

APPENDIX A

**Resolve 2006 Chapter 207
(Resolve, to Establish a Blue Ribbon Commission on Solid
Waste Management)**



Resolve, To Establish a Blue Ribbon Commission on Solid Waste Management

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve establishes the Blue Ribbon Commission on Solid Waste Management; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Commission established. Resolved: That the Blue Ribbon Commission on Solid Waste Management, referred to in this resolve as "the commission," is established to study the management of solid waste in this State; and be it further

Sec. 2. Membership. Resolved: That the commission consists of 9 members having a broad range of expertise in the area of solid waste management policy appointed as follows :

1. Three members appointed by the President of the Senate, including at least one member of the Senate with knowledge of solid waste management matters and at least one public member with expertise in solid waste management matters;

2. Four members appointed by the Speaker of the House, including at least one member of the House with knowledge of solid waste management matters and at least one public member with expertise in solid waste management matters;

3. The Commissioner of Environmental Protection or the commissioner's designee; and

4. The Director of the State Planning Office within the Executive Department or the director's designee; and be it further

Sec. 3. Appointments; chair. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have

been completed. The first-named Senate member and the first-named House member are cochairs of the commission and shall call and convene the first meeting of the commission no later than July 30, 2006; and be it further

Sec. 4. Duties. Resolved: That the commission shall undertake a comprehensive review of the management of solid waste in this State:

1. The commission shall give priority consideration to the following issues:A. The State's importation and exportation of municipal solid waste and construction and demolition debris. The commission's review must include an evaluation of the economic and environmental impacts of the importation, processing and disposal of construction and demolition debris and of any imposed limitation on the burning of construction and demolition debris;B. A management structure for how solid waste should be managed in the State, taking into consideration the current management structure for solid waste in the State, trends in solid waste management, solid waste management models, state solid waste policies, future solid waste management needs of the State and the work done by the Executive Department, State Planning Office pursuant to the Maine Revised Statutes, Title 38, section 2123-B; andC. The solid waste management hierarchy as specified in Title 38, section 2101.

2. The commission shall also review the following:A. The definition of "host community" for the purpose of eligibility for host community benefits;B. Municipal solid waste incineration;C. The state recycling and waste reduction goals specified in Title 38, section 2132; andD. Other matters considered relevant by the commission; and be it further

Sec. 5. Authorized number of meetings; public comment. Resolved: That the commission is authorized to hold 10 meetings, including at least one meeting at which the commission provides an opportunity for public comment; and be it further

Sec. 6. Report. Resolved: That, no later than January 1, 2007, the commission shall submit a report of its findings, together with any necessary implementing legislation, to the Joint Standing Committee on Natural Resources. The report must include recommendations with respect to the appropriate solid waste management regime in this State, including the management of construction and demolition debris, and the appropriate solid waste management hierarchy for this State. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out a bill during the First Regular Session of the 123rd Legislature concerning the findings and recommendations of the commission; and be it further

Sec. 7. Extension. Resolved: That, if the commission requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension; and be it further

Sec. 8. Compensation. Resolved: That the legislative members of the commission are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the commission. Public members not otherwise compensated by their employers or other entities that they represent are entitled to

receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of the commission; and be it further

Sec. 9. Outside funding for consultant. Resolved: That the commission may seek outside funds to fund the costs of contracting with a consultant or expert to provide support to the commission. Contributions to support the work of the commission may not be accepted from any party having pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution must certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the study. Such certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the commission. The executive director shall notify the chair of the commission when sufficient funding has been received; and be it further

Sec. 10. Staffing. Resolved: That the Department of Environmental Protection shall provide primary staff support to the commission. At the request of the commission, the Executive Department, State Planning Office shall provide staffing assistance to the commission; and be it further

Sec. 11. Commission meetings. Resolved: That meetings of the commission are public proceedings and records of the commission are public records as defined in the laws governing freedom of access, the Maine Revised Statutes, Title 1, chapter 13; and be it further

Sec. 12. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF
Remediation and Waste Management 0247**

Initiative: Allocates for departmental coordination and professional facilitation of stakeholder meetings at various locations statewide.

OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
All Other	\$0	\$5,850
OTHER SPECIAL REVENUE FUNDS	\$0	\$5,850

ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS	2005-06	2006-07
OTHER SPECIAL REVENUE FUNDS	\$0	\$5,850

APPENDIX B

**(Membership List – Blue Ribbon Commission on
Solid Waste Management)**

Blue Ribbon Commission on Solid Waste Management

Resolve 2005, Chapter 207

Wednesday, July 26, 2006

Appointment(s) by the President

Sen. John L. Martin, Co-Chair

Senate Member with Knowledge of Solid Waste Management Matters

Kevin Roche
Regional Waste Systems

Representing Solid Waste Management Policy

W. Tom Sawyer Jr.

Public Member with Expertise in Solid Waste Management Matters

Appointment(s) by the Speaker

Rep. Robert S. Duchesne, Co-Chair

House Member with Knowledge of Solid Waste Management Matters

Rep. Lillian LaFontaine O'Brien

Representing Solid Waste Management Policy

Rep. Joanne T. Twomey

Representing Solid Waste Management Policy

Mr. Greg Louder
Eastern Maine Development Corp.

Public Member with Expertise in Solid Waste Management Matters

Commissioner, Department of Environmental Protection

David P. Littell

Commissioner

Director, State Planning Office

Sue Inches

Designee

APPENDIX C

**(Meeting Notes – Blue Ribbon Commission on
Solid Waste Management)**



MEETING NOTES
OF THE
BLUE RIBBON COMMISSION
ON
SOLID WASTE MANAGEMENT

August 1, 2006 – December 20, 2006

Blue Ribbon Commission on Solid Waste Management
Meeting Notes
August 1, 2006
Room 214 Cross State Office Building, Augusta

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Rep. Joanne Twomey; Rep. Lillian LaFontaine O'Brien; Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Louder, Eastern Maine Development Corp.; David Littell, Commissioner, Department of Environmental Protection; Paula Clark, Department of Environmental Protection (Commissioner David Littell's designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman's designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Commission members introduced themselves and stated their affiliations.

Sen. Martin reviewed the Resolve which created the Commission and outlined the duties of the Commission.

Paula Clark distributed a handout, *Maine Solid Waste Management Program Components*, and summarized the duties of the Maine Department of Environmental Protection (MDEP). Sue Inches summarized the duties of the Maine State Planning Office (SPO).

A Commission member asked whether the Public Benefit Determination of a solid waste facility could be revisited. MDEP responded that it could whenever a modification to the operations at a solid waste facility.

A Commission member asked staff to provide Commission with a copy of the solid waste statutes.

The issue of when SPO should alert the Natural Resources Committee of the need to use the Carpenter Ridge Landfill was discussed. SPO wanted to lengthen that time to 6 years. A Commission member was concerned because that would require educating 2 different sets of legislators.

A Commission member asked staff to gather figures on the amount of solid waste (SW) that is imported to and exported from Maine. Figures regarding how much SW is processed in Maine was also requested.

A Commission member asked staff to investigate SW trends and what other states are doing.

A Commission member asked staff to find out what are the disposal capacities of municipalities.

A Commission member stated that the definition of Host Community should be reexamined.

Sue Inches gave a presentation to summarize the recommendations of the Solid Waste Task Force to the Legislature. The task Force issued a report in April 2006.

A Commission member stated that the solid waste hierarchy needs to be changed since it hasn't been effective in achieving higher recycling rates. Believes Maine should ban imported SW. A Commission member pointed out that isn't possible because of Supreme Court decision

A Commission member asked staff to provide recycling information on a town-by-town basis.

A Commission member asked whether large SW producers had been part of the Task Force. A Commission member stated that recycling by large producers is based on the market for recyclables and the value of the material versus the relative cost of recycling – cheap disposal hurts recycling.

A Commission member asked staff to look at SW import/export laws in MA and NH.

A Commission member was concerned that SPO data lumps municipal solid waste (MSW) volumes in with construction/demolition debris (CDD) volumes. SPO stated that both numbers are available and will be published.

A Commission member was concerned about whose economic benefit the Commission was working for and wanted to know what the mission statement/goal for the Commission is.

Another Commission member explained that the Supreme Court decision (which prohibits states from excluding out-of-state waste) can't be changed. The only other option would be for the State to buy all facilities and then the State could prohibit out-of-state waste.

A Commission member wanted to know what other states and Quebec and New Brunswick do to control the import of waste.

A Commission member wanted to know the source and type of wastes that are imported into Maine.

The State Planning Office replied that the 2005 report is not yet complete.

A Commission member wanted to know the solid waste data for the last 10 years.

The DEP responded that based on solid waste fees, detailed data for type of waste is available quarterly. The data is collected based on accepting facility and some on source of the waste. DEP offered to furnish the Commission with a list of licensed, active solid waste facilities.

Commission members then discussed how to approach the next meetings. Different topics, different meeting formats and different meeting locations were discussed.

The Commission then took a break for lunch.

A Commission member expressed concern about whether the recycling numbers were fair and balanced and whether they were affected by composting.

A Commission member expressed concern about whether there were gaps in the data furnished to SPO and DEP.

A Commission member requested data on importation of MSW, CDD, Special Waste, and Composting (if available). The member also requested an article by Seguino from approximately 10 years ago.

A Commission member requested import numbers for waste including volumes by waste type and source for the preceding year. The member also wanted to know when the data would be available. The same member also wanted to know waste volumes based on municipality. The member also wanted to know tipping fees in other states. The member also wanted to know whether there were disincentives for recycling and a cost/benefit analysis for 50% recycling.

A Commission member wanted to talk about Host Community Benefits. The member wanted to know if before/after pictures existed for solid waste facilities, what the impacts (noise, odor, traffic, etc.) to communities.

A Commission member wanted to know about bypass numbers for the MERC facility.

A Commission member wanted to know what other states are doing for Host Community Benefits (HCB). Are there statutes regarding HCB

A Commission member wanted to know whether if we are doing enough to promote recycling. Are there programs in the schools or through MSHA.

A Commission member wants to check with MMA about the cost for waste for Maine communities. The member also wanted to know whether bypass waste is being treated as in-state waste.

A Commission member expressed concern about whether the solid waste infrastructure is approaching the end of its useful life.

A Commission member wanted to know the lifespan of the facilities that are out there.

A Commission member expressed concern about VOC emissions from MERC.

DEP suggested that the Commission look at HCB. DEP also informed the Commission that DEP is dealing with orphaned/bankrupt solid waste facilities. DEP informed Commission that junkyards can be a serious problem but DEP does not have the authority to deal with them. DEP also suggested the Commission look at updating the definition of "commercial solid waste facility". DEP also asked the Commission to examine the petition submitted to DEP for a moratorium of the processing and burning CDD for fuel.

A Commission member asked for a list of orphaned/bankrupt facilities.

A Commission member asked for a list of junkyards.

A Commission member inquired about waste tire piles in Maine.

DEP responded that the Class A piles are done and most of the Class B piles are cleaned up.

The Commission and DEP then discussed how best to get requested information to the members. The DEP also stated that a web page would be available on the DEP website for Commission information.

At this point, the Commission opened the proceeding to anyone in the audience who wanted to speak.

Several citizens mentioned many topics such as how to get information to the Commission; a need for public participation in the process; whether waste-to-energy facilities would be required to provide HCB; how to get information about zero waste; the definition of out-of-state waste, impacts of facilities to their communities.

Before the close of the meeting, August 23 was tentatively chosen for the date of the next Commission meeting.

