

Before The State of Nevada
State Environmental Commission

**APPELLANT COOK'S
RESPONDING BRIEF
TO NDEP AND
RECOLOGY BRIEFS**

In re

APPEALS OF CLASS I SOLID WASTE
DISPOSAL SITE PERMIT #SW495REVOO

The Attorney General accuses Appellant of presuming failure of the Jungo Landfill design. Appellant presumes no such thing he acknowledges that he is not an expert in landfill design. Appellant relies, instead, on the expert opinions of G. Fred Lee, PhD a Harvard educated environmental engineer who has fifty years of landfill experience and who states unequivocally in his fifty-five page, "Review of Potential Health & Groundwater Quality Impacts of the Proposed Jungo Landfill," that as proposed this landfill will, "...leave the County and the State with a massive liability of impaired public health and destroyed water resources."

AG states that the proposed landfill is, "highest state-of-the-art design." Not true, the proposed landfill would be equivalent to the Ford Edsel of landfills and, according to Dr. Lee, would be illegal in the operator's home State of California.

AG states that NDEP addressed each concern submitted during the public comment period. Not true, NDEP's answers are posted at the SEC web site and attached is just one of many submissions by the public, please compare this to the record and dare falsely state again that all public concerns were addressed.

AG and Recology claim that Appellant's evidence, Exhibits A-I were not before NDEP during the permitting process. Not true, see attached letters from Appellant to Jon Taylor which include Exhibits D and I. Exhibit A wasn't before NDEP because it was taken after the close of the public comment period; however, it is similar to Exhibit D and just like Exhibits D, E, F is simply a visual representation of what numerous members of the public have been telling NDEP for years, Desert Valley floods frequently. There is nothing in this Appellant's Exhibits that NDEP shouldn't have already been aware of.

AG states that Appellant relies heavily on the '95 Berger report and claims that it is not an appropriate study for a landfill but fails to acknowledge that Recology in their Report of Design (ROP) also relied heavily on the Berger report.

AG's argument that the waters of the State will not become degraded because the landfill is designed not to leak is as convincing as arguing

that a space shuttle will never blow up because they are designed not to.

The EPA has acknowledged that all liners and leachate collection systems will ultimately fail; indeed, Jon Taylor in a March 4, 2009 letter to Erin Merrill of Recology (then NORCAL Waste Systems) Appellant exhibit J, "The NDEP will not assume 'no Leakage' through the liner." They added a second liner and then did just that. According to Dr. Lee, (...when the landfill liners system eventually fails to prevent leachate from entering the underlying aquifer system the groundwater under the landfill will be polluted by hazardous and otherwise deleterious chemicals derived from the MSW."

AG argues that the double liner system is designed to alert if there is a breach in the primary liner. Assuming that the warning system works and Dr. Lee is confident that it won't, then what? Is the operator going to use heavy equipment to dig up millions of tons of garbage in a futile attempt to repair the liner destroying both liners in the process? There is no fixing the problem once leachate escapes containment and it certainly will according to Dr. Lee.

AG's argument that there is no surface water within 1,000 feet of the landfill site is belied by Appellant's Exhibits A, D, E, F and I. Counsel goes on to claim that even if there is surface water, so what? The Solid

Waste Management Authority can ignore that restriction under NAC 444.678 (9). Perhaps, because that regulation has the “wobble words,” “Unless approved by the solid waste management authority;” however, NAC 444.678 (2) is clear, “Prevent pollutants and contaminants from the municipal solid waste landfill units at the site from degrading the waters of the State.”

The system, no matter how well designed, will fail and because of the proximity to the groundwater it will become polluted. Because of the low surface elevation, permeable soils and high ground water table this site was not appropriate for a landfill and in spite of Jon Taylor’s “bag-of-tricks,” waters of the State will eventually become degraded. NDEP knew or should have known this, it was clear to Dr. Lee. In issuing this permit NDEP is in clear violation of NAC 444.678 (2) and that is why the SEC must overturn this permit.

AG or NDEP platitudes in defense of this ill-conceived project boggle the reasonable mind. NDEP responded to question #31 in their Response to Specific Comments by stating that the waters under the landfill won’t become polluted because, “This is expressly prohibited/restricted in accordance with NAC 444.678 & NAC 444.6887.” Huh?

AG resorts to sarcasm in referring to G. Fred Lee, whom she goes on to

quote out of context several times, as the “Appellants’ favorite author.” In fact, E.L. Doctorow is this Appellant’s favorite author. By comparison the “fiction” presented in the AG and Recology’s Response Briefs is terrible. Appellant, at least, relies on Dr. Lee’s indisputable expertise while Recology’s attorney, John Frankovich, postures himself as a landfill expert. “With the advent of modern liner systems such as that approved in Jungo’s permit, the quality of the liner – not the distance to the aquifer- is most important,” – says who Mr. Frankovich? You? Why don’t you run that preposterous statement by Dr. Lee? You are simply trying to rationalize NDEP’s 70% reduction in the 100’ to groundwater regulation which will serve only to hasten the destruction of the aquifer.

