

## **FEBRUARY 2004**

### **2004.02.02: CONCERNS ABOUT MEETING CLOSING DATE**

Bohlig and Casella lawyers express concerns that if other parties don't get actively involved, the work that needs to be done to close on Thursday (2004.02.05, the date that closing and operating services agreement were both signed) would not be completed in time.

### **2004.02.03: BDN EDITORIAL**

This editorial, titled "Landfill Logic," had several points wrong, but had good intentions in suggesting that "...the state could do more to quell disapproval from area residents about this project." It mentioned the need to preserve jobs, and also "the state's need for a new landfill," something that was taken on faith at that time, but that is not true. The traffic issues are mentioned, but the editorial suggests that "public discussion of the truck problems should be tempered with realism" in that changing I-95 weights is not imminent, and other types of heavy trucks also use state roads. The editorial is a bit misguided in thinking that the forums for listening as conducted by Gallagher might be better than formal hearings. The conclusion is, "Listening to and acting on citizen concerns could turn this good project into a better, if not a universally accepted, one."

### **2004.02.03: CONSTITUENT SERVICES CONCERNS**

Colwell and Mullen of Governor's office of constituent services report that "paper mail and Email are WAY up and ... most of these people are looking for answers regarding the Governor's position and are not satisfied by us referring to DEP or SPO."

Reply via Stearns: Governor has given Gallagher independence in this matter, and "has also been clear that landfill presents win-win opportunities for job retention at the GP mill, and needed landfill capacity for in-state waste.... If the landfill permit is delayed or rejected, it ... will force the state to consider much more expensive options for landfill capacity."

### **2004.02.03: MRC SUPPORTS AMENDMENT LICENSE**

MRC sent a letter to Darling supporting the amendment license application. In this letter there is a quantification of the benefits to MRC of the deal: "The expanded use of the West Old Town Landfill also holds great economic importance to the MRC communities. MRC conservatively estimates that the availability of this facility for residuals generated at PERC will save the member communities more than \$1.0 million per year, or \$14.0 million over the remaining life of the Charter Municipality waste disposal agreements, as compared to alternative disposal arrangements. [new par.] Landfill airspace utilization and its long term availability are a legitimate public concern. Fortunately, waste-to-energy facilities such as PERC greatly reduce the need for landfilling of waste due to volume reduction in the 60 to 70 percent range. PERC, in

its first fifteen years of operation, has avoided the need for 3.4 million cubic yards of landfill airspace in Maine."

#### **2004.02.03: STORMANN, STEARNS ON OPPONENTS**

Alan Stormann, Old Town City Council Chair, wrote to Baldacci related to the Elks Club meeting. Accused the "environmentalists" [his quotes] of being there "to be disruptive to the folks trying to provide detailed factual information." "I spoke with Jack Cashman later in the week and asked the question as to why the DEP staff knew this folks [sic] by their first name. He advised that these folks travel all over the state to debate numerous issues." Some of the same people showed up at Old Town council, and he allowed those from Old Town to speak, who expressed concerns about leakage. "I expressed to these citizens that I have trust in our DEP and State of Maine professionals that the safety of our citizens are [sic] our primary concern and I am also convinced that the DEP wouldn't issued [sic] a permit to an 'unsafe' landful [sic]."

As was expressed by the constituent services staff, Stormann would like to "see some type of press release updating the process and how the process is going ..."

It was at this point that various drafts of the Governor's statement were crafted, "the landfill purchase and expansion..." An e-mail had also come from Aimee Dolloff of the Bangor Daily News requesting such a statement.

#### **2004.02.04: NRC SPECIAL MEETING ON LANDFILL**

This was the one-hour update given by Gallagher and Clark to the Natural Resources Committee on the status of the landfill process. It was at this meeting that Joanne Twomey and other Committee members claimed that David Lennett had promised a public hearing if the Resolve were to go into effect. They were basically told that since he no longer worked in that position (it sounded as if he no longer worked for the DEP) that the promise could not hold, and in any case he was in no position to make such a promise. This also was the meeting at which John Martin declared "over my dead body" would there ever be a public hearing on this issue.

#### **2004.02.05: OSA AND P & S SIGNED**

See also previous version of P & S, 2003.11.20, submitted as required for the application to be accepted as complete for processing.

#### **2004.02.06: GOVERNOR'S STATEMENT**

The Governor's statement, including the phrase "landfill purchase and expansion" twice, was issued at 12:18 p.m. via Joy Leach (public relations office?) An hour earlier she had asked two more questions of Stearns, "Did \$12.5 million get transferred from Casella

(was this the firm) to the State to GP?" and "Is it true that the Federal EPA has no jurisdiction in this?" She said "Lee [Umphrey] thinks this will be bubbling up today..." and perhaps answers to these questions should be in the statement. These points were not in the statement.