Several items were requested from DEP and SPO. Below is a list:

1. Copies of solid waste statutes
2. Volume of waste that is processed, imported and exported from Maine
3. Capacity estimates for municipalities and types of waste accepted at landfills and incinerators
4. A list of Commission members and their contact information
5. A Copy of the Solid Waste Task Force report
6. Information regarding recycling town by town (SPO)

7. A comparison of laws that affect import/export of solid waste in ME versus NH or MA (SPO)
8. A list of licensed, active incinerators, landfills and transfer stations
9. A copy of the Stephanie Seguino article
10. Volume of waste received at ME landfills and incinerators broken down by waste type and source for last few years
11. An estimate from MMA regarding how much of municipal budgets are spent on waste disposal
12. A list of court decisions that affect solid waste
13. Information regarding whether bypass waste is being treated as in-state waste
14. A list of orphaned landfills
15. A list of junkyards in the state

Blue Ribbon Commission on Solid Waste Management
Meeting Notes
September 6, 2006
Room 214 Cross State Office Building, Augusta

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Rep. Joanne Twomey; Rep. Lillian LaFontaine O'Brien; Kevin Roche, Ecomaine; Greg Louder, Eastern Maine Development Corp.; Paula Clark, Department of Environmental Protection (Commissioner David Littell's designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman's designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Commission members introduced themselves and stated their affiliations.

A Commission member expressed the desire to have a series of meetings at other locations around the state, suggesting Portland/Biddeford, Bangor/Old Town and Caribou.

A Commission member suggested having longer meetings in order to allow the Commission more time to discuss topics.

Paula Clark presented a Topic Outlined, based on the language of the Blue Ribbon Commission Resolve and issues raised by Commission members.

Paula Clark reviewed the contents of the binder of submittals presented to the Commission.

SPO presented a map of the communities in Maine, depicting the disposal facilities that serve the communities. A Commission member asked about cost per ton fees, out-of-state MSW accepted by Maine facilities and a comparison of amounts of waste landfilled and incinerated.

A Commission member asked for a breakdown of hazardous waste amounts by source, type of wastes, chemicals, processed versus landfilled, bonds or other financial mechanisms for each facility and last 10 years data on staffing numbers for hazardous and non-hazardous programs.

A Commission member asked for examples of what businesses are handling hazardous waste.

A Commission member asked about information on costs of storing/handling hazardous wastes in accordance with license/regulatory requirements.

A Commission member asked for a complete copy of the MERC Waste Handling Agreement, VOC numbers related to an increase in tons of waste handled and odors.

A Commission member offered to provide an information and compliance summary sheet of the PERC facility.

Commission members engaged in a discussion of fee structures/funding sources. Paula Clark stated that DEP was preparing a report for the Legislature on fees and other funding sources.

A Commission member asked what the maximum contaminant levels were for CDD fuel. Paula Clark agreed to provide a copy of the new standards in Chapter 418.

Commission members engaged in a discussion of MSW/CDD import and export. A Commission member asked about the economics of CDD incineration as a function of power price structures within the N.E. power pool. Paula Clark agreed to review the testimony for LD141 for information on price structures.

A Commission member posited that for future CDD incineration facilities, firm standards should be set for what is acceptable for incineration, including a severe limitation on the importation of out-of-state waste.

Commission members commented that there needs to be improvements in the ability to recycle more of the Maine-generated CDD wastes and that an increase in the importation of CDD would result in an increase in the fraction of unusable waste that needs to be landfilled. A Commission member suggested that a limitation may be placed on the amount of CDD material being accepted at a facility, specifying the amount of material that will be recycled as opposed to landfilled. A Commission member commented that a fee on landfilling CDD waste would increase the recycling rate of CDD wastes.

A Commission member stated that Public Benefit Determinations apply only to landfills and incinerators, not processing facilities.

A Commission member suggested that the SPO needed a better way of collecting and presenting data on recycling, including uniform reporting forms and a penalty for not submitting reports in a timely manner.

A Commission member asked for an outline of what other states do with CDD wastes.

At this time, the Commission accepted comments from members of the public.

Tom Emero, representing GenPower, stated that could provide information on how clean CDD woodwaste is compared to other fuels. He also stated that GenPower would commit to not landfilling the unusable fraction of the CDD woodwaste and ash, generated from out-of-state CDD wastes, in Maine landfills.

Sam Zaitlin, representing MERC, stated that Maine has high energy costs and we need to think about how and where we will get our energy.

Craig Dennis stated that more efforts need to be put into encouraging deconstruction and reuse of building materials and that 50% CDD combustion will result in high lead levels in the ash.

Commission members set a schedule for the next three meetings to be held around the state, as listed below:

October 4 th :	Presque Isle	T.C. and Presque Isle landfills
October 10 th :	Portland/Biddeford	MERC and RWS incinerators
October 18 th :	Bangor	P.T. and Juniper Ridge landfills

The meeting adjourned at 3:00 p.m.

**Blue Ribbon Commission on Solid Waste Management
Meeting Notes
October 4, 2006
Northeastland Hotel, Presque Isle**

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Rep. Joanne Twomey; Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Louder, Eastern Maine Development Corp.; Paula Clark, Department of Environmental Protection (Commissioner David Littell’s designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman’s designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Prior to the meeting of the Blue Ribbon Commission, members toured three facilities – Tricommunity Landfill in Caribou, the City of Presque Isle Landfill in Presque Isle, and the City of Presque Isle’s recycling center.

Commission members discussed information packets that were previously mailed to them. A memorandum discussing hazardous waste information from 2004-2005 from Michael Hudson of the MDEP was discussed.

Commission members then engaged in a discussion of the meaning of the term “commercial landfill”. The alteration of the definition that took place during the last legislative session was discussed as well as the “sunset provision” that was attached to that action. The change sunsets in January 2007.

A Commission member acknowledged that the legislative action was precipitated by the Casella/Lewiston situation. Another member then stated that situations like the Casella/Lewiston arrangement was a way for municipalities to make money.

MDEP added that a municipality must control the type and source of wastes but that the law was not specific about how this must be done. A Commission member stated that the Commission needs to make a decision about this definition. The same Commission member also stated that any new laws would not be effective until September 2007 which leaves a nine-month hole.

A Commission member stated that a municipality should be able to take out-of-state waste.

The Commission then discussed the Task Force Report and the recommendations contained in it.

A Commission member then stated that municipalities should not be allowed to (decide) what to do [about solid waste disposal] and wondered if solid waste should be managed more like highways. The member then went on to state that when the Maine Solid Waste

Management Agency was dissolved, it left no one in control and MDEP and SPO split responsibility leaving no state policy. Another member stated that the State has made bad decisions and that could be a slippery slope. The member stated that the State should not be able to make decisions for all. The first member stated that if towns back out of waste handling agreements then that leaves a hole to be filled by out-of-state waste.

The Commission members then began discussing Public Benefit Determinations.

A Commission member then stated that the question of whether the Public Benefit Determination (PBD) statute is a question for the Legislature. The member then stated that for incinerators the statute doesn't fit well. Another member stated that the PBD statute needs to be fixed.

A Commission member wants a State agency to control siting and also where trash goes. Other Commission members stated that there wouldn't be a lot for that body to do since there is already a system in place and that the current system may just need some tweaking.

A Commission member suggested that the members go through the Task Force recommendations and decide what to do with each recommendation.

A Commission member stated that the Legislature needs the mandatory reporting from municipalities in January.

SPO stated that the Task Force meets every five years but it should happen more frequently.

A Commission member wants SPO to do a Cost/Benefit analysis for recycling.

A Commission member wanted to know what are the resources for grants.

SPO stated that ~2 million tons of waste is handled per year. A Commission member stated that there should be a fee on that waste to raise revenue.

SPO stated that 1.3 to 1.4 million tons of waste is sent to landfills and incinerators per year. 1/3 goes to landfills and 2/3 goes to incinerators, not including construction/demolition debris (CDD).

A Commission member mentioned that there was a fee for waste that goes to landfills but not a fee for waste that goes to incinerators. MDEP noted that incinerator ash is primarily derived from municipal solid waste (MSW) and therefore the special waste fee is lower.

A Commission member suggested that revenue needs to be raised outside of a tax. The member then pointed out that fees can't be dedicated [to certain programs] and can be undone by the next Legislature. MDEP noted that the Solid Waste Management Fund

was established in the late 1980s and has not been changed. MDEP is also currently working on a funding source report. MDEP also stated that they are also working on #13 of the Task Force recommendations.

A Commission member stated that if there is a report being written the Commission needs to see it to know what direction to take.

A Commission member stated that the Commission should look at what they can do to make all things equal for both public and private entities.

A Commission member stated that PA has had some of the same issues as ME. The member requested that staff investigate what fee was instituted to stop New York City waste from going to PA.

At this point, the Commission opened the proceeding to anyone in the audience who wanted to speak.

A citizen announced that there would be an open forum regarding solid waste in Old Town on October 15th from 6:30-9:00 PM at the Elks Club. The citizen stated that he wanted MDEP to give a presentation at the forum.

One item was requested from staff and this was the information regarding fees in PA which were used to keep New York City waste from entering PA.

**Blue Ribbon Commission on Solid Waste Management
Meeting Notes
October 10, 2006
Sheraton Hotel, South Portland**

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Rep. Lillian LaFontaine O’Brien; Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Lounder, Eastern Maine Development Corp.; Paula Clark, Department of Environmental Protection (Commissioner David Littell’s designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman’s designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Prior to the meeting, Commission members toured the MERC and RWS facilities.

The meeting conveyed at 12:45 p.m. Commission members introduced themselves and stated their affiliations.

Paula Clark reviewed the Topic Outline and Solid Waste Management Structure. She suggested the Commission members discuss issues and concerns within each topic and develop an approach to addressing those issues.

A Commission member outlined the present roles of SPO (data gathering) and DEP (implementation/permitting). This leaves a gap in the management of waste streams. Another Commission member stated that the former Maine Waste Management Agency should have implemented this function.

A Commission member stated that market forces (prices) are the driving force for decisions at the municipal level. Towns still have choices, depending on geographic location. Another Commission member stated that the Juniper Ridge contract may place control on prices.

A Commission member asked what we aren’t doing that we should be doing. Commission members responded that we should be seeking more control over in-state and out-of-state wastes, increase recycling rates and educational efforts. A Commission member stated that bond money to implement the existing programs was running out. Another Commission member suggested seeking private sector funds and DECD assistance.

A Commission member asked the members for a definition of “commercial landfill” and asked if the Attorney General’s office could assist in drafting a definition. The same Commission member stated that if a facility is not municipally or state-owned, it is a commercial landfill. Another Commission member stated that generator-owned facilities needed to be included in the definition base on the percentage of non-generator waste

placed in the landfill. A Commission member suggested splitting out landfills and waste-to-energy facilities, with the goal to minimize the amount of out-of-state waste accepted at these facilities within the context of the law. Also, the definition should address the "... controls the decisions..." language to the definition.

A Commission member asked how do we make adjustment the waste management strategies if 80% of processed CDD ends up in a landfill instead of 20%? Another Committee member asked if 50% CDD in fuel mix is appropriate. Another Commission member stated that a moratorium on the combustion of CDD may be justified in order to properly address this issue. Another Commission member pointed out that there is no limitation on the combustion of "clean woodwaste" and a 2 x 4 is still a 2 x 4, regardless of the source. Paula Clark stated that the 50% limitation on CDD was a policy decision, not based on technology.

