



September 24, 2021

Mr. David Pannucci, Region Engineer
Bethlehem Landfill Company
via email: david.pannucci@wasteconnections.com

Re: First Environmental Assessment Review
Bethlehem Landfill
Municipal Waste Major Permit Modification Application – Northern Realignment
Application# 100020-A203
APS ID# 1033510, AUTH ID# 1345418
Lower Saucon Township, Northampton County

Dear Mr. Pannucci:

On December 23, 2020, the Department of Environmental Protection (DEP) received an application for a major modification application for Bethlehem Landfill Company's (BLC) Northern Realignment project. The proposed expansion is entirely within the footprint of the previously permitted property line and facility limits. The project involves overtopping existing waste in portions of the old landfill and overtopping of existing waste in the western portions of the Southeastern Realignment and Phase III portions of the landfill. The project also involves placement of waste in landfill support areas which have not previously had waste placed. A Local Municipality Involvement Process meeting was held via WebEx on February 17, 2021. The application was found to be complete and officially accepted on March 10, 2021.

Environmental Assessment Harms vs. Benefits analysis required by §271.126-127

The BLC application is subject to the Environmental Assessment Process regulations and as such, the application included an analysis of the potential impact of the proposed facility on the environment, public health and public safety including a description of the known and potential harms of the proposed project and mitigation plans that explain how each known or potential harm will be mitigated and the extent to which any known or potential harms remain after mitigation. The application also included a description of the benefits of the proposed project. The following summarizes DEP's review of the Environmental Assessment Harms/Benefits Analysis of the BLC Northern Realignment application. The scope of this review is limited to harms and benefits of the Northern Realignment proposal and does not consider harms and benefits associated with the current landfill as permitted other than to the extent that past performance can be used as an indicator future performance. The deficiencies identified are based on applicable laws, regulations, and policies.

Deficiencies

-
1. Form D Section A Geologic: Although there are no deficiencies, DEP requests BLC provide copies of the most recent complete Form 6 and Form 7 to be included with this application.
 2. Form D Section K Zoning and Land Use: BLC should provide responses to section 3.b, 3.c, 3.d, and 3.e.

3. Form D Section M Air Quality Impacts:

1) BLC states that emission sources are controlled by a landfill gas enclosed flare and future RNG plant. BLC should provide a schedule for when the RNG facility is expected to be constructed and operational.

2) BLC states that no adverse air impacts to the surrounding community are anticipated. There are potential impacts of odors and dust. BLC should further evaluate and describe the potential impacts from odors and dust.

3) BLC only describes the control measures as the expansion of the landfill gas (LFG) collection and control system. BLC should describe all odor and dust control measures the landfill utilizes.

Harms

4. The Transportation Compliance Plan (TCP) has not been updated since the facility changed its name to “Bethlehem Landfill Company.” All references to “IESI PA Bethlehem Landfill Corporation,” “IESI Bethlehem Landfill” and “IESI” should be changed to “Bethlehem Landfill Company.”

5. The facility name on the Nuisance Minimization and Control Plan (NMCP) title and throughout the document should be changed to “Bethlehem Landfill Company.”

6. The NMCP title includes “Southeast Realignment Application,” this should be changed to “Northern Realignment Application.” The first line in Paragraph 1 should also change the reference from “Southeast Realignment” to “Northern Realignment.”

7. In order to improve odor mitigation, BLC should add details of working face management (size of working face) and use of odor control misters to the NMCP. Furthermore, BLC should specify frequency of odor patrols conducted by landfill staff in the NMCP. Offsite odor patrols should be conducted at a minimum once per day.

8. DEP staff have noted a few high wind events followed by offsite litter over the past year. BLC should add a high wind provision(s) to the NMCP to provide for shut down of operations and/or modification of operations (i.e., stopping use of tipper) during high wind events.

9. BLC did not identify the risk of fire as a harm and has not proposed mitigation. While BLC does not have a history of fires and subsurface reactions, they can and do occur at landfills. While DEP is aware that BLC has emergency equipment available should a subsurface fire or reaction occur at the landfill; BLC should also detail any efforts that are taken to monitor for and minimize the risk of fires and subsurface reactions occurring.

Benefits

10. Maximizing Use of Current Disposal Area: BLC has identified, as an Environmental benefit, the extended operating life of an existing, permitted municipal waste landfill, allowing for continued provision of all of the environmental services which the site provides by maximizing

use of the current disposal area without the need to create or improve existing public and private infrastructure.

DEP review: Maximizing the disposal capacity within the currently permitted area is not a benefit. It is an action that avoids or minimizes the extent of the environmental and social and economic harms. DEP's Technical Guidance Document No. 254-2100-101 states that an activity or mechanism which reduces or prevents harm created by the facility does not amount to a benefit. In order to consider this a benefit, BLC would have to definitively show that without the expansion, there would have to be a new landfill constructed using virgin natural resources to accommodate the disposal needs of the community or region.

11. Beneficial Use of Landfill Gas: BLC has identified, as an Environmental benefit, that they will provide landfill gas to a third party for generation of electricity for public consumption.

DEP review: Landfills are required to control gas that is generated by operation of their facilities. DEP's Technical Guidance Document No. 254-2100-101 states that an activity or mechanism which reduces or prevents harm created by the facility does not amount to a benefit. Beneficial reuse of landfill gas is mitigation of gas that is created by the landfill and an expected business practice and as such is not considered to be a benefit of the Northern Realignment project. Furthermore, the Bethlehem Renewable Energy facility has not operated since 2019 and despite permits being issued for the new Aria Energy East landfill gas to energy plant in 2020, construction has not yet commenced for this project. BLC should provide a timeline for when they expect to begin beneficially using landfill gas.