In typical convoluted ad-hominem logic Mr. Frankovich states, “In arguing that NDEP had discretion to find otherwise and not issue the permit Appellants effectively concede that, when issuing the permit, NDEP acted within its discretion.” Say what? Now there’s a “Catch Twenty-Two” statement – damned if you do, damned if you don’t.

There is nothing technical, Mr. Frankovich, about pictures of Desert Valley flooded, pictures which you say, inexplicably, help your client’s case and then you try and suppress them as Exhibits. Whose side are you on? Who do you think that you are fooling with your hyperbole?

In your arguments you, just like NDEP and Lopes, who never did any independent investigation of the proposed site or sought any alternative rely on Golder's modeling. Golder couldn't even get the wind direction right, they claimed that Desert Valley was a, "perched basin." They knew or should have known that that site was unsuitable for that activity. In Appellants opinion they bled Recology for as much money as they could just like you.

This Appellant never conceded that the site is not within a 100-year floodplain, all that this Appellant conceded was that FEMA has erred in the past. The area is, in fact, a floodplain by FEMA's own definition, "Any land area susceptible to being inundated by flood waters from any source."

This Appellant never attacked HDPE liners he only provided information on their vulnerability that originated with the manufacturer. Your, "robust design," uses the minimum standard of 60 mils instead of the more robust 100 mils. Everything you mention as "state-of-the-art" is, in fact, the minimum required by the EPA according to the attached EPA information sheet with some smoke and mirrors thrown in such as a second liner which will ultimately fail also and a detection system that may ultimately alert the operator that it is time to sell the landfill to Waste Management and get out of town because the damage has already

been done. Ponds and ditches to control flooding will be frequently flooded along with everything else including the three-mile long planned access road along the south side of the railroad tracks. The railroad berm acts s a dam and flotsam can be seen along the south side of the berm indicating that the 2' raised access road will be impassable in bad weather in violation of 444.678 (1).

The bottom line is clear, nothing in the Report of Design or anywhere else gives any assurance that the ground water will not become degraded. By talking about reducing the threat of contamination NDEP is admitting that the threat is real. The SEC must overturn this permit on the basis that as proposed the project will result in a clear violation of NAC 444.678 (2).

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JON TAYLOR,

I HAVE SEVERAL QUESTIONS ON THE DRAFT PERMIT FOR THE PROPOSED JUNGO ROAD LANDFILL. THEY ARE ARRANGED BY TOPIC.

FINANCIAL ACCOUNTABILITY

1. WHICH ENTITY IS RESPONSIBLE FOR CONTRIBUTIONS? OWNER? OPERATOR? OTHER?
2. HOW OFTEN IS THAT MONEY DEPOSITED AND WHERE, TO WHOM IS IT PAYABLE AND UNDER WHAT CIRCUMSTANCES?
3. WILL THE TRUST FUND BE KEPT IN NEVADA AND IF NOT, WHY?
4. HOW WILL THE PUBLIC BE KEPT INFORMED OF THE STATUS OF THAT ACCOUNT?
5. WHAT AMOUNT WILL BE CONTRIBUTED YEARLY AND WHAT FORMULA IS USED TO DETERMINE THAT AMOUNT? PAYMENT TO THAT ACCOUNT NEEDS TO BE MADE AND DOCUMENTED DAILY.
6. WHAT PENALTIES WILL BE IMPOSED AND HOW WILL THEY BE ENFORCED IF THE CONTRIBUTING ENTITY FAILS TO COMPLY WITH PAYMENT SCHEDULE?
7. WILL THE TRUST BE ALLOWED ACCEPT PAYMENTS FROM MORE THAN ONE ENTITY OR MUST IT ALL COME FROM THE ONE DESIGNATED ON INCEPTION?
8. WHAT PROCEEDURE WILL BE USED TO CHANGE THE PARTY RESPONSIBLE?
9. WILL THE PUBLIC BE NOTIFIED OF ANY CHANGES TO THE TRUST AGREEMENT AND HOW?
10. WHAT IS THE NAME OF THE ENTITY RESPONSIBLE FOR MAKING THE FIRST PAYMENT AND WHEN IS IT DUE?
11. WHAT HAPPENS IN CASE OF DEFAULT?
12. WHAT ARE THE PENALTIES FOR LYING TO THE NDEP?
 - a. WHO ENFORCES THOSE PENALTIES?

ISSUES/VIOLATIONS

1. HOW WILL NEIGHBORING LAND OWNERS BE PROTECTED BY THE NDEP?
 - a. HOW CLOSE DO THEY NEED TO BE TO THE PROPOSED LANDFILL TO BE PROTECTED BY THE NDEP?
2. WHO CAN REPORT VIOLATIONS AND WHERE IS A LIST OF THE VIOLATIONS TO WHICH THE NDEP WILL RESPOND?
3. HOW WILL COMPLAINTS BE RESPONDED TO BY THE NDEP?
4. WHAT DOCUMENTATION OR PROOF OF VIOLATION MUST BE SUBMITTED?
5. HOW OFTEN WILL SITE INSPECTIONS BE CONDUCTED AND WILL THE OPERATOR BE NOTIFIED PRIOR TO INSPECTION?