Committee members began a discussion of Host Community Agreements (HCAs). Members suggested expanding the definition of "host community", developing a specific list of items to be included in all HCAs, and defining who is responsible for bringing the parties together to develop the HCA.

The Committee set a schedule for the next three meetings, as follows:

October 27 th	9:00 a.m. to 3:00 p.m.	Augusta
November 15 th	9:00 a.m. to 3:00 p.m.	Augusta
November 29 th	9:00 a.m. to 3:00 p.m.	Augusta

The Commission adjourned at 2:30 p.m.

Blue Ribbon Commission on Solid Waste Management
Meeting Notes
October 18, 2006
Ramada Inn, Bangor

Commission Members present – Rep. Robert Duchesne (Co-chair); Rep. Joanne Twomey; Rep. Lillian LaFontaine O'Brien; Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Lounder, Eastern Maine Development Corp.; David Littell, Commissioner, Department of Environmental Protection; Paula Clark, Department of Environmental Protection (Commissioner David Littell's designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman's designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Prior to the meeting of the Blue Ribbon Commission, members toured two facilities – Pine Tree Landfill in Hampden and Juniper Ridge Landfill in West Old Town.

MDEP presented background information regarding the Host Community Agreements (HCA) statute. It was noted that it is applied to new facilities or when an existing facility undergoes an expansion. It was also noted that the Legislature's Natural Resources Committee posed questions such as who should get the benefit, should there be a baseline package of benefits, and what should be the trigger to revisit the HCA.

A Commission member noted that municipalities cannot enact a law that is more strict than State law. The member also noted that host communities take on added responsibilities. The member stated that the model applies only at the beginning of a project and only to the geographical host. The member stated that there was no opportunity to revise the HCA. The member also wanted to know who decides what a "good faith effort" is.

At this point Rep. Dechesne asked Peggy Daigle of the City of Old Town to speak about how the HCA process has affected the City of Old Town [host to the State-owned Juniper Ridge Landfill].

Ms. Daigle supplied the Commission with a copy of a letter sent to the Natural Resources Committee dated January 19, 2006. She reported that the City of Old Town spent approximately \$125,000 in legal costs negotiating the HCA and that the agreement in place is working well. She stated that traffic to the landfill is increasing. She also believes that there must be a better way of tracking waste. Ms. Daigle also relayed concerns regarding overweight trucks. She also stated that Casella has been a responsible operator of the landfill.

A Commission member asked what the City's ordinance will contain.

Ms. Daigle stated that it will mirror the MDEP rules. She stated it “will give the City a seat at the table.” A Commission member told Ms. Daigle that the City needs to look out for itself. Another member suggested to Ms. Daigle that the ordinance should contain a clause to review the HCA.

A Commission member asked Ms. Daigle how the statute could be better. Ms. Daigle stated that it was a long, hard process and the hardest piece was between the City and the State.

At this point members from the Landfill Advisory Committee (LAC) spoke and stated that the State ignored the City’s concern about out-of-state waste. They also stated that other State-owned sites should be developed. One member of the LAC also noted that MDEP must remain politically independent in oversight of the project.

Ms. Daigle stated that the State doesn’t have the monetary resources to deal with these issues.

A Commission member asked what the City is doing about overweight trucks. The Member asked whether the information can be given to the State Police. Ms. Daigle stated that Casella has a three-strike rule [if a truck driver arrives at landfill three times carrying too much weight, they are barred from making deliveries to the site].

A Commission member asked what the issues were with the State during the negotiations. The member asked Ms. Daigle if the contract term should be shorter. Ms. Daigle stated that it was too arduous a process.

At this point, Rep. Duchesne asked Don Meagher of Casella to present their point of view regarding the HCA. Mr. Meagher stated that the Request for Proposals (RFP) required the HCAs to be spelled out. After Casella signed the agreement with the State they had to go above and beyond that which cost them tens of millions of dollars more than what was in the bid package. He stated that they cannot discriminate against out-of-state waste and they must accept it. Mr. Meagher clarified that the tree-strike policy applies to the driver of an overweight vehicle not the truck or the company.

A Commission member asked MDEP who manages post-closure funds. MDEP responded that there are financial assurance mechanisms in the Rule to do this. Mr. Meagher stated that the Juniper Ridge Landfill (JRL) financial assurance mechanism is the same that is used for the Pine Tree Landfill – a surety bond.

A Commission member asked Mr. Meagher why Georgia Pacific (GP) is not burning construction/demolition debris (CDD). Mr. Meagher stated that he believes that is because the Chapter 418 rule changes were coming in the near future.

A Commission member asked Mr. Meagher whether out-of-state waste has gone to JRL since GP cannot burn CDD wood. Mr. Meagher stated that all CDD sent to JRL is from

Maine sources. Mr. Meagher also noted that JRL receives ~40,000 tons/month which constitute ~2000 vehicle trips.

At this point, the Commission opened the proceeding to anyone in the audience who wanted to speak.

The City Manager for the City of Saco stated that Saco is impacted by MERC but is not considered a host community. Mr. Murphy also stated that the Commission should state that no language should exist to allow a municipality to let oversight go. A Commission member asked Mr. Murphy what demonstrable impacts are most important. Mr. Murphy stated that waste odor, the number of trucks, infrastructure under the roads, and depressed property values are the most important.

A citizen remarked that the Commission was a joke unless they can put all pending licenses on hold.

A citizen stated that if a HCA can't be reached then there needs to be a mediation/arbitration provision.

A citizen remarked that JRL is disgusting.

A citizen stated that people need to contact their U.S. Representatives and Senators because of the commerce clause.

A citizen distributed a handout from the Toxics Action Center.

A citizen remarked that deconstruction was preferable to demolition.

SPO stated that the JRL HCA is opened every five years and when there is a permitting change.

A Commission member requested tests of ash from the four waste to energy facilities for the last 2-3 years. The member also requested the technical memoranda which addressed the suitability of the single versus double liner system at JRL.

A Commission member requested a copy of the JRL RFP.

Two items were requested by the Commission:

1. Technical memoranda which addressed the suitability of a single versus double liner system at JRL.
2. A copy of the JRL RFP.

Blue Ribbon Commission on Solid Waste Management
Meeting Notes
November 15, 2006
State House Room 437 Augusta, Maine

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Rep. Lillian LaFontaine O'Brien; Rep. Joanne Twomey; David Littell, Commissioner DEP; Kevin Roche, Ecomaine; Greg Lounder, Eastern Maine Development Corp.; Paula Clark, Department of Environmental Protection (Commissioner David Littell's designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman's designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

The meeting conveyed at 9:00 a.m. Commission members introduced themselves and stated their affiliations.

Paula Clark reviewed the information presented to date to the Commission, referencing several of the documents in the Import/Export section of the Commission member's information binder. Ms. Clark also presented a brief overview of the recent history of CDD combustion, including the Athens plant, the G-P boiler in Old Town and the development of fuel standards by the DEP. Several factors, including fires in fuel piles, concerns over fugitive emissions and ash quality lead the study conducted at the Athens facility by the Univ. of Maine that concluded air emissions for dioxin and arsenic would be well below ambient air guidelines. The development of the DEP's fuel standards focused on pre-sorting, sampling and quality controls at the point of processing and the point of end use. The rules also implement controls on time of storage, monitoring of pile temperatures, leachate management, certification of compliance with the fuel standards by a 3rd party inspector, QA/QC of fuel sources, and procedures for failing to meet fuel standards. Finally, Ms. Clark emphasized that the 50% limit of CDD fuel combustion was not technically based and that the DEP would be filing 3 reports with the Natural Resources Committee in February 2007 that address CDD combustion.

A Commission member asked if the Commission was looking at the whole picture with respect to all the costs, included way of life, associated with incineration. The Commission member asked who was responsible for enforcement of the fuel standards and how often are inspections conducted. Another Commission member proposed adding DEP enforcement staff based on a multiplier based on the number of facilities processing of combusting CDD and that the CDD industry should pay these costs. Commissioner Littell stated that he would prefer a stable funding source. A Commission member asked about the costs associated with monthly fuel certification as opposed to annual fuel certification. Another member asked who the 3rd party inspector was and is it always the same company.

A Commission member asked how much CDD is generated in-state, how much landfill space it would occupy and do any other states have regulations on CDD combustion.

Mark Roberts (Maine DEP, Air Bureau) answered questions from the Commission members. A Commission member asked what constitutes random and representative samples, and what dioxin level is okay when other experts say no level of dioxin is acceptable. Mr. Roberts stated that the DEP oversees the collecting of the samples of fuel and stack tests and takes the basic data from the generators and generates the air emissions models. Mr. Roberts stated that the operations at the MSW and biomass boilers have been improving. A Commission member expressed that confirmatory sampling and testing should be conducted, not at taxpayer expense. A Commission member asked if the air modeling takes into account the cumulative affect of sources in a geographic area. Mr. Roberts responded that it does not account for cumulative affects of multiple sources. Commissioner Littell added that the Maine Air Toxics Initiative will look at using a broader approach to air emissions in any particular location.

Beth Nagusky (Office of Energy Independence) presented information to the Commission on energy production and regulation in New England. Ms. Nagusky stated that hydro and biomass power production is constant and stable, as opposed to wind power and that diversity in the total power production industry is good. Biomass production accounts for 250 Mmwh of annual production out of a demand of 1700 Mmwh. A Commission member stated that conservation should be the focus, not more production. Ms. Nagusky stated that excess generation results in lower rates for Maine ratepayers and that the Office of Energy Efficiency provides businesses and homeowners with information on reducing energy use. Ms. Nagusky stated that transmission constraints exist now that inhibits getting Maine-generated power into New England markets. A Commission member stated that power producers should focus on generating low-cost energy locally to foster economic development, including providing combined heat and power systems. A Commission member asked how MERC covers costs when not generating/selling power. Ms. Nagusky responded that restrictions are in place to ensure that shareholders pay these costs, not ratepayers.

Tom Emero (GenPower) and Dr. Igor Linkov (Intertox) presented information to the Commission on combustion of CDD. Mr. Emero's presentation focused on air emissions from the combustion of CDD fuel. Mr. Emero also restated GenPower's commitment to not using Maine disposal facilities for the disposal of CDD processing residue and ash from the combustion of CDD fuel. Dr. Linkov presented the results of a preliminary risk assessment conducted by Intertox, Inc. based on the proposed emissions using 100% CDD fuel. A Commission member asked why the GenPower has not proposed a facility in Massachusetts. Mr. Emero responded that GenPower is actively seeking a site in MA. Mr. Emero sited fuel availability, economics of backhauling, a large (60 acres) industrially-zoned parcel, large water supply and transportation infrastructure make the Athens, Maine site a good location. Commissioner Littell asked what procedures/controls GenPower would use to achieve the proposed emission levels. Mr. Emero responded that GenPower would used fluidized bed technology, that the boiler temperature can be adjusted based on fuel load and that an enclosed fuel system make the

proposed emissions feasible. Commissioner Littell asked if GenPower proposed to combust other wastes, such as MSW. Mr. Emero stated that GenPower would not combust other wastes. Paula Clark asked how GenPower would meet the fuel standards. Mr. Emero responded by explaining the difference between positive and negative pick processing and the economics of each process. A Commission member asked if existing fuel suppliers can meet GenPower's needs. Mr. Emero stated they could. A Commission member stated the need for sorting to take place at the point of generation. A Commission member asked if GenPower would need 100% CDD fuel to be viable. Mr. Emero stated GenPower would be viable at 50% CDD fuel, but if GenPower can demonstrate that 100% CDD fuel would not result in emission violations.

