

## **JULY 2003**

A message from Lounder to MRC board 2003.07.01 states, "Attached is a memo and related draft trem [sic] sheet outlining current thinking of staff with respect to the the [sic] Old Town landfill situation and related possible MRC actions. The information is highly confidential." [NB Memo is not among materials provided by the MRC.]

### **2003.07.03: MRC UNDERSTANDING WITH CASELLA**

Louder writes to Larry Folsom, "On west old town [sic], I think we've landed a good arrangement on the contract side ... [ellipses in original] yesterday, Casella agreed in principle to modify the addendum to specify that airspace in the first 68 acres will be set aside for PERC, thus addressing the concern that the residuals contract extension would be contingent on the second major expansion. Airspace reservation of that sort represents a significant new commitment from them & I'll feel better when the discussion is transferred into agreement language. They allowed Dan to draft. The investment angle (1.0 MM) appears out & we are working on the partnership concept for broader waste stream management elements. We are working to organize this into a resolve for the Board's consideration Monday morning at 10:00 AM."

[NB This refers to the investment in recycling initiatives, apparently; yet, if the investment deal is "out" then why did the word "investment" appear in documents Casella submitted within its Proposal? See forward to 2004.02.12, Casella apparently put information into the Proposal that apparently was not true, and this also ended up in the OSA.]

[NB This paragraph also states a "significant new commitment" from Casella, part of the arrangement defined as MRC pulled back from at least the appearance of being a serious competing bidder.]

In a message to the MRC board, Lounder writes: "attached [sic] is a final draft of the addendum to the existing waste disposal and residue disposal agreements between PERC and Casella that are agreeable to both PERC and Casella. PERC's intention is to support Casella's bid on Old Town by incorporation of this agreement into their bid. MRC will be asked to support the contracts at its meeting on Monday and Casella as operator at Old Town. A resolution to that effect will be coming shortly. The resolution also develops the cooperation concept with Casella."

[NB The resolution in support of Casella's bid was underway, with cooperation from Casella. In the table of documents not provided to me from MRC under the attorney/client rubric, is an e-mail from Don Meagher (Casella) to Dan McKay (attorney for MRC) then forwarded to Greg Lounder, subject: "Suggestion for MRC Board Ressolve [sic]" -- yes, this time the [sic] is in the document I am citing.]

[NB Though they expected their agreement, "this agreement" to be part of the proposal, it seems that the inclusion of their Resolution, cover letter and the section "Public Private Partnership" came as something of a surprise to the MRC; see message of 2003.07.16]

### **2003.07.07: MRC BOARD PASSES RESOLUTION SUPPORTING CASELLA'S BID**

The resolution crafted by Aronson and Bohlig, see 2003.06.27, was voted by the MRC Board 2003.07.07. The next day Lounder wrote to MacDonald, including "After giving the issue serious thought and consideration, the MRC Board decided not to submit an independent bid on the landfill operations. Instead the MRC Board took a position supporting the extension of PERC's contract with Casella for disposal services based on the terms that PERC and Casella had reached. The contract extension is conditioned on Casella being selected as the contractor in Old Town."

### **2003.07.09: BIDS FOR OPERATING AGREEMENT OPENED**

[NB The Casella Proposal was only available to me at the time of distribution of the Record prior to BEP hearing of appeals.]

Casella's proposal includes letter of support from the MRC, as well as an attachment titled "Public/Private Partnership" that seems to include the MRC as a partner in this deal. This section includes a letter dated June 30 from Meagher to Lounder outlining the history of their discussions, beginning in March 2003 around the Dolby facility controlled by the GNP mills.

[NB But see MRC communication of 2004.02.12, when informed that this partnership is referenced in the Operating Service Agreement, asserts it "references a 'Public / Private Partnership agreement' that doesn't exist."]

[See also Waste Management letter submitted in lieu of a bid, 2003.07.09.]

### **2003.07.09: WASTE MANAGEMENT LETTER**

Instead of a bid, Waste Management wrote that it could not submit a bid "consistent with the minimum bid requirements outlined in the RFP for the Georgia-Pacific landfill (GP landfill) operating agreement. The minimum landfill purchase price of \$12 million, coupled with the requirement to provide long-term disposal for Georgia-Pacific's proposed biomass boiler at substantially below market rates for thirty years, make involvement in the project economically infeasible for Waste Management."

