



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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August 9, 2018

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WMDSM
PO Box 629
357 Mercer Road
Norridgewock, ME 04957-0629

Juliet T. Browne
Verrill Dana LLP
PO Box 586
One Portland Square
Portland, ME 04112-0586

Re: Application for a Determination of Public Benefit for a New or Expanded Solid Waste Disposal Facility (Application), #S-010735-W5-XY-N

Dear Mr. McGown and Ms. Browne:

The Department has reviewed the Waste Management Disposal Services of Maine, Inc. (WMDSM) Application associated with Department license #S-010735-W5-XY-N. WMDSM requests a determination of public benefit for a proposed expansion to the Crossroads Landfill in Norridgewock. The proposed expansion, known as Phase 14, will provide an additional 7 million cubic yards and approximately 15 years of disposal capacity. The Department's comments, resulting from the review of the Application, dated July 2018, are appended as an attachment to this letter.

The Application was reviewed for conformance with the requirements in the Department's rules; including, but not limited to, *Solid Waste Management Rules: General Provisions*, 06-096 C.M.R. ch. 400 (last amended April 6, 2015). Several of the Department's comments request additional information needed to assess whether the proposal in the Application provides a substantial public benefit, as stated in the following rule excerpts from 06-096 C.M.R. ch. 400, § 5(E) and (F):

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;

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

F. Public Benefit Determination Process

In making a determination of substantial public benefit, the Commissioner shall consider the State Waste Management and Recycling Plan, the solid waste management hierarchy as set out in 38 M.R.S. §2101, written information in support of the application, all written comments received concerning the application, and any other written information the Commissioner considers relevant.

Thank you for agreeing to an extension of the 60-day timeframe for issuance of a decision on the Application. As you prepare your response to the attached comments, please contact me at (207) 287-7885 or Linda.J.Butler@maine.gov if you have any questions.

Sincerely,



Linda J. Butler
Licensing and Compliance Specialist
Division of Technical Services
Bureau of Remediation and Waste Management

cc: David Burns, DEP, Director, Bureau of Remediation and Waste Management
Victoria Eleftheriou, DEP, Director, Division of Technical Services
Kathy Tarbuck, DEP, Senior Environmental Engineer
Gail Lipfert, Environmental Hydrogeology Specialist
Katherine Tierney, Assistant Attorney General
Richard A. Labelle, Town Manager, Town of Norridgewock
Sherwood McKenney, District Engineer, WMDSM

Attachment:
Department Review Comments on Application #S-010735-W5-XY-N,
Application for a Determination of Public Benefit

The *Waste Management Disposal Services of Maine, Inc. Crossroads Facility, Phase 14 Secure Landfill, Determination of Public Benefit Application* (PBD Application), dated July 2, 2018, was prepared by Waste Management for the Crossroads Landfill (Facility) owned and operated by Waste Management Disposal Services of Maine, Inc. (WMDSM) in Norridgewock, Maine.

The PBD Application was submitted under 38 M.R.S. § 1310-AA and 06-096 C.M.R. ch. 400, § 5, which, prior to the submission of an application for a license for a new or expanded solid waste disposal facility, requires a positive determination that the project provides a substantial public benefit. The PBD Application states that, as the existing capacity at the Facility will be fully utilized by 2024, WMDSM is proposing development of an additional 7 million cubic yards of capacity within a lined footprint of approximately 51 acres. This would provide disposal capacity and ancillary waste management services through 2040.

The following comments are based upon the Department's PBD Application review.

1. *Section 1.4, Materials Managed at the Crossroads Facility.*
 - a. Under the sub header of *Special Waste*, it should be clarified that the Maine Energy Recovery Company (MERC) ash has not been accepted in Phase 8 since the MERC facility closed in late 2012 and will not be included as a potential waste stream.
 - b. WMDSM should clarify whether they intend to take out-of-state municipal solid waste (MSW). WMDSM notes that out-of-state waste previously accepted has been "special waste, primarily [alternative daily cover], municipal wastewater sludge and contaminated soils."
 - c. As a condition of the modified Phases 9, 11 and 12 and Phase 8 Public Benefit Determination License #S-010735-W5-UP-N, dated March 29, 2001, WMDSM is required to notify the Department, in part, when the amount of non-remediation special waste accepted from out-of-state generators is more than 25 percent of the annual total of waste disposed at the Facility or when all wastes accepted from out-of-state generators is more than 35 percent of the annual total of waste disposed at the Facility to ensure that disposal capacity is available for Maine generated wastes. Is it WMDSM's intent to propose a similar reporting threshold for the proposed expansion if it is approved?
 - d. WMDSM notes that it "has not sought to expand its MSW customer base beyond the region it has traditionally served", based on the fact that, landfilling is the lowest priority for solid waste management in Maine. How can WMDSM expand its recycling services throughout its service area and beyond, if its customer base is limited to the communities served by MSW collection?