6. DOES NDEP HAVE TRAINING AVAILABLE FOR THE PUBLIC TO HELP IDENTIFY AND DOCUMENT VIOLATIONS? HOW CAN THE PUBLIC ASSIST THE NDEP WITH MEANINGFULL AND TIMELY INFRACTION REGULATION AND ENFORCEMENT?
7. HOW MANY NDEP EMPLOYEES ARE QUALIFIED TO MAKE INSPECTIONS AND WHAT ARE THEIR QUALIFICATIONS?
 - a. WILL THE HEALTH DEPARTMENT OR OTHER AGENCIES BE USED WHEN NDEP RESOURCES ARE INADEQUATE?
8. WILL THE NDEP OPEN A HUMBOLDT COUNTY OFFICE TO DEAL WITH JUNGO LANDFILL COMPLAINTS, VIOLATIONS AND PROBLEMS?
9. PLEASE PROVIDE A LIST OF VIOLATIONS AND CATEGORIES, SUCH AS SUBSTANTIAL, DANGEROUS, MINIMAL OR?
10. WHAT INCREASE IN NUMBER OF VIOLATIONS WILL RESULT IN INCREASED FINES AND EVENTUAL SHUTDOWN?
 - a. PLEASE SHOW CURRENT SCHEDULE OF VIOLATION PUNISHMENTS, SUCH AS THE SYSTEM USED TO ENFORCE DRUNK DRIVING.
 - b. HOW WILL CONTINUED VIOLATIONS BE DEALT WITH AND HOW WILL THE PUBLIC BE NOTIFIED? IF THE NDEP HAS NO PROGRAM TO DEAL WITH CONTINUOUS VIOLATIONS ONE MUST BE IMPLEMENTED AND PUBLISHED PRIOR TO GRANTING ANY PERMIT FOR THE JUNGO LANDFILL.

BASELINES WATER/AIR

1. WHY IS THERE A BASELINE FOR WATER QUALITY AND NOT AIR QUALITY?
 - a. NOW IS THE TIME TO DETERMINE A BASELINE FOR ALL POTENTIAL CHANGES TO OUR ENVIRONMENT, INCLUDING ADDITIONAL WATER QUALITY CRITERIA.
2. SINCE THERE IS NO QUANTIFIABLE AIR QUALITY OR ODOR DATA, HOW WILL ENFORCEMENT BE HANDLED?
3. HOW WILL COMPLAINTS AND VIOLATIONS BE DOCUMENTED AND MADE PUBLIC?

LANDFILL CONSTRUCTION

1. WHAT ROLE WILL THE NDEP HAVE AT EACH CONSTRUCTION PHASE AND HOW WILL THE NDEP INTERACT WITH QUALITY CONTROL AND QUALITY ASSURANCE?
2. WHERE WILL DOCUMENTATION OF NDEP INVOLVEMENT BE KEPT AND HOW WILL THE PUBLIC ACCESS THAT DATA?
 - a. IF THE NDEP WILL HAVE NO DATA REGARDING CONSTRUCTION QUALITY, WHY NOT? IF NO SUCH CAPABILITY CURRENTLY EXISTS IN THE NDEP, IT NEEDS TO BE INSTITUTED PRIOR TO START OF CONSTRUCTION OF THE PROPOSED JUNGO LANDFILL.
3. RECOLOGY COLOR BROCHURE SHOWS A 3-STRAND BARBED WIRE FENCE AROUND AN EXISTING LANDFILL. WHAT DOES THE NDEP REQUIRE FOR FENCING OF THE PROPOSED JUNGO SITE?
4. THE HUMBOLDT COUNTY COMMISSION AND PLANNING AND ZONING DEPARTMENT RECENTLY DEMANDED THAT AN EIGHT FOOT TALL FENCE WITH FABRIC TO BLOCK THE VIEW FROM A LOCAL RECYCLER (ROBISON ON E. 2ND.) THE COMMISSION AND ROAD DEPARTMENT INSISTED

THAT N.A. DAGERSTROM BUILD AN APPROACH WITH CURB AND GUTTER OFF OF A GRAVEL ROAD(ROSE CREEK) IF THEY WANTED MORE THAN TWO EMPLOYEES AND A FUEL STORAGE FACILITY. THE RATIONALE WAS INCREASED HEAVY VEHICLE TRAFFIC. WILL NDEP REGULATIONS BE ABLE TO BE SUPERCEDED BY HIGHER LOCAL STANDARDS? WILL THE LANDFILL BE REQUIRED AND ABLE TO MEET MORE STRICT SCENIC FENCING REQUIREMENTS AND LOCAL ROAD REGULATIONS? AT WHAT POINT ARE HUMBOLDT COUNTY REGULATIONS ALLOWED TO SUPERCEED AND SURPASS NDEP STANDARDS?

- a. DO POWERS OF REGULATION NOT RESERVED TO THE NDEP REVERT TO THE COUNTY?

