

February 28, 2012: Mr. Leithiser's Appeal of the Juniper Ridge Public Benefit Determination

STATE OF MAINE, ACTING THROUGH THE)	PUBLIC BENEFIT
STATE PLANNING OFFICE)	DETERMINATION
OLD TOWN, PENOBSCOT COUNTY, MAINE)	
JUNIPER RIDGE LANDFILL EXPANSION)	
#S-020700-W5-AU-N)	PARTIAL APPROVAL
(APPROVAL WITH CONDITIONS))	

Request for change in permit conditions

2/28/2012

Susan Lessard, BEP Chair
 c/o Terry Dawson
 #17 State House Station
 Augusta, ME 04333-0017

Hello Chair Lessard and members of the Board,

My name is Charles Leithiser, and I have been a resident of and homeowner in Old Town, Maine for the past 32 years. I have been granted standing and appeared before this Board previously, in a 2010 (unsuccessful) appeal of the DEP ruling that allows treated biomedical waste to be disposed of in the Juniper Ridge Landfill. I am unable to request that my City Government appeal this partial approval of Public Benefits determination, due to a clause in Old Town's Host Community Agreement that suspends payment to the City in officials challenge any licenses or agreements regarding Juniper Ridge and the City's dependence on said payments.

I was present at most, if not all of the public meetings held before the State Planning Office took ownership of the West Old Town Landfill, now known as Juniper Ridge. I repeatedly heard the promise made by State and Casella officials that no out-of-state waste would be permitted at Juniper Ridge. As a result of my persistent questioning of the Old Town City Manager and the Old Town City Council as to why increasing amounts of Construction and Demolition Debris (CDD) processing residues were coming to Juniper Ridge when most of the CDD came from out-of-state and the Old Town mill was no longer burning CDD-derived fuel - apparently in conflict with the Host Community Agreement (see included, page 3) between Old Town, the State, and Casella - that the November 2006 "secret" amendment to the Juniper Ridge Operating Services Agreement finally became public in 2008. As noted in Commissioner Aho's partial approval of the Public Benefit Determination (PBD) on page 25, "the rate of CDD generated in Maine requiring disposal has in significant part increased because CDD that was imported for disposal at Pine Tree Landfill is **now** (emphasis added) classified as waste generated in Maine...". This is one result of the secret amendment, which might still not be public knowledge were it not for my diligence.

I use the term "secret" because neither the State Planning Office nor Casella Waste Systems and its attorneys notified the legislature, the DEP, the City of Old Town, the Juniper Ridge Landfill Advisory Committee, or the public of this amendment when it took effect. I had been questioning Old Town city officials, and follow-up questions posed by the City Manager to the State Planning Office eventually uncovered two "secret" amendments to the Operating services Agreement, nearly two years after enactment of the amendments. I'm pleased to read that the Commissioner, on page 19 of the determination, finds that provisions in the amendment that encourage Casella to import CDD are outdated given current circumstances.

I am not appealing Commissioner Aho's partial approval of the PBD for the proposed expansion of Juniper Ridge. In fact, I strongly support and completely agree with the Commissioner's provisions in the PBD regarding oversized bulky waste (as a result of CDD processing) and Municipal Solid Waste (MSW) bypass.

Rather, I am asking the Board for a change in specific permit conditions, as allowed according to the DEP's "Appealing a Commissioner's Licensing Decision" information sheet. I am requesting that the 9.35 million cubic yard expansion approved for Public Benefit Determination be reduced to 4.3 million cubic yards. My reasoning is as follows.

According to the State Capacity Report (page 7 of the partial approval), an estimated 24.4 million cubic yards of landfill capacity will be required over the next 20 years, based on a growth rate of 2.8%. The Commissioner finds, on page 19 of the PBD, that there likely exists sufficient disposal capacity currently available to meet Maine's long-term (10 year) needs, and also notes on page 17 that there are many factors that may actually decrease future capacity needs. As these factors are "unknowns", though, I will base my calculations on the total 24.4 million cubic yards identified as total capacity needs as of the end of 2009.

One of the difficulties in figuring actual capacity is due to the fact that some amounts provided in the partial approval are given in tons, while other amounts are listed in cubic yards. The PBD provides conflicting tons-to-cubic-yards conversions. The first full paragraph on page 10 shows that 4.9 million cubic yards is equivalent to 3.26 million tons, for a conversion factor of 1.5 cubic yards per ton. However, the next paragraph gives 6.2 million cubic yards as equivalent to 4.5 million tons, for a conversion factor of 1.37 cubic yards per ton. In order to err on the side of caution, I will use the larger of the two conversion factors here; that being 1.5 cubic yards per ton.

