



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

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| WASTE MANAGEMENT DISPOSAL SERVICES |) | PHASE 14 |
| OF MAINE, INC. - CROSSROADS LANDFILL |) | PUBLIC BENEFIT |
| SOMERSET COUNTY, MAINE |) | DETERMINATION |
| LANDFILL EXPANSION |) | |
| #S-010735-W5-XY-N |) | |
| (APPROVAL WITH CONDITIONS) |) | |

Pursuant to the provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act*, 38 M.R.S. §§ 1301 to 1319-Y, *Solid Waste Management and Recycling*, 38 M.R.S. §§ 2101 to 2236, the *Rule Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2 (last amended June 9, 2018), and the *Solid Waste Management Rules: General Provisions*, 06-096 C.M.R. ch. 400 (last amended April 6, 2015), *Landfill Siting, Design and Operation*, 06-096 C.M.R. ch. 401 (last amended April 12, 2015), the Department of Environmental Protection (“Department”) has considered the application of WASTE MANAGEMENT DISPOSAL SERVICES OF MAINE, INC. - CROSSROADS LANDFILL (“WMDSM”), with all supportive data, agency review comments, public comments and other related materials on file, and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

A. Application

WMDSM has applied for a determination of public benefit for a proposed expansion (Phase 14) at their Crossroads Landfill in Norridgewock, for disposal of municipal solid wastes, construction and demolition debris and special wastes.

B. History

Several landfill phases have been developed over time on the same site (a composite of several parcels of land purchased at different times). Licensing actions relevant to this approval include:

- (1) On July 24, 1985, then owner/operator Consolidated Waste Services (“CWS”) received approval for the construction and operation of the first secure landfill for the disposal of special wastes (Phases 1-6) and a leachate storage pond (Board of Environmental Protection Order (“Board Order”) #L-010735-07-A-N).
- (2) On October 10, 1990, Waste Management, Inc. (“WMI”), the parent company of WMDSM, purchased all properties and assets of CWS and received approval for the transfer of all licenses (Board Order #S-010735-WR-EB-T).

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- (3) On May 5, 1993, WMDSM received approval for a Leachate Storage Tank facility to replace the leachate holding pond (Board Order #S-010735-WH-HU-N). Operation of the Leachate Storage Tank facility began on April 1994. The leachate holding pond was subsequently decommissioned.
- (4) On May 10, 1995, WMDSM received approval for the construction and operation of a secure special waste landfill known as Phase 10 (Department Order #S-010735-WD-IF-N).
- (5) On March 29, 1996, WMDSM received a public benefit determination for Phases 9, 11 and 12. This public benefit determination approved approximately 2,030,000 cubic yards of disposal capacity to be utilized over approximately 12 years.
- (6) On October 16, 1997, WMDSM received approval for the construction and operation of a secure special waste landfill known as Phases 9, 11 and 12 (Department License #S-010735-WD-OK-N).
- (7) On March 29, 2001, WMDSM received a modified public benefit determination for Phases 9, 11 and 12 and Phase 8 (Department License #S-010735-W5-UP-N). The modified public benefit determination approved approximately 4 million cubic yards of disposal capacity to be utilized over approximately 8 years.
- (8) On August 31, 2002, a Board Order was issued approving the construction and operation of the Phase 8 Expansion (#S-010735-WD-UW-N).

C. Summary of Proposal

The Application for a Determination of Public Benefit for a New or Expanded Solid Waste Disposal Facility (“Application”), dated July 2, 2018, was accepted as complete for processing on July 16, 2018. The proposed expansion (Phase 14) totals approximately 50 acres in size, with an estimated net capacity of 7 million cubic yards to be utilized over about 15 years, based upon a facility average waste placement rate of 450,000 tons per year. The Department commented on the Application in an August 9, 2018 review letter. On September 14, 2018, WMDSM submitted a response to comments. The Department provided follow-up comments in a letter dated October 3, 2018, and WMDSM responded to the follow-up comments on October 31, 2018. Supplemental information was provided by Verrill Dana LLP, on behalf of WMDSM, in a November 21, 2018 letter to the Department.

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WMDSM intends to file its application for a landfill expansion during mid-2019. Project construction is proposed to be commenced in 2021, with filling operations transitioning to the new phase in 2024. It is expected that the current active phase, Phase 8, will be fully utilized by 2024.

2. PUBLIC PARTICIPATION

A. Notice of Intent to File

A Notice of Intent to File an application was published in the Morning Sentinel on June 30, 2018, in addition to being mailed to the abutters and Town of Norridgewock municipal office. The notice and mailing of the notice fulfilled the public and local participation requirement of 38 M.R.S. § 1310-S(1) and the public notice requirements of 06-096 C.M.R. ch. 2, § 14.

B. Public Meeting and Comments Submitted

The Department held a public informational meeting on the Application on August 30, 2018 at the Mill Stream Elementary School in Norridgewock pursuant to 38 M.R.S. § 345-A and 06-096 C.M.R. ch. 2, § 8. The public meeting was noticed in the Morning Sentinel on August 20, 2018 and posted on the Department's website with interested persons being separately notified. Approximately 100 people attended the public meeting and approximately 24 total speakers commented on the Application. Additional written comments were received over the course of the licensing process. The Department received 54 written comments from a variety of people and entities including municipalities, businesses, organizations and public individuals.

Comments received included, but were not limited to: WMDSM serves a critical role in the regional management of waste materials; WMDSM provides instrumental support in the community; concern that Maine's waste management hierarchy will not be met; concern that WMDSM accepts out-of-state waste; concern that the projected fill rate does not match the existing customer base; and a statement that the projected landfill life should be reduced to 10 years.

