

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF

WASTE MANAGEMENT DISPOSAL)	APPLICANT’S MOTION TO
SERVICES OF MAINE, INC.)	REOPEN THE RECORD FOR
SOLID WASTE APPLICATION)	THE LIMITED PURPOSE OF
NORRIDGEWOCK, SOMERSET)	RESPONDING TO CLF’S
# S-010735-WD-YB-N)	POST-HEARING COMMENTS

Waste Management Disposal Services of Maine, Inc. (“WMDSM”) requests that the record in this proceeding be reopened for the limited purpose of allowing the applicant to respond to the post-hearing comments filed by Conservation Law Foundation (“CLF”) dated October 13, 2020.

This application has been pending since November 18, 2019, when the DEP accepted it as complete for processing. First Procedural Order at ¶ 1. Following expiration of the deadline to request intervenor status CLF requested additional time to file a petition to intervene. After the Presiding Officer granted the request for additional time, CLF declined to file any justification for why it required additional time or a petition to intervene. *See* March 27, 2020 email from S. Mahoney to the Presiding Officer. Since that time, CLF has been included on the interested persons and service list and has received copies of filings, orders, and DEP review comments on the application. *See* Public Hearing Service List.

At no time during the processing of the application did CLF submit written or, to our knowledge, oral comments on the application. At the public hearing held on October 1, 2020, CLF testified during the evening public comment session. The record was kept open an additional 12 days to allow the public, but not the applicant, to provide comments to the DEP. The applicant objected to the record closing on October 1 but allowing the public to submit comments, and expressly reserved its right to seek to reopen the record to respond to post-hearing comments.

On the last day to submit comments, CLF filed 32 pages of single spaced comments on a myriad of issues. CLF had ample opportunity to raise its concerns during the more than six months that it has been aware of the application and included on the service list for this proceeding. Instead of providing its comments during that time period, when WMDSM could have provided a response, CLF instead opted to file its comments on the very last day of the public comment period in an apparent attempt to prevent WMDSM from responding. Fundamental fairness and the interest of ensuring a complete factual record upon which the DEP can make a fully informed decision argues in favor of allowing the applicant to respond to CLF's comments. Accordingly, WMDSM requests that the record be reopened for the limited purpose of allowing the parties (the Town and the applicant) an opportunity to respond to CLF's October 13, 2020 comments. The applicant's response will be targeted and address key areas where CLF has misstated the law, presented misleading and, in some instances factually incorrect, arguments. We do not intend to respond to all of the issues raised, many of which are general policy issues that the DEP is well-positioned to address. The applicant requests two weeks from the date of this request to file its response.

Dated: October 21, 2020



Juliet T. Browne
Attorney for Applicant Waste Management
Disposal Services of Maine, Inc.

VERRILL DANA, LLP
One Portland Square
P.O. Box 586
Portland, ME 04112-0586
(207) 774-4000
jbrowne@verrill-law.com