Following Dr. Linkov's presentation, a Commission member asked if the cumulative affects of emissions can be factored into the risk assessment. Dr. Linkov stated cumulative affects can be added, but not likely to change outcome. Another Commission member asked if a background health study could be conducted for the Athens area. Mr. Linkov stated that individuals can make choice to worry about miniscule increases in risk to their health. A Commission member responded by stating one cannot rely solely on science to answer all the questions.

Debbie Gibbs (representing Citizens Moratorium on CDD Combustion) addressed the Commission. Ms. Gibbs stated the following points:

- controls need to be implemented to limit imports of out-of-state (OOS) waste;
- the Commissioner of DEP should have authority to implement a moratorium on CDD processing and combustion;
- the fuel standards in Chapter 418 are adequate;
- 16-20% recycling of CDD wastes not adequate; and
- The Commission needs to evaluate deconstruction requirements/standards and impose them on OOS waste.

A Commission member asked if every facility combusting CDD had to comply with GenPower's proposal to not use in-state facilities for disposal of OOS CDD processing residue and ash. Ms. Gibbs responded that no matter where the fuel comes from, the existing facilities cannot meet the emission standards. A Commission member asked Ms. Gibbs to clarify the language of the moratorium regarding processed and unprocessed CDD. Ms. Gibbs stated that in the worse-case scenario, a load of OOS CDD arrives in Maine, 1 piece of wood is removed, and the remainder in now IS waste and gets disposed in a Maine landfill. This is a big loophole that needs to be fixed. Another Commission member asked Ms. Gibbs that if the fuel standards are adequate, why impose a moratorium. Ms. Gibbs responded that the moratorium would only affect proposed or new facilities. A Commission member stated that separation at the source and imposition of fuel standards on all sources would be appropriate.

A member of the public addressed the Commission, stating the following points:

- the Commissioner of DEP should implement procedures to evaluate reuse of a building prior to demolition;
- evaluate the affects of CDD fuel standards on ash residue;
- the moratorium should exclude municipalities; and

- deconstruction is better than demolition.

A Commission member proposed a statutory change to grant the Commissioner of DEP the power to implement a moratorium when the Legislature is not in session and require all CDD come into Maine as fuel only. Commissioner Littell stated that the Commerce Clause would not allow a prohibition on the import of raw CDD.

A Commission member stated that there is no clear definition of in-state (IS) and out-of-state (OOS) wastes and there a difference between MSW fuel (80% of every load is fuel) and CDD fuel (40% is fuel).

A Commission member stated that there is no law that prohibits disposal of OOS waste in municipal landfills. Commissioner Littell stated that current law does prohibit OOS from being disposed in municipal landfills.

The Commission discussed moving the reporting date to February 15th, 2007.

The Commission discussed expanding the definition of “host community”. Members discussed incorporating a geographic radius around the facility and requiring communities to demonstrate an impact on infrastructure and/or services in order to be eligible for benefits.

The Committee set a schedule for the next three meetings, as follows:

December 13th	9:00 a.m. to 3:00 p.m.	Augusta
December 20 th	9:00 a.m. to 3:00 p.m.	Augusta

The Commission adjourned at 3:00 p.m.

Blue Ribbon Commission on Solid Waste Management
Meeting Notes
November 29, 2006
State House Room 437

Commission Members present – Rep. Robert Duchesne (Co-chair); Rep. Lillian LaFontaine O'Brien; Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Louder, Eastern Maine Development Corp.; David Littell, Commissioner, Department of Environmental Protection; Paula Clark, Department of Environmental Protection (Commissioner David Littell's designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman's designee to the Commission)

Rep. Joanne Twomey arrived at 10:00 AM; Sen. John Martin (Co-chair) arrived at 1:25 PM

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Paula Clark distributed the "Summary Outline Sheet Prepared for Consideration by the Blue Ribbon Commission on Solid Waste Management" dated November 2006. Ms. Clark then explained that the handout was organized into four distinct topic areas – Host Community Benefits, Construction/Demolition (CDD) Wood Fuel, Solid Waste Management Structure, and Waste Management Hierarchy.

Commission members then decided to discuss one topic at a time starting with Host Community Benefits (HCBs).

A Commission member asked whether the HCBs should be revisited when there is a significant change to the facility.

A Commission member stated that the Commission should decide whether HCBs should be extended to communities other than the geographical host. The member also questioned whether a circle should be drawn on a map (to include those communities within the circle) or whether potential impacted community should petition the Commission of the Department of Environmental Protection.

A Commission member stated that all impacted communities be considered one "body" so that an applicant would not have to deal with multiple bodies.

A Commission member stated that a community would need to know who to petition regarding impacts. Another member stated that host communities now apply to the Commissioner of MDEP. That member wanted to know whether the decision of the Commissioner of MDEP can be appealed. MDEP responded that a license can be appealed to the Board of Environmental Protection (BEP).

A Commission member stated that benefits should not be unlimited.

A Commission member voiced discomfort with extending HCBs to communities other than geographic host. The member felt the burden of proof is with the community claiming to be impacted. Another member stated that if the impacts are specific, such as infrastructure or service provisions, the impact is quantifiable.

A Commission member stated that quasi-municipal facilities be exempt from providing these HCBs. Another member stated that the current discussion is related to private facilities.

A Commission member asked whether the biomedical waste facility in Pittsfield was required to provide HCBs. MDEP responded that the facility is not a solid waste facility and therefore not subject to these requirements.

A Commission member asked whether existing facilities would be exempt from any changes made to the statute. MDEP responded that the trigger for this would be at license issuance and during any expansion of the facility. How the statute change is crafted would determine when the HCBs are reviewed.

A Commission member cautioned that care should be taken when deciding when to reopen HCBs because this could be a problem when relations are not good between a facility and the host community.

A Commission member asked whether a facility could petition the Commissioner of MDEP to reopen HCBs if it could demonstrate less of an impact than when it was originally licensed.

A Commission member stated that all host communities should get HCBs regardless of whether the facility is owned by a private entity or the State.

A Commission member asked whether the MDEP Commissioner's decision could be appealed. MDEP stated that the HCB determination is part of the license and can be appealed to the BEP.

A Commission member stated that communities need to get this determination early in the process. MDEP stated that if the determination is made outside the licensing process, an appeal would not be possible. MDEP also informed the Commission that Public Benefit Determinations are done prior to the licensing process. Something similar could be done for HCBs. MDEP also cautioned that the HCBs could not be negotiated too early in the process because there is not always enough information.

A Commission member stated that a municipality needs time to appropriate funds for the negotiating process.

A Commission member then directed the discussion to the term of HCBs. Another member stated that anything that would trigger a requirement for a license would

potentially open the HCBs. Another member stated that municipalities are new to this and there should be something in statute to require reopening of HCBs.

A Commission member asked MDEP what triggers re-licensing for a facility. MDEP responded that there is no re-licensing of solid waste facilities and once a license is issued it stands. However, if there are changes to a facility such as changes to the operations, expansion of the facility, or a change in amount of waste accepted, a facility would be required to modify its license and that could potentially reopen the HCB discussion.

At this point, the Co-chair opened the floor to members of the public for comment regarding HCBs.

Mr. Sam Zaitlin stated that he thought the Commission was going down the right road. The process being proposed would discourage people from submitting frivolous requests.

A Commission member stated that Mr. Zaitlin is a paid lobbyist for Casella. The member also stated that the members were not taking into account the emotional and spiritual health of the community members. Another member asked how that could be quantified. The original speaker stated that risk assessment is not reliable and this could be done by going out and talking to the people in the communities.

Mr. Paul Schroeder (We The People) stated that he believes the name of HCBs should be changed to Host Municipality Benefits since it accounts for the costs/impacts to municipalities not individual community members. He also stated that odor impacts really are impacts.

Don Meagher (Casella) stated that he believes there should be no distinction between private, State-owned and quasi-municipal facilities. Mr. Meagher also voiced his opinion that the impacts from waste trucks are no different than impacts from other commercial vehicle traffic. Mr. Meagher also cautioned that HCBs could not be discussed too early in the process because changes occur during the licensing process.

A Commission member stated that the difference between a quasi-municipal facility and a private one is profit.

The Commission members then discussed the comments received from interested parties which were summarized in the document furnished by Ms. Clark.

A Commission member stated that “penalty/mischief clauses” should not be allowed.

The Co-chair then summarized the Commission’s preliminary position, stating that any adjacent community that could demonstrate a quantifiable impact to infrastructure or service provisions should receive HCBs.

The discussion then moved to Construction Demolition Debris (CDD) Wood Fuel.

A Commission member asked whether the current Rules are enough to protect human health and the environment. MDEP responded that the Department believes the Rules are adequate to protect human health and the environment. Commissioner Littell stated that there is no data suggesting that the standards are inadequate regarding air emissions and that a margin of safety has been built in. Therefore, the Department finds no reason to support a moratorium. The Department also stated that significant resources have been devoted to ensuring that the Rules are enforced.

A Commission member stated that the 50% limit (on CDD wood fuel at biomass boilers) is artificial and the Commission should not be bound by politics. The MDEP stated that the 50% limit has been a policy matter and it distinguishes between beneficial use and disposal. Commissioner Littell stated that the Department is neutral on this subject. Another member stated that the onus should be on the performance of the facility and the 50% limit should be removed. The MDEP also stated that LD 141 required the Department to investigate the 50% limit. This report is due to be presented to the Natural Resources Committee in February.

A Commission member asked about the MDEP's data on the ash which results from burning 100% CDD wood fuel. Commissioner Littell stated that there is no source in Maine to get this data. A data source outside of Maine would need to be identified.

A Commission member stated that the Legislature should reaffirm the 1989 legislation or throw out the ban on new commercial solid waste disposal facilities.

A Commission member stated that the State has created a situation where CDD wood fuel must be imported for GP/Red Shield.

A Commission member stated that Public Benefit Determinations at Hampden and Norridgewock have helped to keep out-of-state waste out of Maine.

A Commission member stated that the proposed Westbrook processing facility is slated to receive 340,000 tons/year and most will be imported from outside Maine. Another member stated that the wood is not the problem but the non-burnable portion is. Another member stated that there should be a fee on the non-burnable portion to prevent Maine from becoming a dumping ground. Another member cautioned whether this would be a problem with the interstate commerce clause. Another member stated that it wouldn't as long as the same fee is levied across the board.

A Commission member asked what portion of CDD is waste versus fuel. MDEP responded that numbers were furnished to the Commission and were contained in the binders and the number averages approximately 40% fuel.

A Commission member stated that the definition of out-of-state waste needs to be put into statute for State-owned facilities.

At this point, the Co-chair opened the floor to members of the public for comment regarding CDD wood fuel.

Don Meagher (Casella) stated that he doesn't believe that MDEP's numbers are correct. The new Chapter 418 standards will create more residue and less fuel. The Rule drives a facility toward the positive-pick method and what is left from that is residue (fines). A Commission member asked Mr. Meagher whether the metal could then be removed. Mr. Meagher stated that is not economical since it would require two runs of the material. MDEP stated that some of the positive-pick operations do recycle metal. MDEP also stated that the analytical method to quantify fines content is being resolved with U Maine's laboratory. Mr. Meagher stated that before the recent Rule changes, facilities averaged 15% fines. The new Rules changed the maximum limit to 10% fines. He also stated that testing for fines content actually creates fines.