3. APPLICABLE LAW

Determinations of substantial public benefit are governed by *Public Benefit Determination*, 38 M.R.S. § 1310-AA, which establishes the process and standards to be used in determining whether proposed new solid waste disposal capacity provides a substantial public benefit. 38 M.R.S. § 1310-AA, in relevant part, states:

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3. Standards for determination. The Commissioner shall find that the proposed facility under subsection 1 or the acceptance of waste that is not generated within the State under subsection 1-A provides a substantial public benefit if the applicant demonstrates to the commissioner that the proposed facility or the acceptance of waste that is not generated within the State:

- (1) 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, is consistent with the state waste management and recycling plan and promotes the solid waste management hierarchy as set out in section 2101;
- (3) Is not inconsistent with local, regional, or state waste collection, storage, transportation, processing or disposal.

4. CAPACITY NEEDS

A. Applicable Law

Pursuant to *Solid Waste Generation and Disposal Capacity Report*, 38 M.R.S. § 2124-A “the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environmental and natural resources matters and the Governor setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.” Further, “when the department determines that a decline in available landfill capacity has generated or has the potential to generate supra-competitive prices, the department shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary. The report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill and an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.”

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Capacity needs of the State are projected in the most recent update of the Maine Materials Management Plan (“State Plan”), dated January 2014 and the Maine Solid Waste Generation and Disposal Capacity Report for Calendar Year 2016 (“Capacity Report”), dated January 2018.

B. WMDSM’s Requested Capacity

If approved, the proposed expansion to the Crossroads Landfill will provide an additional 7 million cubic yards and approximately 15 years of disposal capacity based on an average waste placement rate of 450,000 tons per year. WMDSM serves as the primary disposal option for 55 of Maine’s municipalities and supports more limited disposal needs for 16 others, several unincorporated communities, more than two dozen business entities, regional waste haulers, one of Maine’s incinerators, a municipal solid waste processing facility, and several special waste contractors who provide clean-up services statewide.

In its Application, WMDSM states that the wastes proposed to be disposed in the proposed expansion are similar to the waste types currently received for disposal at WMDSM. In its September 14, 2018 response (page 2), WMDSM states that these waste types “did not include out-of-state MSW” and “[s]hould exceptional circumstances arise requiring out-of-state MSW to be disposed of in Phase 14, WMDSM is willing to notify the Department in advance.” Wastes currently received for disposal include: (1) special wastes including asbestos-containing waste and other wastes that require special handling, transportation and disposal procedures (“Special Waste”); (2) alternate daily cover including approved special waste streams and chipped utility poles (“ADC”); (3) municipal solid waste sourced from Maine households and commercial businesses (“MSW”), and (4) construction and demolition debris (“CDD”). All wastes accepted at the landfill must be non-hazardous.

In its Application (page 11), WMDSM states that since 2004, on average, the following percentages of ADC, CDD, MSW and Special Waste out of its total waste stream were managed at the Crossroads Landfill.

Table 1 – Type of Solid Waste Managed at Crossroads Landfill

| Type of Solid Waste Managed | Percentage of Total Waste Stream |
|-----------------------------|----------------------------------|
| ADC | 25.2 |
| CDD | 23.8 |
| MSW | 24.1 |
| Special Waste | 26.9 |

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WMDSM estimates that these percentages will generally continue during the proposed Phase 14 project. Semi-annual capacity reports submitted by WMDSM to the Department, in accordance with license #S-010735-W5-UP-N (Phases 9, 11 and 12 and Phase 8) indicate that WMDSM’s disposal rate has fluctuated from a low of 239,273 tons in 2012 to a high of 447,097 tons in 2017.

In its Application (page 21), WMDSM states that “Phase 14 is important to ensuring disposal costs within the State remain competitive beyond 2024.” Further, WMDSM notes that “[w]ithout Phase 14, by 2026, more than 50% of landfill capacity within the State will be concentrated at one facility, the Juniper Ridge Landfill” (page 22).

C. Department Analysis

In determining whether a facility achieves a substantial public benefit, the facility must meet the immediate (3 years), short-term (5 years) or long-term (10 years) needs of the State. Immediate and short-term needs of the State are currently being met with the operation of Phase 8 which will reach its full capacity by 2024.

While the percentages of waste types are expected to remain relatively consistent, actual disposal rates at the Crossroads Landfill fluctuate over time and are dependent upon a variety of factors, including economic well-being and growth rates, emergence of new technologies, solid waste disposal capacity in Maine, support provided to Maine’s incinerators and processing facilities, and amount of out-of-state waste accepted.

(1) Economic Well-being and Growth Rates

In general, waste disposal rates fluctuate with the economy. The Maine Consensus Economic Forecasting Commission (“CEFC”) stated in its March 1, 2010 Report¹ that the “Maine Coincident Economic Activity Index, an economic indicator that is a proxy for State GDP (“Gross Domestic Product”), which measures the value of economic activity within the State, decreased 4.5% in November 2009 over November 2008. Maine’s year over year change has been negative since June 2008” (page 1). In its consensus forecast, the CEFC found in 2010 a “continued stabilization of the decline in economic activity that began in the fall of 2008” at the onset on the recession (page 4). Coincident with economic activity, WMDSM’s disposal rate was 307,265 tons during 2008 and 258,376 tons during 2010.