WASTE TRANSPORT/ROADS

1. WHAT IS TO STOP TRASH IMPORTED TO JUNGO FROM BEING TRANSPORTED BY TRUCK?
 - a. IT APPEARS THAT UP TO 100% IS ALLOWED TO BE TRUCKED IN. IF SO, BOTH HUMBOLDT AND PERSHING COUNTY ROAD S MAY BE SUBJECT TO DEMAND THEY WERE NOT DESIGNED FOR.
2. WHAT WILL THE PENALTIES BE FOR THE TIMES WHEN JUNGO ROAD IS CLOSED BY BLOWING DUST OR DUMP MATERIALS?
 - a. WILL WARNING SIGNS BE PERMANENTLY INSTALLED, SUCH AS ON STATE AND FEDERAL HIGHWAYS TO WARN THE PUBLIC IN THIS TYPE AREA? IMPORTATION OF CONSTRUCTION MATERIALS MAY REQUIRE PRECAUTIONS BE TAKEN PRIOR TO START UP OF THE PROPOSED LANDFILL.

LANDFILL POSTCLOSURE

1. WHO OWNS AND WHO IS RESPONSIBLE FOR THE LANDFILL POST CLOSURE?
2. WHAT IS THE AREA COVERED BY POST CLOSURE REGULATIONS, TEN MILES, TWENTY, THIRTY?
3. TO WHAT DEPTH IS POST CLOSURE REGULATION ENFORCED.

SINCE THE LANDFILL IS PLACED ON THE LINER FOR AN INDEFINITE PERIOD OF TIME, THE MONIES IN TRUST FOR THE MUST BE HELD FOR AN EQUAL TIME. CURRENT NDEP GUIDELINES SHOULD NOT APPLY ESPECIALLY IF EXEMPTIONS TO ANY CURRENT LAW ARE MADE FOR THIS PROJECT, SUCH AS 100' DISTANCE TO GROUNDWATER OR 1000' TO SURFACE WATER (NRS 444560). SINCE 6' TALL BERMS ARE REQUIRED, THAT IS DOCUMENTATION OF SURFACE WATER PRESENT. FULL MONITORING PROGRAMS ALSO MUST REMAIN IN PLACE FOR THE SAME INFINITE PERIOD. SINCE ALL LINERS WILL CONTINUE TO BE CHALLENGED INDEFINATELY, A COMPREHENSIVE USGS GROUNDWATER STUDY MUST BE COMPLETED. NOT JUST A WHITEWASH WHITE PAPER AS PRESENTED LAST YEAR(LOPES). CHECK LOPES MISQUOTE OF BERGER REGARDING HAYSTACK, AQUIFER? RIVER CHANNEL?

WATER QUALITY MONITORING

1. WITH THE CURRENTLY PROPOSED WATER QUALITY MONITORING SYSTEM WON'T IT BE TOO LATE TO FIX ANY PROBLEMS WITH THE LINER?
2. IF NOT TOO LATE TO FIX, HOW WILL IT BE DONE AND HOW WILL THE NDEP FORCE AND DOCUMENT REPAIR?

3. WILL LEAKING CELLS BE ABANDONED, OFF LOADED AND REPAIRED?
4. AT WHAT POINT WILL THE PUBLIC BE NOTIFIED OF GROUND WATER AND/ OR SURFACE WATER CONTAMINATION?
5. NEVADA STATUTE REQUIRES THE NDEP TO “PROTECT GROUNDWATER”, HENCE ANY POLLUTION IS ILLEGAL. WILL NEVADA LAW BE INVALIDATED BY BUREAUCRATIC INTERPRETATION IF THE JUNGO LANDFILL PERMIT IS ISSUED?
6. WILL 30’ TO GROUNDWATER BE THE NEW MINIMUM STANDARD?
7. WILL A 6’ BERM BE THE NEW 1000’ TO WATER STANDARD?
8. ARE WATER LEVELS AT THE PROPOSED SITE CURRENTLY BEING MONITORED AND WHAT ARE THEY?
 - a. HOW LONG HAVE WATER LEVELS BEEN RECORDED IN DESERT VALLEY AND WHERE IS THAT INFORMATION AVAILABLE? PLEASE PROVIDE IT.

OPERATING PERMIT CONTENT

1. PLEASE DOCUMENT OF ALL GOLDER DATA STATED AS “FACT”. HAS THE NDEP VERIFIED ALL DATA AND INTERPRETATIONS SUBMITTED BY GOLDER? THIS MAY INCLUDE WIND DIRECTION AND PERCHED AQUIFER CLAIMS.
2. DOES RYE PATCH SHOW HISTORY SHOW MEADOWS FROM JUNGO SEEP?
3. PLEASE INCLUDE ALL INCONSISTENT AND INCOMPLETE INFORMATION FOUND BY NDEP. THIS MAY INCLUDE BOREHOLE DATA INCONSISTENT WITH BERGER. HOW MANY BOREHOLES WERE REPORTED BY GOLDER? DOES THAT NUMBER MATCH THE DRILL LOGS SUBMITTED TO THE NEVADA DIVISION OF WATER RESOURCES?
4. HAS BERGER BEEN CONSULTED REGARDING CONFLICTS WITH HIS DATA AND INTERPRETATIONS?
5. WHAT IS GOLDER LAND FILL DESIGN HISTORY IN NEVADA?
 - a. HOW MANY, WHAT SIZE, WHAT TYPE AND WHERE?
6. AT WHAT POINT DOES BACKGROUND, CREDIBILITY, FINANCIAL STABILITY AND PREVIOUS CRIMINAL RECORD ENTER INTO NDEP DECISION MAKING?

