

**STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

STATE OF MAINE, DEPARTMENT OF
ADMINISTRATIVE AND FINANCIAL SERVICES,
JUNIPER RIDGE LANDFILL EXPANSION
#HQH-D4D1-RJBBR
ALTON, OLD TOWN, PENOBSCOT COUNTY

INTERVENORS' REPLY TO
BGS/NEWSME OPPOSITION TO
INTERVENORS' REQUEST FOR
MODIFICATION OF HEARING
SCHEDULE AND LICENSING
APPLICATION

I. The Applicant's Plan to Substantially Deviate from the Licensing Application Requires an Amended Application, a Modified Timetable, and Additional Public Notice

Intervenors the Penobscot Nation, Maine Rivers, Penobscot Bay Waterkeeper, Edward Spencer, and Daisy Goodman (collectively, "Intervenors"), now reply to the "Opposition of Bureau of General Services and NEWSME Landfill Operations, LLC to Intervenors' Request for Modification of Hearing Schedule and Licensing Application" (hereinafter, "Opposition"). On August 28, 2026, Bureau of General Services and NEWSME Landfill Operations, LLC (collectively "the Applicant") filed an Opposition disclosing for the very first time that the Applicant does not intend to seek approval of the PFAS treatment system through the pending Juniper Ridge Landfill ("JRL") licensing proceeding because the treatment system will not be located at JRL.¹

This development is both contrary to what the Applicant and the Maine Department of Environmental Protection ("DEP" or "the Department") represented during the ongoing Public Benefit Determination ("PBD") appeal and materially diverges from the Application for the

¹ Intervenors recognize that Presiding Officer Mongeon has designated NEWSME the "agent" of the applicant, but for conciseness, both BGS and NEWSME are collectively referred to as "the Applicant" throughout this reply.

Juniper Ridge Landfill Expansion License, #HQH-D4D1-RJBBR (“the application” or “the licensing application”).

The Applicant’s project now critically differs from the project presented in the licensing application and thus the application must be amended and supplemented to reflect the actual proposal—including the PFAS treatment system, and its ancillary facilities. In addition, a new timetable must be established, and Intervenors and the public must receive adequate notice and an opportunity to address the substantially revised application.

A. The Applicant Has Disclosed a Substantial Deviation from the Plan Described in the Licensing Application

In the Opposition, the Applicant states that although the proposal remains “subject to change,” it “currently plans” to install the PFAS treatment system at Pine Tree Landfill in Hampden, subject to obtaining all necessary approvals and agreements through a separate licensing process.² The Opposition thus reveals that the project the Applicant intends to pursue materially differs from the project described in the application central to the upcoming public hearing. The licensing application integrates an on-site PFAS treatment plant into the project’s design, operations, and infrastructure throughout the filing, including narrative descriptions, site plans, phased development figures, leachate management provisions, and multiple engineering drawings.³ The application repeatedly depicts an “Approximate Location of Proposed PFAS Treatment Plant,” describes leachate being pumped from on-site storage tanks to the PFAS

² Opposition of Bureau of General Services and NEWSME Landfill Operations, LLC to Intervenors’ Request for Modification of Hearing Schedule and Licensing Application, at 7 (Aug. 28, 2026).

³ See, e.g. Volume III: Design Report, Sevee & Maher Engineers, Section 1.1 at 1-2, ¶ 1; Section 1.2, Figs. 1-2, 6-1; Section 2.2.5 at 2-9; Section 3.3 at 3-20; Section 3, Figs. 3-1 through 3-8; Appendix A, Drawings C-101, C-102, C-107, C-311; Appendix F, Section 2, Figs. 2-2, 2-3; and Appendix K, Drawing C-101 (all identifying, depicting, or otherwise incorporating a proposed PFAS treatment plant and related infrastructure at the Juniper Ridge Landfill) (November 2025), [https://www.maine.gov/dep/ftp/Juniper-Ridge/PBD2024/archive/PhaseIIExpansionApplication/2025 November Expansion App Vol III Design Report.pdf](https://www.maine.gov/dep/ftp/Juniper-Ridge/PBD2024/archive/PhaseIIExpansionApplication/2025%20November%20Expansion%20App%20Vol%20III%20Design%20Report.pdf).

treatment plant and then to an on-site post-treatment storage tank, and includes design elements expressly connected to the on-site treatment facility, such as force mains, pump infrastructure, and post-treatment storage facilities.⁴ These references occur across dozens of sections or appendices of the application, reflecting that the on-site PFAS treatment plant is a foundational component of the facility design and leachate management system presented for licensing.