¹http://legislature.maine.gov/legis/ofpr/revenue_forecasting_committee/reports/rfc_2010mar_prelim_summary.pdf

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In its April 1, 2017 Report², the CEFC found that “Maine’s real GDP increased 1.2% in the third quarter of 2016. This was the sixth consecutive quarter of real GDP growth” (page 2). WMDSM’s disposal rate was 245,803 tons in 2015, 351,342 tons in 2016, and 447,097 tons in 2017. However, the report noted that “the primary source of concern for the CEFC continues to be Maine’s demographic situation, with an aging population and little to no population growth” (page 6). The CEFC projects that “employment reaches a 0.0 percent growth level in 2019 and stays at that point through 2020 and 2021” (page 5). Thus, during the previous 10-year period economic growth slowed and stagnated, has since largely recovered, but economic growth remains uncertain. The Department concludes that this uncertainty is likely to cause disposal rates to continue to fluctuate.

(2) Emergence of New Technologies

In July 2016, the Department licensed a proposed MSW processing facility in Hampden, consisting of technology new to Maine’s solid waste management industry. The Fiberight LLC (“Fiberight”) facility is currently under construction and will include the sorting of recyclables and conversion of organic material to certain byproducts including bio-methane. While construction of Fiberight is underway, some uncertainty exists regarding its schedule for full-scale operations and reaching its optimum throughput capacity.

WMDSM currently serves the needs of the Municipal Review Committee, Inc. (“MRC”) and Fiberight in accepting MSW bridge capacity waste for disposal, and upon full-scale operation will provide disposal services for MSW process residue and bypass. WMDSM has executed an exclusive Solid Waste Disposal Agreement (“Agreement”), dated August 24, 2015, with the MRC for the disposal of MSW bridge capacity waste, process residues and bypass from the Fiberight facility at WMDSM’s Crossroads Landfill. WMDSM is expected to landfill up to 40,000 tons per year of process residue from the Fiberight facility. The amount of MSW bypass requiring landfilling is uncertain and is dependent upon the frequency of time when Fiberight is unable to process MSW including during scheduled maintenance events and unscheduled outages. WMDSM is currently accepting bridge capacity waste from MRC-contracted communities for disposal. Bridge capacity waste is defined as MSW collected within MRC-contracted communities requiring disposal from April 1, 2018 to the start of

²<http://www.maine.gov/dafs/economist/sites/maine.gov.dafs.economist/files/inline-files/Report%20of%20the%20CEFC%20Meeting%20Apr2017.pdf>

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commercial operations of the Fiberight facility. MRC expects to generate approximately 10,000 to 18,000 tons per month of MSW during the bridge period. The MRC and Fiberight may also accept MSW from in-state non-MRC communities that decide to contract with the MRC and Fiberight. The Department states that capacity needed for MSW including process residues and bypass from Fiberight is uncertain and is dependent on certain factors such as Fiberight’s commercial start-up schedule, scheduled maintenance events and unscheduled outages, and schedule to reach its optimum throughput capacity.

(3) Solid Waste Landfill Disposal Capacity in Maine

Solid Waste Management and Recycling, 38 M.R.S. § 2123-A provides that “the state plan must identify existing solid waste disposal and management capacity within the State and the potential for expansion of that capacity.” Disposal capacity includes incineration and landfilling. Table 1 of the Capacity Report presents the amount and disposition of Maine-generated MSW and CDD. During 2016, 63% of MSW including ash resulting from incineration and 89% of Maine-generated CDD was landfilled. At the Crossroads Landfill, approximately 75% of the total waste stream disposed since 2004 was CDD and special wastes. While land disposal occupies the lowest level of the hierarchy, the portion of the waste stream that cannot be recycled or reused in addition to residues resulting from processing and reduction efforts must be landfilled to maintain the health, safety and environment of Maine’s citizens consistent with 38 M.R.S. § 1302.

The completion of the Fiberight facility will help to promote solid waste management at a level higher on the solid waste management hierarchy. However, even with Fiberight, Maine does not have enough processing and incineration capacity for all the MSW it produces. The Capacity Report states that Maine’s generation rate for MSW during 2016 was approximately 760,000 tons per year. Beginning sometime in 2019, Maine will have 595,000 tons per year of MSW incineration and processing facility capacity. In addition, Maine’s regional landfills provide disposal capacity for another 87,000 tons per year of MSW, and WMDSM provides disposal capacity for approximately 85,000 tons per year of MSW based on 2016 annual report data. Collectively, these facilities provide sufficient capacity to manage Maine’s MSW based on current generation rates.

Other than the State-owned Juniper Ridge Landfill, the active landfills remaining for MSW disposal include seven municipally-owned landfills serving local needs, located in the southern, central and coastal regions of

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the State, or in Aroostook County. One of these is scheduled to close before 2021, one has approximately 10 years of remaining capacity, and two primarily serve incinerators located in the southern and coastal regions of the State, by landfilling incinerator ash. The incinerators depend upon either the State landfill or WMDSM for disposal of wastes that cannot be incinerated. The landfills proposed to remain active have adequate capacity to serve a long-term demand for capacity in their respective regions, but do not have capacity to accept waste from other regions of the State.

In 2016, 1,235,592 cubic yards³ of landfill capacity were utilized statewide (page 9 of Capacity Report). Crossroads Landfill represented approximately 32% of that capacity, largely serving the central and western regions of the State, where other capacity is not readily available. Thus, WMDSM serves to meet a State and regional need for landfill capacity and without the proposed expansion, WMDSM’s capacity will cease as of 2024.

Future Commercial Waste Disposal Facilities, 38 M.R.S. § 1310-X prohibits the Department from approving an application for a new commercial solid waste disposal facility. Based on Table 4 of the Capacity Report, without the development of Phase 14, more than 50% of potentially needed landfill capacity within the State will be concentrated at one facility having the potential to create supra-competitive pricing.

