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Subject: Comments In Support CLF Appeal Crossroads Landfill Phase 14 Expansion #s-010735-WD-YB-N
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Comments In Support of Conservation Law Foundation Appeal and Request for Public Hearing in the Matter Of A Draft License Permit For: Waste Management Disposal Services of Maine, Inc. Crossroads Landfill Phase 14 Expansion Norridgewock, Somerset County, Maine #S-010735-WD-YB-N (Approval With Conditions)

Thank you for the opportunity to submit comments **IN SUPPORT OF Conservation Law Foundation (CLF) Notice of Appeal and Request for a Public Hearing in the matter of a Draft License Permit For Phase 14 Expansion of the Crossroads Landfill Facility issued by The Department of Environmental Protection (Department) on May 11, 2021.**

CLF's Appeal avows that, in conflict with existing Department rules and the 2019 Materials Management Plan, the Department is in essence allowing for the construction of a new commercial landfill at the Crossroads Facility. There is no contiguous connection of land to the existing operations and the site of the construction for the proposed new operations.

More generally speaking, approving the License for construction of this new landfill, the Department keeps Maine moving in the wrong direction around resource and waste management policy and practice. In this instance, the Department is allowing licensing for construction of a new landfill facility that does not provide any specificity as to the rate at which the landfill will be filled and does not include any requirement for conserving disposal capacity for Maine-generated waste.

Facility figures reported to the Department in 2019, record that a third of the waste buried at the Crossroads Facility originated outside Maine's borders. Current fill rates are increasing and if continued, the proposed new landfill capacity would not last the length of time being theoretically put forth. This would further rob Maine citizens of their rights for disposal capacity for waste produced within our borders.

Distressingly, the Department's own records demonstrate that current methods of dealing with waste and disposal are not working. Maine's landfill capacity is being substantially consumed, in this instance the Crossroads Facility, by toxic-containing waste imported from other states.¹

1. *2019 Annual Report, Crossroads Landfill, Norridgewock, Maine, February 2020, Appendix A, Wastes Managed Within On-Site Secure Landfill*

The state, by statute, has set a goal of 50% recycling, but current records show that

only 37.81% of waste is being diverted or recycled.²

2. *Department of Environmental Protection, Maine Solid Waste Generation and Disposal Capacity Report for Calendar Years 2018 & 2019, p. 2. (January 2021). Available at: <https://www.nrcm.org/wp-content/uploads/2021/02/DEPwastereport2021.pdf>*

CLF's Appeal rightly asserts that In fact, there is no convincing demonstration that additional capacity is necessary for managing Maine-generated waste. By continuing to enable the existing approach to waste management, the Department is acting in a manner that is negligent and unsustainable. The State needs to do the serious work of moving forward with front-end solutions for managing our resources and discards. Back-end solutions are abusing our rights while threatening our health and environment and the future of our children and grandchildren.

The proposed new landfill construction at the Crossroad Facility does not promote adherence to the State's solid waste management hierarchy set forth in 38 M.R.S.A. §2101 and 38 M.R.S.A. §2132.³

3. *Maine's Solid Waste Hierarchy requires: (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 landfill disposal, including incineration; and (f) land disposal of waste.*

Building new landfill capacity does not incentivize waste reduction, recycling, and diversion. Minimally, The Department should require that WMDSM provide recycling and composting services for all serviced communities and expand those services for categories of problematic waste to be properly managed and kept out of the landfill.

There must be priority for disposal of waste generated within Maine's borders and the Department must set annual limits for accurately defined out-of-state waste and establish specific disposal capacity for Maine waste. This all must be instituted within an effective enforcement mechanism.

Under current law, there is spurious provision allowing waste imported from outside Maine's borders to be classified as Maine-generated waste and disposed. Maine citizens have initiated legislation to address this get-out provision. LD 1639 has been carried over to the next session.

Maine's regulatory environment makes it particularly attractive for waste companies such as Waste Management, to import waste streams that are facing stricter disposal regulation in neighboring states. There is significant potential that any new landfill capacity will be consumed with disposal of these imported toxic wastes and thereby position Maine citizens at substantial disadvantage for maintaining disposal capacity. It has to be conceded that whether waste is generated within Maine's borders, or imported, the fact is, all of the noxious waste is entombed on Maine's land. All the hazards and threats are to Maine's health, environment, and future.

It is particularly disturbing that The Department has licensed construction of this new commercial landfill employing just a single liner system. CLF has rightly iterated this regulatory failure in their Appeal and noted that Waste Management, parent company of

WMDSM, is using a double liner system in new landfill construction at its Turnkey Facility in New Hampshire. The Department is being remiss allowing a single liner for new construction at Crossroads.

This single liner is a distinct menace to Maine's water resources as the new landfill would be constructed, at the admission of experts, in a sensitive hydraulic area. Conclusions of hydrological studies conducted for the proposed construction even raised Department concerns. And as noted in CLF's Appeal, those studies were conducted during a time of considerable extended drought, and, therefore, raise serious doubts about the conclusions.

CLF's Appeal sets forth that there were questions from the Department as to placement of monitoring wells and their ability to detect leaks from the landfill. The licensed leachate leak detection system is completely insufficient as it applies only to the period before the landfill begins actual operations of burying waste. Granting a license under such conditions is inattentive to the Department's responsibility.

Waste buried at the Crossroads landfill contains numerous toxic substances harmful to human health and the environment. Water drains and is filtered through the toxic-filled landfill and produces toxic-laced leachate at the rate of hundreds of thousands of gallons daily. This toxic leachate can be envisioned by some as "garbage coffee" that is collected and then minimally treated at a paper mill and a municipal waste treatment facility before being discharged into the Kennebec River.

Leachate discharges will increase with construction of a new landfill. A recent report (2019-2020 Surface Water Ambient Toxics Monitoring Program Final Report) has indicated contaminated fish below the leachate discharge points. One of the concerns is the presence of perfluoroalkyl and polyfluoroalkyl substances (PFAS), forever chemicals dangerous to human health in small amounts. Again, CLF's Appeal makes note, Waste Management is pretreating the leachate at its New Hampshire Turnkey Facility.

WMDSM has a problematic record of dangerous fires at the Crossroads Facility. Citizens have been exposed to hazardous pollution and fire personnel have been injured. Operations at the new landfill would provide increased potential for fire. The licensed plan for the new landfill is inadequate to address future fire threats. Citizens have the right to be protected from such a menace. The Department must require effective protections.

WMDSM uses the lure of a composting program to justify construction of a new commercial landfill. The Department has required no details of how this will be structured, implemented, qualified or quantified. There are no assurances that such a program will even be actualized.

Because of the aforementioned matters, and as argued by CLF's Appeal, the Board of Environmental Protection (Board) should reverse the Commissioner's decision and rule the License as issued is unlawful. Phase 14 of the Crossroads Facility continues to abuse the rights of Maine citizens relative to protections of public health, clean water and clean air, and responsible, sustainable waste management and, therefore, construction cannot proceed under the currently drafted License.

The process around this License Permit must be scrupulously transparent and include consequential public participation. The Board has the authority and should conduct a public hearing to accommodate the substantial public interest in the WMDSM proposal for a new landfill. There was no public hearing after the Draft License was published and the comment period was exceedingly brief. The original public hearing was inadequate as posted and conducted under emergency COVID-19 restrictions. New information, material to the proposed landfill, has become available and should be considered for public comment.

I look forward to the Board's response to these concerns. Thank you for considering my comments.

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