#### **2004.02.09: WTP AT ORONO COUNCIL**

This was reported in the Penobscot Times 2004.02.12. Concerns were raised by Schroeder and D.Gibbs related to trucking and the volume and kinds of waste. Discussion from Council included statement by Gordon, "'We have to trust the state to do the right thing,' but added that the way the state was going about its business was creating problems." Most of the reported Council discussion involved the issue of increasing truck weight limits on I-95.

#### **2004.02.12: CASELLA MEETS ABUTTERS**

This is discussed in an e-mail from MacDonald to Stearns, 2/18, answering Stearns queries related to "impact of property valuations from abutters and proximity" and "Alton selectmen want more cash."

#### **2004.02.12: FREEMAN DRAFTS OP-ED**

Martha Freeman, head of SPO, circulated an op-ed she wrote: "Larry Benoit asked me to author an op ed for this weekend's, [sic] to tout the solid waste benefits of the Old Town landfill." [NB Larry Benoit represents Casella via BSSN] In another e-mail, she states "So Lee [Umphrey] says he can get it into the Sat. BDN."

The op-ed was basically the usual boilerplate on why this is such a great deal. One point that Freeman makes that puts a new slant on the logic of state ownership of new landfills in relation to out of state waste policy. She wrote: "In 1989, the State adopted a hierarchy for waste management: reduce, reuse, recycle, compost, incinerate for energy recovery and volume reduction, and landfill. Landfills are a necessary component of municipal solid waste management. The policy of the State has been to provide for the disposal of wastes generated within the State. [new par.] To accomplish that goal, the State Legislature simultaneously banned the development of new commercial disposal facilities (incinerators and landfills) and directed the State to provide the disposal capacity that would be needed. The State Planning Office is to plan for the development of such disposal facilities and would own the property and provide for the facility's operation."

[NB Rather than framing the policy in terms of excluding out of state waste, which is constantly being objected to on grounds of interstate commerce, this framing of the policy places responsibility onto the State for providing for State needs, given the

limited resources in the state for landfill capacity. This is a more legitimate framing of the policy goal, though in effect these remain identical in implementation. Given the huge window for out of state demolition debris at this landfill, imported under the rubric of being a "raw material" for the production of biomass fuel, we can still legitimately ask whether the State's policy of creating and preserving landfill capacity for the disposal of Maine-generated waste is being fulfilled through this implementation -- especially given the huge size and (supposedly) ideal geology of the site.]

[See also discussion of interstate waste flow control in the Ackerman / Townsend report on competition in the waste management industry.]

[NB Additionally, this op-ed mentions cooperation with the MRC in recycling initiatives, a cooperative arrangement that has not been reached with MRC. See Lounder memo of 2004.02.12]

#### **2004.02.12: MAINEWATCH**

In an e-mail of Feb. 9, Gallagher asks MacDonald if he would participate in Mainewatch rather than she, since "I am to be a decisionmaker." Other participants would be Joanne Twomey, Laura Sanborn and "Don Mahar" [sic].

#### **2004.02.12: MRC IN OSA**

After being alerted by George MacDonald that the MRC is included in Casella's final Operating Service Agreement, Lounder wrote a memo to the Board titled: "MRC Reference Contained in Operating Services Agreement between the State and Casella for operation of the West Old Town Landfill." This memo was also copied to one of their attorneys, Dan McKay at Eaton Peabody, and to their financial consultant George Aronson. The memo includes an attached excerpt from the OSA, with the following comment:

"Where the provisions of 2.13 (a) through (i) are only detailed as goals, that Casella would use its best efforts to achieve, they shouldn't present a high concern requiring immediate action. Nevertheless, the provisions have troubling aspects. First, we weren't consulted. Second, subsection [sic] (b) references a 'Public / Private Partnership agreement' that doesn't exist. Third, several subsections suggest that Casella has an obligation to work with our towns on a series of waste reduction and recycling initiatives. Should those words be used as a vehicle by Casella to initiate discussions with local officials on these topics, our members may not be particularly impressed with us. [new par.] Enclosed is the resolve the MRC Board adopted which bears the closest relationship to all of this. MRC simply resolved (see Sec. 3. on second page) to consider specific proposals from Casella on initiatives to support the waste management hierarchy -- which makes complete sense. MRC should maintain an interest in hearing

from anyone with a proposal to improve the WSW [sic] is managed. The trouble is, the words in the agreement could easily be construed differently. [new par.] I am interested in your thoughts on this item. I have asked Dan and George for their impressions as well."

[NB Of particular interest here is the "'Public / Private Partnership agreement' that doesn't exist." This was prominently featured as an appendix in the Proposal, which when read with Lounder's 2003.07.08 letter to MacDonald supporting Casella's Proposal, could be seen as an attempt by Casella to gain stature on the basis of discussions rather than firm agreements.]