(4) Support Provided to Maine’s Incinerators and Processing Facilities

WMDSM states on page 16 of the Application that it supports the Mid-Maine Waste Action Corporation (“MMWAC”) incinerator, which provides disposal for 27 communities, by accepting MSW during times of limited capacity at MMWAC such as the summer months. Additionally, WMDSM provides MSW to MMWAC during downturns in volume such as during the winter months. WMDSM also accepts oversized waste and CDD and other bypass waste from MMWAC that cannot be incinerated and must be landfilled. As described in Section 4(B)(2) above, WMDSM also provides disposal services to Fiberright for bridge capacity waste and upon full scale operation will provide disposal services for process residues and bypass from Fiberright.

³ This capacity does not include special wastes disposed in generator-owned landfills affiliated with specific industrial facilities and operations.

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(5) Amount of Out-of-State Waste Accepted

WMDSM operates the only commercial landfill within Maine and may accept solid waste generated out-of-state for disposal. In accordance with its modified public benefit determination for Phases 9, 11, and 12 and Phase 8 (Conditions 2 and 3 of license #S-010735-W5-UP-N), WMDSM is required, in part, to submit an analysis of waste received at the Crossroads Landfill on a semi-annual basis from both in-state and out-of-state generators. Beginning with the reporting period July 1, 2016 through December 31, 2016, WMDSM has been reporting to the Department that more than 35% of the annual total of waste received at the facility has been out-of-state waste.

WMDSM states in its March 20, 2018 semi-annual report that this data “is not representative of historical operations and is not expected to continue for a significant period of time.” In addition, WMDSM notes that there are disposal constraints at other landfills in New England and is seeking authorization to increase disposal capacity at its facility in New Hampshire. Further, WMDSM specifies that there is a current effort to develop rail transfer capacity to transport waste to more distant disposal sites with excess capacity. In the supplemental response to Department comments submitted on October 31, 2018 by Verrill Dana, LLP on behalf of WMDSM it was stated that several things served to increase the quantity of out-of-state waste accepted: (1) increased amounts of ADC were needed to manage active operations in both Phases 8 and 11 and a sufficient quantity of material was not available in-state; (2) additional ADC was needed to bring waste to finish grades to facilitate final capping of Phase 11 in 2018, based upon a schedule approved by the Department and (3) asbestos waste accepted under a single contract was four times that generated by typical remediation activities. Regarding the acceptance of ADC, WMDSM states that the “use of out-of-state waste material does not reduce airspace that would otherwise be available for disposal of Maine wastes” since daily cover is required by the solid waste management regulations.

D. Department Findings

The Department finds that in consideration of the State Plan and Capacity Report, expansion of the Crossroads Landfill as proposed by WMDSM, meets immediate, short-term, or long-term capacity needs of the State. The Department further finds that the 7-million cubic yards of capacity, as proposed by WMDSM, is reasonable as a basis for design given that actual disposal rates fluctuate over time depending on a variety of factors, including economic well-being and growth rates, emergence

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of new waste technologies, solid waste landfill disposal capacity in Maine, support provided to Maine’s incinerators and processing facilities, and amount of out-of-state waste accepted. However, the Department also finds that if exceptional circumstances arise requiring out-of-state MSW to be disposed of in Phase 14, WMDSM must notify the Department in advance. As part of the notification, alternatives to landfilling that are higher on the hierarchy must be identified and evaluated.

5. CONSISTENCY WITH STATE WASTE MANAGEMENT PLAN AND HIERARCHY

A. Applicable Law

Solid Waste Management and Recycling Plan, 38 M.R.S. § 2122 requires the Department to “prepare an analysis of, and a plan for, the management, reduction and recycling of solid waste for the State. The plan must be based upon the [established] priorities and recycling goals.” Ensuring that the State has adequate disposal capacity for Maine solid wastes is part of the State Plan.

Solid Waste Management Hierarchy, 38 M.R.S. § 2101 requires that waste generated in and imported into the State should be managed in accordance with the following priority:

- A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
- B. Reuse of waste;
- C. Recycling of waste;
- D. Composting of biodegradable waste;
- E. Waste processing that reduces the volume of waste needing land disposal, including incineration; and
- F. Land disposal of waste.

Waste Reduction and Recycling, 38 M.R.S. § 2132 states that “[i]t is goal of the State to recycle or compost, by January 1, 2021, 50% of the municipal solid waste tonnage generated each year within the State.” The State’s recycling rate continues to fall short of its goal for recycling or composting. Based on the Capacity Report, Maine’s recycling rate for MSW, exclusive of CDD⁴, was 37%. The recycling rate for CDD was 11%.

⁴For the purposes of the State Plan, Maine calculates the MSW recycling rate consistent with U.S. Environmental Protection Agency procedures which excludes CDD from the calculation. In Maine, MSW has historically been defined as solid waste typically managed by municipalities including CDD.

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B. State Waste Management Plan Priorities

The priorities for sustainable materials management under the current State Plan are to:

- (1) Encourage the development of new infrastructure for separation from the waste stream and utilization of organics, including composting and technologies such as anaerobic digestion (“Priority 1”);
- (2) Encourage increased beneficial use and recycling of materials, including identification of incentives and removal of unnecessary barriers (“Priority 2”);
- (3) Provide tools and assistance to municipalities and businesses to support waste reduction and diversion efforts (“Priority 3”); and
- (4) Continue refinement of data sources and data management systems to more accurately and consistently assess progress toward statewide reduction and recycling goals, and to evaluate the effectiveness of programs and strategies (“Priority 4”).