Tom Emero (GenPower) stated that if GenPower builds a biomass boiler here in Maine, all processors would be required by contract to dispose of residue outside Maine and all ash created from out-of-state generated biomass (on a total volume basis) would be disposed out of state. A Commission member cautioned Mr. Emero not to agree to anything that is not required of his competitors. A member asked Mr. Emero how much of 400,000 tons of CDD would be residue. Mr. Emero responded that approximately 70% would be residue. A member asked Mr. Emero if he agreed with Mr. Meagher that the positive-pick method is not economically feasible. Mr. Emero stated that he agreed because his proposed boiler was designed for negative-pick and can tolerate the high fines content. A Discussion followed regarding the renewable energy tax credits.

The Commission then took a break for lunch from 12:30-1:25 PM.

A Commission member asked MDEP about sampling CDD wood fuel. The Department informed the member that samples are taken throughout the year and that the certification sampling is an annual process at the fuel source. Additionally, periodic sampling is done at the boilers.

A Commission member stated that the Legislature can decide what goes to Juniper Ridge Landfill (JRL) and can limit out-of-state CDD residue. A Commission member stated that the SPO and the Governor's office can decide what goes to JRL after January 1, 2007 when the statute (definition of commercial landfill) sunsets. The member said the Commission should recommend removing the sunset provision.

A Commission member stated that if a facility accepts 50% out-of-state waste then it could also send 50% of its waste to JRL.

A Commission member asked whether MDEP should be given authority to institute a moratorium when the Legislature is not in session. Another member asked what the Commission should do about the moratorium that is before it. The first member stated that this one should be voted down. Another member asked whether this would relate to solid waste facilities only and the first member stated yes to this question. MDEP stated

that a license could be delayed or denied if necessary. MDEP also stated that the petition was for rulemaking and cautioned that citizens could petition the Department to institute a moratorium in order to delay an unpopular proposal. A member stated that a petitioner should be required to demonstrate why the moratorium is needed.

The Commission then adopted the position to recommend keeping the 50% limit pending the MDEP report to the Natural Resources Committee (NRC) in February. At that time, the NRC should decide whether to keep the 50% limit or modify it.

The discussion then moved to Solid Waste Management Structure and the definition of “commercial solid waste disposal facility”.

A Commission member stated that the current definition, any disposal facility that receives more than 15% from outside the facility, has worked well for privately-owned facilities.

A Commission member stated that cross-border situations need to be considered.

A Commission member asked whether waste-to-energy plants will be held to the same standards. Another member stated that the discussion was about landfills only not waste-to-energy plants.

Public Benefit Determinations (PBDs) were discussed. A Commission member stated that the current provision is intended to slow down influx of out-of-state waste. Another member suggested that the statute should state that PBDs should be revisited whenever there is a significant change in the operations at a facility.

Funding for solid waste management programs was discussed. MDEP stated that the Department is currently looking at funding and a report is due to the NRC in February. The Department stated that current fees are not enough to pay for the day-to-day operations of the solid waste programs at the Department. A Commission member stated that any fee increase should reinforce the hierarchy. Another member stated that he/she was opposed to fees in general.

A Commission member stated that he/she does not agree with the hierarchy and that incineration does not fit with the hierarchy.

SPO stated that recycling is maxed out at the current funding level.

A Commission member suggested expanding the bottle bill.

A Commission member asked what the benefit is to recycle when an incinerator needs a certain volume of waste to operate. Another member stated that it is better to stabilize the waste by incineration because there are no emission controls at landfills. The first member stated that this still doesn't eliminate landfills but has just made the waste more toxic.

The Commission then voted to endorse current hierarchy 8 to 1.

A Commission member stated that composting has big potential and that organics recycling needs to improve.

A Commission member stated that 1310-N needs to be strengthened to have a “hook” to follow the hierarchy.

A Commission member voiced concern that no one is in charge of making “big picture” decisions.

At this point, Co-chair Duchesne opened the floor to members of the public for comment regarding the Solid Waste Management Structure.

Joe Kazar (MMWAC) stated that the Commission should use care retroactively instituting the 15% limit at waste-to-energy facilities. A member explained that the 15% limit was only for landfills.

Paul Schroeder (We The People) stated that a facility was proposed in Acton where waste would be imported, the recyclables removed and the residue sent to JRL.

The Commission directed MDEP to draft its recommendations and have them ready for the meeting on December 13, 2006.

Blue Ribbon Commission on Solid Waste Management
Meeting Notes
December 13, 2006
State House Room 437

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Louder, Eastern Maine Development Corp.; David Littell, Commissioner, Department of Environmental Protection; Paula Clark, Department of Environmental Protection (Commissioner David Littell’s designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman’s designee to the Commission)

Rep. Lillian LaFontaine O’Brien arrived at 10:20 AM.

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Paula Clark handed out the “Initial Draft Recommendations of the Blue Ribbon Commission on Solid Waste Management” dated December 13, 2006 and meeting notes from the previous seven meetings. Commission Members then initiated their general discussion of the document. Commissioner Littell pointed out that the document was prepared based on the discussions, comments and recommendations of the Commission as a whole.

A Commission member prefaced his comments on the Draft Recommendations by positing that the findings and assumptions of the 1989 solid waste legislation may not be valid today. Specifically, that the state would control solid waste across the state, that the state would own and properly operate a solid waste landfill and that CDD would not be combusted at mills. Essentially, the factors driving solid waste management in Maine have changed and price controls have resulted in an increased demand for out-of-state (OOS) waste.

Another Commission member stated that there is no operational difference now between private and municipal facilities, other than where the funds go.

A Commission member stated that the state can and should control what wastes are accepted at the state-owned Juniper Ridge landfill.

A Commission member stated that municipalities have operated well over the years, doing what was needed to manage their facilities in a changing environment.

A Commission member raised the question of what constitutes a “commercial disposal facility” in light of the fact that facilities are accepting more waste from other sources due to diversion and how does the 15% limit apply. A Commission member responded by stating that increased recycling and diversion result in a loss of fuel at incinerators, resulting in increased capacity and need. The first Commission member responded by stating that regionalization is working and should be encouraged by the Commission.

Paula Clark stated that the difference between landfills and incinerators must be considered in that landfills do not need a set amount of waste to operate. A Commission member stated that relationships/cooperative agreements cannot be forced. The first Commission member stated that in the future, increased diversion will make it harder for waste-to-energy facilities to meet their minimum operating needs. A Commission member stated that the 15% rule was initially imposed to accommodate a papermill landfill back in 1989. Another Commission member stated that the newly-discussed Marion Twp. landfill may test 15% rule. Paula Clark stated that the definition of “members” is important to keep in mind. Another Commission member responded that “owner” is the key, not “member”. Another Commission member agreed, stating that ownership involves more of a commitment than contract membership. A third Commissioner member stated that too many municipalities have contract memberships with no responsibility or vested interest associated with their membership.

At 10:00 a.m., the Commission opened the meeting to accept public comments on the Draft Recommendations.

Jack Cashman (Commissioner, Department of Economic and Community Development) spoke regarding the use of CDD wood fuel. He stated that while Georgia-Pacific is no longer part of the landfill-mill-energy package, the operation of the boiler by the new owners (Red Shield) and the ability to utilize inexpensive CDD wood fuel is still important to the redevelopment of the mill complex. The fuel agreements made between Casella were made based on the laws of 2003. A Commission member asked how does the state mix IS/OOS waste into economic development? Mr. Cashman responded that the Old Town and Stratton mills can be viable operations using woodwaste. Burning CDD wood mitigates high energy costs. Another Commission member asked how long the artificially-low CDD wood fuel prices would remain in effect. Mr. Cashman replied that the contract obligation is for 15 years.

Don Meagher (Casella Waste Systems, Inc.) presented oral and written testimony to the Commission (copy attached). A Commission member asked what was the projected lifespan of the state-owned Juniper Ridge landfill. Mr. Meagher responded that the proposed expansion would bring the total capacity to 10 million cubic yards that may provide 12-15 years of capacity. In addition, the operation of the proposed CDD processing facility would likely reduce the life of the facility to less than 12 years. Paula Clark asked Mr. Meagher to comment on the volumes of wastes received at Juniper Ridge, Pine Tree Landfill and other Casella facilities, including the proposed Westbrook CDD processing facility. Mr. Meagher stated he would bring that information to the next meeting. A Commission asked if Casella receives 1000 tons/day of CDD and MSW at its proposed processing facility, what percentage would be landfilled. Mr. Meagher responded that he did not know yet. The same Commission member asked where the MSW would be coming from and if Red Shield was currently burning CDD wood fuel provided by Casella. Mr. Meagher responded that he was not sure where the MSW would come from and that Casella was not yet supplying CDD wood fuel to Red Shield. A Commission member asked, given the cost of processing CDD into fuel and having to provide CDD fuel at \$4/ton, how does this work economically for Casella. Mr. Meagher

responded that Casella would lose money by having to supply CDD fuel to Red Shield. A Commission member responded that this was a good deal for Maine, not Casella, even though G-P ended up closing the mill anyway. Another Commission member asked if Casella will charge itself full price for disposing of the CDD processing residue from the proposed Westbrook CDD processing facility. Mr. Meagher replied that Casella charges itself the going rate for disposal. Commissioner Littell asked Mr. Meagher how much Casella charges for pre-processed CDD. Mr. Meagher responded that Casella charges \$62/ton. A Commission member asked Mr. Meagher what the contract period was for supplying CDD fuel. Mr. Meagher responded that the contract was for 30 years, starting from 2004. A Commission member asked if most of the OOS waste going to the proposed CDD processing facility would come from Massachusetts. Mr. Meagher responded he did not know. Distance to transport the raw CDD would be a factor. While the facility was proposed to be built in Westbrook, an in-depth analysis would need to be conducted prior to selecting a final location and would likely not be built until 2009 and be operational when Pine Tree Landfill closes. A Commission member asked if Casella was competing against other companies for the CDD fuel market. Mr. Meagher responded that the G-P (Red Shield) commitment was the driver for constructing the processing facility.

Ed Pesloski (Chairman, Red Shield) testified on the benefits of the combustion of CDD fuel by the facility. Red Shield is working with the University of Maine to develop a cellulose process and that implementation was 12-15 months away. The ability of Red Shield to combust CDD fuel made it possible to provide low cost energy to the companies looking to move into the former G-P mill complex, generating 200 jobs in five years. A Commission member asked how the Red Shield process was carbon-neutral. Mr. Pesloski responded that trees take up CO₂, while combusting wood fuel releases it at a comparable rate. A Commission member asked if Red Shield could sell the power it generates. Mr. Pesloski responded that Red Shield could sell the power on the open market. A Commission member asked if higher fees would affect Red Shield's operation. Mr. Pesloski responded that anything that raises fuel costs is bad. A Commission member asked whether steam generated at the facility could be used. Mr. Pesloski responded that steam could be piped to buildings for heat and also for drying wood pellets.

Dean Bradshaw (Marion Township transfer station) provided oral testimony to the Commission on the proposed CDD landfill. Presently, the existing facility serves 14 towns and 5 unorganized territories, generating 20-30 tons per year. They ship their MSW to Canada. The proposed 18-acre facility would accommodate their current customer base. The 15% limitation is problematic for the newly-proposed facility. Currently, 40-60% of the waste coming to their facility is from non-members. The fees paid by non-members have been saved over the years to be used to construct the new facility. A Commission member asked what percentage, if not 15%, would be acceptable. Mr. Bradshaw responded that 40% of waste is currently coming from non-members and that for the new facility, 60% from non-members would be an acceptable limit. A Commission member stated that the current facility was supposed to last for 20 years and why has that changed. Mr. Bradshaw responded that the plan was changed in

the 5th year so that the new 18-acre secure facility could be built. A Commission member asked who would own the new facility. Mr. Bradshaw responded that a non-profit corporation would own the facility and accept waste from 14 towns, 5 unorganized territories, and two additional contracts.