LINERS

1. HOW DOES THE NDEP MISSION STATEMENT ALLOW OR JUSTIFY THE USE OF LEAKY LINERS? ALL LINERS LEAK.
2. NEITHER THE NDEP NOR LINER MANUFACTURERS CAN GUARANTEE LINER INTEGRITY OVER TIME. PLEASE DOCUMENT HOW THE NDEP AND GOLDER CAN ASSURE HUMBOLDT COUNTY, PERSHING COUNTY AND THE STATE OF NEVADA THAT OUR WATER WILL NOT BE POLLUTED WHEN EVEN HDPE LINER MANUFACTURERS WILL NOT.

WATER RIGHTS

1. HAVE ANY WATER RIGHTS BEEN APPROVED FOR USE AT THE PROPOSED JUNGO LANDFILL SITE BY THE NDWR?

2. WILL CHANGE OF USE FROM AGRICULTURAL TO INDUSTRIAL BE REQUIRED AND IN LIGHT OF THE PERMITTING PROCESS BLUE MOUNTAIN GEOTHERMAL WENT THROUGH IS THERE ANY WATER AVAILABLE FOR THE PROPOSED LANDFILL FOR THE NEXT 95 YEARS?
3. WILL LANDFILL WATER USAGE PRECLUDE FURTHER AGRICULTURAL AND POWER GENERATION USES?
4. HOW WILL THE WATER RIGHTS NEEDED FOR THE JUNGO LANDFILL BE LEGALLY OBTAINED?
5. HOW IS WATERING A LANDFILL CLASSIFIED A BENEFICIAL USE?
6. WILL THESE QUESTIONS BE SENT TO THE NDWR FOR ANSWERS IF NOT ABLE TO BE ADDRESSED BY THE NDEP?

OWNERSHIP, LANDFILL NEIGHBORS, BLM

1. WHO IS MACORsp? AND IT'S OWNER SHIP POSITION IN THE PROPOSED LANDFILL? INVESTORS?
2. WHO IS JUNGOLAND AND RESOURCES? INVESTORS?
3. CAN AND WILL THE NDEP REQUEST BLM INVOLVEMENT?
4. WHY NOT INVOLVE THE NEIGHBORING LANDOWNERS?
 - a. THEIR ULTIMATE INVOLVEMENT WILL BE REQUIRED IF THE ADDITIONAL PARCELS LEASE OPTIONED BY THOSE SEEKING JUNGO LANDFILL PERMIT ARE TO BE USED FOR ANY PURPOSE INCLUDING BORROW MATERIALS OR WATER RUNOFF.
5. WILL ARTIFACT CLEARING TAKE PLACE BEFORE NEIGHBORING SECTIONS ARE INVOLVED?
6. HOW MUCH NOTICE WILL BE GIVEN TO LANDOWNERS IN THE VICINITY PRIOR TO ANY ENCROACHMENT ON ADJOINING PROPERTIES (INCLUDING BLM)?
 - a. WITHIN WHAT DISTANCE IS NOTICE REQUIRED TO BE GIVEN, IF AT ALL? WILL THE HUMBOLDT COUNTY COMMISSION BE NOTIFIED?
7. WHAT CONSTITUTES TRESPASS ON THE ADJOINING PROPERTIES AND HOW WILL IT BE MONITORED?
8. CAN THE ADJACENT LANDOWNERS CHARGE FEES TO THE LANDFILL OPERATOR FOR WORKERS ON THEIR PROPERTY PICKING UP DUMP GENERATED LITTER?
9. DOES THE NDEP HAVE STANDARDS WHICH MUST BE MET REGARDING CLEANUP OF LITTER FROM THE PROPOSED SITE? IF SO, WHAT ARE THEY?
10. IS IT TRUE THAT IF ANY PERMITS ARE ISSUED BY THE NDEP REGARDING THE JUNGO LANDFILL CONSTRUCTION, OPERATION, OR OWNERSHIP MAY BE CHANGED AT ANY TIME WITHOUT THE NOTIFICATION OF OR INPUT BY ANY OTHER BODY?
11. IF NOT TRUE, PLEASE EXPLAIN WHO MUST BE NOTIFIED OF ANY CHANGES AND HOW. IF ANY NOTIFICATION IS GIVEN WILL INPUT BE ALLOWED? WHY ISSUE A PERMIT TO AN ENTITY WHO DID NOT APPLY FOR IT?
12. ARE NDEP LANDFILL OPERATION PERMITS TRANSFERRABLE?
13. CAN OWNERSHIP BE CHANGED WITHOUT FINANCIAL BACKGROUND VERIFICATION? WITHOUT PUBLIC NOTICE?
14. WHAT TIME FRAME IS REQUIRED FOR TRANSFER?
15. ARE WATER AND AIR QUALITY PERMITS ALSO TRANSFERRABLE AND IF SO CAN IT BE DONE WITHOUT PUBLIC NOTICE OR INPUT?