#### **2004.02.12: ORONO LETTER ON TRUCKS**

In this letter Orono argues for reduction of truck weights until the Interstate limits can be changed, citing uneven distribution of costs related to the landfill. Also addresses perception of expedited process with little information coming directly to the affected towns.

[NB This is in line with Brewer's position. See also notes of 2003.12.16 meeting, at which Casella apparently said that their bids are based on 100K trucks, and if they had to bid with smaller trucks they would lose the bids.]

#### **2004.02.13: MEETING BETWEEN PENOBSCOTS AND DEP**

At this meeting the Penobscots got a 30 day extension of comments period and also Paula Clark mentioned the months of discussion that happened before the application was submitted.

The meeting dropped out of the blue onto the State via a message from Lynn Boutilier to Clark, Davis, MacDonald and Stearns, asking if they could attend a meeting with Donna Loring and John Banks, changed later to Barry Dana and Banks.

#### **2004.02.16: LETTER FROM ROSALITA FEERO**

This is the detailed letter in which the Feeros state their longstanding family connection to this property, and the history of its evolution into being a landfill.

#### **2004.02.17: BDN, "TRASH INTO TREASURE"**

This article, "Deal likely to turn trash into treasure," explained the difficulties in estimating the entire financial package, though "... Casella's revenues in west Old Town could total in the billions of dollars by the end of the 30-year contract."

## **2004.02.17: DOT, CASELLA, GP AT ORONO WORKSHOP ON TRUCKS AND DUMP**

This meeting was reported in the Penobscot Times 2004.02.26.

I obtained the tapes from the Town and summarized the discussion; given summaries to Geoff Gordon and Terri Hutchinson 2004.09.17 (and perhaps earlier also).

In earlier e-mail of 2004.02.11 Landry said Orono "would like to negotiate like Brewer did. I told the commissioner that there wasn't anything to negotiate but we could go and talk to them. Basic talking points are trucks have a right to travel on Maine State and State aid highways, 5 alternatives are mentioned in my report but there are many others that aren't mentioned."

## **2004.02.18: SO GOES THE NATION**

An e-mail from Elaine Scott, marketing manager at DECD, to Sosnaud, Cashman, the Thaxter Trafton reported on the So Goes the Nation show of this date and perhaps also to continue the next day. "They were telling people to call DEP today and to complain about the fact that there will be no hearings on the subject ... [ellipses in original] it was all negative and not very factual." This was forwarded from Sosnaud to Stearns.

## **2004.02.23: MRC BOARD, CASELLA**

Meagher and Ed Laverty, representing Casella, and Cashman, representing the State by phone, spoke at the beginning of the MRC Board meeting, briefing them on the meeting to be held the next day and Bangor [NB What WtP have termed the "wine and cheese party."] An earlier message from Louder explained Laverty's presence, "... who has been hired by Casella as part of the public relations team. Mr. Laverty is a professor in the MPA program at UMaine. He served at least one term on the Board of Environmental Protection, which may explain his connection to this topic."

At the Board meeting, "J. Cashman further told the Board the misinformation / misrepresentations out there that warrant a response from MRC. The facts need to be distributed to the public. [NB We fully concur.] MRC is in a position to get the real truth out there and clarify misconceptions in order to alleviate fears."

[NB Given the manner in which Casella included MRC both in its Proposal and in the OSA, they certainly have a good record at minimizing misinformation and misrepresentation.]

Cashman and Meagher go on for several paragraphs, noting the great lengths DEP has gone to properly monitor the site, the prolonged review, and that "GP is anxious because

DECD is requiring GP to reinvest the profit from the sale into the Town." [NB Whose error is this -- is profit being required to be invested in the "Town"?] Cashman asked Board members to write op-ed pieces "or paid advertising in the newspaper to tell the facts." "D Meagher asked MRC to address the accusations of out of state wastes and the economic impact to communities."

On 2004.02.24 Aronson sent a lengthy letter with spreadsheet to Downeast Board member Yeaton outlining costs if the deal does not go through. Overall, tipping fees will rise from present \$3.83 to \$7.66 with many caveats. Overall with the new landfill savings would be in range of \$1M to \$2M per year, long term. See also 2004.02.03 letter to Darling.

#### **2004.02.24: RAMADA "WINE AND CHEESE PARTY"**

Otherwise known as a "dog and pony show," it was complete chaos under the name of a "public input session." First, it was understood that there would be a common session for questions and answers -- perhaps with parallel "rooms" devoted to various agencies and issues. Instead there was one large room, no program, and random clustering for debate and questioning.

[NB This was a second attempt for the State to do what they were unsuccessful in accomplishing on Jan. 21, presentation of their case in the most favorable manner possible, this time through many glossy poster-sized maps and drawings. To my mind [PCS] it did nothing but cause more questions to be raised than answered, polarizing the parties and leading to more interest in the March meetings.]