Peggy Daigle (Town Manager, Old Town) provided oral testimony to the Commission on the Host Community Agreement (HCA) process. Specifically, that renegotiating the HCA would be burdensome and that municipalities should be allowed to have more restrictive ordinances than the state allows. Ms. Daigle stated that the Town of Old Town spent ~\$125,000 to negotiate the HCA with Casella for Juniper Ridge Landfill. She stated that she would not want the Commission to undo this agreement. A Commission member commented that it may not be necessary to completely renegotiate the HCA, just portions of it as conditions change. Another Commission member asked what other ordinances would be appropriate for the municipalities to impose. Ms. Daigle responded that she had no specific examples, but wanted to keep the option open.

Charlie Gibbs (representing himself) provided oral testimony to the Commission on several topics. Specifically, the Commission needs to define IS/OOS waste and put it in writing, we need to be up front about what is being brought into the state for disposal, that the Red Shield boiler will never work properly burning CDD fuel, that the state is using "us" as lab rats and that he wants to know what the fines left over in trucks transporting CDD wastes are doing to his health.

Tim Murphy (Attorney for City of Saco) provided oral testimony to the Commission on the Host Community Agreement process and other issues. The City of Saco supports the process as a whole and agrees with the approach of including adjacent communities. However, Casella should not be allowed to impose a penalty clause. No other entity imposes a penalty clause. Also, municipalities should be allowed to impose more stringent ordinances than the state.

Jim Bennett (Administrator, City of Lewiston) provided oral and written testimony (copy attached). He stated that currently 100% of the waste accepted at the landfill comes from a non-member source (MMWAC). Lewiston benefits from having MMWAC combust its waste by extending the life of the landfill. Under the operating agreement between Lewiston and MMWAC, each entity bears no liability for the misfeasance or malfeasance of the other. A Commission member commented that the Commission was supportive of collaborations such as trash-for-ash, but it did not want facilities selling off capacity. Mr. Bennett stated that as of July 1, 2007 when contract with MMWAC expires they will not have any option but to throw "trash in the hole" at \$140/ton. Mr. Bennett stated that the Commission needed to find a way to keep existing deals in place.

Joe Kazar (MMWAC) presented oral testimony to the Commission on the other half of the trash-for-ash collaboration. He stated that the 15% rule applies only to landfills, not incinerators. He had no suggestions for what the percentage should be, but he suggested exempting instate trash-for-ash collaborations. Finally, he stated the Commission should not change the waste hierarchy.

Cheryl Spencer (resident of Old Town representing We The People) presented oral and written testimony (copy attached) to the Commission on several topics. Specifically, she stated that even a 50% CDD fuel mix will cause pollution, OOS waste is still undefined by the Commission, risk assessments cannot account for all health affects, that trust needs to be built through a verification process such as tracking.

David Van Slyke (attorney representing GenPower) presented oral testimony to the Commission on CDD combustion. Specifically, he commented that the Commission should wait to see what is contained in the CDD Fuel report the DEP is preparing for the Natural Resources Committee. He stated that the current 50% rule is based on policy and politics, not hard science. A Commission member asked if GenPower should be held to a different standard (100% CDD fuel) than other proposed or existing facilities that combust CDD fuel. Mr. Van Slyke stated that GenPower should not be limited by an artificial standard when its modern facility was fully capable of combusting 100% CDD fuel and would have lower emissions.

Bill Lippincott (Hampden citizens coalition) presented oral testimony to the Commission on several topics. Specifically, he stated that closing the Pine Tree Landfill will not change the fact that it is contaminating the groundwater, that there is a big loophole regarding the import of OOS waste, that entering into a host community agreement should not prevent a municipality from implementing and enforcing local ordinances in excess of state law and regulations and that the state needs to start looking for another site for a state-owned landfill.

Mark St. Germaine (St. Germaine & Associates) presented oral testimony to the Commission on public vs. commercial entities and CDD wastes. Specifically, he stated that the impacts associated with public and commercial waste facilities are the same, regardless of ownership, that the 50% limit on CDD fuel should be repealed and that modern facilities should be able to burn up to 100% CDD fuel.

Dana Snowman (resident of Old Town) presented oral testimony to the Commission on several topics. He asked the Commission what percentage of wastes landfilled in Maine originated in Maine. Sue Inches responded that the SPO report with that information would be available in January of 2007. Mr. Snowman also commented that the state is still counting all MERC waste as in-state waste when it is not and that trash is not an economic good, it is a fraud. Finally, he stated that Maine should look at its own generation rates for waste and build capacity for any state-owned facility around those figures and be honest about the importation of OOS waste.

Paul Schroeder (resident of Orono representing We The People) presented oral and written testimony (copy attached) to the Commission on several topics. Specifically, he stated that the state needed to stop trying to fit policy over practice, that there was a need to affirm the 1989 policies or throw them out, that we should prohibit the importation of all the non-burnable fraction of the CDD waste stream and just import the fuel, that the CDD fuel portion of the Operating Services Agreement for Juniper Ridge was Casella's

idea, that Francis Ackerman should be invited to address the Commission, that 65% by volume CDD does not equal 50% by weight CDD and that the processing/fuel requirements of Maine law/regulations should also apply to Massachusetts facilities/fuel sources.

Mark Draper (Tri-Community Landfill) presented oral and written testimony (copy attached) to the Commission. He did not have any suggestion for revising the 50% rule and he supported the funding portion of the draft Recommendations, especially those that provided funds back to the municipalities. A Commission member asked Mr. Draper if he thought contracts were a strong enough tool to limit the importation of OOS waste. Mr. Draper had no suggestions for managing OOS waste until a firm definition exists for what constitutes OOS waste. Mr. Draper also stated that there is a difference between publically owned facilities and commercially owned facilities because municipalities are required by law to provide for disposal of waste created in that municipality.

Lenny Murphy (resident of Woodville) presented oral testimony to the Commission on several topics. He stated that public employees should not be given preference in this process, that scare tactics should not be used, that OOS waste should be tracked from beginning to end, that there should be increased inspections and enforcement and that fees should go into the General Fund so that the MDEP is not obligated to applicants. Mr. Murphy also suggested that no products should be sold that are not recyclable.

Chip Ahrens presented oral testimony to the Commission. He stated that both the state and municipalities should be able to limit the importation and disposal of OOS waste, that the 15% rule was originally implemented for paper company landfills and that only 25% of raw CDD becomes fuel and not all of the non-burnable remainder goes to a landfill. Mr. Ahrens also stated that the penalty provisions [of HCB agreements] have been mischaracterized.

Dave Wilby (of Independent Energy Producers of Maine) presented oral testimony to the Commission on CDD fuel. He stated that CDD fuel is important to the biomass facilities.

The public comment portion of the meeting was concluded.

A Commission member stated that there was a difference between Red Shield and GenPower. Paula Clark responded that both facilities are held to the same regulatory standards.

A Commission member asked if the Commission could request the Legislative Committee to approve holding additional meetings to permit the Commission to finish its tasks. The Commission chair would look into that issue. Another Commission member stated that the Commission needed meeting minutes and a synopsis of the outstanding issues left to be addressed by the Commission.

The meeting was closed at 4:10 PM.

**Blue Ribbon Commission on Solid Waste Management
Meeting Notes
December 20, 2006
State House Room 437**

Commission Members present – Sen. John Martin (Co-chair); Rep. Robert Duchesne (Co-chair); Rep. Lillian LaFontaine O'Brien; Kevin Roche, Ecomaine; W. Tom Sawyer; Greg Louder, Eastern Maine Development Corp.; David Littell, Commissioner, Department of Environmental Protection; Paula Clark, Department of Environmental Protection (Commissioner David Littell's designee to the Blue Ribbon Commission); Sue Inches, State Planning Office (Director Martha Freeman's designee to the Commission)

Staff to the Commission present – Michael Parker, MDEP; Carla Hopkins, MDEP

Commission Members continued their discussion of the "Initial Draft Recommendations of the Blue Ribbon Commission on Solid Waste Management" dated December 13, 2006. The discussion began with Host Community Benefits (HCBs).

[Note: All numbered items listed below correspond to numbered items contained in the "Initial Draft Recommendations of the Blue Ribbon Commission on Solid Waste Management" dated December 13, 2006.]

HOST COMMUNITY BENEFITS

#1 - Though no actual vote was taken on #1 under the Host Community Benefits heading, consensus of the Commission members was to keep that recommendation in the final report to the Legislature.

A Commission member wanted clarification regarding the definition of "adjacent community". Another member stated it should refer to only communities immediately adjacent to the host community. A Commission member stated that a community would need to demonstrate a quantifiable impact in order to receive HCBs.

#2 - Though no actual vote was taken on #2 under the Host Community Benefits heading, consensus of the Commission members was to keep that recommendation in the final report to the Legislature.

A Commission member asked who should make the decision whether an adjacent community has standing when the State owns the landfill. Another member indicated it should be the MDEP Commissioner. Another member added that if this responsibility is shifted to MDEP rather than the State Planning Office, SPO should have input and there should be a time limit for applying, as well as an appeals procedure.

#3 - Though no actual vote was taken on #3 under the Host Community Benefits heading, consensus of the Commission members was to keep that recommendation in the final

report to the Legislature with the following change: a community would petition the Commissioner of MDEP for eligibility for host community impact fees rather than the Executive Director of SPO.

A Commission member initiated a discussion regarding the “mischief clause”. The member wanted to require a facility owner to continue paying HCBs for all things quantifiable (e.g. public safety, roads, infrastructure, etc.). Additionally, the facility should be able to withhold other monetary benefits paid by the facility owner. Another member stated that this constituted “micromanaging” and the Legislature should not get involved because terms of contract are agreed upon by parties. The first member disagreed and stated that if a facility is forced upon a community, it may be under duress to agree to terms offered by facility owner. A member stated that the draft recommendation should remain in the final recommendations. Another member pointed out that if a host community signed a contract with a mischief clause agreeing not to enact an odor ordinance, it would not then be able to enact one without losing its HCBs.

#4 - A vote was taken on #4 under the Host Community Benefits heading. The Commission voted in favor of keeping the recommendation in the final report to the Legislature. Two members voted against and one member abstained from voting.

A Commission member stated the NRC should look at the Task Force recommendations. Another member questioned whether the NRC would get the Commission meeting notes. Co-chair Martin responded in the affirmative to this question.

At this point, the Commission moved to a discussion of the Solid Waste Management Structure.

SOLID WASTE MANAGEMENT STRUCTURE

A Commission member expressed concern that if the definition of “commercial solid waste disposal facility” is not dealt with, all municipal landfills will become commercial landfills. The member suggested grandfathering all existing relationships/agreements. Another member questioned whether municipalities and municipal associations could be trusted to control their own destinies. Another member stated that the present law exempts municipally-owned facilities. The member also stated that the 1989 law created the Solid Waste Management Agency to oversee this. Since that time, the agency has been dismantled and the responsibility has been assigned to different agencies.

A Commission member stated that it is in the best interest of the State to control solid waste management. The member stated that the best way to do this is during the Public Benefit Determination (PBD) process. Another member pointed out that the Lewiston/Casella situation was dealt with through the Attorney General’s office and it was decided that the project could not move forward without legislation. Another member pointed out that one municipality cannot afford to build a landfill on their own.

