JUNIPER RIDGE LANDFILL EXPANSION	)	
S-020700-W5-CV-N	)	
(APPROVAL WITH CONDITIONS)	)	

BASED on the above Findings of Fact and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. BGS has demonstrated sufficient evidence of title, right or interest in the property, as required by 06-096 C.M.R. ch. 400, § 4(A).
2. A public meeting was held and public comments were accepted and considered as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(F)(1).
3. Expansion of JRL as proposed by BGS meets short-term and long-term capacity needs of the State, as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(1).
4. Expansion of JRL as proposed by BGS is consistent with the State Plan and promotes the solid waste management hierarchy as required by 38 M.R.S § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(2), provided that Casella submits a report to the Department detailing its plans and schedule for implementing the mattress recycling program within 6 months of the date of this Order<sup>29</sup> and, if a license is issued for the construction and operation of the proposed expansion:
  - Casella continues to expand deployment of its mobile recycling app, and includes information in each landfill annual report regarding where the app has been deployed;
  - Each landfill annual report includes a detailed summary regarding Casella’s work to encourage and assist towns to engage in all possible recycling and diversion activities;
  - Casella submits an evaluation of the availability and capacity of infrastructure for the volume reduction of municipal WWTP sludge in each annual report; and
  - The Department imposes a condition that establishes annual limits and a schedule to achieve these limits on the amount of municipal WWTP sludge and CDD, including OBW, that JRL can accept for disposal. The limits must be established in consideration of statewide and regional operational disposal capacity and with the intent to significantly decrease the amount of municipal WWTP sludge that can be disposed of in the expansion area by 2030.

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<sup>29</sup> See Footnote 7.

STATE OF MAINE	38	PUBLIC BENEFIT
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL	)	DETERMINATION
SERVICES, BUREAU OF GENERAL SERVICES	)	
OLD TOWN, PENOBSCOT COUNTY, MAINE	)	
JUNIPER RIDGE LANDFILL EXPANSION	)	
S-020700-W5-CV-N	)	
(APPROVAL WITH CONDITIONS)	)	

5. The proposed expansion is not inconsistent with local, regional, or state waste collection, storage, transportation, processing, or disposal, as required by 38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(3).
  
6. The proposed expansion is not inconsistent with ensuring environmental justice for the community in which the expansion is proposed, as required by 38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5(E)(5), provided that if a license is issued for the construction and operation of the expansion:
  - Casella designs and installs a Department-approved system for the treatment of landfill leachate for PFAS prior to expansion operations and submits an implementation schedule with tasks to the Department for review and approval to meet this timeframe. The schedule should be submitted to the Department within 90 days of issuance of this public benefit determination;<sup>30</sup>
  
  - Casella pays for all applicable costs associated with a third-party odor consultant, working on behalf of the Department, to complete an odor analysis of the landfill and surrounding area, including evaluation of historical air quality sampling results, odor complaint history, field investigation, and recommended actions, to be submitted to the Department for review;
  
  - Casella conducts two additional surface scans per year during periods of low barometric pressure, if possible, of the landfill intermediate cover, using a Department-approved method to determine if there are fugitive landfill gas emissions and conducts repairs of the cover material accordingly; and
  
  - The applicant establishes a system to inform residents of the project community about significant landfill events in near real time such as through a website or other means as approved by the Department.

THEREFORE, the Department APPROVES the above noted application of the STATE OF MAINE, acting through the Department of Administrative and Financial Services, Bureau of General Services, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations.

1. The invalidity or unenforceability of any provision, or part thereof, of this Order shall not affect the remainder of the provisions or any other provisions. This Order shall be

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<sup>30</sup> See Footnote 28.

STATE OF MAINE	39	PUBLIC BENEFIT
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL	)	DETERMINATION
SERVICES, BUREAU OF GENERAL SERVICES	)	
OLD TOWN, PENOBSCOT COUNTY, MAINE	)	
JUNIPER RIDGE LANDFILL EXPANSION	)	
S-020700-W5-CV-N	)	
(APPROVAL WITH CONDITIONS)	)	

construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

2. Within 6 months of the date of this Order, Casella shall submit a report to the Department detailing its plans and a schedule for implementing the mattress recycling program.<sup>31</sup>
3. If a license is issued for the construction and operation of the proposed expansion:
  - A. Casella shall continue to expand deployment of its mobile recycling app, and include information in each landfill annual report regarding where the app has been deployed;
  - B. Casella shall include in each landfill annual report a detailed summary regarding their work to encourage and assist towns to engage in all possible recycling and diversion activities;
  - C. Casella submits an evaluation of the availability and capacity of infrastructure for the volume reduction of municipal WWTP sludge in each annual report;
  - D. The Department imposes license conditions that establish annual limits and a schedule to achieve these limits on the amounts of municipal WWTP sludge and CDD, including OBW, that JRL can accept for disposal in the proposed expansion area. The limits shall be established in consideration of statewide and regional operational disposal capacity and with the intent to significantly decrease the amount of municipal WWTP sludge that can be disposed of in the expansion area by 2030;
  - E. Casella designs and installs a Department-approved system for the treatment of landfill leachate for PFAS prior to expansion operations;
  - F. Casella pays for all applicable costs associated with a third-party odor consultant, working on behalf of the Department, to complete an odor analysis of the landfill and surrounding area, including evaluation of historical air quality sampling results, odor complaint history, field investigation, and recommended actions, to be submitted to the Department for review and approval;
  - G. Casella conducts two additional surface scans per year during periods of low barometric pressure, if possible, of the landfill intermediate cover, using a

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<sup>31</sup> See Footnote 7.