While this information—lacking any description of the treatment technology whatsoever—was legally insufficient for describing the leachate management system when the treatment system was to be *on-site*, it is now also glaringly inaccurate in light of the Applicant’s new plan for off-site treatment.

The current application presents regulators and the public with a project premised on on-site PFAS treatment. If that representation is no longer accurate, the application must be amended to ensure that the Department’s review, as well as the public’s participation, are based on an accurate description of the project actually proposed for licensing.

B. The Solid Waste Management Regulations Require the Application Be Amended and Supplemented

The Applicant’s newly disclosed proposal reveals that the current application no longer describes the project that the Applicant intends to construct and operate. The regulations do not permit the Department to evaluate a materially revised project based upon an application that no longer accurately describes that project.

Chapter 401 expressly requires applicants to identify the selected leachate-management method and provide the engineering and operational information necessary for its review. The engineering report must include “[a] description of the leachate management method selected.”

⁴ *Id.* Petitioners counted roughly two dozen references to on-site PFAS treatment in Volume III of the licensing application, alone.

06-096 C.M.R. ch. 401, § 2(F)(5)(a). The application currently before the Department plainly does not satisfy these requirements. If the Applicant now intends to transport untreated leachate to Pine Tree Landfill for treatment, the application does not describe that selected management method, does not explain how the transportation system will function, and does not identify the treatment technology upon which the proposal depends.

Chapter 401 further requires submission of “a complete design for on-site recirculation or ancillary facilities necessary to support treatment systems, and/or ancillary facilities necessary to support off-site treatment and disposal.” 06-096 C.M.R. ch. 401, § 2(F)(5)(c). The Applicant’s Opposition discloses a treatment plan that depends on such facilities, yet the application contains no design corresponding to the newly proposed off-site system. Instead, the application’s designs all relate to a PFAS treatment plant constructed at JRL.

Chapter 401 also requires a contingency and response plan addressing treatment-facility limitations, including backup arrangements where applicable. 06-096 C.M.R. ch. 401, § 2(F)(5)(e)(iii). Those requirements are particularly important here because the Applicant’s newly disclosed plan depends upon future approvals, future agreements, and a treatment system that has not yet been licensed. The application contains no contingency analysis evaluating what occurs if the separate treatment proposal is delayed, denied, or otherwise incapable of accepting JRL’s leachate.

The need for additional information to understand the impacts *at* JRL and the risks associated with the leachate management plan is not merely theoretical. In a DEP-commissioned study evaluating PFAS treatment alternatives for state-owned landfills, Sevee & Maher Engineers evaluated off-site treatment for JRL’s leachate and estimated that such a scenario would result in approximately 3,200 truckloads per year, thus deeming off-site treatment impractical for JRL’s

present-day leachate volumes.⁵ The study demonstrates that transportation requirements are a critical component of any off-site treatment strategy and underscores one of the many reasons why Chapter 401 requires detailed information on any selected leachate-management method in a licensing application. 06-096 C.M.R. ch. 401 § 2(F)(5)(a)-(e).

In short, the current application no longer describes the project the Applicant intends to build. More importantly, the application does not satisfy Chapter 401's substantive information requirements for either proposal (on-site or off-site). 06-096 C.M.R. ch. 401 § 2(F). The original application did not provide the information necessary for the treatment-specific review that DEP repeatedly asserted would be developed *during* the expansion's licensing. The newly disclosed Pine Tree proposal lacks all the ancillary-facility, transportation, contingency, and operational information required for the leachate management description. The application must be amended and supplemented before meaningful review can continue.

C. The Rules Require a New Timetable and Additional Public Notice

The regulations provide a clear route for addressing the type of pivotal development disclosed in the Opposition. First, Chapter 2, § 10(B) clarifies that acceptance of an application as complete is “not a review of the sufficiency of the information provided and does not preclude the Department from requesting additional information during the application processing period.” Thus, the regulations expressly contemplate supplementation when additional information becomes necessary. 06-096 C.M.R. ch. 2, § 10(B).

