

Mr. Jon Taylor
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Bureau of Waste Management – Solid Waste Branch
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December 2, 2011

Mr. Taylor:

RE: Comment/Questions: Financial Assurance for Landfill Closure and Post Closure

My name is Tom Brissenden. I am a local resident and have followed all news and meetings on this project. I bring the following expertise to the project, 30 years of mining, geotechnical design, air quality and earthworks construction.

My question is about clarification of financial assurance for landfill closure and post closure of the landfill. Here's the background.

- In a February 7, 2011 letterⁱ from the NDEP to Recology, the NDEP noted that *“Prior to issuance of the Permit Nevada Land and Resources (NLRC) must either transfer the property to Jungo Land and Investments (JLII), or Nevada Land and Resources (NLRC) would be identified as the owner and Jungo Land and Investments (JLII) will be identified as the operator. In this event, Nevada Land and Resources (NLRC) would be the responsible financial party and necessitate submission of Financial Assurance for the Closure and Post Closure for the Site”*.ⁱⁱ
- In the April 2011 Application for a Permit to Construct and Operate a Class I Landfill Facility, Jungo Disposal Site, Revision 4, it is noted that ...*“The land is currently owned by Nevada Land and Resources, Inc. but will be acquired by Jungo Land and Investments (JLII) prior to development. JLII currently has a leasehold interest with an option to purchase the property, which JLII plans to exercise once the necessary State permits have been obtained.”*ⁱⁱⁱ It seems logical enough that Jungo, or Recology, would not buy this land until all State permits have been obtained.
 - However, interestingly, given that logic and the February 7, 2011 letter, and the above statement on land ownership, this same application specifies Jungo Land & Investments as the landfill owner and operator^{iv}. (shrug?)
- Given the land is still not owned by Jungo/Recology, the NDEP draft permit published on October 26, 2011 specifies Nevada Land and Resource **LLC** is the owner and Recology is the operator.^v Just as it was spelled out in the February 7 letter to Recology. The public

notice and fact sheet actually specify Jungo Land and Investments **Inc** as the ‘applicant’, ‘permittee’ and ‘operator’.^{vi}

- The current Trust agreement available to the public is filed with Jungo Land and Investments. Not Nevada Land and Resources **Inc** or **LLC**.
- Also, as is common with many land leases, it is important to note that Nevada Land and Resources **LLC** has an amended notice of non-responsibility with Jungo Land and Investments, Inc. as part of the lease and option to purchase. This notice specifies they are “...*not responsible for any claims arising from any work of improvement in, upon or over said real property, including but not limited to, mineral exploration, mineral development, mineral processing, the construction, alteration, addition to, repair, demolition or removal of any building or structure whatsoever, or the seeding sodding or planting for landscape purposes, or filling, leveling or grading of said property*”. I’m betting this covers landfills, too. Notice on file and dated 2/5/07. Also, it applies to all four sections of land Jungo Land and Investment Inc has a lease/purchase option on.

To summarize, then, it appears the draft permit is going to a company that has a filed notice of non-responsibility on the landfill site, and who’s name is not on any trust agreements or financial accountability at this time. Meaning, they are not currently on point for closure and post closure of the site.

Questions

1. Is it indeed accurate for us to understand that Nevada Land and Resources is now the owner as specified in the draft permit?
 - a. If yes, given Nevada Land and Resources is now the owner as specified in the draft permit, have they, or when will they become “...*the responsible financial party and necessitate submission of Financial Assurance for the Closure and Post Closure for the Site...*” As specified in the February 7, 2011 letter from NDEP to Recology?
 - b. If yes, is Nevada Land and Resources aware of this responsibility?
 - i. Who is responsible for ensuring they receive communications affecting them from the NDEP?
 - c. If yes, is their submission of Financial Assurance of Closure and Post Closure part of the conditions of issuing them an operating permit for a solid waste disposal site?
 - i. Or, is requiring Jungo Land and Investments to execute their purchase option part of the conditions of issuing this permit?
 - ii. Reason for this question, there were three items identified in the Compliance Schedule for this permit spelled out in the Technical Completeness review letter sent to Recology on October 17, 2011^{vii}. These items are not

mentioned. Should they be? Or are they legally covered in the February 7, 2011 letter?

