



**NRCM Testimony to the Maine Board of Environmental Protection concerning the
Juniper Ridge Landfill Expansion Application #S-0120700-WD-BI-N and #L-024251-TG-C-N
October 18th, 2016**

Good evening Chairman Parker and members of the Board of the Environmental Protection (BEP), my name is Ryan Parker and I am the Environmental Policy Advocate for the Natural Resources Council of Maine.

I appreciate the opportunity to speak against the proposed expansion of the Juniper Ridge Landfill (JRL) in Old Town.

NRCM believes that the proposed expansion does not adhere to the State's Solid Waste Management Hierarchy licensing criteria because the State hasn't first implemented common sense ways to reduce the fill-rate of the landfill to extend the life of the current licensed capacity. In that vein I want to thank Chairman Parker for his line of questioning this afternoon regarding efforts to reduce the amount of MSW taking up landfill space.

In addition to some other issues, I want to point out an apparent inconsistency between the application and the requirements for its approval.

Chapter 400, section 3 reads, in part, "The Department shall issue a license for a solid waste facility or activity whenever it finds that the facility or activity satisfies all applicable requirements of...this chapter".

I think this gets straight to the heart of Dr. Eastler's questions this afternoon regarding metrics. Chapter 400, section 3 - D reads, "The Department shall issue a license for a solid waste facility whenever it finds, based upon substantial evidence in the record, that the solid waste facility will not contaminate any water of the State, contaminate the ambient air, constitute a hazard to health or welfare, (and here comes the important phrase) *or create a nuisance*." It is important to note that the word 'nuisance' is not defined in the definitions section of chapter 400, presumably because the word has a clear definition upon which the department and/or board can rely in their determinations. The established definition of 'nuisance' is "a person, thing, or situation that is annoying or that causes trouble or problems."

While the application in question has attempted to address several of the other criteria listed under chapter 400, section 3 - D, the application does not address the nuisance standard. In fact, the board could find from residents with property adjacent to and near the site in question, ample evidence that the existing site *is* a nuisance and that the proposed expansion will result in a directly proportional increase in that nuisance. Some of those residents have submitted testimony to that effect. We urge the board to consider the nuisance standard, the application's apparent failure to address it and the evidence that the expansion may in fact be a nuisance to residents, in its determination as to whether,

to again quote chapter 400, “the facility or activity satisfies all applicable requirements of this chapter.”

In addition to technical issues with the application itself, there are the larger issues the proposed expansion touches. We encourage BEP to reject this application, and instead work to pass legislation that *reduces* what goes into the JRL to extend the life of the existing licensed capacity by 1) preventing out-of-state waste from entering the landfill, 2) requiring the landfill operator to use an alternative daily cover that does not take up airspace, and 3) prevent anything that is going into JRL from being applied to the State’s recycling rate.

The applicant asserts that this expansion is necessary to meet the long term capacity needs of the *State*, but we disagree. And in January of 2010, DEP Commissioner Littell also disagreed when he issued a denial letter explaining why an expansion of JRL did not provide public benefit. The five conclusions outlined in the 22 page denial letter included:

- 1. The proposed expansion of the Juniper Ridge Landfill in Old Town, Maine, will not provide a substantial public benefit.*
- 2. The capacity proposed for expansion of the Juniper Ridge Landfill is not needed to meet the immediate or short-term solid waste disposal capacity needs of the State.*
- 3. The capacity proposed for expansion of the Juniper Ridge Landfill is not currently needed to meet the long-term disposal capacity needs of the State.*
- 4. The proposal for expansion of the Juniper Ridge Landfill is not consistent with the State Plan.*
- 5. The increased landfill capacity of the proposed Juniper Ridge Landfill expansion is inconsistent with local, regional or state waste storage, transportation, processing or disposal.*

We find it troubling that just two years later then DEP Commissioner Aho issued a partial public benefit determination that ignores all conclusions from the previous commissioner and we believe that this discrepancy should factor into your decision.

NRCM is particularly concerned that there is clearly a large amount of waste that originated *from out-of-state* entering JRL which is causing the landfill to fill more quickly than it otherwise would. This landfill is instead being used to meet the disposal needs of other states, and therefore it *should not* have passed the public benefit determination criteria as meeting state needs, and this also *should* be a direct violation of the current permit.