C. WMDSM’s Existing Programs

WMDSM provides recycling services to 23 of the 55 communities utilizing the Crossroads Landfill for disposal of MSW (Table 10, page 31 of Application). While recycling rates vary, all of the communities it directly serves, have recycling programs in place. WMDSM describes ongoing programs to reduce waste and encourage recycling among its customers in its Application including:

- (1) **Battery Diversion.** WMDSM operates a battery diversion program to collect rechargeable, button and single-use batteries from its nine-member communities for recycling. A central receptacle for battery collection is provided at WMDSM’s Airport Road Transfer Station.
- (2) **Electronic Waste Diversion.** WMDSM operates an electronic waste diversion program that allows residents from its nine-member communities to deliver electronic items such as cathode ray tubes, computer equipment, fluorescent light bulbs, smoke detectors and cell phones for recycling. Based on WMDSM’s annual report for 2017, WMDSM collected approximately 45 tons of electronic waste that was diverted from landfilling.

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- (3) Waste Evaluations. WMDSM in conjunction with its parent company, WMI, actively performs waste evaluations for its customers. Waste evaluations serve to analyze inputs, raw materials, individual waste streams and provide recommendations for reducing the amount of waste generated and increasing the amount of materials reused or recycled. In its Application, WMDSM states that “[s]uccessful waste evaluations have been performed for a variety of customers, including Bath Iron Works, Fisher Engineering, Sappi and Colby College” (page 29).
- (4) Tire Processing. WMDSM facilitates the operation of a tire processing facility by BDS Waste Disposal, Inc., which in 2017, processed approximately 33,600 tons of scrap whole tires and managed approximately 28,200 tons of tire shreds sourced from within Maine. By-products of the processing, including steel and aluminum, were shipped off-site for recycling. The facility shipped off-site approximately 53,000 tons of tire derived fuel to Maine paper mills and 192 reusable tires in 2017. Shredded and chipped tires are also used as components of the Crossroads Landfill leachate and gas collection and control systems. Since 2016, recycling of blasting mats has been added to this program.
- (5) Single-sort Recycling. WMDSM in conjunction with its parent company, WMI, implements a single-sort recycling program for municipalities and businesses to encourage and maximize the amount of material recycled and reused. Glass, metal, cans, plastics, office paper, newspaper, boxboard, and corrugated carboard are collected in single-sort containers. Working directly with participants, WMDSM educates users about appropriate handling and preparation of materials for collection. For the years 2015 through 2017, more than 17,000 tons of recyclables have been removed from WMDSM’s regional waste stream.
- (6) Cardboard Recycling. WMDSM operates a cardboard recycling program in conjunction with its single-sort recycling program. Separated cardboard is baled by WMDSM and subsequently shipped to end users or recyclers. In 2017, WMDSM collected and diverted 4,047 tons of cardboard from landfilling.
- (7) Woodwaste Recycling. Approximately 640 tons of woodwaste including utility poles, pallets, brush and other pre-sorted woodwaste was chipped and reused as daily cover or shipped off site for other uses in 2017. WMDSM reported in its 2017 Annual Report to the Department that it reused approximately 118,300 tons of treated utility poles chipped on-site, boiler ash, auto shredder residue, and contaminated soil as alternative daily cover

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in substitution for clean soil materials to meet Rule requirements for daily cover of waste.

- (8) Landfill Gas-to-Energy. WMDSM operates a gas-to-energy plant at the Crossroads Landfill to recover gas from the anaerobic decomposition of the waste disposed within the landfill. On an annual basis, WMDSM collects and combusts approximately 470,000 cubic feet of landfill gas creating 21,685,000 kilowatt hours of electricity per year. The gas-to-energy plant will serve the proposed Phase 14, as well as the existing landfill.

D. WMDSM’s Proposed Programs

WMDSM proposes to expand its waste reuse, reduction, recycling and composting efforts, in conjunction with the operation of the proposed Phase 14, to include:

- (1) Expansion of Airport Road Transfer Station. WMDSM proposes to expand recycling services at its on-site transfer station serving local communities to collect organic materials, household hazardous wastes, textiles, electronic wastes, single-use batteries, waste oil, clean woodwastes and unwanted or expired medicines. WMDSM notes that this initiative has the potential to have a significant effect on reducing the toxicity of MSW landfilled from the nine-member communities. As part of the transfer station upgrade, WMDSM will establish a new traffic circulation pattern and will position recycling containers and composting bins prior to trash containers to further emphasize and promote Maine’s priority regarding waste management.

Enhancing its educational programs, WMDSM proposes to develop “best-practice” materials for its customers to minimize contamination of recyclable materials.

- (2) Organics Diversion and Reuse. WMDSM proposes, in its Application (page 34), to construct a composting facility on site at the Crossroads Landfill facility. Residents from the nine-member communities will collect food scraps and other biodegradable waste (i.e., unbleached paper plates, napkins and food-soiled paper products) in 5 to 30 gallon containers and take to a central repository at the Airport Road Transfer Station. WMDSM will subsequently transport the material to the compost operation where the material will be handled, composted and stored. Participants in the program will be offered finished compost throughout the year. To enhance its educational programs, tours of the facility will be offered to local students, citizens and State and municipal officials.

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Further, WMDSM will be assisting the Farmington Compost Cooperative to address a short-term space need by offering a location for a temporary compost operation at the Crossroads Landfill facility. While the location is temporary, WMDSM states that the pilot program will be an important building block in preparation for WMDSM’s future full-scale operation (page 2 of the November 21, 2018 letter). The pilot program will occur during December 2018 through April 2019.

- (3) Textile Diversion and Reuse. WMDSM proposes to develop and implement a textile diversion and reuse program. Reusable textiles will be donated to charitable organizations. Those that cannot be reused will be transported to a recycling facility. This program is proposed to begin with the nine-member communities and may be expanded based on the effectiveness of the program.
- (4) Household Hazardous Materials Collection and Reuse Program. WMDSM proposes to host a one-day annual household hazardous materials collection event in Norridgewock starting in 2019. The event will serve the nine-member communities. A licensed hazardous materials management company, with experience in planning and implementing these type of collection events, will assist with the proposed program. WMDSM will collect and tabulate data derived from each event to evaluate the effectiveness of the proposed program.
- (5) Informational Meetings. WMDSM proposes, in a November 21, 2018 supplement to the application, to “host a series of informational meetings for its municipal and commercial customers to (i) gather data on measures its customers are taking to recycle, (ii) identify barriers to recycling, and (iii) explore steps that would facilitate increased recycling.”