- d. If no, then what needs to be clarified in the draft permit and any other pertinent documents?
2. Nevada Land and Resources INC and LLC or used in various places of the draft permit, public notice and fact sheet. Which is it? Does it matter? (A search for Nevada Land and Resources **LLC**^{viii} and Nevada Land and Resources **INC** results in information for Nevada Land and Resources **INC**^x on the Nevada Secretary of State business search site.)
3. I've double checked the air quality permit and noted it is made out to Jungo Land and Investments Inc. ^x Nevada Land and Resources INC or LLC do not appear to have an air quality permit. How will that work?

Finally, is this duplicitous name game being done to defraud Humboldt County citizens and leave us holding the trash bag?

Sincerely,

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References and footnotes attached

REFERENCES

- The original conditional use permit is between Don Gambelin dba Jungo Land & Investments Inc (see CUP acceptance form dated 4/23/07)
- The lawsuit revolving around a valid conditional use permit, is between Jungo Land and Investments and Humboldt County. The NDEP has required a valid CUP be in place before construction can begin.

FOOTNOTES

ⁱ Letter at: http://ndep.nv.gov/bwm/docs/jungo_tech_review_ltr_jungo2-11.pdf

ⁱⁱ Full quote from the February 7, 2011 NDEP letter: *“Please note that NAC 444.677(2) requires proof of ownership of the land be specifically owned by Jungo Land & Investments Inc. (JLII) for the purposes of establishing the responsibility of Financial Assurance. The current documentation (Appendix A Operations Plan) shows Nevada Land and Resource Company LLC (NLRC) as the current owner. Prior to issuance of the Permit NLRC must either transfer the property to JLII, or NLRC would be identified as the owner and JLII will be identified as the operator. In this event, NLRC would be the responsible financial party and necessitate submission of Financial Assurance for the Closure and Post Closure for the Site.”*

ⁱⁱⁱ Page 1, section 1.1, paragraph 2 of April 2011 Application for a Permit to Construct and Operate a Class I Landfill Facility, Jungo Disposal Site, Revision 4 at http://ndep.nv.gov/bwm/docs/jungo_plan_operations.pdf

^{iv} Page 1, section 1.0, first sentence of April 2011 Application for a Permit to Construct and Operate a Class I Landfill Facility, Jungo Disposal Site, Revision 4 at http://ndep.nv.gov/bwm/docs/jungo_plan_operations.pdf

^v **NAC 444.5985 “Operator” defined.** ([NRS 444.560](#)) “Operator” means the person responsible for the overall operation of a disposal site or any part of that site. (Added to NAC by Environmental Comm’n, eff. 11-8-93)

NAC 444.599 “Owner” defined. ([NRS 444.560](#)) “Owner” means the person who owns a disposal site or any part of that site. (Added to NAC by Environmental Comm’n, eff. 11-8-93)

^{vi} The NDEP draft permit published on October 26, 2011 specifies Nevada Land and Resource **LLC** is the owner and Recology is the operator.^{vi} The header of this same draft permit, for a solid waste disposal site permit class I, keeps referring to ‘Nevada Land and Resource Jungo Landfill’ on every page of the draft permit. The NDEP **public notice** published on October 26, 2011 states they have requested to issue a permit from the following applicant (for a solid waste disposal site permit class I): Nevada Land and Resource **Inc.** (Jungo Landfill). The NDEP **fact sheet** published on October 26, 2011 states Nevada Land and Resource **Inc.** (Jungo Landfill) is the permittee name and that “Nevada Land and Resource **Inc.** has requested to construct and operate a Class 1 Landfill in Humboldt County Nevada”.

^{vii} October 17 Technical Review complete Letter http://ndep.nv.gov/bwm/docs/jungo_tech_review_101711.pdf

^{viii} <http://nvsos.gov/sosentitysearch/CorpDetails.aspx?lx8nvq=INchDiw04cKaTINuORZS8Q%253d%253d>

^{ix} <http://nvsos.gov/sosentitysearch/CorpDetails.aspx?lx8nvq=INchDiw04cKaTINuORZS8Q%253d%253d>

^x Air Quality Permit: http://ndep.nv.gov/bapc/projects/jli/final_optc.pdf