Second, Chapter 2, § 10(E) requires applicants to certify that submitted information is “true, accurate, and complete.” 06-096 C.M.R. ch. 2, § 10(E). The application presently before the Department repeatedly depicts a PFAS treatment plant *at* JRL and incorporates that facility

⁵ “Study to Assess Treatment Alternatives for Reducing PFAS in Leachate From State-Owned Landfills”, Sevee & Maher Engineers, at 7-10 (Jan. 2023). R. 2703.

throughout its engineering design. With an entirely new treatment proposal at hand, an amendment and supplementation are necessary to ensure that the application accurately reflects the project being proposed.

Most importantly, Chapter 2, § 11(B) provides: “If the Commissioner determines that the applicant has significantly modified an application after it was accepted as complete for processing, the processing time for the application stops until the Commissioner and the applicant agree to a new timetable.” This regulation goes beyond merely pausing the processing time as required once a hearing is granted—it requires setting a new timetable. 06-096 C.M.R. ch. 2, § 11(B).

The Applicant’s Opposition itself establishes the existence of a significant modification. The Applicant now represents that the PFAS treatment facility will not be located at JRL, that the treatment proposal remains subject to change, that it depends on additional approvals and agreements, and that a separate licensing proceeding will be required. Those changes affect the project’s design, operations, permitting pathway, leachate-management method, supporting infrastructure, transport and risk implications, and compliance strategy for satisfying the PFAS treatment condition. Those changes constitute a significant modification.

The regulations therefore require precisely the relief Intervenors seek: amendment and supplementation of the application, and establishment of a revised timetable based upon the application that the Applicant actually proposes to pursue.

Additional public notice is likewise warranted. Chapter 2, § 13(B) provides that the Department may require additional notice when an application is substantially amended. Because the newly disclosed proposal materially differs from the project submitted for review, additional notice is appropriate. 06-096 C.M.R. ch. 2, § 13(B).

As shown above, the regulations repeatedly contemplate adaptation of the review process when material project changes occur. A revised schedule is therefore not a departure from the rules; it is the remedy contemplated by them.

The Applicant's attempt to separate the landfill expansion license from the PFAS treatment evaluation is also inconsistent with the structure of the licensing regulations themselves. Chapter 2 defines a "Project" as "all portions of the development or activity for which Department approval is required." 06-096 C.M.R. ch. 2, § 1(U). The Applicant acknowledges that operation of the JRL expansion depends upon approval, construction, and operation of a PFAS treatment facility that requires separate Department approval. The treatment facility is therefore not an unrelated project; it is a necessary component of the overall development for which licensing approval is sought. Chapter 400 likewise requires that a licensing application "must describe all phases of the development." 06-096 C.M.R. ch. 400, § 3(C)(2). Because the proposed expansion cannot operate without the PFAS treatment system, the treatment system constitutes a phase of the development that must be disclosed and evaluated as part of the overall project. The Applicant's newly disclosed plan once again reinforces the need for amendment and supplementation of the current application.

II. The Applicant's Plan to Delegate the PFAS Treatment System to a Separate Licensing Proceeding by Building the System at Pine Tree Landfill Contravenes the Public Benefit Determination

The PFAS treatment system is at the very heart of the ongoing PBD appeal, and sequestering its evaluation to a separate licensing proceeding contravenes DEP's revised Public Benefit Determination ("Second PBD"), and representations both DEP and NEWSME repeatedly made to the Court in the ongoing judicial appeal of the Second PBD.

The Second PBD, issued after remand, again conditioned any expansion approval on the design and installation of a DEP-approved PFAS treatment system. The PBD is a legal prerequisite to this licensing application, and it was conditioned on the construction of a treatment system that

would be specified and scrutinized at the expansion licensing stage. The Second PBD imposed the following condition on the approval of the public benefit application for 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.”⁶ The Second PBD also noted that “This is the first time the Department has ever required a *landfill* to design, install, and operate a PFAS treatment system for its leachate.”⁷ The plainest reading of this text is that the landfill in question, JRL, would be the site for installing and operating the PFAS treatment system.

A. The PFAS Treatment Implementation Plan and Pilots Were Premised on On-Site Treatment

All documents that the Applicant and DEP have filed or issued in this expansion’s procedural history have represented that the expansion licensing stage would be the time to evaluate the PFAS treatment condition, on which the PBD rests. NEWSME’s implementation schedule, approved by DEP on January 10, 2025, clearly shows that the *only* licensing proceeding the construction of the treatment system was contingent on, was the licensing of the JRL expansion. There is no separate licensing proceeding mentioned in the entire implementation plan.⁸

The pilot treatment systems that were run in accordance with this plan, were both run at JRL.⁹ The first demonstration system submission stated, “a demonstration PFAS leachate treatment system (Demonstration System) must be installed to evaluate treatment processes on a

⁶ *Juniper Ridge Landfill Expansion S-020700-W5-CV-N Public Benefit Determination (Approval with Conditions)*, STATE OF ME, DEP’T OF ADMIN. & FIN. SERV., BUREAU OF GEN. SERV. 36 (March 23, 2026) [hereinafter “Second PBD”].

