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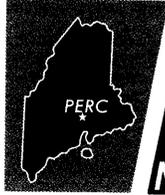
TO: Charter Municipalities
FROM: Greg Louder, Executive Director, Municipal Review Committee, Inc. (MRC)
RE: An Update from the MRC Regarding Impacts on the Charter Municipalities of Recent State-wide Changes in Municipal Solid Waste (MSW) Management
DATE: 11 February 2013

On February 14, 2013, in the course of the public proceedings to review the amendment of the operating license of the Juniper Ridge Landfill, the Maine DEP will release a copy of the contract recently executed between Casella and PERC. That contract would, among other things, direct MSW to the PERC facility that had previously been delivered to the MERC facility, which closed at the end of 2012. The attached memo provides information on the MRC's positions on and responses to the Casella-PERC contract, the closing of the MERC facility and the application to the Maine DEP for Juniper Ridge Landfill to accept MSW from in-state sources. The intent is to provide context for the MRC's positions on these events to prepare representatives of the Charter Municipalities to respond to questions from municipal officials and staff and to the public at large.

Although the MRC is not a party to the Casella-PERC Contract, the contract offers significant benefits to the Charter Municipalities. The benefits include additional in-state MSW for the PERC facility; economic benefits for PERC; and help in reducing exposure to GAT shortfall penalties that might be attributed to additional recycling or to inability to control commercial MSW. The MRC anticipates providing testimony to the Maine DEP that the contract, if implemented as intended, would address the MRC's major concerns of having the Juniper Ridge Landfill accept MSW by restricting such acceptance so that waste-to-energy facilities remain the preferred method of MSW management.

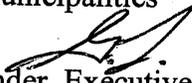
The MRC continues to work with the PERC private partners on an extension of the existing Waste Disposal Agreements for a significant term beyond 2018. Together, we are evaluating a wide range of options, arrangements and contingency plans.

Please refer to the attached memo for more information on these matters. The MRC is particularly interested in hearing from Charter Municipalities that would respond to the offer from Casella on the opportunity to increase recycling rates without incurring additional exposure to GAT shortfall penalties. Please feel free to call me with your questions at (207) 664-1700; email me at glounder@mrcmaine.org, or check our web-site at www.mrcmaine.org.



MEMORANDUM

TO: Charter Municipalities

FROM: 
Greg Louder, Executive Director, Municipal Review Committee, Inc. (MRC)

RE: An Update from the MRC Regarding Impacts on the Charter Municipalities of Recent State-wide Changes in Municipal Solid Waste (MSW) Management

DATE: 11 February 2013

As a public official responsible for managing your community's solid waste, you might already be aware of the following recent events that are having significant impacts on solid waste management activities in Maine in 2013 and beyond:

1. The Maine Energy Resource Company (MERC) facility in Biddeford was shut down permanently at the end of 2012. The MERC facility had previously accepted for disposal about 120,000 tons per year of MSW generated in Maine and nearly 170,000 tons per year of MSW from other states. Such MSW must now be managed through other means, including the privately-owned Westbrook Transfer Station, which received a permit to accept MSW in December 2012.
2. The Juniper Ridge Landfill in Old Town is the subject of a pending application to the Maine DEP to amend its operating license to allow acceptance of unprocessed MSW for disposal from in-state sources. The license amendment is being requested by a corporate affiliate of Casella Waste Systems, Inc. (Casella), which operates the Juniper Ridge Landfill, and which owned and operated the MERC facility, through corporate affiliates.
3. In light of the above, the PERC partnership, PERC's private owners, and Casella have negotiated a new contract (the Casella-PERC Contract) regarding delivery of MSW to the PERC facility from in-state sources, including MSW that had previously been delivered to the MERC facility. That contract will be released to the public on February 14, 2013, in the course of the Maine DEP proceedings to review the amendment of the operating license of the Juniper Ridge Landfill.

The MRC is monitoring and responding actively to all of these recent events in order to advance its mission to ensure affordable, long-term and environmentally sound disposal of MSW for the Charter Municipalities. This memorandum presents the MRC's views of these events. Views are presented regarding (a) short-term impacts on Charter Municipalities and use of the PERC facility through March 2018, when the existing Waste Disposal Agreements between PERC and each Charter Municipality are due to expire; and (b) long-term impacts on MSW management after these Agreements expire, starting in April 2018, either at the PERC facility by extension or modification of the existing Agreements or through alternative means.

