

May 26, 2021



David Buser
Hydrogeologist
WDNR Waste and Materials
Via Email

RE: Comments on the Proposed Orchard Ridge Eastern Expansion-Southern Unit Landfill in the Village of Menomonee Falls

Dear Mr. Buser,

On behalf of Milwaukee Riverkeeper, we are on the record along with other nonprofit organizations and many community members that this proposed 76-acre expansion of the Orchard Ridge Landfill Eastern Unit, including excavation of the Boundary Road Landfill (BRL) Superfund Site to facilitate a 17-acre vertical expansion, merits a full Environmental Impact Statement (EIS) due to potential effects on the environment and public health. Per our comments at the public hearing, our main reasoning for asking for an EIS was to allow for more study of spatial and temporal groundwater data to better understand the impact of the BRL. We know that this site received hazardous waste for several decades, predating our environmental laws, and contains a variety of contaminants of concern. More study would allow the agency to better understand what is happening to groundwater presently, and to analyze what is likely to happen in the future should the site be exhumed and new wastes added. Such a study would also allow us to better understand the cause and significance of exceedances to preventative action limits and enforcement standards as noted in the WDNR's comments on the feasibility study.

We are especially concerned about increasing concentrations of groundwater contaminants that move from the NW/W side of the site to the SE/S side, which shows likely impact from existing landfill operations for pollutants such as arsenic and alkalinity, and so there is a concern over how expansion here could further impact groundwater and surface water quality of the adjacent Menomonee River and its tributaries. Given that we don't know what wastes will be accepted at this facility yet, WDNR should NOT grant any exemptions to Preventative Action Limits (PALs) or Enforcement Standards (ESs) that exist to protect our groundwater quality and drinking water supplies for either the BRL or other areas of the landfill that will receive BRL waste. Even if some of these contaminants in groundwater are due to natural background conditions, landfill waste and operations could alter conditions like pH and facilitate leaching of these pollutants at an expedited rate. Likewise, even if contaminants were not found in the last few years, future activities at the landfill including excavation of toxic waste, redistribution of BRL waste, and acceptance of new wastes could alter this likelihood of pollutant transport going forward. In addition, there is already one private well east of the landfill with PAL exceedances of TCE or trichloroethene, and several wells are having issues with alkalinity and sulfates, which is not likely due to background conditions, and merits retaining the PALs and ES limits.

WDNR should not grant any exemptions due to groundwater chloride exceedances for Orchard Ridge or the BRL. While chloride in groundwater could be coming from road salt, it could also be coming from the landfill potentially (e.g., food wastes, softeners, etc.), and thus could be causing



or contributing to downstream chloride impairments in the Menomonee River Watershed, which are significant.

We do not agree with Waste Management's requested exemption relating to installing the new liner system for the BRL UNDER the water table line instead of the ten-foot separation required under state statutes. Soils in the area are NOT all clay; there are significant areas of sand and gravel deposits that could allow for more transport of pollutants to groundwater. In addition, sand deposits slope southeast toward the Menomonee River. This threatens groundwater quality, stream water quality, as well adjacent wells. This new liner system could affect groundwater flow patterns and direction, and could result in increasing contaminated flow to local streams and private wells. Also, design of the new landfill should not be tied to remediation of the BRL. That site should be cleaned up, if it can be done safely and in a way that protects public health and air and water resources, and then the site can be backfilled with clean fill to provide that separation. Especially given that this site is generally going to rise up 200 feet into the air, requiring a buffer from groundwater seems prudent. Fixing one wrong does not justify a second wrong.

We support an alternative that reduces impacts to the 4.69 acres of wetlands under threat, such as alternative 9. Given there are no local "In lieu of fee" or wetland credits available, it is unclear how or whether these impacts will be mitigated, and it's unlikely that mitigation will happen within our watershed, which further increases flood risk downstream from large storm events. We do not support an exemption for the 300-foot buffer between waste and waterways of 300 feet. While we appreciate there are space constraints with the existing design, we would support alternatives that maximize buffer between the stream and future waste sites. We do appreciate efforts to increase sinuosity as part of relocating 2,673 linear feet of stream. We are concerned about burying 237 linear feet of stream underground in a culvert, as well as the permanent take of 345 linear feet of stream. How will these impacts be mitigated by Waste Management? WDNR has the authority to require additional restoration work to improve the habitat and water quality of the Menomonee River Watershed as mitigation for stream loss, similar to what is required of wetland loss.

Leachate at the existing BRL site has detectable levels of many pollutants such as benzene, chlorobenzene, chloroethane, iron, manganese, xylenes, heavy metals, sulfate, etc. While many of these are found in low concentrations (PPB), and the leachate will all be combined for further dilution, it is not correct to assert in the feasibility study and environmental analysis that it will be sent to MMSD "for treatment". Dilution is not a solution to pollution and MMSD's system is designed to break down human waste and not industrial waste. It is not clear what level if any pretreatment of wastes is happening at this site. MMSD is not going to treat many contaminants of concern in this contaminated leachate. Their system cannot remove PCBs, PAHs, heavy metals, pesticides, etc. It could remove some organics or modify them, sometimes for the better, and sometimes for the worse. The public deserves more transparency regarding the contaminants that are being found at this facility and sent to MMSD, and it's also important that WDNR provides good oversight of state pretreatment programs, which doesn't seem to be happening.

We remain concerned about how the excavation of the BRL would protect air and water resources. While there could be some benefits to removing waste that is below the water line, in some cases significantly below the water line (2 to 13 feet), the devil is in the details. And we are

told that those details will be filled in later—as far as how the wastes will be tested, managed onsite, disposed elsewhere, treated, beneficially reused, etc.—in a plan of operation, waste acceptance plan, and property redevelopment plan. While we appreciate that the WDNR will review these plans before construction, the community will not have the ability to review or comment on these documents. The community remains concerned, as was noted at the public hearing, as to the level of oversight that WDNR will have over Waste Management to protect air and water quality and minimize disruptions to their daily life, especially in light of recent violations related to hazardous waste disposal at Waste Management’s Franklin Landfill.

Environmental monitoring needs to be much more robust overall, but especially during BRL excavation. It states there will be some temporary monitoring during the excavation and that regular surface water monitoring downstream of the sedimentation basins will be conducted but not what will be monitored or at what frequency. Likewise, a Tier 2 stormwater permit requires no monitoring, and given the situation at this site and the constant disturbance occurring, there should be more robust and regular monitoring of stormwater during the different phases of landfill construction, operation, and phase out. In addition, WDNR could require more frequent facility inspection reports on at least an annual basis. Please see our comments on the recent Tier 1 and Tier 2 industrial stormwater general permits, submitted on our behalf by Midwest Environmental Advocates. Also, we have a TMDL for the Milwaukee River Basin, so at a minimum, they should test for those 3 parameters--total suspended solids, total phosphorus, and bacteria--as part of their stormwater permit. Also, we’d ask that WDNR make the Stormwater Pollution Prevention Plan for this facility, and other permitted facilities, available to the public.

We suggest that you consider that design of sedimentation basins, culverts, and emergency spillway features be designed for greater than the 100-year storm due to climate change, record breaking rainfall in 2018 and 2019, and future projections for increasingly likely and severe wet weather events. If these basins overflow, that stormwater would quickly enter the 2 tributaries draining this landfill unit, and enter the Menomonee River in short order. As we are building new infrastructure, it’s important that we ensure its resilient to new climate conditions.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl Nenn", with a long horizontal flourish extending to the right.

Cheryl Nenn
Riverkeeper

Cc: Jennifer Bolger Breceda, Executive Director