LANDFILL OPERATIONS

1. WILL TIRES BE SHREDDED ON SITE AND IF SO WHAT PERMITS ARE REQUIRED?
2. HOW LONG WILL LEACHATE BE GENERATED?
 - a. MINES RINSE AND NEUTRALIZE LEACH PADS WHEN LEACHING IS COMPLETE.
3. HOW LONG WILL LEACHATE BE GENERATED AND WILL THE JUNGO LANDFILL EVER BE RINSED, NEUTRALIZED OR DOCUMENTED THAT LEACHATE IS NO LONGER BEING PRODUCED?
4. DOES POST CLOSURE PROTOCOL ENSURE NO POSSIBILITY OF CONTINUED LEACHATE PRODUCTION? WILL TRUST MONIES BE RELEASED PRIOR TO THIS? WHAT NDEP PROTECTION DO WE NEVADANS HAVE FROM A CHANGING TRASH STREAM CONTENT? NEW AND DIFFERENT COMPOUNDS, CHEMICALS AND COMBINATIONS OF THEM WILL BE CHALLENGING LANDFILL LINERS FOREVER.
 - a. HOW WILL THE NDEP OF THE FUTURE KEEP UP WITH THIS PROBLEM? LANDFILL DESIGN AND PERMITTING REQUIREMENTS WILL ALWAYS BE BEHIND THE CURVE, JUST AS WE ARE TODAY. THE NDEP OF THE FUTURE WILL ALSO BE DEALING WITH BUDGT CUTS AND UNDERSTAFFING, ALSO LIKE TODAY, BUT POTENTIALLY WORSE. WHO PROTECTS THE ENVIRONMENTAL INTEGRITY OF HUMBOLDT COUNTY WHEN THE NDEP CAN'T OR WON'T?
5. WHAT JUNGO LANDFILL INSPECTION SCHEDULE CAN THE NDEP GUARANTEE?
6. WHAT ITEMS WILL BE INCLUDED IN EACH INSPECTION AND WILL DOCUMENTATION BE PROVIDED TO THE PUBLIC? HOW LONG IS THAT GUARANTEE IN EFFECT? PROMISE?
7. HOW WILL THE NEVADA DEPARTMENT OF WILDLIFE BE NOTIFIED OF BIRD AND ANIMAL MORTALITIES ON THE LANDFILL SITE?
 - a. WHO IS RESPONSIBLE FOR THESE NOTIFICATIONS?
8. WHAT ARE THE NDEP PROTOCOLS FOR DEALING WITH HAZARDOUS WASTE ARRIVING ON SITE?
9. WHAT SIZE PETROLEUM SPILLS MUST BE REPORTED?
10. HOW WILL NDEP NOTIFICATION AND CLEANUP BE HANDLED?
11. WHAT PENALTIES WILL BE ENFORCED FOR REPEATED VIOLATIONS OF SPILL AND HAZARDOUS MATERIALS ON THE LANDFILL SITE?
12. WHERE WILL CONTAMINATED MATERIALS AND SOILS BE DISPOSED?
13. WHERE WILL THE LEACHATE BE DISPOSED?
 - a. HOW LONG WILL THE OPERATOR PAY FOR LEACHATE PUMPING AND DISPOSAL POST CLOSURE?
14. WHEN WILL CUMULATIVE PENALTIES RESULT IN FINES AND ULTIMATE CLOSURE?
15. WILL CHANGE OF OPERATOR OR OWNER NAME RESULT IN PAST VIOLATION HISTORY BEING NOT VALID?
 - a. DO THEY GET TO START OVER WITH A NAME CHANGE?
 - b. ARE INDIVIDUALS EMPLOYED ON THE SITE CRIMINALLY LIABLE FOR THEIR ACTIONS, SIMILAR TO MSHA REGULATIONS?

16. HOW WILL THE NDEP DEAL WITH RAILROAD OR TRUCK SPILLS OF MATERIALS LABELED HAZARDOUS IN CALIFORNIA BEFORE REACHING THE LANDFILL SITE?

AND FINALLY, WHAT IS THE STATUS OF THE RECOLOGY LANDFILL IN LINCOLN COUNTY? HOW MANY INSPECTIONS HAVE BEEN MADE? HOW MANY AND WHAT TYPES OF CITATIONS CAN BE DOCUMENTED? HOW LONG HAS RECOLOGY BEEN AT THAT SITE?

THANKS IN ADVANCE FOR YOUR PROMPT AND DETAILED ANSWERS TO THESE CONCERNS.

SINCERELY, AN EXTREMELY CONCERNED CITIZEN,

TOM BRISSENDEN
3333 N. HIGHLAND DRIVE
WINNEMUCCA, NV 89445

To:
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Nevada Division of Environmental Protection
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Dear Mr. Taylor,

Here is yet another response to the Nevada Division of Environmental Protection's (NDEP) intent to issue an operating permit for the Jungo Landfill. This is, again, in regards to flooding.

In previous communications myself and others have laid out a persistent and convincing argument that the nature of precipitation accumulation in southern Desert Valley is not just "ponding" but flooding and sheeting. See especially my comment of 01/09/12.