12. Contributions: BLC has identified, as a Social and Economic benefit that they support many community activities in a variety of ways, including through direct financial support.

DEP review: Charitable contributions and scholarships are not considered to be benefits of the Northern Realignment project. [Berks County v. Department of Environmental Protection, 894 A.2d 183(Pa. Cmwlth. 2006). Eagle Environmental II, L. P. v. Department of Environmental Protection, 884 A.2d 867(Pa. 2005)]

DEP will consider the free white-goods disposal offered by BLC a Social and Economic benefit because BLC is providing the monetary benefit of free disposal.

13. Benefits to Lower Saucon Township: Lower Saucon Township, the host community for BLC, will continue to receive benefits from the continued operation of the landfill. The Township will have a local facility that is capable of handling the municipal and residual waste disposal needs of its residents, businesses, and industries. The Township will continue to receive host benefit fees. The current host fee amount is \$6.14/Ton for municipal solid waste and \$8.87/Ton for residual waste. These rates increase annually at a rate of 4% per year. The Township receives approximately \$2.7 million a year of unencumbered funds for its use and amounts to approximately 30% of the total Township operating revenue.

DEP Review: Additional capacity at a local facility in and of itself is not considered to be a benefit. BLC has not demonstrated the need for additional waste capacity in Lower Saucon Township. In order for this to be considered a benefit, BLC must demonstrate that an actual hardship to the local community, considering alternatives to eliminate any hardships, will exist if the Northern Realignment project is not permitted.

The host fees are based on tonnages and are paid on a quarterly basis and there is no guaranteed minimum amount. This is considered to be a Social and Economic benefit for the life of the Northern Realignment project.

14. Local Benefits Attributable to Operating Expenses: BLC has identified that the continued operation of the landfill results in additional purchases and use of local and regional goods, services, and supplies. These include fuel, piping, supplies, quarry products, environmental control products and systems, vehicle services, tires, rental equipment, professional consulting and testing services, gas management services, parts and inventory, facility landscape services and computers and office supplies. These expenditures are projected at a rate of approximately \$1,481,430 per year for the duration of the proposed project.

DEP Review: BLC does not identify the radius of area where the local and regional goods, services and supplies come from. Without this information, DEP cannot determine the intensity and reach of the benefit. BLC should define more specifically the local expenditures that would benefit those impacted by the harms/potential harms of the landfill.

15. Local Benefits Attributable to Capital Expenditures: BLC has identified the project will result in an increase in local spending on capital improvements in terms of equipment purchases and site development costs totaling an estimated \$21.3 million during the proposed additional 3 years of additional site life. These expenditures average approximately \$7.1 million per year, of which more than \$5.7 million are projected to be made within the local area.

DEP Review: BLC specifies more than \$5.7 million of the expenditures are projected to be made within the local area; however, BLC does define "local area" (i.e., radius or description). Without this information, DEP cannot determine the intensity and reach of the benefit. BLC should define more specifically the local expenditures that would benefit those impacted by the harms/potential harms of the landfill.

16. Local Benefits Attributable to Payroll Payments: BLC has identified that the project will result in direct employment for a number of area residents and indirect employment through locally purchased supplies and services. The economic benefits attributed to payroll taxes associated with the Northern Realignment project is approximately \$845,000 per year and will continue over the 3 year extended site life.

DEP Review: Indirect employment is not considered a benefit of the project. Unless BLC can show that without the expansion, there will be indirectly employed individuals that will be unemployed; DEP cannot consider this as a benefit. The continued employment of landfill employees will be considered to be a Social and Economic benefit of the project. However, BLC should better define and quantify this benefit (i.e., number of full time, part time, and seasonal positions).

17. Benefits Attributable to Tax Revenues: BLC has identified that the public receives economic benefits from the landfill, which include payroll and taxes paid to the local school district on landfill property and sales taxes in the amount of approximately \$69,000 per year. The proposed Northern Realignment project will continue these benefits over the 3 year extended site life.

DEP Review: Property taxes are paid by any landowner and with or without the expansion BLC would have to pay property taxes based on the value of the acreage of property that BLC owns. BLC should provide information that quantifies the value of the BLC property with and without the expansion. Only increased tax revenue caused by the Northern Realignment project may be considered a benefit.

You must submit a response fully addressing each of the deficiencies set forth above within 90 business days.

If you believe that any of the stated deficiencies is not significant, instead of submitting a response to that deficiency, you have the option of asking DEP to make a decision based on the information with regard to the subject matter of that deficiency that you have already made available. If you choose this option with regard to any deficiency, you should explain and justify how your current submission satisfies that deficiency. Please keep in mind that if you fail to respond, your application may be denied.

Should you have any questions regarding the identified deficiencies, please contact Erika Bloxham at ebloxham@pa.gov or (570) 826-2273 to discuss your concerns or to schedule a meeting. The meeting must be scheduled within the 90-day period allotted for your reply, unless otherwise extended by DEP.

Sincerely,

Roger Bellas

Roger Bellas
Program Manager
Waste Management Program

cc: Kevin Bodner, Martin and Martin, Inc. (via email: knbodner@yahoo.com)
Lower Saucon Township (via email: manager@lowersaucontownship.org)
Northampton County Council (via email: lheffner@northamptoncounty.org)
Lehigh Valley Planning Commission (via email: SRockwell@lvpc.org)