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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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March 14, 2017

Juliet Browne, Esq.  
Verrill Dana, LLP  
One Portland Square  
Portland, Maine 04112-0586

Re: Advisory Opinion for WMDSM Expansion

Dear Juliet:

Thank you for your request for an advisory opinion on behalf of your client, Waste Management Disposal Services of Maine, Inc. – Crossroads (WMDSM) regarding the interpretation of 38 M.R.S. § 1310-X(3) and its applicability to the WMDSM landfill located in Norridgewock, Maine. This advisory opinion is based on the information you provided to the Department in your December 23, 2016 letter as well as Department records. As you know, this opinion is not a formal legal determination, is not binding on the Department, and is not appealable to the Board of Environmental Protection. 5 M.R.S. § 9001(3) and 06-096 C.M.R. Ch. 2, § 4(c).

Background Information:

WMDSM currently owns and operates a landfill in Norridgewock, Maine. The facility has been licensed by the Department since 1976 and now seeks this advisory opinion regarding the interpretation of 38 M.R.S. § 1310-X(3). Title 38 M.R.S. § 1310-X(3) allows for the expansion of a commercial solid waste disposal facility if the proposed expansion is “contiguous with the existing facility.”<sup>1</sup>

As your letter pointed out, “contiguous with existing facility” is not specifically defined in the statute or the regulations. The regulations define “facility site” as “any developed land area of a solid waste facility including roads ... structures ... parking lots, and waste handling areas, or any areas thereof approved by the Department for development, but excluding wells.” 06-C.M.R ch.400, § 1(XX). The statute defines “site” as the “same geographically contiguous property which may be divided by a public or private right away ...” 38 M.R.S. § 1303-C (28).

In light of these two definitions, you have requested an opinion on (1) what constitutes the “existing facility” as that term is used in 38 M.R.S. § 1310-X(3) and (2) which parcels of land are contiguous to the existing facility at the WMDSM facility in Norridgewock. You have

<sup>1</sup> There are a number of other requirements in 38 M.R.S. § 1310 X(3) but this opinion assumes all other requirements are, or will be met.

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also requested confirmation that new landfill disposal units are not required to be physically connected to the existing landfill disposal unit.

Interpretation

In this circumstance, the Department considers the narrower definition of "facility site" in 06-C.M.R. ch. 400, §1(XX) to control. More specifically, the Department defines WMDSM's existing facility as the Phase 8 license #S010735-WD-UW-N, dated August 31, 2002 and borrow pit licenses issued by the Department including L-17176-80-A-N, dated Mach 28, 1991; L-17176-80-B-N, dated August 24, 1992; L-17176-80-C-T, dated April 1, 1993; L-17176-80-E-M, dated May 18, 1993; L-20537-31-A-N, dated August 15, 2001; and L-18323-TG-J-M, dated April 21, 2005. This definition does include the area referred to as the "Baker Parcel."

The Department agrees with your assessment that "contiguous" as that term is used in 38 M.R.S. § 1310-X(3) should be given the meaning "touching at a point or along a boundary" as defined by Black's Law Dictionary (7<sup>th</sup> Edition 1999). Against this background, the Department considers the following parcels contiguous to the existing facility:

Tax Map 10, Lot 19;  
Tax Map 13, Lots 13-1 and 8;  
Tax Map 17, Lots 12, 16, 17-1, 19, and 20; and  
Tax Map 14, Lots 1, 2, 4, 6, 8-1, 10, 13, 13-1, 18, 20, 40, 41, 45, and 46.

Lastly, there is no requirement that a new landfill disposal unit be physically connected to or touching an existing landfill disposal unit. Please feel free to contact me with any additional questions.

Sincerely,



David Burns, P.E.  
Director, BRWM - MEDEP  
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cc: Sherwood McKenney, WMDSM  
Linda Butler, MEDEP