

March 11, 2025

Committee on Housing & Economic Development
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

Testimony on LD 128 to Improve DEP Review Process of Multifamily Housing

Dear Chair Curry and Chair Gere and distinguished members of the Committee:

My name is Stephen Dyer, P.E. and I am a Senior Program Manager at Sevee & Mahers Engineers in Cumberland, Maine. I am the current treasurer and past president of the Maine Community Development Association. I provide environmental engineering services to municipalities, developers and redevelopment organizations in support of multifamily housing. These projects are particularly related to affordable housing and Brownfield redevelopment projects throughout Maine.

I thank you for the opportunity to share my thoughts on the Maine DEP's permitting review process and its impact on housing production. Unfortunately, I am unable to attend your hearing in person, but I appreciate your attention to this important issue.

The lack of affordable housing in Maine has far reaching effects on the citizens of Maine. As an environmental engineer, I prioritize sustainability and environmental responsibility in my projects. Streamlining redevelopment and infill housing projects could be a simple and effective way to accomplish this goal and increasing affordable housing in Maine. I am deeply committed to responsible development and believe there are ways to improve the DEP permitting process that will both protect Maine's environment and accelerate housing production.

I have witnessed firsthand the permitting process that ends up increasing project times and project costs. The issue at hand is related to the handling of soils deemed unsuitable for a project. These unsuitable soils may be produced from geotechnical consideration related to the soil's bearing capacity, based on grade determinations for proper drainage, environmental conditions, or a whole host of other purposes in the redevelopment process. Regardless of the cause, many housing projects create excess soils and have no ability to manage these soils onsite while still constructing the needed housing. Currently, there are two main options for handling these predominantly clean soils – transporting them for disposal at one of Maine's secure landfills or obtaining a beneficial reuse permit to allow their reuse through the MEDEP Bureau of Waste Management.

Either of these options saddle the project with additional costs and permitting time. Two recent projects I have worked on produced 4,000 cubic yards (33 units of affordable rental housing for people age 55 and over in Rumford) and 6,000 cubic yards (48 units of affordable multifamily housing in Belfast) of clean but unsuitable soils. If these soils were transported and disposed at one of Maine's secure landfills, this would have unnecessarily added between \$500,000 and \$1,000,000 to the costs of these projects, and destroyed valuable capacity at the landfill. Neither project could support those additional (and unnecessary) expenses so the beneficial reuse permitting process was selected. The permits were expected to have a statutory issuance of within

180 days. However, each took nearly double that from staff acceptance (let alone from submission), and as we all know, time is money.

With these issues in mind, I would like to propose several policy recommendations that could help streamline the beneficial reuse process, encourage better development patterns, and reduce environmental impacts.

1. VRAP Authorization

Currently, the DEP Solid Waste handles beneficial reuse permitting. In light of their heavy workload, I would recommend that DEP Voluntary Response Action Program (VRAP) staff be allowed to issue approvals for reuse of clean soils particularly when both the originating and receiving properties are both participants in VRAP oversight, and have staff knowledgeable about the properties.

2. Clean Inert Material Exemptions

Chapter 400 allows for the unrestricted re-use of clean and also inert materials (road ditching materials, brick, hardened asphalt, hardened concrete, etc.). I would recommend that more discretion be provided to DEP staff in defining what is considered clean and inert materials that are exempt from beneficial reuse permitting.

3. Start Time for the Review Period

The statutory 180-day review period should begin when the developer submits an application, not when DEP staff formally accepts the application. It is common for there to be delays in the acceptance of applications, which can add weeks or even months to the statutory review timeline. Starting the clock on submission would eliminate this uncertainty and make the process more efficient.

Thank you again for considering my perspective as you work to increase the supply of much-needed housing while also preserving the natural resources that make Maine such a special place to live, work, and play.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen J. Dyer". The signature is written in a cursive, somewhat stylized font.

Stephen J. Dyer, P.E.