A member suggested that this could be dealt with using the PBD process by doing the following: 1) require a municipality/facility to demonstrate that the capacity is needed, similar to the "Certificate of Need" process used for hospitals; 2) broaden the PBD to include all facilities and tighten up the PBD review for municipal facilities since it is quite cursory now; 3) use the PBD process for expanded capacity as well as for new facilities and facility expansions.

A Commission member asked whether MDEP has the authority to take over a facility if it is poorly run. MDEP Commissioner replied that MDEP's only recourse is to close a facility. Additionally, MDEP does not have necessary resources to operate a landfill.

A Commission member expressed his support of the three suggestions given above. Another member asked whether this would apply to recycling facilities such as the one proposed in Acton. MDEP replied that it would apply to only solid waste disposal facilities, other facilities have not been considered. Another member stated that if it involves solid waste, it should be reviewed by MDEP. MDEP replied that the major concern is that any processing facility residue would be seen at disposal facilities and therefore should be covered under that PDB process. Another member pointed out that the GenPower proposal has all residue being removed from Maine and taken back to its point of origin. The member stated that the Attorney General's office should be consulted on this.

A member stated that the PBD is one piece of the definition of "commercial solid waste disposal facility" has not yet been dealt with. Another member stated that he/she did not want to include the small facilities that are acting responsibly. MDEP stated that this is dealt with in the fee structure by exempting "members or those in long-term contracts" and a similar approach could be used for this. It could also include an exemption for not-for-profit facilities. Another member suggested putting a definition in statute for a "municipal solid waste disposal facility". Another member stated that all facilities should be treated the same regardless of whether they are municipally or commercially owned. Another member supported the compromise that was suggested earlier by dealing with these issues through the PBD process.

#1 – Though no actual vote was taken on #1 under the Solid Waste Management Structure heading, consensus of the Commission members was to recommend that the NRC review the definition of "commercial solid waste disposal facility" and to recommend dealing with this issue in part by using the PBD process (see below).

#2 – Though no actual vote was taken on # 2 under the Solid Waste Management Structure heading, consensus of the Commission members was to approve the language that is there and to add the following requirements: 1) require that any facility demonstrate that any proposed new facility, expanded facility or increased capacity is needed, similar to the "Certificate of Need" process used for hospitals; 2) broaden the PBD to include all facilities, public and private, and tighten up the PBD review for municipal facilities since it is quite cursory now; 3) use the PBD process for expanded capacity as well as for new facilities and facility expansions (see proposed statutory

language in the “Initial Draft Recommendations of the Blue Ribbon Commission on Solid Waste Management”).

At this point, the Commission moved to a discussion of the Waste Management Hierarchy.

WASTE MANAGEMENT HIERARCHY

A Commission member suggested that inserting the Hierarchy during the PBD process would be appropriate since it currently has “no teeth.” Another member pointed out that #2 under the Waste Management Hierarchy section of the document recommends adding language to the statute to require minimum standards in line with hierarchy.

A Commission member stated that no one deals with reducing the amount of waste that is generated. Another member added that this is left up to educators. Another member suggested that facilities be required to teach reduction and recycling. The member also added that no one is enforcing the “paper bag law”. SPO indicated that it is taking responsibility for education (regarding reduce, reuse, and recycle). Another member stated that this would need to be addressed on the national level to make a real difference. DEP also stated that it has been involved in reduction and recycling through the mercury law and the e-waste laws.

Another member suggested expanding the current bottle bill. Another member agreed and stated that bills have been sent to the Legislature for their consideration during the next session. The member also stated that there is a bill to use the bottle “float” money (for solid waste management). Another member asked what is happening with refillable bottles. SPO stated that the Department of Agriculture and SPO has been involved in researching this issue.

A Commission member stated that the State is falling short on composting and waste-to-energy. Another member stated that the language should be broadened to include all pieces of the Hierarchy. The first member stated that MDEP should link the Hierarchy to the PBD. MDEP asked how the member how MDEP would do that. The member stated that during the PBD process that MDEP should see how the facility fits into the Hierarchy. The member also stated that if 50% of waste going to a landfill is recyclable, the landfill should not be taking the waste. MDEP responded that the PBD happens very early in the licensing process and a facility may not be sure about waste stream composition. MDEP suggested that this be done during the application process when the facility has a better idea about waste composition.

#1 and #2 - Though no actual vote was taken on #1 and #2 under the Waste Management Hierarchy heading, consensus of the Commission members was to keep those recommendations in the final report to the Legislature.

At this point, the Commission returned to the discussion of the Solid Waste Management Structure. They resumed their discussion beginning with #3.

SOLID WASTE MANAGEMENT STRUCTURE

A Commission member suggested that fees for all disposal facilities be the same. Another member stated that he/she supports applying a fee to the bottom rung of the Hierarchy and not include waste-to-energy plants since they are making the waste suitable for landfilling. MDEP stated that fees are currently being looked at with the Hierarchy in mind. Another member suggested that fees for construction/demolition debris (CDD) should not be levied on CDD that is burned but should be levied on CDD that is landfilled (residue). MDEP stated that fees have different purposes and some could be returned to municipalities. Another member suggested that money from fees should benefit all, municipalities and private companies alike.

#3 - Though no actual vote was taken on #3 under the Solid Waste Management Structure heading, consensus of the Commission members was to keep those recommendations in the final report to the Legislature.

#4 - Though no actual vote was taken on #4 under the Solid Waste Management Structure heading, consensus of the Commission members was to keep those recommendations in the final report to the Legislature.

A Commission member stated that more raw data on municipal solid waste (MSW) and CDD should be collected by MDEP similar to the manifesting program for the hazardous waste and non-hazardous waste transporters. Another member asked whether waste that comes into and leaves a transfer station is subject to manifesting. MDEP responded that transfer stations are required to file annual reports with the MDEP and SPO. The member stated that any transfer station not submitting the report should be penalized. MDEP responded that those not doing this are dealt with through the enforcement process. Another member suggested that all SPO data requirements be added to the MDEP regulatory requirements. Another member stated that manifesting loads is not that difficult. MDEP responded that getting the required data is very different from manifesting each load and suggested first identifying where the data gaps are. MDEP also stated that if all waste is to be manifested that significant tracking is required and the cost to municipalities and the State would be significant. SPO suggested first adding data to the Capacity Report and doing the report annually before requiring manifesting all loads.

#5 - Though no actual vote was taken on #5 under the Solid Waste Management Structure heading, consensus of the Commission members was to keep those recommendations in the final report to the Legislature.

A Commission member suggested that the Commission should reaffirm the 1989 legislation (ban on new commercial solid waste disposal facilities). Another member suggested adding recycling goals to the Task Force recommendations. SPO stated that CDD is included in the data that is collected. SPO also stated that they could attempt to break out the “tourist” trash.

#6 - Though no actual vote was taken on #6 under the Solid Waste Management Structure heading, consensus of the Commission members was to keep those recommendations in the final report to the Legislature.

A Commission member suggested listing the 1989 goals in #7 under the Solid Waste Management Structure heading.

#7 - Though no actual vote was taken on #7 under the Solid Waste Management Structure heading, consensus of the Commission members was to keep this recommendation in the final report to the Legislature and to list the goals of the 1989 legislation under this recommendation.

At this point, the Commission moved to a discussion of Construction/Demolition Debris Wood Fuel.

CONSTRUCTION/DEMOLITION DEBRIS WOOD FUEL

A Commission member stated that he/she does not agree with the artificial 50% limit. Another stated that limits should be based on individual boiler performance. The member also stated that all processing residue should be taxed. MDEP stated that the 50% limit is used as a matter of policy to distinguish between beneficial use and disposal and it deals with the ban (1989 legislation) on new commercial solid waste disposal facilities. MDEP also stated that the number is now in statute. MDEP also stated that it would abstain from voting on this recommendation.

1 - A vote was taken on #1 under the Construction/Demolition Debris Wood Fuel heading. The Commission voted 4-2 in favor of changing the recommendation to allow up to 100% CDD wood fuel based on performance of the individual boiler in the final report to the Legislature. Two members abstained from voting.

#2 – A vote was taken on #2 under the Construction/Demolition Debris Wood Fuel heading. The Commission voted 6-2 in favor of including this recommendation in the final report to the Legislature.

3 – Though no actual vote was taken on #3 under the Construction/Demolition Debris Wood Fuel heading, the consensus of the Commission members was to recommend that the NRC review the future acceptance of out-of-state waste at State-owned solid waste disposal facilities.

#4 – Though no actual vote was taken on #4 under the Construction/Demolition Debris Wood Fuel heading, the consensus of the Commission members was to request that MDEP evaluate whether a standard should be established which specifies that a certain percentage of the mixed waste accepted by a construction/demolition debris processing facility be recycled and/or reused.

A Commission member expressed concern that fines in the CDD wood fuel could pose a problem if the same truck were used to backhaul mulch. MDEP stated that it was not aware of any documented problem with this but that samples could be collected and analyzed.

#5 - Though no actual vote was taken on #5 under the Construction/Demolition Debris Wood Fuel heading, the consensus of the Commission members was to keep that recommendation in the final report to the Legislature.

At this point, the Commission had discussed all recommendations in the “Initial Draft Recommendations of the Blue Ribbon Commission on Solid Waste Management”. Co-chair Martin opened up the discussion to any other recommendations the members wished to include in the final report to the Legislature.

A Commission member suggested that the MDEP Commissioner be given the authority to direct waste streams within the State, similar to the authority given to the director of the now defunct Maine Waste Management Agency. MDEP asked for clarification on the circumstances under which that authority would be used. The member stated that it would be done to coordinate the four waste-to-energy plants during outages and scheduled shutdowns to conserve landfill space. MDEP stated that the trigger for this would need to be defined.

Though no actual vote was taken on this recommendation, the consensus of the Commission members was to add this recommendation to the final report to the Legislature.

A Commission member suggested that the calendar limitation (38 MRSA § 1310-X) on the expansion of commercial solid waste disposal facilities be removed from statute. Another member pointed out that this is one of the central pillars of the 1989 legislation. The member stated that expanding existing facilities is preferable to building new facilities.

A vote was taken on this recommendation. The Commission voted 8-0 in favor of including this recommendation in the final report to the Legislature.

A Commission member suggested that matching funds be available to help solid waste programs get started. The member suggested that composting was one area that could benefit from this. Another member wanted to discourage a “toys for towns” program. SPO pointed out that this type of matching fund program has been funded by bond money in the past.

Though no actual vote was taken on this recommendation, the consensus of the Commission members was to add this recommendation to the final report to the Legislature.

A Commission member suggested that it is in the interest of the State to fund a position just to monitor the Juniper Ridge Landfill (JRL). Another member asked Casella representative Don Meagher why the fill rate at JRL is now 800,000 tons/year rather than the 500,000 to 600,000 tons/year stated in the Operating Services Agreement (OSA). Mr. Meagher gave several reasons for the difference: 1) the 2003 estimate assumed the use of a processing facility; 2) Casella could only include what they knew would be going to JRL; 3) State regulations are a “moving target” and regulations could increase the amount of CDD processing “residue”; 4) the estimate assumed that the Pine Tree Landfill would be open.

Co-chair Martin asked Paula Clark of the MDEP to finalize the recommendations of the Commission, with all changes noted at the December 13 and December 20, 2006 meetings. Sen. Martin asked that the final draft be sent to Commission members and the members would have five days to comment (to Ms. Clark) on the final draft. Ms. Clark pointed out that a report would not be ready to send to the Legislature by January 1, 2007 as required in the Resolve. Sen. Martin indicated that he would ask the Legislative Council to extend the date to mid-February.