E. Market Availability for Recyclables

Market availability for recyclables is uncertain. In its Application, WMDSM notes that “recycling costs have increased and markets have seen an upturn in volatility” (page 15). Further, WMDSM states that “China’s actions to limit and ban certain types of plastic and paper over the course of two years, while also imposing limits on contamination, has had a major impact on recycling markets across the United States” (page 38). While WMDSM has plans to improve the quality of collected recyclables, and has a proven outlet for most of its collected materials at ecomaine, recycling capacity will take time to recover. WMDSM states that “[m]unicipalities and businesses faced with such a sharp increase in recycling costs may be forced to

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make difficult decisions about the viability of their recycling programs. These tough decisions may require a temporary greater reliance on disposal locations in Maine until alternative markets can be secured, putting increased pressure on the State’s overall projected disposal capacity.” In its September 14, 2018 response to Department review comments, WMDSM further clarified that, “[it] does not intend to landfill potential recyclables and is utilizing efforts described in Section 3 of its Application and the responses provided to comment 5(a) [waste reduction programs] to avoid this scenario.”

F. Department Analysis

Maine’s Solid Waste Management Rules (“Rules”), *General Provisions*, 06-096 C.M.R. ch. 400, § 6 provides that, in order to receive a license to expand a solid waste disposal facility, the applicant must receive a determination by the Department that the volume of the waste has been reduced to the maximum extent practicable by recycling and source reduction prior to being landfilled or incinerated. For purposes of this rule section, reducing, reusing, recycling, composting and/or processing waste to the “maximum extent practicable” prior to disposal means handling the greatest amount of waste possible through means as high on the solid waste management hierarchy as possible, resulting in maximizing waste diversion and minimizing the amount of waste disposed, without causing unreasonable increases in facility operating costs or unreasonable impacts on other aspects of the facility’s operation.

Determination of the “maximum extent practicable” includes consideration of the availability and cost of technologies and services, transportation and handling logistics, and overall costs that may be associated with various waste handling methods. Where waste has been subjected to reduction or recycling programs, voluntary or otherwise, that waste may only be accepted for final disposal, if the standards of those programs are at least as effective as those imposed by state law⁵.

- (1) **WMDSM’s Existing Programs.** The Department concludes that WMDSM has existing programs in-place to reduce and reuse waste and encourage recycling including battery diversion, electronic waste diversion, waste evaluations, tire processing, single-sort recycling, cardboard recycling, woodwaste recycling, and landfill gas-to-energy. The Department further concludes that WMDSM’s existing beneficial use and recycling programs, and waste evaluations serve to meet two of the four priorities (Priority 2 and 3) outlined in the State Plan.

⁵*Solid Waste Facility Licenses*, 38 M.R.S. § 1310-N(5-A)(A).

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On page 31 of the Application, WMDSM notes that their single-sort program has been highly successful to date; however, WMDSM additionally notes that recycling data for the communities it serves is limited and incomplete. The Department concludes that for all communities utilizing landfilling as their primary means of disposal, more effort needs to be made to track and report this data. Better tracking of the data will serve to meet Priority 4 of the State Plan.

- (2) WMDSM’s Proposed Programs. As part of the Application, WMDSM proposes to expand and reconfigure its Airport Road Transfer Station, construct and operate a compost facility, develop and implement a textile diversion and reuse program, host an annual household hazardous materials collection event, and host a series of informational meetings to gather recycling data, identify barriers and explore steps to increase recycling. The Department concludes that for all communities utilizing landfilling as their primary means of disposal, more effort to divert recyclable and compostable materials needs to be made and is being proposed. With the implementation and operation of these programs, WMDSM will meet Priority 1, 2, 3 and 4 of the State Plan.

- (3) Market Availability for Recyclables. The Capacity Report specifies that beginning January 1, 2018, China intends to prohibit the import of certain solid wastes and scrap into their country, including mixed paper and mixed plastics. Based on this, worldwide recycling capacity diminished rapidly in 2018 and contamination by the public of collected recyclables has increased rejection of loads at recycling facilities and caused municipalities to limit recycling efforts. WMDSM notes in its Application that it “is dedicated to the success of its Single-Sort Recycling Program in Maine” (page 39). The Department concludes that WMDSM does not intend to landfill potential recyclables and “plans to enhance its Airport Road Transfer Station to maximize the amount of materials reused and recycled at the facility and to minimize contamination and disposal” (page 39 of Application) thereby meeting Priority 2 of the State Plan. The Department concludes that Phase 14 should not be used for the disposal of marketable recyclables. For the purposes of this license, marketable recyclables are defined as solid waste that has undergone collection, separation, processing or recovery with the intent of recovering and recycling the solid waste.

G. Department Findings

The Department finds that the expansion of the Crossroads Landfill as proposed by WMDSM, is consistent with the State Plan and promotes the solid waste

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management hierarchy as set forth in 38 M.R.S. § 2101, in that the volume of waste proposed to be accepted at WMDSM will be reduced to the maximum extent practicable by recycling and source reduction prior to being landfilled, provided that:

- (1) WMDSM’s proposed reuse, reduction, recycling and composting programs begin on or before the commencement of operations in Phase 14;
- (2) All municipalities and communities utilizing the Crossroads Landfill as their primary option for disposal of MSW continue to be provided with the infrastructure and services necessary to reduce the waste landfilled to the maximum extent practicable;
- (3) Marketable recyclables are not disposed in Phase 14. For the purposes of this license, marketable recyclables are defined as solid waste that has undergone collection, separation, processing or recovery with the intent of recovering and recycling the solid waste; and
- (4) WMDSM collects and reports in each Annual Report to the Department data on the amount of waste received, the sources of the wastes, and estimated recycling rates associated with waste received, as applicable.