- e. WMDSM should evaluate or establish criteria for evaluating and developing collaborations to utilize excess waste-to-energy capacity currently available in the State to reduce the volume of MSW going into the Crossroads landfill.
2. *Section 2.1, Landfills Play an Essential Role in Management of the State's Solid Waste.* WMDSM should provide a copy of their contractual agreements with MMWAC and Fiberight as part of the record.
3. *Section 2.2.2, Current and Future Landfill Disposal Capacity in Maine.* From the State capacity report¹, WMDSM concludes that without approval of Phase 14, 80% of available State-wide landfill capacity would remain with the Juniper Ridge Landfill (JRL) and Presque Isle and Tri-Community landfills. WMDSM asserts that the remaining municipal incinerators and landfills “do not provide disposal options for the MSW or special waste that is currently sent to the Crossroads Facility.” Further, WMDSM asserts that “[in] the region served by Crossroads, for many municipalities and businesses, the Facility is the only economically-feasible disposal option.” Please clarify and support this conclusion in consideration of feasible access to Fiberight, when it is projected to become operational, and PERC.
4. *Section 2.2.3, Regional Considerations.*
 - a. Considering the distances that waste is transported to the Facility from all sources, what in WMDSM’s professional opinion, constitutes a reasonable transportation distance in Maine for MSW and special waste disposal that would not be considered cost-prohibitive?
 - b. WMDSM asserts that the acceptance of residuals from MMWAC and the future Fiberight facility “is critical to their long-term success.” Please expand upon and provide support for this assertion.
5. *Section 3.2.1, Waste Reduction Programs.*
 - a. All existing and proposed recycling programs could benefit from wider application. Expansive success of the single-sort programs suggests that more is possible. Has WMDSM considered the expansion of their current recycling programs? Please describe the benefits and limitations, if any, associated with program expansion.
 - b. WMDSM should consider partnering with Municipal Review Committee, Inc. member communities that will be served by Fiberight to improve recycling of materials not of use in their biofuel process.
 - c. WMDSM should quantify the potential impact on the reduction of MSW landfilled based on the implementation of the current and proposed diversion and reuse programs. Current programs include the diversion of rechargeable, button, and

¹ Maine Solid Waste Generation and Disposal Capacity Report for Calendar Year 2016, prepared by the Maine Department of Environmental Protection, dated January 2018.

- single-use batteries; electronic wastes; tires; glass, metal, cans, plastics, office paper, newspaper, boxboard and corrugated cardboard through their single-sort program and woodwaste. Proposed programs include textile diversion and reuse; organics diversion and reuse and household hazardous materials collection and reuse. WMDSM also conducts waste evaluation and sustainability consulting services and proposes to enhance its Airport Road Transfer Station to maximize the quantity of materials reused and recycled and minimize material contamination and disposal.
- d. Most of the proposed programs are scheduled for implementation at the opening of Phase 14. For others, the schedule is less clear or involves a phased approach. A clarified schedule of implementation, including any significant milestones and subsequent program phases, should be provided.
6. *Section 3.2.1(b), Textile Diversion and Reuse Program.*
- a. WMDSM notes that the textiles that cannot be reused will be transported to a recycling facility. The potential recycling facilities that will be considered to take the textiles that cannot be reused should be identified.
- b. WMDSM should describe the current options for textile recycling in the targeted towns and outline the quantitative goals for the proposed textile diversion and reuse program. Provisions for the assessment of the effectiveness of the program, and information relative to whether WMDSM will undertake any additional actions to enhance this program if periodic assessment determines that the program could be improved should be provided.
7. *Section 3.2.1(c), Household Hazardous Materials Collection and Reuse Program.*
- WMDSM should outline how the effectiveness of the proposed household hazardous waste (HHW) collection events will be evaluated. WMDSM notes that data from each event will be collected and tabulated. Note that, if it is not possible to determine a collection rate, (e.g., the amount of HHW collected divided by the amount of HHW available for collection, expressed as a percentage) the best way to assess program performance is to measure consumer awareness and consumer use of the program through a survey. Such a survey offers the opportunity to identify barriers to participation to help in the design of improvements as needed. Annual distribution of the survey allows for the assessment of changes in consumer awareness and consumer use over time relative to any potential changes to education and outreach initiatives and program design adjustments.
8. *Section 3.2.1 (d), Battery Diversion Program.*
- a. WMDSM should specify the quantitative goals for the battery diversion program. How will WMDSM determine what, if any, additional actions may be necessary to enhance this program if a periodic assessment determines that the program could be improved?