The second difficulty I encountered is that the partial approval does not provide the amount of waste deposited at the Crossroads Landfill in 2011. For purposes of calculation, I used the average of the amounts disposed there in 2009 and 2010. Page 9 shows that Crossroads accepted 265,047 tons of waste in 2009 and page 10 shows 258,375 tons in 2010. The average of the tonnages is 261,711 tons, which is what I assumed for 2011. I believe this amount will not deviate greatly from the actual amount.

As mentioned above, the Capacity Report shows a need of 24.4 million cubic yards of disposal capacity needed in Maine for the next 18 to 20 years (the report gives 20 years capacity needs as of the end of 2009). The existing capacity at Juniper Ridge at the end of 2010 was 6,565,719 cubic yards (page 9). According to Attachment E, 706, 452 tons of waste was deposited at JRL in 2011. Using the 1.5 cubic yards per ton conversion as previously explained, the 2011 waste deposited equals 1,059,719 cubic yards. Therefore, the remaining capacity at Juniper Ridge as of the end of 2011 is 5,506,041 cubic yards (6,565,719 minus 1,059,719 leaves 5,506,041).

At the Crossroads Landfill, capacity remaining at the end of 2010 was 3,907,064 cubic yards. Using an average of 2009 and 2010 amounts, approximately 261,711 tons or 392,566 cubic yards was deposited in 2011. That leaves 3,514,498 cubic yards available capacity at Crossroads (3,907,064 minus 392,566 is 3,514,498).

The PBD shows that there is 4.9 million cubic yards capacity remaining at the seven municipally-owned MSW landfills and 6.2 million cubic yards remaining at two municipally-owned MSW processing residue landfills (page 10). The result is a need of 4,279,461 cubic yards of additional capacity to meet Maine's needs for the next eighteen to twenty years; far beyond the ten-year time frame the DEP define as "long-term".

20-year capacity needs (end of 2009)	24,400,000 cubic yards
Minus existing capacity Juniper Ridge (end of 2011)	-5,506,041
Minus existing capacity Crossroads (end of 2011)	-3,514,498
Minus existing capacity seven MSW landfills	-4,900,000
Minus existing capacity two MSW process residue landfills	-6,200,000
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Actual additional capacity needs (18 – 20yrs), based on PBD figures	4,279,461 cubic yards

This is how I arrived at my request to limit the partial approval of public benefit determination at an expansion of 4.3 million cubic yards as opposed to the 9.35 million cubic yards granted in the partial approval. With all due respect to the Commissioner and the diligent staff at the DEP, the numbers simply do not support the need to approve more than twice the amount of space necessary to meet the State's capacity needs for nearly double the long-term.

A 4.3 million cubic yard expansion provides a considerable "buffer" in the event of unforeseen circumstances for many reasons. To begin, I used the higher conversion factor when switching from tons to cubic yards (1.5 vs. 1.37). I also did not take into account the many factors identified by the Commissioner that will decrease Maine's capacity needs – including new limits on oversize bulky waste and MSW bypass at Juniper Ridge, the potential decreases in CDD processing residues requiring disposal as a result of full implementation of 38 MRSA 1310-N (5-A), recent decreases in the actual amount of solid waste needing disposal, the potential capacity increase at other landfills, the extension of waste fees to include residues from CDD processing, possible statutory changes to the definition of "waste generated within state", and a reduction in waste disposal needs due to state efforts to increase

recycling and more closely adhere to the state's Waste Management Hierarchy. I did not consider the operation of PERC past 2018 as this PBD pertains only to Juniper Ridge, which is not licensed to accept MSW except for the minimal amounts approved by the DEP for soft-layer material and as bypass. If PERC were indeed to cease operations, the MSW currently processed there could not be disposed in the Juniper Ridge Landfill regardless of licensed capacity.

More importantly, I also did not take into account the remaining eight to ten year (ten to twelve year at the end of 2009) capacity that exists in the state's fourteen municipally-owned, less than six acre landfills. This additional capacity should be ample and adequate as a buffer should the need arise.

In conclusion, the figures and amounts of waste provided in the PBD do not justify a 9.35 million cubic yard expansion at Juniper Ridge. A 4.3 million cubic yard expansion is more than enough to meet the state's immediate, short-, and long term needs, and then for an additional eight to ten years! A 4.3 million cubic yard expansion is also consistent with the state's waste management and recycling plan and is not inconsistent with local, regional, or state waste disposal.

Respectfully submitted,

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