6. CONSISTENCY WITH LOCAL, REGIONAL, OR STATE WASTE MANAGEMENT

A. Local and Regional Provision of Services

WMDSM operates a local residential transfer station serving nine surrounding communities. During 2017, approximately 6,400 tons of waste materials were recycled and diverted from disposal. WMDSM is proposing to make retrofits to the transfer station to maximize the diversion of materials that may be reused, recycled, or composted as described in Section 5(D) above.

Cost associated with the transportation of waste is a significant issue in a large rural state such as Maine. WMDSM’s service region extends to a total of 71 communities⁶ and several Maine businesses, in addition to supporting other regional waste facilities such as the MMWAC incinerator and the anticipated acceptance of process residues and bypass from Fiberright. These facilities do not provide disposal services for the MSW or special waste that is currently sent to WMDSM. Without WMDSM, the transportation distances, and costs to haul to

⁶This number includes the nine-member communities that utilize WMDSM’s Airport Road Transfer Station. See Table 2 in the Application.

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other facilities would increase. The Department received a total of 37 letters of support from municipalities and waste haulers served by the facility, suggesting the continuance of service for waste disposal at the Crossroads Landfill will minimize the impact of waste management expense on strained budgets. More significantly, while other facilities in the region accept MSW, they cannot accept special wastes. To this extent, WMDSM does not compete with other regional facilities, but partners with and compliments them. The Department also received comments from numerous business entities engaged in the handling, processing, recycling, or beneficial use of waste streams stating that a regional disposal option for residues, largely special wastes, resulting from their processes is an essential asset for their business operations.

WMDSM states in its Application that less than 25% of the total volume of waste received at the Crossroads Landfill for the past 10-year period comes from out-of-state. This is substantially below the 35% reporting threshold imposed by the WMDSM Phase 8 public benefit determination. All of this out-of-state waste has been special waste, not MSW. A significant part of this out-of-state waste is used as alternative daily cover, which does not reduce airspace that would otherwise be available for Maine generated waste. In its Application, WMDSM asserts that “[t]o remain viable, it is critical that WMDSM continue to accept out-of-state special waste” (page 13). In its September 14, 2018 response to Department comments, WMDSM states that, “the same reporting threshold would be an acceptable condition for the life of the proposed Project.”

B. State Waste Management Considerations

As stated in Department license #S-010735-W5-UP-N, to further ensure a benefit to the State of Maine, WMDSM accepts for disposal any Maine generated solid waste provided that the waste meets the facility’s acceptance criteria as approved by the Department and that the waste conforms to WMDSM’s established business, administrative, and safety requirements. In addition, if Maine waste disposal volumes at the facility remain consistent with recent experience, then WMDSM anticipates that over the life of the expansion, the percentage of out-of-state waste would not exceed 35%, resulting in an estimated 65% of Phase 14 disposal capacity being available to Maine-generated solid wastes.

To ensure that the capacity of Phase 14 will consistently provide a substantial public benefit to the citizens of Maine, WMDSM will collect data on the amount of waste received from both in-state and out-of-state generators, the in-place density of the landfilled waste, the volume of airspace utilized during the reporting period and the estimated remaining permitted disposal capacity expressed in cubic yards. This

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information will be submitted to the Department on an annual basis in the Annual Report.

If the amount of special waste unrelated to environmental clean-up and remediation projects accepted from out-of-state generators is more than 25% of the annual total of waste disposed at the facility, or that the amount of all wastes accepted from out-of-state generators is more than 35% of the annual total of waste disposed in Phase 14, WMDSM will notify the Department of this in the Annual Report. Based upon an ongoing review of the variations in life expectancy, disposal rate, ratio of in-state to out-of-state wastes and other relevant information, the Department may require WMDSM to make adjustments to ensure that Phase 14 will continue to be operated to provide a substantial public benefit as evidenced by the life expectancy of Phase 14 and the disposal capacity available for the disposal of Maine generated wastes. Actions or modifications proposed by the Department would be subject to, and carried out under, the provisions 38 M.R.S. § 1310-AA(5) and based upon any findings of fact as determined by the Department.

C. Department Findings

The Department finds that the expansion of the Crossroads Landfill as proposed by WMDSM, meets capacity needs of the relevant local communities and the region. Further, the Department finds that expansion of the landfill facility as proposed by WMDSM: (1) provides a critical role in maintaining competitive markets for solid waste services in Maine beyond the year 2024; (2) meets capacity needs of the relevant local communities and the region; and (3) meets the State waste management infrastructure goals, provided that WMDSM:

- (1) Submits in each Annual Report documentation of the amount of and type of waste received from both in-state and out-of-state generators, the in-place density of the landfilled waste, the volume of airspace utilized during the reporting period and the estimated remaining permitted disposal capacity expressed in cubic yards;
- (2) Notifies the Department if the amount of non-remediation special waste accepted from out-of-state generators is more than 25% of the annual total of waste disposed in Phase 14, or that the amount of all wastes accepted from out-of-state generators is more than 35% of the annual total of waste disposed at the facility. Based on an ongoing review of this data, the Department may require WMDSM to make adjustments to ensure it continues to provide a substantial public benefit for the disposal of Maine-generated wastes; and

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- (3) Prioritizes for disposal at WMDSM’s Crossroad’s Landfill Maine generated solid waste provided that the waste meets the facility’s acceptance criteria as approved by the Department and that the waste conforms to WMDSM’s established business, administrative, and safety requirements.

