

September 27, 2024

Ms. Karen Knutti
Maine Department of Environmental Protection
106 Hogan Road – Suite 6
Bangor, Maine 04401
Karen.Knuuti@maine.gov

Re: Draft Public Benefit Determination Comments | Juniper Ridge Landfill | Old Town, Maine

Dear Ms. Knutti:

On behalf of the City of Old Town (the City), Haley Ward, Inc. (Haley Ward) is providing the following comments regarding the Maine Department of Environmental Protection's (MDEP's) Draft Public Benefit Determination dated September 13, 2024 for the Juniper Ridge Landfill Expansion (JRL) (S-020700-W5-CV-N). Our comments below are based on our review of the Application, Chapter 400 (revised February 9, 2021) Section (5)(E) of the MDEP's Maine Solid Waste Management Rules (SWMRs), State statute 38 M.R.S.A. §1310-AA, and discussions with the City of Old Town and its counsel on September 18, 2024.

The governing standards evaluated for a Public Benefit Determination are detailed in Chapter 400 (revised February 9, 2021) Section (5)(E) of the MDEP's SWMRs. We have provided our comments on the MDEP's Draft Public Benefit Determination Findings of Facts and Conditions beneath each relevant standard, as outlined below.

E. Standards for public benefit determination. *The Commissioner shall find that a proposed solid waste disposal facility or expansion that is subject to the provisions of this section provides a substantial public benefit if it meets the following standards:*

- (1) The facility meets immediate, short-term, or long-term capacity needs of the State. For purposes of this paragraph, "immediate" means within the next 3 years, "short-term" means within the next 5 years, and "long-term" means within the next 10 years. When evaluating whether a proposed facility meets the capacity needs of the State, the commissioner shall consider relevant local and regional needs as appropriate and the regional nature of the*



development and use of disposal capacity due to transportation distances and other factors;

The Draft Public Benefit Determination appears to be consistent with this standard.

- (2) *Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, the facility is consistent with the State Waste Management and Recycling Plan and promotes the Solid Waste Management Hierarchy as set out in 38 M.R.S.A. § 2101;*

The City requests MDEP to establish reasonable limitations on the amount of "Bypass MSW" and "Non-Bypass MSW" being received at the facility and require the facility to receive the proper Amendments to their Solid Waste License from MDEP in order to continue to accept this Non-Bypass MSW with restrictions.

Bypass is defined in Chapter 400 Section (1)(V) as follows:

"Bypass" means any solid waste that is destined for disposal, processing, or beneficial use at an operating solid waste facility, but which cannot be disposed, processed, or beneficially used at that facility because of the facility's temporary malfunction, temporary insufficient capacity, temporary inability of the facility to process or burn, or temporary down-time. For the purposes of this paragraph, "operating solid waste facility" means a licensed solid waste facility that is fully operational at the time that the malfunction, insufficient capacity, inability to process or burn or downtime begins and that intends to resume full operation at the time that the malfunction, insufficient capacity, inability to process or burn or downtime ends.

In 2013 Amendments were required to allow Non-Bypass MSW to be accepted at the facility with restrictions.

In the facility's 2013 Solid Waste License Amendment (S-020700-WD-BC-A), the disposal of Non-Bypass MSW was temporarily permitted with time and volume limitations. In the 2013 Amendment, it stated on page 25 that "this limitation is appropriate to ensure that activities at JRL support, and do not subvert, the waste management hierarchy." Additionally, on page 41 of the 2013 Amendment, it stated that this temporary acceptance of Non-



Bypass MSW "...is consistent with the hierarchy provided that limitations are placed upon such activity to ensure that other management options will be implemented for former Maine Energy MSW. Such limitations include a volume limit, a time limit, and requirements for delivery of some MSW to a facility at a higher level on the hierarchy."

In 2018 Amendments were required to allow Non-Bypass MSW to continue to be accepted at the facility with restrictions.

The statements above from the 2013 amendment were reiterated in the 2018 Amendment (#S-020700-WD-BL-A) that extended the temporary acceptance of MSW at the facility. In addition, on page 33 of the 2018 Amendment the Department Findings state "...that restrictions are necessary to ensure that activities at JRL support, and do not subvert, the hierarchy."

Since 2020 the facility has not been licensed to accept Non-Bypass MSW but, since that time, it has accepted significant amounts of Bypass MSW. JRL has fulfilled a critical need as a disposal facility for MSW due to operational shutdowns at regional processing and waste-to-energy facilities. They continue to fulfill this need while the regional processing and waste-to-energy facilities are reestablished. After several years of accepting Bypass MSW, this may be a misrepresentation to state that this MSW is Bypass due to "temporary malfunction, temporary insufficient capacity, temporary inability of the facility to process or burn, or temporary down-time" as stated in the MDEP's Bypass definition.

The City maintains that the Bypass MSW being accepted at JRL is Non-Bypass MSW (per the MDEP definitions as stated above) and the facility should receive the proper Amendments to their Solid Waste License from MDEP in order to continue to accept this Non-Bypass MSW with restrictions as completed in 2013 and 2018.

(3) The facility is not inconsistent with local, regional, or state waste collection, storage, transportation, processing, or disposal; and

With the exception of the "Bypass" situation mentioned above, the information provided in the Public Benefit Determination appears to be consistent with this standard.



(5) The facility is not inconsistent with ensuring environmental justice for the community in which the facility is proposed.

The Public Benefit Determination identifies conditions related to environmental justice for the facility to meet prior to the issuance of an expansion license. The City supports efforts to minimize the impact of the facility on their citizens, specifically those within close proximity that could be impacted the most from the facility expansion. The City requests for the condition requiring additional surface scans, along with any existing surface scans already required at the facility, to be completed during periods of low barometric pressure. These periods of low barometric pressure create an effect of barometric pumping which increases emissions. If the intent of these conditions is to determine the level of fugitive landfill gas emissions are occurring, then the City maintains that these should be completed during the period when those emissions are most likely to occur (i.e., periods of low barometric pressure).

Sincerely,
Haley Ward, Inc.

Andrea Dickinson
Vice President, Senior Project Manager

Denis St. Peter, PE
Principal
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