To gain further proof of our assertions, Richard Cook and I took soil samples in parts of the small playa that is situated in portions of the SW corner of section 5, the SE corner of section 6, the NE corner of section 7 and the NW corner of section 8, T35N, R33E, MDB&M. See map.



We took random samples from five different locations and transported them back to Winnemucca. We then took portions of those samples, placed them in separate containers, identified by sample location, and filled them with water. Not surprisingly, we were able to hatch branchiopods. Also of no surprise, we hatched three different species. Since we don't have the resources of a governmental organization, we could only narrow our identification to branchiopoda but we have identified three different species - Fairy Shrimp, Tadpole Shrimp and Water Fleas.

To any reasonable observer, this would indicate flooding of the area sampled. We couldn't have stumbled upon and sampled the precise locations of areas that "pond", the whole area floods. Further, it floods with the periodicity & longevity to enable the establishment of colonies of freshwater crustaceans.

Photos of one of the larger specimens:



Without some kind of professional scientific study, we won't know if these creatures are common throughout Section 7 and Desert Valley. One or all of them may be unique and endemic to just this specific location. It would seem incumbent on the part of NDEP to investigate this fully and immediately. However, given the Division's past actions or inactions, this scenario would seemingly be uncharacteristic.

There are micro-playas scattered throughout Section 7. One can assume that the conditions encountered where sampling took place can be replicated in these areas; an assumption that would also apply to most of the southern portion of Desert Valley.

It is baffling to consider all of the scientific bases on which this project should have been rejected. It is also mystifying why NDEP has let the burden of investigation and research fall to the general public. Certainly, the state environmental division, the entity charged with actually protecting the environment, has failed miserably in its lawful mission. Not only is NDEP not protecting the citizens of the state but actively enabling a project that will harm the environment, the people of Humboldt County and the state of Nevada.

Now, in concurrence with poor soils for construction, recurrent flooding and a very real threat to the underlying aquifer, you have the possibility of habitat destruction of a specie or species that may be unique. The people of Humboldt County have other responsibilities, they shouldn't be forced into doing the job of a state agency that blindly refuses to accomplish it's own stated purpose.

According to Don Sada, PhD. A biologist at the Desert Research Institute, The periodicity of inundation of desert playas, is "poorly understood." Another prominent expert, Richard French PhD., in his paper, "Summary of Approaches for Estimating Playa Lake Flooding," acknowledges that little is known about playa lake flooding stating, "The U.S. Federal Emergency Management Agency (FEMA) has provided no engineering guidance as to how to estimate the depth and duration of flooding on these lakebeds, whereas in the case of other flood hazard areas, FEMA has provided definite and specific guidance."

Yet another expert, G. Fred Lee, PhD. in his scathing report to the Humboldt County Board of Commissioners condemning the proposed Jungo landfill states, "It has been our experience that a much more comprehensive geotechnical/ hydrological investigation needs to be conducted to adequately characterize the geology/ hydrogeology under and near the landfill."

Desert playas, by their very nature are prone to periodic inundation. Less is known about inundation of playas than other special flood hazard areas. In the case of the proposed Jungo landfill the applicant and their agents have intentionally avoided a responsible scientific investigation of the site that would reveal the obvious - A playa, any playa is an inappropriate location for a landfill. If NDEP issues an operating permit you will be complicit in a conspiracy that, according to Dr.Lee, will inevitably leave the County and the State with a massive liability of impaired public health and destroyed water resources.

Dec. 10, 2011

Jon Taylor PE CEM
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Dear Mr. Taylor,

We the undersigned have concerns regarding storm water containment at the Jungo Landfill site which the Nevada Division of Environmental Protection and Golder Associates have failed to address.

Our understanding is that Golder Associates has engineered the Jungo landfill for only a twenty-five year /24 hour precipitation event which is woefully inadequate for a ninety-five year working project time line and hundreds of years as a monitored waste site. Design and construction to minimum standards might be acceptable in some third world countries but it is totally unacceptable and contrary to best management practices for a project of this scope and duration.

To illustrate the deficiencies, consider that Union Pacific Railroad (UPRR) will insist that the required spur to service the proposed landfill be built to their specifications (see attached). UPRR requires that the construction of spurs matches or exceeds the ability to withstand a one hundred year weather related event. UPRR will also insist on a soils analysis performed by an independent laboratory, a vital construction safety factor with which Golder is apparently unconcerned.



When the Jungo site becomes inundated by an adverse climatological event and water nears the top of the RR berm (about 5' – 6') as has been witnessed at that site in the past, only the railroad and the railroad spur will succeed in maintaining their integrity having utilized proper construction practices and materials. The 4' berm of native soils proposed by Golder will be breached and sheet flow will carry toxic materials off the site mostly to the southwest, while collecting additional deleterious substances from the water containment ditches and the leachate collection pond. The constructed cells will likely be ruptured and saturated, resulting in a catastrophic failure of the liner system. The aquifer will be contaminated and lost to future generations.

The whole storm water containment design is indicative of a haphazard and reactive construct born of legitimate criticism of previous submissions rather than a studied proactive engineered product. In reality, this could describe the entire project design.

