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May 5, 2014

Karen Knuuti, Environmental Specialist  
Bureau of Remediation and Waste Management  
Maine Department of Environmental Protection  
Eastern Maine Regional Office  
106 Hogan Road, Ste. 6  
Bangor, ME 04401

**RE: Municipal Review Committee, Inc. (MRC) Application for Determination of  
Public Benefit Determination**

Dear Ms. Knuuti:

I am herewith filing a response to the letter/memorandum of April 23, 2014 filed by Eaton Peabody on behalf of the "MRC".

Thank you for your attention and cooperation to this matter.

Best regards,



Jon R. Doyle

JRD/als  
Enclosure

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**RE: Municipal Review Committee's Application for Public Benefit  
Determination /Response to Opposition Filed by MRC**

Dear Ms. Knuuti:

This filing is in response to the letter dated April 23, 2014, with attachments, that was filed by P. Andrew Hamilton, Esq. of the law firm, Eaton Peabody, with the DEP in connection with the above-referenced Municipal Review Committee's (MRC's) application for public benefit determination.

Although the applicant, in its response, has gone to great lengths to attempt to refute the central argument made in the original memo which this firm filed in opposition to the application in question, when that response is read as a whole, it becomes clear that the applicant and its counsel has missed the point made by that opposition memorandum entirely. This response is intended to set the record straight.

In its response, the applicant clearly and unequivocally states that it was formed as a "special purpose organization" pursuant to the provisions of 38 M.R.S.A. §1304-B(5)(A). Subpart (E) of this subsection of §1304-B specifically provides various functions which such a regional association may perform on behalf of the municipalities which it represents, but only "to the extent that such functions are specifically provided for in the bylaws of that regional association". When one reviews the existing Bylaws of the MRC, which were attached as an exhibit to the MRC's response memo, with particular attention to the provisions of Section 2.2 of those Bylaws, every single one of those functions described in the existing MRC Bylaws are specifically limited to actions on behalf of the participating municipalities represented by the MRC relating solely to the ownership and the functioning of Penobscot Energy Recovery Company Limited Partnership and the Penobscot Energy Recovery Facility, which is owned and operated by that partnership. To put this differently, the functions authorized by the current

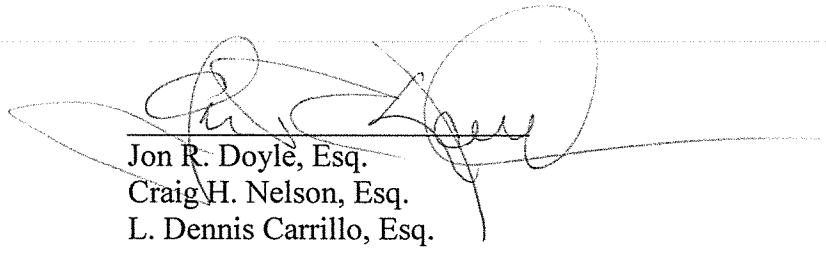
MRC Bylaws in Section 2.2 contain absolutely no provision which could in any way be read by anyone that would authorize the MRC to prepare, file and advocate on behalf of its member communities the siting and development of a new landfill; therefore, the application presently before the Department of Environmental Protection (DEP) is "unauthorized" as a presently permitted function of the MRC.

In the principal application, the MRC also attached a resolution which it represented had been approved by some form of action by 68 of its member communities; however, a reading of that resolution clearly indicates that there is no way to read any of its language as authorizing the MRC to prepare, file and advocate on behalf of those 68 communities an application for the siting and development of a new landfill. Furthermore, even if this resolution did authorize such activity, in light of the requirements of the enabling legislation, which the MRC clearly indicates was the basis for its formation and its present functioning, it would require specific provisions in the Bylaws of that organization to authorize the activities which the MRC is presently conducting on behalf of its member communities before the DEP. Since no such authorization appears any place in the record concerning this proceeding before the DEP, we would respectfully restate our original position contained in our original memo in opposition to this pending application that the applicant presently has no legal authority to file and advocate for the pending application on behalf of any of the municipalities which it considers its members.

The MRC has repeatedly, in its original application and in its response memo, maintained that it is representing all 187 municipalities which presently have waste disposal agreements and dispose of their waste at the PERC facility. Their response memo explains that the reason they can claim that all 187 communities are "members" which it presently represents is because their Bylaws provide for three categories of communities who can be considered members; however, contacts which have been made with these communities, which do have existing waste disposal agreements with PERC, LP, in the preceding months have indicated that many of these communities have no idea that the MRC considers itself their agent or their representative in connection with their dealings with PERC or with respect to any other activities, including, but not limited to, the filing of the pending application for the siting and development of a landfill. Furthermore, more recent contacts with some of the 68 communities which the MRC alleges in its application approved the authorizing resolution attached to that application indicates that those communities did not know or understand that the resolution in question was purporting to authorize the MRC to pursue the siting and development of a new landfill. We renew our request that copies of all claimed documentation be required by DEP and filed in this matter immediately.

Based upon the above-described restatement of the arguments contained in our original memo in opposition to the pending application, we would submit that the pending application should be initially rejected by the DEP based upon the fact that there is no clear evidence that the MRC has authority to be the applicant for a public benefit determination application on behalf of any municipality in the State of Maine for the siting and development of a new landfill.

Respectfully submitted by:



Jon R. Doyle, Esq.  
Craig H. Nelson, Esq.  
L. Dennis Carrillo, Esq.

JRD/CHN/LDC/als