STATE OF MAINE	40	PUBLIC BENEFIT
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL	)	DETERMINATION
SERVICES, BUREAU OF GENERAL SERVICES	)	
OLD TOWN, PENOBSCOT COUNTY, MAINE	)	
JUNIPER RIDGE LANDFILL EXPANSION	)	
S-020700-W5-CV-N	)	
(APPROVAL WITH CONDITIONS)	)	

Department-approved method to determine if there are fugitive landfill gas emissions and conduct repairs of the cover material accordingly;

- H. The applicant establishes a system to inform residents of the project community about significant landfill events in near real time such as through a website or other means as approved by the Department; and
- I. Within 90 days of the issuance of this Order, Casella shall submit an implementation schedule with tasks to detail how they intend to design and install a Department-approved system for the treatment of landfill leachate for PFAS prior to expansion operations, if a license approval is issued for the proposed expansion.<sup>32</sup>

DONE AND DATED AT AUGUSTA, MAINE, THIS 23<sup>rd</sup> DAY OF March, 2026.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:   
 \_\_\_\_\_  
 Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURE

Date of initial receipt of application: June 10, 2024

Date of application acceptance: June 24, 2024

Date of issuance of original PBD: October 2, 2024

Date this revised PBD filed with the Board of Environmental Protection: March 23, 2026

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<sup>32</sup> See Footnote 28.



# DEP INFORMATION SHEET

## Appeals to the Board of Environmental Protection

Date: November 2024

Contact: [Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov) or  
(207) 314-1458

### SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of: (1) a final license decision made by the Commissioner of the Department of Environmental Protection ("DEP"); or (2) an insurance claim-related decision ("Clean-up and Response Fund decision") made by the Commissioner or the Office of State Fire Marshal pursuant to [38 M.R.S. § 568-A](#).

Except as explained below, there are two methods available to an aggrieved person seeking to appeal a license decision made by the Commissioner or a Clean-up and Response Fund decision: (1) an administrative appeal before the Board of Environmental Protection ("Board"); or (2) a judicial appeal before Maine's Superior Court. An aggrieved person seeking review of a license decision or Clean-up and Response Fund decision made by the Board may seek judicial review in Maine's Superior Court.

An appeal of a license decision made by the DEP Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)), a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)), or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### **LEGAL REFERENCES**

A person filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, [Processing of Applications and Other Administrative Matters \(06-096 C.M.R. ch. 2\)](#); Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); and the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#).

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

Within 30 calendar days of the date of: (1) a final license decision of the Commissioner; or (2) a Clean-up and Response Fund decision, an aggrieved person may appeal to the Board for review of that decision. "Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision or a Clean-up and Response Fund decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30<sup>th</sup> calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

An appeal to the Board may be submitted via postal mail or electronic mail (e-mail) and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection  
c/o Board Clerk  
17 State House Station  
Augusta, ME 04333-0017  
[Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov)

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee, if the appellant is not the licensee; and (3) if a hearing was held on the application, any intervenors in that hearing proceeding. For appeals of Clean-up and Response Fund decisions made by the State Fire Marshal, the appellant must also send a copy of the appeal to the State Fire Marshal. **Please contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license or Clean-up and Response Fund decision.**

#### **REQUIRED APPEAL CONTENTS**

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at <https://www.maine.gov/sos/cec/rules/06/chaps06.htm>, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A person who seeks to appeal a decision to the Board is encouraged to contact the DEP (or State Fire Marshal for Clean-up and Response Fund decisions made by that agency) to inspect the record before filing an appeal.
2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (*see* Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.
4. *Alternative dispute resolution.* If the appeal participants agree to use mediation or another form of alternative dispute resolution (“ADR”) to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See* Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.

### WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair. Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board's webpage <https://www.maine.gov/dep/bep/index.html>. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See* Chapter 2, Section 23(I). The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

### II. JUDICIAL APPEALS

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see* [38 M.R.S. § 346\(1\)](#); [Chapter 2](#); [5 M.R.S. § 11001](#); and [M.R. Civ. P. 80C](#)). A judicial appeal by a party to the underlying proceeding must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other aggrieved person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. *See* 38 M.R.S. § 346(4), the Maine Administrative Procedure Act, statutes governing a particular license decision, and the Maine Rules of Civil Procedure for substantive and procedural details applicable to judicial appeals.

### ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal procedure, for administrative appeals contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or 207-287-2811 or the Board Executive Analyst at [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov) or 207-314-1458, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

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**Note: This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.**

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