While ponding is the predominate form of surface water accumulation, given the relative elevations of Desert Valley, sheet flow does occur and will continue to occur in this area as it does in similar high desert basins throughout Nevada. The impetus for which is not only gravitational (slope) but aeolian (wind). Asking Recology to remove references to sheet flow, as NDEP did in the 3/4/09 letter to Erin Merrill, will not alleviate the encumbrance. Because you choose to ignore it, doesn't mean it isn't a reality. By neglecting to include provisions to mitigate these events NDEP has exacerbated the already poorly conceived design package with the studied indifference of poor regulatory oversight. Sheet flow will be an ongoing threat for which there is no contingency.



For many miles across Desert Valley, UPRR has imported and utilized for construction, (at great expense no doubt) many thousands of tons of $\leq 6''$ crushed, non-porous, high density basalt as fill material for grade stability and to protect the integrity of the RR ballast and fill from hydraulic weathering. Yet Golder proposes to construct 4 miles of berm

around the entire facility with native soils, which the NCRS soils report clearly states are not adequate for that purpose.

NDEP has chosen to rely on Golder's biased, selective materials testing and calculations purporting to show that the Jungo site is not an "Unstable area" when the exact opposite is unambiguously evident. Under NAC 444.6795 which states (part 3) the following:

(c) "Poor foundation conditions" means those areas with features which indicate that a natural or human-caused event may result in an inadequate foundation for the structural components of a municipal solid waste landfill unit or lateral expansion.

(d) "Structural components" means liners, systems for leachate collection, final cover, systems for runoff or runoff and any other component used in the construction and operation of a municipal solid waste landfill unit which is necessary for the protection of public health and safety and the environment.

(e) "Unstable area" means a location which is susceptible to natural or artificially created features that are capable of impairing the integrity of some or all of the structural components of a municipal solid waste landfill unit that will prevent the release of the solid waste, or any by-product thereof, from that landfill. The term includes poor foundation conditions, areas susceptible to mass movements and karst terranes.

By these articles alone NDEP should reject this project.

NDEP has also ignored conventional wisdom based on historical eyewitness accounts, decades of meteorological records, centuries of geographical evidence, railroad archives, Berger's USGS Water-Resources Report 95-4119, and the NRCS Custom Soil Report for Humboldt County which all indicate that the Jungo site is an unstable area and as such is not suited for a class 1 landfill.

Sincerely,

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Winnemucca, NV 89446-2231

From: Saved by Windows Internet Explorer 8
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- [Collection Efficiency: Strategies for Success \(PDF\)](#) (20 pp, 912 KB, [About PDF](#))

Modern landfills are well-engineered facilities that are located, designed, operated, and monitored to ensure compliance with federal regulations. Solid waste landfills must be designed to protect the environment from contaminants which may be present in the solid waste stream. The landfill siting plan—which prevents the siting of landfills in environmentally-sensitive areas—as well as on-site environmental monitoring systems—which monitor for any sign of groundwater contamination and for landfill gas—provide additional safeguards. In addition, many new landfills collect potentially harmful landfill gas emissions and convert the gas into energy. For more information, visit EPA's [Landfill Methane Outreach Program](#).

Municipal solid waste landfills (MSWLFs) receive household waste. MSWLFs can also receive non-hazardous sludge, industrial solid waste, and construction and demolition debris. All MSWLFs must comply with the federal regulations in 40 CFR Part 258 (Subtitle D of RCRA), or equivalent state regulations. Federal MSWLF standards include:

- **Location restrictions**—ensure that landfills are built in suitable geological areas away from faults, wetlands, flood plains, or other restricted areas.
- **Composite liners requirements**—include a flexible membrane (geomembrane) overlaying two feet of compacted clay soil lining the bottom and sides of the landfill, protect groundwater and the underlying soil from leachate releases.
- **Leachate collection and removal systems**—sit on top of the composite liner and removes leachate from the landfill for treatment and disposal.
- **Operating practices**—include compacting and covering waste frequently with several inches of soil help reduce odor; control litter, insects, and rodents; and protect public health.
- **Groundwater monitoring requirements**—requires testing groundwater wells to determine whether waste materials have escaped from the landfill.
- **Closure and postclosure care requirements**—include covering landfills and providing long-term care of closed landfills.
- **Corrective action provisions**—control and clean up landfill releases and achieves groundwater protection standards.
- **Financial assurance**—provides funding for environmental protection during and after landfill closure (i.e., closure and postclosure care).

Some materials may be banned from disposal in municipal solid waste landfills including common household items such as paints, cleaners/chemicals, motor oil, batteries, and pesticides. Leftover portions of these products are called [household hazardous waste](#). These products, if mishandled, can be dangerous to your health and the environment. Many municipal landfills have a household hazardous waste drop-off station for these materials.

MSWLFs can also receive household appliances (also known as white goods) that are no longer needed. Many of these appliances, such as refrigerators or window air conditioners, rely on ozone-depleting refrigerants and their substitutes. MSWLFs have to follow [federal disposal procedures for household appliances that use refrigerants \(PDF\)](#) (4 pp, 384K, [About PDF](#)) . EPA has [general information on how refrigerants can damage the ozone layer](#) and consumer information on the specifics of disposing of these appliances.

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