⁷ *Id.* at 34.

⁸ Implementation Schedule – PFAS Treatment, NEWSME Submittal (December 27, 2024), https://www.maine.gov/dep/ftp/Juniper-Ridge/PBD2024/archive/appeal/2024_12_27_NEWSME_Submittal_-_PFAS_treatment_schedule.pdf

⁹ JRL PFAS Treatment System Pilot Proposal, Sevee & Maher Engineers (April 11, 2025), https://www.maine.gov/dep/ftp/Juniper-Ridge/PBD2024/archive/PBDapplication/2025_08_11_PFAS_Demo_2_Proposal.pdf

smaller scale before full-scale implementation.”¹⁰ In short, the demo treatment processes were configured at JRL, with the intent to be replicable at full-scale, at JRL. All documents submitted on this project herein have been premised on implementing on-site treatment, to be evaluated at the licensing stage.

B. Both NEWSME and the Department Repeatedly Asserted, in Court, that the Expansion Licensing Stage Would Entail Evaluation of the PFAS Treatment System

NEWSME’s newly announced plan for off-site treatment, via a separate licensing proceeding, also conflicts with the Applicant’s and DEP’s repeated representations during the PBD appeal before Penobscot Superior Court. In these judicial proceedings, both NEWSME and DEP argued at length that the technical details and efficacy of the PFAS treatment system would be considered in the JRL licensing process.

In regards to the design of the PFAS treatment system, NEWSME wrote, “Ultimately, the design will be the subject of a rigorous technical review during the solid waste facility licensing process that is still yet to come.”¹¹ In regards to tightening the condition for the PFAS treatment system, NEWSME wrote: “Further, **should the Department determine additional conditions are necessary, including, for example, as to the technology selected and the treatment standards, the Department will impose those during the landfill expansion licensing process**” (emphasis added).¹²

DEP’s avowals in its judicial briefing that the licensing stage would be the time to evaluate the PFAS treatment system were stronger still. In their first brief to the Court, DEP stated that, “The relatively short PBD process does not allow for the fact-intensive considerations that will

¹⁰ *Id.* At 1.

¹¹ Rule 80C Brief of Party-In-Interest NEWSME Landfill Operations, LLC, *The Penobscot Nation and Conservation Law Foundation v. Me. Dep’t of Env’t Prot.*, No. PENS-C-APP-2024-00014, at 25 (Me. Super. Ct. filed Feb. 20, 2025).

¹² *Id.* at 27.

ultimately inform the specific parameters and design of a leachate treatment strategy. **Rather, the licensing process is the time for the Department to consider what specific treatment modalities, metrics, and enforcement mechanisms may be appropriate**” (emphasis added).¹³

In their second brief to the Court, post-remand, DEP stated, “Petitioners continue to ignore that the PBD is a threshold determination, one that is to be made extremely quickly—within 60 days, 38 M.R.S. § 1310-AA(2)—**and that the specific details and efficacy of any leachate treatment system for PFAS will be extensively considered in the lengthy, highly technical licensing process**, which may take up to 540 days or longer” (emphasis added).¹⁴

DEP cannot rely on the PFAS-treatment condition to grant a positive PBD, defend the PBD by promising extensive review of the treatment system at licensing, and then remove the treatment system from the licensing proceeding. The Department cannot, in good faith, continue preparing for a hearing on an application, and create imminent filing deadlines for Intervenors to assess said application, when the Applicant has spontaneously disclosed that a required and substantial component of the project will be located elsewhere and licensed through a completely separate process. The application must be amended and supplemented to describe the project the Applicant truly intends to build, the processing clock must stop while a new timeline is established, and the public must receive adequate notice and opportunity to address the substantially revised proposal.