Short-Term Impacts on Operation of the PERC Facility Through March 2018

In the short-term, the Casella-PERC Contract, together with the closure of the MERC facility, offer significant benefits to the Charter Municipalities regarding a long-standing concern of the MRC; namely, provision of an adequate supply of MSW to the PERC facility from in-state sources. Specifically, the new Casella-PERC contract would have Casella deliver up to 100,000 tons per year of MSW to the PERC facility, including up to 30,000 tons per year of MSW that had previously been delivered to the MERC facility from in-state sources. The advantages of the new contract include the following:

- The Casella-PERC Contract provides additional assurance that the PERC facility can operate at or near its full capacity with maximum reliance on MSW generated within Maine and with reduced reliance on MSW imported from other states.
- The tip fees in the new contract are more favorable than PERC would receive from the out-of-state MSW being displaced. This results in economic benefits both to PERC and to the Charter Municipalities, which will share the benefits of PERC's improved financial performance.

The Casella-PERC Contract also addresses long-standing MRC concerns regarding the implementation of the hierarchy of MSW management measures in Maine. In particular:

- Delivery of additional MSW to the PERC facility will divert MSW deliveries from the Juniper Ridge Landfill. Such deliveries would also extend somewhat the life of the landfill, thereby preserving landfill airspace in the future for residual materials from the PERC facility and for materials from other sources for which landfilling is the best available disposal method. Note that energy recovery in the form of electricity generated from MSW delivered to the PERC facility is very efficient and complete. In comparison, energy recovery in the form of landfill gas recovered from the decomposition of the MSW delivered to and buried at the Juniper Ridge Landfill is less efficient, occurs over a period of many years as

the waste decomposes, and is ultimately incomplete, because not all of the waste decomposes and not all of the landfill gas is recovered.

- The Casella-PERC Contract contains provisions whereby Casella would deliver additional MSW to the PERC Facility to replace materials that the Charter Municipalities recycle through a Casella facility. These provisions provide an opportunity for Charter Municipalities to pursue additional recycling without incurring additional exposure to GAT penalties from PERC for shortfalls in MSW deliveries attributable to the increased recycling. Charter Municipalities interested in pursuing this opportunity should contact the MRC.
- The Casella-PERC Contract contains several other provisions that would reduce Charter Municipality exposure to GAT shortfall penalties. For example, the contract obligates Casella and PERC to cooperate with Charter Municipalities to attribute MSW collected by Casella that originates within the borders of a Charter Municipality to the account of that municipality. The contract contains additional assurances to preclude MSW collected by Casella within Charter Municipalities from being delivered to any facility other than the PERC facility.

Note that the MRC is not a party to the Casella-PERC Contract. Although the MRC had some input into the negotiations, not all of its concerns are addressed. We are confident that the contract will bring benefits to the Charter Municipalities; nevertheless, we will continue to monitor the implementation of the contract carefully, and to work with the PERC private partners, to ensure that the intended benefits are achieved to the greatest extent feasible.

The contract requires PERC to support the expansion of the Juniper Ridge Landfill. PERC's support is specifically conditioned upon Casella's support of the hierarchy for waste disposal, such that the maximum amount of solid waste is processed by waste-to-energy facilities in preference to disposal in landfills. Note, however, that the contract provision to support the expansion of the Juniper Ridge Landfill does not apply to either the MRC or the Charter Municipalities. Indeed, Casella explicitly acknowledges that the contract does not limit each limited partner of PERC from expressing its individual opinion as to the expansion of the Juniper Ridge Landfill. As a result, the Equity Charter Municipalities, all of which are limited partners in PERC, as well as the MRC and the New Charter Municipalities, which are not signatories to the contract, are each able to develop and express their own views on the current license amendment and on the expansion of the Juniper Ridge Landfill.

