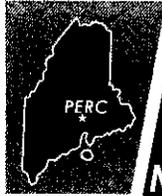


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Municipal Review Committee, Inc.

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September 30, 2014

Karen Knuuti, Division of Solid Waste Management
Maine Department of Environmental Protection
Eastern Maine Regional Office
106 Hogan Road, Suite 6
Bangor, Maine 04401

RE: Comments by the Municipal Review Committee, Inc. ("MRC")
on the draft order on the MRC's application for determination of public benefit
DEP #S-022432-W5-A-N

Dear Ms. Knuuti:

Concurrent with its notice of withdrawal of the above captioned application, the MRC hereby provides these comments on the above referenced draft Order issued by the Maine Department of Environmental Protection (the "Department") on September 24, 2014. The MRC remains committed to development of an integrated solid waste management system that includes a new facility for processing of mixed-MSW, which would achieve a huge increase in the level of diversion of MSW to both recycling and other beneficial uses and away from combustion and landfill disposal. We appreciate the statements of general support for such a facility contained in the draft Order. We are concerned, however, that despite the Department's general recitations of support, the effect of certain reasoning in the draft Order would be harmful to ongoing efforts by the MRC or other similar regional entities to develop such an integrated solid waste management system.

The MRC agrees with the Department's findings and conclusions that the MRC is a duly formed regional association with sufficient legal authority to apply for a determination of public benefit and that it may own and operate a solid waste disposal facility. The MRC also concurs with the DEP's conclusion that the proposed landfill would not be a commercial solid waste disposal facility subject to the existing statutory moratorium on the development of such facilities.

That said, the MRC is concerned that the Department has failed to distinguish between assumed future landfill capacity (that is, space that currently is licensed or could potentially be licensed to accept MSW from MRC communities) and landfill capacity that is actually available to the MRC communities. For example, the six theoretical scenarios for disposal suggested in the draft Order all presume that the MRC can contract with Juniper Ridge Landfill ("JRL") for some or all of its disposal capacity needs. In doing so, the Department places great emphasis on the assumed long-term physical capacity at JRL to accept these materials, but it ignores substantial impediments to the MRC gaining practical access to this potential capacity.

For example, the draft Order overlooks existing contractual provisions that could be leveraged by PERC, LP through PERC's general partner USAE to prevent MRC or its members from using capacity at JRL or to prevent MRC from engaging JRL in discussions concerning such use.¹ These restrictions were made a matter of public record in a prior Department proceeding (DEP Application S-020700-WD-BC-A), but are either overlooked or assumed away by the Department in its draft Order, perhaps on the basis that they are unenforceable as an impermissible restraint on trade (which they certainly appear to be). It would be helpful for the State to advise the MRC of the State's view in this regard. Even if the offending contract provisions are not enforceable, however, if Casella, as a party to that Agreement, believes it is precluded from engaging in discussions with the MRC regarding the use of JRL, then MRC could not pursue any of the disposal capacity scenarios set forth in the draft Order.

The draft Order suggests that the MRC was incomplete in its capacity needs analysis by ignoring that fact that unprocessed MSW proximate to several municipal landfills and the Crossroads landfill could be disposed at those facilities. Such arrangements would leave the remaining MRC member communities without sufficient volume to support the development of an integrated solid waste management system as described in MRC's application and support in the Department's draft order.

Fundamentally, the draft Order casts aside as irrelevant actual market forces (and real economics) associated with the various capacity alternatives proffered. Further, it ignores the economic viability of the PERC plant beyond March of 2018, simply accepting without any substantiation the assertions of PERC's general partner that it will continue to operate. This is of little comfort to the MRC membership for whom the alternatives of continued delivery to the PERC plant or delivery to more distant disposal sites simply will not be financially feasible.

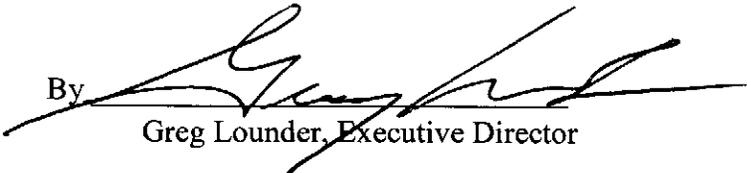
¹ The Disposal Agreement dated October 1, 2012, between PERC and its affiliates and Casella Waste Systems, Inc., and certain of its affiliates, by its terms, could be asserted to preclude Casella from encouraging or promoting diversion of Solid Waste originating within MRC communities away from the PERC facility. The Disposal Agreement could be asserted as precluding Casella from engaging in discussions with the MRC or its communities relating to disposal of process residuals or MSW at JRL during the term of the Agreement, which expires on March 31, 2018, or for one year thereafter.

Finally, the Department itself has not yet approved an expansion of capacity at JRL sufficient to accommodate the medium and long term needs of the MRC communities. We are left to conclude that unlicensed potential capacity, rather than licensed capacity, is now the standard by which public benefit will be measured. Such a standard would be both impractical and unfair. In this particular case, it leaves the MRC communities at the mercy of future regulatory action with no assurance that capacity will, in fact, be available.

The MRC remains fully committed to its mission to provide affordable, long-term and environmentally sound waste management for its member municipalities. To achieve its mission, the MRC will continue with the development of an integrated solid waste management system to maximize recovery of materials from incoming MSW, and to minimize residuals requiring landfill disposal, in order to provide an affordable alternative for MSW management to replace the PERC facility by 2018. In view of the draft Order from the Department, the MRC will need to develop an alternative approach for provision of capacity for residuals disposal to support its system. Our success will necessarily involve further applications for permits from, and other work with, the Department. Notwithstanding the disagreements regarding the draft Order, we look forward to working with the Department to advance the development of an integrated solid waste management system to serve the needs of the MRC municipalities.

Respectfully submitted,
MUNICIPAL REVIEW COMMITTEE

By


Greg Louder, Executive Director