[NB The "purchase price" eventually became \$26M, or up to \$31M if the final \$5M cash offer from Casella is included].

[NB This letter did not reference the \$50,000,000 performance bond, nor the \$10,000 non-refundable bidder's fee. However, their reference of the "disposal for ... proposed biomass boiler" sort of conflates the two other important clauses, providing fuel and disposal capacity. It needs to be asked if Waste Management attained full understanding of the whole deal during the pre-bid process. The difficulty MRC had in getting information, and the reference in Eric Higgins' letter of April, 2004 that "Presumably, Casella, as the only bidder, had information that mitigated that risk" indicate a general feeling that only one bidder was in a position to succeed with this particular deal.]

2003.07.16: "CASELLA ... SOLE BIDDER"

Louder wrote to the MRC Board, "Casella wound up being the sole bidder on the operations of the Old town [sic] landfill. Casella informs me that their proposal included our resolve and mention of the executed contract extension between them and PERC. The Casella proposal will be made available to us if / when they are the selected bidder. The outcome there may be known within the next 2-3 weeks. I have also confirmed that the Residuals and Incoming MSW Agreements (the 'Agreements Addendum') was executed by both PERC and Casella.'

### **2003.07.22: MEETINGS ON FINANCING, BID, DEP SCHEDULE**

A NEWSM chronology sent from Meagher via Doyle to Cashman 2003.09.18 showed two meetings, one with Cashman, FAME and Bohlig "to discuss process of issuing state revenue bonds," and the second with Cashman, Bohlig, Meagher, Benoit, and MacDonald "... to discuss bid award schedule."

See one of MacDonald's reactions at 2003.07.24.

### **2003.07.22-23: JOHNSTON / ARC CONTACTS MRC**

An exchange of e-mails between Lynn Johnston [ref-fuel.com and ARC] inquiring about the RFP process, wondering if it is a "threat to the future of the private / semi-private facilities" and concluding "I hope it isn't too late for ARC to participate in the RFP process. We to have [sic] a landfill operation and look at the LF as being integral to the WtE business." [NB A web search for ref-fuel.com found that this company operates waste to energy facilities in PA, NJ, NY, CT and MA. It does seem that the OT project would not be of much use to them, barring significant stretching of the understandings related to out of state waste.]

### **2003.07.23: LOUNDER EXPLAINS THE DEAL**

In a letter to the MRC Board in advance of the next meeting, under the heading "MRC and PERC work to secure favorable arrangements for disposal of PERC residues" he writes in part, "The MRC and PERC positioned themselves in the bid process in fasion [sic] that best supports the MRC mission. In advance of the deadline for bid responses, an agreement between PERC and Casella Waste Systems was reached on the extension of the present residuals arrangement between them. This agreement is premised on the company being the successful bidder to the state Request for Proposals 'RFP'. The outcome of the RFP process is still pending at this time."

[NB For a statement of the financial benefits of this deal to MRC, see 2004.02.03 letter of support from Farrar to Darling in support of the amendment license.]

#### **2003.07.24: QUERY ON PERFORMANCE BOND**

This was sent from MacDonald to Adams 2 weeks after the Proposal from Casella arrived [NB This is two days after initial meeting on bid acceptance process], and begins with the sentence, "I know you can't be involved in this project once we make the award...." [ellipses in original] It repeats the language from the RFP, and raises the question: "I believe we had intended bidders that do not meet the minimum financial rating to actually secure the performance bond, but that is not was was [sic] written.... [ellipses in original] [new par.] "If a bidder does not meet the bbb rating, and their proposal does not include providing a \$50 million performance bond, have they properly responded to the RFP?"

#### **2003.07.29: CASHMAN TO ADAMS, "WHAT MAKES YOU THINK?"**

Adams had forwarded to Cashman a message from Betty Lamoreau of Division of Purchases, with comments on the purchase agreement, term sheet.

Cashman was mightily irritated for some reason in receiving this, and replied: "Why are all these people reviewing this? Why do I care what they think? What makes you think I should respond to this? What makes you think you should not respond? What makes you think?"