The meeting was closed at 12:20 PM.

APPENDIX D

**(Summary Sheets – Key Questions and Issues,
Blue Ribbon Commission on Solid Waste Management,
November 2006)**

Summary Outline Sheet
Prepared for Consideration by the Blue Ribbon Commission
on Solid Waste Management
November 2006
(Compiled by: Maine Department of Environmental Protection)

TOPIC AREA: HOST COMMUNITY BENEFITS

Key Questions/Issues Raised by the Commission:

- ✓ Should communities adjacent to the actual host community of a waste disposal facility be eligible for host community benefits? If so, under what circumstances, and what benefits should be allowed?
- ✓ Should a mechanism be put in place to ensure that host community agreements are regularly reviewed and maintained over time?
- ✓ What is the appropriate mechanism to ensure that the parties come together to negotiate an agreement “in good faith”?

Possible Courses of Action:

- ✓ Make adjacent communities eligible if:
 - they are within a 10 mile radius of the disposal facility
 - local roads must be traveled to access the disposal facility
 - the municipality can identify and quantify direct municipal impacts related to infrastructure development/maintenance or service provision (v. generalized potential environmental impacts)
- ✓ Conduct an up front study to determine how communities are potentially impacted.
- ✓ Revise 38 MRSA§1310-N(9) to ensure that host community benefit agreements are appropriately maintained over time.

Summary: Related Comments Submitted by Interested Parties:

- ✓ Waste-to-energy plants should be required to negotiate host community benefits as landfills do.
- ✓ Operators of state-owned facilities should be required to provide specific minimum benefits to the host communities.

- ✓ SPO should work with the host community of a state-owned facility.
- ✓ No language in a host community agreement should allow a municipality to “let go of its oversight” role.
- ✓ For cases where an agreement cannot be reached, there should be a mediation/arbitration provision in the law.

Summary Outline Sheet
Prepared for Consideration by the Blue Ribbon Commission
on Solid Waste Management
November 2006
(Compiled by: Maine Department of Environmental Protection)

TOPIC AREA: SOLID WASTE MANAGEMENT STRUCTURE

Key Questions/Issues Raised by the Commission:

- ✓ Should the definition of “commercial solid waste disposal facility” be revised for clarity and to address the situation of a publicly owned facility contracting with a private entity for its operation?
- ✓ Should the existing process for making public benefit determinations be revised?
- ✓ Are current funding levels and resources adequate to administer state solid waste management programs?
- ✓ Does the current division of responsibility for solid waste management remain appropriate and effective (state, municipal, private sector)?
- ✓ Improvements in data gathering/management/reporting?

Possible Courses of Action:

- ✓ That DEP and SPO work cooperatively to identify solid waste data needs, and the most appropriate and effective means of gathering and managing current data for timely reporting.
- ✓ Revise the public benefit determination process (38 MRSA §1310-N(3-A)) to clarify that an existing public benefit determination will be reevaluated and revised when and if the underlying facts and circumstances that formed the basis for that determination change. Specifically include reference to waste disposal capacity increases.
- ✓ Endorse the development of a revised solid waste management fee structure that:
 - is broad based and provides long-term, stable funding for state solid waste programs;
 - provides for additional technical and/or financial support to municipalities and regions for solid waste management;
 - provides for adequate state solid waste program staffing and other resources to appropriately administer state solid waste programs;

- extends to a broader spectrum of waste types and facilities; and,
 - is designed to support and further the goals of the statutory waste hierarchy.
- ✓ Investigate/evaluate the use of some portion of the bottle bill “float” revenue to support state solid waste management programs.
- ✓ Endorse the following recommendations from the “Review of State Solid Waste Management Policies” developed by SPO in April 2006:
- #3: Keep the ban on the development of new commercial disposal facilities.
 - #4: Continue state responsibility for siting and operating new solid waste disposal facilities.
 - #5: Preserve existing municipal responsibility for managing solid waste.
 - #8: Update the waste generation and disposal capacity report section of the state plan annually and brief the Governor, Department of Environmental Protection and Joint Standing Committee on Natural Resources on new information contained in the update.
 - #10: Lengthen from four to six years the “trigger” for the office to alert the Legislature of the need to develop state-owned disposal capacity.
 - #14: Expand the analysis of the state’s needs and capacity for managing waste, by adding the following: cover a 25-year time horizon, identify and assess any regional capacity issues, assess volume as well as tonnage, assess stability and life expectancy of existing facilities, assess the amount and type of imported and exported waste, how it is being used, and where it is going, develop a protocol for responding to natural disasters, assess impact of recycling on disposal capacity, and analyze recycling and processing capacity.
- ✓ Specifically define what is meant by “controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility” within the definition of “commercial solid waste disposal facility” at 38 MRSA Section 1303-C(6).
- ✓ Require voter and/or legislative approval if a municipality or quasi-municipal entity proposes to contract with a private entity for operation of a publicly owned waste disposal facility.
- ✓ Permanently adopt the statutory language similar to that included in Section 1303-C(6) last session by the Legislature and scheduled to sunset on January 1, 2007. (“that accepts only waste that is generated within the State”)

Summary: Related Comments Submitted by Interested Parties:

- ✓ Origin of all wastes sent to state owned facilities should be made available to the public.
- ✓ Use a “graphical flowchart” of waste flows in Maine.
- ✓ Data gathering for CDD waste is inadequate; origin of waste not always known.
- ✓ Waste import data is given in tons, export data in percentages; can’t compare.
- ✓ DEP should be responsible for data collection.
- ✓ Need adequate funding for state program administration.
- ✓ Evaluate a fee system that encourages more deconstruction and source separation.
- ✓ Fees should place highest burden on parties placing highest demand on waste facilities.
- ✓ Establish a per ton fee on all waste going to disposal facilities to be placed in a non-lapsing fund.
- ✓ Fees should help finance solid waste informational and management needs, environmental projects, research and development, local recycling programs, and remediation of abandoned landfills.

Summary Outline Sheet
Prepared for Consideration by the Blue Ribbon Commission
on Solid Waste Management
November 2006
(Compiled by: Maine Department of Environmental Protection)

TOPIC AREA: CONSTRUCTION/DEMOLITION (“CDD”) WOOD FUEL

Key Questions/Issues Raised by the Commission:

- ✓ Should a 1-year moratorium be placed on the “processing and/or issuance of authorizations, permits, licenses, or approvals necessary for the storage, handling, landfilling and/or the incineration of construction and demolition debris; for the commercial production of power thereby; for the siting, design, construction, use and/or operation of any solid waste facility that will sort or handle construction and demolition debris; and for the siting, design, construction, use and/or operation of structure(s) related thereto in Maine.”?
(See Rep. Duchesne’s “CDD Moratorium Prep Sheet for further breakdown of related issues)
- ✓ Are the current rules governing the beneficial use of CDD wood fuel (air emissions and solid waste handling) adequate to protect the environment and public health and safety?
- ✓ Are the current rules governing CDD processing facilities adequate to protect the environment and public health and safety, and to ensure the appropriate and reasonable handling of all recyclable wastes and the CDD wood fuel produced?
- ✓ Should the current statutory and regulatory limit of 50% CDD wood fuel use in boilers be maintained?
- ✓ Does Maine’s policy on the use of CDD wood fuel encourage the importation of unreasonable volumes of CDD wastes or residuals that require disposal?
- ✓ Should limits be placed on the volumes of CDD allowed to be accepted by Maine processing facilities?
- ✓ Should a minimum standard be established that requires that a set percentage of the CDD that is accepted by a processing facility be reused/recycled?

Possible Course of Action:

- ✓ Make preliminary recommendations to the Natural Resources Committee in the report, but defer final conclusions pending completion of the LD 141 reports by the department (reports concerning: source separation, best available control technology, and the amount of CDD wood fuel substitution).

Summary: Related Comments Submitted by Interested Parties:

- ✓ Combustion of CDD wood fuel transfers contaminants to ambient air and ash; loss of “clean ash” for use as a soil amendment.
- ✓ Stricter fuel standards should be phased in.
- ✓ Technologies such as that proposed by GenPower should not be required to limit CDD wood fuel use to 50%, and should not be required to meet the regulatory fuel quality standards.
- ✓ “Deconstruction” and source separation of building materials should be promoted.
- ✓ Residues from the processing of out-of-state CDD in Maine should not be disposed in state owned landfills.
- ✓ Concern regarding how much imported CDD is used/recycled v. how much is landfilled; concern about landfill capacity impacts.
- ✓ Importation of CDD waste will remove Maine’s incentive to recycle.
- ✓ Importation of CDD is creating ash and increasing traffic.
- ✓ Use of CDD fuel may impact domestic logging economy.
- ✓ Need to define what is meant by “out-of-state waste”.
- ✓ Concern regarding the total amount of contaminants emitted into the ambient air from CDD wood fuel burning.
- ✓ Maine shouldn’t burn any CDD wood fuel until a comprehensive waste policy review is done.
- ✓ Out-of-state CDD processors should be subject to the same requirements as in-state processors.

- ✓ Out-of-state generated CDD should not be processed in Maine.
- ✓ Concern regarding “backhaul” of incompatible materials (such as hauling CDD wood fuel, then backhauling bark mulch).
- ✓ Best available control technology standards should be required at boilers where CDD wood fuel is burned.

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TOPIC AREA: WASTE MANAGEMENT HIERARCHY

Key Questions/Issues Raised by the Commission:

- ✓ Should the existing statutory waste hierarchy be modified?
- ✓ Should the state recycling goal be changed?
- ✓ How can recycling and source reduction rates be increased?

Possible Courses of Action:

- ✓ Endorse the following recommendations from the “Review of State Solid Waste Management Policies” prepared by SPO in April 2006:
 - #1: Maintain the solid waste management hierarchy to guide the management of Maine’s municipal solid waste in order to reduce the volume of waste requiring disposal.
 - #2: Maintain the 50% recycling goal. Continue to calculate and publish the statewide recycling rate using both state and federal methodologies.
 - #9: Add a legislative policy statement that favors waste reduction and maximizing waste diversion by encouraging new and expanded uses of solid waste generated in Maine as a resource.
 - #16: Design and develop funding proposals for an on-going public education and outreach campaign on the value of recycling and composting, targeting residents and businesses statewide.
- ✓ Revise 38 MRSA Section 1310-N(5) to require minimum standards for the achievement of and/or the development of, programs related to source reduction, reuse and recycling, by parties regulated by the Department. (regulatory “teeth” to further the goals of the hierarchy)
- ✓ Support the establishment of public/private partnerships that may assist in achieving the source reduction, reuse and recycling goals of the hierarchy.

Summary: Related Comments Submitted by Interested Parties:

- ✓ Require that waste processing and disposal facilities document their efforts to reduce the volume and toxicity of waste destined for disposal facilities.
- ✓ Require mandatory recycling of additional items in the waste stream (like e-waste)
- ✓ Promote the use of biodegradable packaging and find ways to recycle a broader range of plastic types.
- ✓ Bottle deposits should be increased from 5 cents to 10 cents.
- ✓ A shift to refillable beverage containers should be evaluated.
- ✓ Revise the public benefit determination process to require greater consideration of waste reduction, reuse, and recycling.
- ✓ Encourage greater coordination of recycling efforts at local and regional levels. Accept recyclables at transfer stations from any individual regardless of where they live.