At issue is the problematic language in 38 M.R.S.A. 1310-N (11) which states, in part, “*waste generated within the state includes residue and bypass generated within the State or outside the State, if it is used for daily cover*”... among other uses. Defining out-of-state waste as in-state waste depending on its use is misleading, and is allowing our state owned landfill to be the dumping grounds for New England. For instance, in 2013, 88% of the material accepted at the ReEnergy facility in Lewiston was delivered from out of State, and after some processing at the facility, ReEnergy then sent 97% of their material to JRL. Then because of this non-sensical definition of in-state waste, the applicant is able to “verify” that no out of state waste entered the landfill in their annual report. This is just plain wrong. (See attachments for excerpts from 2013 ReEnergy and JRL Annual Reports)

We believe that this statute should be amended to define in-state waste as waste generated within the State only, regardless of whether it is being used for daily cover or not—particularly because there are different forms of daily cover that do not take up airspace, such as a retractable tarp.

Further, we are greatly troubled that the laws and rules governing waste management in the State define materials being used as an alternative daily cover in landfills as “beneficial use” and is then counted toward Maine’s recycling goal. We do not believe that any material that is being buried in our landfills should be considered beneficial or used to pad our recycling rate—especially if that waste didn’t originate from within the State. This only leads to more material being buried in the landfill—which is not recycling by any stretch of the imagination. And, as Chairman Parker pointed out during his questioning this afternoon, the purpose of the state’s hierarchy is to put less material into the landfill.

It’s clear that current statutes guiding the use of JRL contradict the hierarchy by allowing out-of-state waste to go into the landfill and by classifying landfilled material as recycling, and these problems should be fixed. If these and other policies are fixed, it would go a long way toward increasing the usable life of the landfill in question. Our state’s solid waste management hierarchy prioritizes waste reduction, reuse, and recycling before disposal at an incinerator or landfill. And our State’s Solid Waste Management Rules require that waste management facilities are reducing, reusing, recycling, composting and/or processing waste to the “maximum extent practicable” prior to disposal.

We believe that expanding this landfill without first taking steps to limit—*i.e. reduce* --what goes in there is a direct contradiction of the State’s Solid Waste Management hierarchy and Solid Waste Management Rules and is an injustice to the people of Maine. For these reasons, we believe BEP should reject this expansion application and instead pursue ways to slow the fill-rate of the landfill through the legislative fixes that we’ve outlined above.

On another note, although we disagree with the expansion of the landfill at this time, another glaring issue that we find with the application is the flood plan. With climate change already impacting the strength and frequency of rain events, we believe it would be incredibly irresponsible to plan for only a 100 year storm event.

Our state-owned landfill should no longer be treated as New England’s dumping grounds, and if the Board approves this expansion it will be ensuring Maine continues to be that dumping ground.

Thank you for your time, I’d be happy to try to answer any of your questions.

Ryan Parker
NRCM Environmental Policy Outreach Coordinator

This report shows that out-of-state waste is going into Juniper Ridge Landfill

From the ReEnergy Lewiston Facility Annual 2013 Annual Report:

This table shows that 88% of all waste coming into the Lewiston ReEnergy facility was sourced from out-of-state (174,489 out of 197,803 tons).

Waste type received	Origin by state or province	Amount received (break out by state/province)	Amount processed	Unit of Measure
Mixed C&D	ME	15,441.38		Tons
Mixed C&D	MA	152,946.98	←	Tons
Mixed C&D	NH	2,885.89	←	Tons
Clean Wood	ME	8,872.08		Tons
Clean Wood	MA	15,706.41	←	Tons
Clean Wood	NH	1,924.61	←	Tons
Clean Wood	RI	25.99	←	Tons

These two tables show that most of it, 191,719 tons of material was sent to JRL.

Recyclable or waste type (use types as listed in 1.A)	Destination State or Province	Weight	Unit of Measure	Destination facility
Aggregate	ME	2,659.59	Tons	City of Lewiston Quarry
Metals-Ferrous	MA	2,607.53	Tons	Schnitzer Northeast
Metals-Ferrous	ME	529.09	Tons	Schnitzer Northeast
Metals-Ferrous	ME	15.19	Tons	Grimmels
Metals-Ferrous	ME	35.36	Tons	One Steel
Metals-Ferrous	NH	746.54	Tons	LL&S, Inc.
Metals-Non-Ferrous	ME	256.71	Tons	One Steel
Metals-Non-Ferrous	ME	146.7	Tons	Schnitzer Northeast
Processing Residue - Bulkies	ME	54,544.53	Tons	Juniper Ridge Landfill
See Attached Addenda				