In this context, the MRC anticipates that it will provide testimony before the Maine DEP in the pending application for a license amendment to accept unprocessed MSW. Such testimony will address the long-standing concerns discussed previously and the MRC's interest in ensuring that the contract is implemented as intended. The MRC does not intend to address the potential

environmental impacts of the potential license amendment, which have not been the specific subject of the MRC's prior concerns. The MRC notes that some MRC members proximate to the Juniper Ridge Landfill have expressed concerns regarding potential for adverse local and neighborhood impacts from new activities described in the pending application. The MRC anticipates that any such potential for adverse impacts will be addressed in the regulatory process. The MRC's position on testimony before the Maine DEP in any future application for expansion of the Juniper Ridge Landfill will be developed as appropriate as current events develop and are understood.

Finally, careful readers of the Casella-PERC contract may notice references to tip fees that PERC might pay for MSW delivered to the Juniper Ridge Landfill in 2016 and 2017. These provisions were developed as part of contingency plans to prepare for the unlikely event that the PERC facility reduces or suspends operation prior to 2018 as the result of unforeseen circumstances. The MRC does not anticipate that such options would be exercised.

Longer-Term Impacts on Management of MSW from the Charter Municipalities After April 2018

The recent events have not changed the MRC's ongoing efforts to negotiate extensions of or modifications to the existing Waste Disposal Agreements for disposal of Charter Municipality MSW at the PERC facility for a significant term of years beyond 2018. The PERC facility provides reliable disposal capacity for MSW with known and predictable technical and economic performance and an outstanding record of environmental performance. The Charter Municipalities and the State of Maine would benefit greatly if the PERC facility can continue providing such capacity into the indefinite future. The MRC continues to do everything in its power to be successful in securing an extension of operation of the PERC facility on terms that are favorable to its member communities.

Nonetheless, the MRC and PERC face significant challenges in the negotiation of such an extension. In its current configuration, economic operation of the PERC facility requires delivery of a steady stream of MSW in quantities that are greater than the existing Charter Municipalities can commit to provide. This is especially true when considering the impacts of potential expansion of MSW reduction and recycling programs on future MSW quantities, as well as the likelihood that Charter Municipalities located at significant distances from the PERC facility might elect to divert their MSW to competing facilities that would require less costs for MSW delivery. This situation is helped by additional deliveries of MSW to the PERC facility from sources that had previously been served by the MERC facility – but such deliveries are not sufficient to address all aspects of the challenge. Moreover, the existing favorable arrangement for selling electricity from the PERC facility will expire early in 2018 and, given existing market conditions, cannot be expected to be replaced on its current terms without a significant change in

current state regulatory policy. For these reasons, the MRC and the private PERC partners have not yet come to agreement on the terms of a contract extension that would be both affordable to the Charter Municipalities and satisfactory to the private partners.

The MRC and PERC continue to explore a variety of approaches to address the outstanding issues, including innovative methods for receiving support from state government to retain benefits of the existing arrangements. We are evaluating emerging technologies for converting MSW into shippable or liquid fuels and other higher-value products that could be appropriate to the scale of MSW availability and market conditions prevalent in Maine. We hope these arrangements will be feasible, but we cannot guarantee their success.

In this context, the MRC and the PERC private partners took advantage of the opportunity afforded by the closure of the MERC facility and the negotiation of the Casella-PERC Contract to secure a back-up option for MSW disposal beyond 2018 that might, under certain circumstances, become favorable for the Charter Municipalities. In particular, the contract includes an option for the PERC private partners to arrange disposal service for MSW from Charter Municipalities at the Juniper Ridge Landfill for a 10-year term starting in 2018. The option could be exercised by PERC in the event that the efforts to negotiate an extension or modification of the existing Waste Disposal Agreements are not successful, and other preferred alternatives are either not developed or are delayed in implementation beyond April 2018. Note that the full set of arrangements between the MRC, the Charter Municipalities, the PERC private partners and Casella that would govern the terms, conditions and certain costs of the exercise of the option have not yet been developed. The MRC would pursue development of arrangements at an appropriate time if PERC facility extension cannot be implemented and if no other preferred option is available.

For more information on all of these topics, please contact Greg Louder, MRC Executive Director, by telephone at (207) 664-1700, or by email at glouder@mrcmaine.org. More information on the MRC is available on our web-site at www.mrcmaine.org.