III. Compliance with the PBD Conditions Must be Shown at the Licensing Stage

The Applicant cannot meet its burden of proof under the current application, because the PFAS treatment information is both deficient and inaccurate. An applicant for a license has the burden of proof to affirmatively demonstrate to the Department that all applicable licensing

¹³ Respondent’s Brief, *The Penobscot Nation and Conservation Law Foundation v. Me. Dep’t of Env’t Prot.*, No. PENS-APP-2024-00014, at 23 (Me. Super. Ct. filed Feb. 20, 2025).

¹⁴ Respondent’s Second Brief, *The Penobscot Nation and Conservation Law Foundation v. Me. Dep’t of Env’t Prot.*, No. PENS-APP-2024-00014, at 20 (Me. Super. Ct. filed June 10, 2026).

criteria in statute or rule have been met. 06-096 C.M.R. ch. 2, § 10(F). One such licensing requirement is conformity with the PBD, which was, in this case, an approval with conditions.¹⁵ A disposal facility may be licensed *only if* “the facility provides a substantial public benefit.” 38 M.R.S. § 1310-N(1)(B). The Applicant cannot satisfy the burden of complying with the PFAS treatment condition through an assumption that a wholly undefined—and inaccurately represented—future treatment system will be approved in a separate proceeding.¹⁶

The law does not require final construction specifications for every component at this stage. It *does* require the information expressly mandated by the applicable licensing rules and sufficient information to carry Applicants’ burden of proof.

IV. The Applicant’s Attempt to Delegate the PFAS Treatment System to a Separate Licensing Proceeding Increases the Very Inefficiency the Applicant Purports to Oppose

The Applicant’s Opposition makes much of the need for expediency in expanding Juniper Ridge Landfill. Yet the bifurcated licensing proceedings proposed by the Applicant will inevitably slow down and complicate the process. The Department would be required to maintain separate administrative records for two interdependent pieces of a single project, conduct separate technical reviews, provide separate public-participation opportunities, and even potentially defend separate licensing decisions on appeal.

The approach also creates uncertainty concerning whether the expansion can ever operate as approved if the separate treatment proposal is denied, delayed, or materially altered—such a failure would make any operations of an expanded JRL unlawful. Addressing the PFAS treatment proposal within the present licensing process, through an amended application and revised

¹⁵ Second PBD at 36.

¹⁶ 06-096 C.M.R. ch. 400, app. C(2) further states that the licensee “shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, statutes, regulations, and orders prior to or during construction and operation, as appropriate. One such condition is the PFAS treatment condition.

timetable, is therefore more administratively efficient than fragmenting review across multiple proceedings.

Even if the Department concludes that the proposed off-site treatment system may be licensed separately from the JRL expansion, it should require that the Pine Tree treatment facility obtain all necessary approvals before granting final approval of the expansion. Chapter 2, § 10(C) expressly authorizes the Department, where multiple licenses are required, to “require the applicant to submit applications in a specific sequence as deemed necessary for administrative efficiency.” 06-096 C.M.R. ch. 2 § 10(C). DEP should exercise that authority here. Requiring approval of the Pine Tree treatment system before final action on the JRL expansion would allow the Department to determine whether the leachate-treatment system on which the expansion depends is in fact achievable and would avoid approving a 72-acre landfill expansion that may ultimately lack an approved means of complying with a central licensing condition.

V. Conclusion

For all the above reasons, the Third Procedural Order should be modified, and the expansion licensing application must be supplemented and amended to include the accurate and sufficient description of the leachate management method. Since the start of the PBD appeal nearly two years ago, Intervenors have been told to prepare to evaluate the PFAS treatment system at the expansion licensing stage. The current hearing and filing deadlines, including the upcoming September 18, 2026, deadline, were established before the Applicant disclosed its intent to pursue a PFAS treatment strategy materially different from the one described throughout the licensing application. That position conflicts with the application itself and conflicts with the premise upon which the PBD was conditioned and defended; it leaves the current application without the information required by Chapter 401 for either the originally contemplated on-site treatment system or the newly disclosed off-site treatment proposal. 06-096 C.M.R. ch. 401 § 2(F)(5)(e).

The regulations provide a clear path forward. The application must be amended and supplemented to describe the project that the Applicant actually intends to build. The Department must require the information needed to evaluate that proposal, provide additional notice as appropriate, and suspend the existing processing timetable pursuant to Chapter 2, § 11 while a revised schedule is established. 06-096 C.M.R. ch. 2 § 11 (B). Only after those steps occur can the Department, the parties, and the public meaningfully, fairly and lawfully evaluate the actual project for which approval is now sought.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read 'Daisy Goodman', followed by a horizontal line.

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