Description of processing products	Weight	Unit of measure	Destination – user or facilities
CDD Wood Chip Fuel	2,800.12	Tons	Business Sensitive ME Facility
CDD Wood Chip Fuel	7,340.29	Tons	Business Sensitive ME Facility
CDD Wood Chip Fuel	5,315.94	Tons	Business Sensitive ME Facility
CDD Wood Chip Fuel	284.44	Tons	Business Sensitive ME Facility
CDD Wood Chip Fuel	829.35	Tons	Business Sensitive Canadian Facility
CDD Cover Chip	160.79	Tons	City of Lewiston
CDD Cover Chip	728.27	Tons	Juniper Ridge Landfill
CDD Processing Residue - Fines	136,447.47	Tons	Juniper Ridge Landfill

As part of permit condition, all waste going to JRL must have originated within the State

Excerpt from Juniper Ridge Landfill; 2013 Annual Report:

During 2013, the waste stream at JRL included construction and demolition debris, FEPR, CDD processing residue wood fines, OBW, MSW incinerator ash, municipal wastewater sludge, lime mud, wood ash, contaminated soils, pulp/paper sludge, MSW bypass, and other approved special wastes.

Between January 1, 2013 and December 31, 2013, JRL received a total of 606,254 tons of material as compared to 637,303 tons received during 2012. Non-waste-related deliveries to the landfill during 2013 consisted of 1,670 tons of tire chips and shreds (utilized for landfill gas collection trenches and leachate drainage systems).

Table 3-1 lists the specific waste types accepted at the landfill during report year 2013 and the corresponding tonnages. The MEDEP report form "2013 Annual Solid Waste Management Report for Municipalities and DEP-licensed Transfer Stations and Landfills" is contained in Attachment C.

As seen in Table 3-1, the six predominant waste types received at the JRL facility during 2013 included construction and demolition debris, CDD processing residue wood fines, CDD processing residue bulky waste, MSW incinerator ash, front-end process residue, and municipal WWTP/POTW sludge. In compliance with JRL's permit condition, wastes going to the landfill were screened in advance in order to assure that no out-of-state wastes were accepted at the facility.

**SUMMARY OF WASTES ACCEPTED AT JUNIPER RIDGE LANDFILL
REPORT YEAR 2013**

Type of Waste	Quantity (tons)	Origin
Burn pile ash and/or hot loads area ash	1,208*	Maine
Catch basin grit & street sweepings	686	Maine
CDD processing residue - bulky waste	54,203	Maine
CDD processing residue – fines	152,915*	Maine
Coal, oil & multifuel boiler ash	7,507 *	Maine
Contaminated soil & debris	1,462	Maine
Dredged spoils	-	Maine
FEPR	53,654	Maine
Industrial WWTP sludge	18,206	Maine
Leather scraps	172	Maine
Lime mud and grit	7,321	Maine
Miscellaneous special wastes	21	Maine
Mixed CDD	167,418	Maine
MSW Bypass	7,326	Maine
MSW incinerator ash ¹	57,435*	Maine
Municipal WWTP/POTW sludge	40,243	Maine
Non friable asbestos	3,410	Maine
Non-hazardous chemical related	377	Maine
Oil spill debris	6,002	Maine
Oversized bulky waste (MSW procsng.)	150	Maine
Pulp mill waste	8,022	Maine
Rock and soil drill cuttings	-	Maine
Sandblast grit	143	Maine
Short-paper fiber	6,110*	Maine
Spoiled foods	296	Maine
Stumps ²	34	Maine
Sulfur Scrubbing Residues	1	
Sulfur slurry & sulfur filter media	-	Maine
Treated biomedical waste	1,096	Maine
Urban fill soil & debris	9,555	Maine
Wood from CDD ²	891	Maine
WWTP grit screenings	389	Maine
TOTAL TONS³	606,254	

1. Only approximately 50% of the MSW incinerator ash is used as ADC, the other 50% is mixed with sludge as a stabilizer.
 2. Stumps and Wood from CDD were received at the Juniper Ridge Landfill wood storage facility.
 3. Total does not include purchased materials: tire chips (1,670 tons). Monthly reports include this purchased material. Total derived from sum of higher significant digit numbers, not rounded whole numbers as provided in the above table.
 * Denotes materials used as alternative daily cover.