BASED on the above Findings of Fact, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. Posting of the public notice in a local newspaper and mailing of the notice to abutters fulfilled the public and local participation requirement of 38 M.R.S. § 1310-S(1) and the public notice requirements of 06-096 C.M.R. ch. 2, § 14.
2. In consideration of the State Plan and Capacity Report, expansion of the Crossroads Landfill as proposed by WMDSM, meets immediate, short-term, or long-term capacity needs of the State provided that, if exceptional circumstances arise requiring out-of-state MSW to be disposed of in Phase 14, WMDSM notifies the Department in advance to identify and evaluate alternatives to landfilling.
3. Expansion of the Crossroads Landfill as proposed by WMDSM, is consistent with the State Plan and promotes the solid waste management hierarchy as set forth in 38 M.R.S. § 2101, in that the volume of waste proposed to be accepted at WMDSM will be reduced to the maximum extent practicable by recycling and source reduction prior to being landfilled, provided that:
 - A. WMDSM’s proposed reuse, reduction, recycling and composting programs begin on or before the commencement of operations in Phase 14;
 - B. All municipalities and communities utilizing the Crossroads Landfill as their primary option for disposal of MSW continue to be provided with the infrastructure and services necessary to reduce the waste landfilled to the maximum extent practicable;
 - C. Marketable recyclables are not disposed in Phase 14. For the purposes of this license, marketable recyclables are defined as solid waste that has undergone collection, separation, processing or recovery with the intent of recovering and recycling the solid waste; and
 - D. WMDSM collects and reports in each Annual Report to the Department data on the amount of waste received, the sources of the wastes, and estimated recycling rates associated with waste received, as applicable.

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4. Expansion of the landfill facility as proposed by WMDSM meets capacity needs of the relevant local communities and the region.
5. The Department finds that the expansion of the Crossroads Landfill as proposed by WMDSM provides: (1) a critical role in maintaining competitive markets for solid waste services in Maine beyond the year 2024; (2) meets capacity needs of the relevant local communities and the region; and (3) meets the State waste management infrastructure goals, provided that WMDSM:
 - A. Submits in each Annual Report documentation of the amount and type of waste received from both in-state and out-of-state generators, the in-place density of the landfilled waste, the volume of airspace utilized during the reporting period, and the estimated remaining permitted disposal capacity expressed in cubic yards;
 - B. Notifies the Department if the amount of non-remediation special waste accepted from out-of-state generators is more than 25% of the annual total of waste disposed in Phase 14, or that the amount of all wastes accepted from out-of-state generators is more than 35% of the annual total of waste disposed at the facility. Based on an ongoing review of this data, the Department may require WMDSM to implement measures to make adjustments to ensure it continues to provide a substantial public benefit for the disposal of Maine-generated wastes; and
 - C. Prioritizes for disposal at WMDSM’s Crossroad’s Landfill Maine generated solid waste provided that the waste meets the facility’s acceptance criteria as approved by the Department and that the waste conforms to WMDSM’s established business, administrative, and safety requirements.

THEREFORE, the Department APPROVES the noted application of WASTE MANAGEMENT DISPOSAL SERVICES OF MAINE, INC. - CROSSROADS LANDFILL, SUBJECT TO THE ATTACHED CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached as Appendix A.
2. The invalidity or unenforceability of any provision, or part thereof, of this determination shall not affect the remainder of the provision or any other provisions. This determination shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

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3. WMDSM shall:

- A. Notify the Department in advance to identify and evaluate alternatives to landfilling if exceptional circumstances arise requiring out-of-state MSW to be disposed of in Phase 14;
- B. Not dispose of marketable recyclables in Phase 14. For the purposes of this license, marketable recyclables are defined as solid waste that has undergone collection, separation, processing or recovery with the intent of recovering and recycling the solid waste;
- C. Implement all proposed reuse, reduction, recycling and composting programs described in Section 5(D) of this License, on or before the commencement of operations in Phase 14;
- D. For all municipalities and communities utilizing landfilling at the Crossroads Landfill as their primary option for disposal of MSW, continue to provide the infrastructure and services necessary to reduce the waste landfilled to the maximum extent practicable; and
- E. Collect and report in each Annual Report to the Department, data on the amount of waste received, the sources of the wastes, and estimated recycling rates associated with waste received, as applicable.

4. WMDSM shall:

- A. Submit in each Annual Report documentation of the amount and type of waste received from both in-state and out-of-state generators, the in-place density of the landfilled waste, the volume of airspace utilized during the reporting period, and the estimated remaining permitted disposal capacity expressed in cubic yards;
- B. Notify the Department if the amount of non-remediation special waste accepted from out-of-state generators is more than 25% of the annual total of waste disposed in Phase 14, or that the amount of all wastes accepted from out-of-state generators is more than 35% of the annual total of waste disposed at the facility. Based on an ongoing review of this data, the Department may require WMDSM to make adjustments to ensure it continues to provide a substantial public benefit for the disposal of Maine-generated wastes; and
- C. Prioritize for disposal at WMDSM's Crossroad's landfill Maine generated solid waste provided that the waste meets the facility's acceptance criteria as approved

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PHASE 14
PUBLIC BENEFIT
DETERMINATION

by the Department and that the waste conforms to WMDSM's established business, administrative, and safety requirements.

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____, 2018.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
Melanie Loyzim, Acting Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

Date of initial receipt of application: July 2, 2018

Date of application acceptance: July 16, 2018

Date filed with Board of Environmental Protection:

XLB83350