- b. The BatteryTracker® service is mentioned as being provided by Waste Management, WMDSM's parent company, for used dry-cell batteries. What number or percentage of WMDSM's customers utilize that service?
9. *Section 3.2.1(e), Electronic Waste Diversion Program.*
 - a. The eScrapTracker®, LampTracker®, and BallastTracker® services are mentioned as being provided by Waste Management for the various materials. What number or percentage of WMDSM's customers utilize those services?
 - b. WMDSM should outline the quantitative goals for the electronic waste diversion program. How will WMDSM determine what, if any, additional actions may be necessary to enhance this program if periodic assessment determines that the program could be improved?
10. *Section 3.2.1(f), Waste Evaluation and Sustainability Consulting.*
 - a. A specific example or description of a completed waste evaluation including the scope and result of the evaluation would be helpful. WMDSM notes that successful "evaluations have been performed for a variety of customers, including Bath Iron Works, Fisher Engineering, Sappi and Colby College."
 - b. WMDSM should provide data on the number of businesses and municipalities in its service area to which it has provided waste evaluation and sustainability consulting services, as well as any numbers of additional businesses and municipalities targeted to receive these services annually. Additionally, WMDSM should describe any proposed enhancements to these programs and any benchmarks necessary to evaluate the program's success.
 - c. WMDSM notes that the implementation of "Pay-As-You-Throw [PAYT] programs have been shown to reduce the amount of waste generated and increase the amount of material recycled by communities". WMDSM should note whether it plans to introduce PAYT programs to new communities, or incentives for communities to implement PAYT programs to assist communities to successfully improve their waste reduction and diversion rates.
11. *Section 3.2.2(a), Beneficial Tire Reuse Program.*
 - a. BDS currently has an application pending with the Department to move its operation to a new location in Fairfield. How will this change in location impact WMDSM's access to, and use of, BDS for processing tires and similar rubber-based products?
 - b. During 2016 and 2017, WMDSM initiated a program to reuse blasting mats. WMDSM should specify the geographic range of this program and whether it will continue to operate. It is likely that opportunities exist to further expand the extent of this program.

12. *Section 3.2.2(b), Single-Sort Recycling Program.*

- a. It is the Department's understanding from Casella Waste Systems, Inc. (Casella) that crushed glass from Casella's Zero-Sort® recycling facility in Lewiston is now going to WMDSM's Crossroads Landfill because of the recent downturn in recycling markets for waste glass. How can WMDSM assist to provide a future for this material that involves recycling rather than landfilling?
- b. Additional detail regarding the process that was developed and the recycler that was engaged to divert glass from the waste stream should be provided. WMDSM estimates that nearly 6,000 tons of glass has been diverted from landfilling over the past 18 months. The Department assumes that the type and origin of this glass is different than the waste glass specified in comment 12(a) above. A clarification should be provided.
- c. How can WMDSM balance the costs of recycling services versus the landfilling of potential recyclables given the recent changes in recycling markets?
- d. WMDSM asserts that its single-sort program "has been highly successful" yet, the application notes that there is only limited and incomplete data available on the recycling rates in the communities it serves. Given the data available, WMDSM should specify the overall average MSW recycling rate for the towns it is serving. How can WMDSM better assess municipal recycling rates and overall program performance? Given that Maine's overall MSW recycling rate falls short of the statewide 50% goal, and there is no evidence presented to suggest that WMDSM's program performs any better, how can WMDSM improve program performance?
- e. WMDSM should describe how it intends to assess whether its initiatives will assist towns that utilize the landfill to show reasonable progress toward the statewide goal of recycling 50% of MSW, or that the volume of MSW is reduced to the maximum extent practicable by recycling and waste reduction prior to being landfilled.

13. *Section 3.2.3, Organics Diversion and Reuse Program.*

- a. Removal of organics from the MSW waste stream accepted at the Facility is proposed with suggested targeting of large-volume commercial entities. The group of served communities is unclear. WMDSM should clarify the group of communities noted as being "within proximity to Crossroads."
- b. Additional information is needed regarding the proposed organics diversion and reuse program including how the commercial and educational institutions will access the composting program, an estimate of the quantity of organics that will be targeted for diversion to composting and the anticipated effects on recycling rates in the WMDSM service area.

14. *Section 3.2.4, Gas-To-Energy Infrastructure.* WMDSM should explain whether the removal of organics will impact WMDSM's ability to continue optimal operation of its gas-to-energy plant, and ensure stability of the waste mass and the landfill's defined Airspace Utilization Factor.
15. *Appendix D: Public Notice.*
 - a. We believe that the "Waste Management Abutters List 2018" incorrectly notes that WMDSM owns the parcel denoted as Tax Map 18, Lot # 17. We believe it should be Lot #7. A clarification should be provided.
 - b. We believe that WMDSM owns the parcel denoted as Tax Map 10, Lot #17. The attached property plan should be updated as appropriate.