



DEPARTMENT ORDER

**State of Maine and
NEWSME Landfill Operations, LLC
d/b/a Juniper Ridge Landfill
Penobscot County
Old Town, Maine
A-921-75-G-X
W-009230-64-A-N**

**Departmental
Findings of Fact and Order
Sales and Use Tax
Exemption Certification**

FINDINGS OF FACT

After review of the tax exemption certification application and supporting documents, pursuant to Maine's Sales and Use Tax Law, 36 M.R.S. §§ 1760(29) and (30) and the Department of Environmental Protection's (Department) *Rules for the Processing of Applications*, 06-096 C.M.R. ch. 2, the Department has considered the application of NEWSME Landfill Operations, LLC, with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. APPLICATION SUMMARY

A. History.

The State of Maine owns and NEWSME Landfill Operations, LLC operates a solid waste disposal facility known as Juniper Ridge Landfill (JRL) located at 2828 Bennoch Road in Old Town, Maine. Operation of this facility requires Department licensing of, among other things, air and water pollutant emissions.

B. Application.

On January 6, 2020, JRL filed an application seeking sales and use tax exemption for the following equipment associated with the landfill Cell 11, constructed in 2018:

1. Air Pollution Control: Landfill Gas Collection System and Flares #2, #3, and #4.
2. Water Pollution Control: Landfill double liner system, leachate collection and conveyance piping, leachate pump station and forced main, and leak detection system.

The application was deemed complete for processing by the Department on January 28, 2020.

2. OTHER FINDINGS

A. Decision Obligations.

Pursuant to the Department's *Rules for the Processing of Applications*, 06-096 C.M.R. ch. 2, §§ 14(1) and (2), this Decision shall set forth a findings of fact with sufficient explanation to make interested persons aware of the basis for the determination that the applicant has met the licensing criteria set forth in the appropriate statute or rule; or deny the application and set forth in the findings the explanation for the basis of the disapproval.

In making tax exemption certification decisions, the Department's responsibility is to determine whether an item is eligible for certification pursuant to the laws of the State of Maine. In a case where an exemption certification is approved, Maine Revenue Service has the responsibility of auditing receipts and determining the amount of reduction of sales and use tax liability.

B. Air and Water Pollutants.

NonMethane Organic Compounds (NMOC) and methane are "Regulated Pollutants" as defined in *Definitions Regulation*, 06-096 C.M.R. ch. 100. NMOC is subject to a standard promulgated under Section 111 of the Clean Air Act, and methane is a greenhouse gas.

Landfill leachate contains a number of organic and inorganic compounds and is regulated as a "Pollutant" as defined in *Definitions for the Waste Discharge Permitting Program*, 06-096 C.M.R. ch. 520. Many of these compounds are subject to standards promulgated under the Clean Water Act.

C. Decision Making Process.

The decision as to whether a facility is eligible for exemption is made by determining the facility's "primary purpose". That determination is made as follows:

1. If the facility serves no pollution control function, then the primary purpose is not pollution control and the exemption is denied.
2. If the facility serves dual or multiple functions, the "primary" function must be determined.
3. If the facility's only function or its primary function is pollution control, then the primary purpose of the facility is pollution control and exemption must be granted.
4. If pollution control is merely a secondary function, then other factors, including taxpayer motivation, must be considered.

5. If the primary motivation for installation of the facility is pollution control, then the Department may conclude that the primary purpose is pollution control and exemption may be granted.
6. If neither the primary function nor the primary motivation is determined to be pollution control, then the primary purpose cannot be pollution control and the exemption is denied.

D. Functions.

1. Landfill Gas Collection System and Flares

Landfill Gas (LFG) is made up of primarily methane and NMOC as well as other contaminants such as hydrogen sulfide (H₂S).

LFG is collected from the waste placed in the cell by both horizontal and vertical gas extraction wells that are connected to gas transport pipes. The header pipe is connected to a blower which transports the LFG to a treatment facility which removes H₂S. The LFG is then destroyed by the facility's flares (Flares #2, #3, and #4).

The equipment in the LFG treatment facility used to remove H₂S was addressed in tax exemption certification A-921-75-D-X issued February 13, 2014, and is therefore not included in this document.

The LFG Collection System and Flares have multiple functions including some not associated with air pollution control, such as managing the decomposition rate within the landfill. However, the installation and operation of a gas collection and control system is required by federal air regulations.

Therefore, the Department has determined that the primary function of the LFG Collection System and Flares is to control emissions of NMOC and methane. Therefore, air pollution reduction was found to be the primary function of the LFG Collection System and Flares.

2. Leachate Collection and Control System

Landfill leachate is made up of a number of organic and inorganic compounds and is regulated as a "Pollutant" as defined in *Definitions for the Waste Discharge Permitting Program*, 06-096 C.M.R. ch. 520.

Leachate from the waste in the cell is contained by the double liner system and prevented from migrating to the groundwater. The leachate is collected through the

use of leachate collection sand and geocomposite drainage nets that convey the leachate to a network of high-density polyethylene (HDPE) piping. The piping conveys leachate into an internal cell leachate sump and pump system that comprises the cell's leachate pump station. From the pump station, the leachate is conveyed through a dedicated leachate force main to the onsite leachate storage tank. From the leachate storage tank, the leachate is transported to a licensed wastewater treatment facility. The leak detection system is placed between the two layers of the landfill liner system and consists of a similar set of collection sand and geocomposite drainage nets that convey the leachate to a network of HDPE piping. Any leachate from an inner liner leak would be captured by this system and similarly removed for treatment.

The double liner system prevents migration of the landfill leachate into the surrounding groundwater system and allows the leachate to be collected through the leachate collection and conveyance systems, including leachate from the leak detection system. The Department finds that the only function of these systems is pollution control, therefore, the primary purpose for which the systems were installed is pollution control.

The leachate collection and conveyance system and the leak detection system collect the leachate trapped by the liner system and convey the leachate to the sump. The Department finds that the only function of these systems is pollution control, therefore, the primary purpose for which these systems were installed is pollution control.

The leachate is collected in the sump and pumped from there by the pump station into the forced main that conveys it to the leachate storage tank. The Department finds that the only function of this system is pollution control and therefore the primary purpose for which the system was installed is pollution control.

E. Motivation for installation.

1. Since the primary function of the LFG Collection System and Flares is pollution control, it is not necessary to evaluate the motivation for installation of this equipment.
2. Since the primary function of the Leachate Collection and Control and Leak Detection Systems is pollution control, it is not necessary to evaluate the motivation for installation of this equipment.

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Based on the Findings of Fact in this Order, the Department makes the following CONCLUSIONS:

1. The Department hereby finds that the equipment listed in Section 1(B)(1) above is an air pollution facility qualifying for an exemption from sales and use tax pursuant to 36 M.R.S. § 1760 (30).
2. The Department hereby finds that the equipment listed in Section 1(B)(2) above are water pollution facilities qualifying for an exemption from sales and use tax pursuant to 36 M.R.S. § 1760 (29).

THEREFORE, based on the above the Department APPROVES the application of NEWSME Landfill Operations, LLC for certification of the equipment described in section 1(B) of this order as air and water pollution control facilities qualifying for exemption from sales and use tax pursuant to 36 M.R.S. § 1760 (29) and (30).

DONE AND DATED IN AUGUSTA, MAINE THIS 5TH DAY OF JUNE, 2020.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:


GERALD D. REID, COMMISSIONER

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: 1/6/2020
Date of application acceptance: 1/28/2020

Date filed with the Board of Environmental Protection:

This Order prepared by Lynn Muzzey, Bureau of Air Quality and Mark Margerum, Bureau of Water Quality

