

TOWN OF WILMINGTON
BOARD OF HEALTH

In the Matter of:

887 Woburn, LLC.

DECISION

INTRODUCTION

887 Woburn, LLC ("887 Woburn" or the "Applicant") seeks to operate a solid waste handling and processing facility accepting Construction & Demolition ("C&D") Materials (the "Facility") to be located at 887 Woburn Street, Wilmington, MA (the "Site"). 887 Woburn applied to the Town of Wilmington Board of Health (the "Board") for a site assignment to permit the acceptance of 500 tons per day of C&D Materials at the Facility, with an annual capacity of 182,500 tons, with proposed hours of operation of 24 hours a day, seven days a week, as stated in the Application for Site Suitability for a New Site Assignment, BWP SW01-Transmittal 21-SW01-0001-APP (the "Application") submitted by Green Seal Environmental, LLC on behalf of 887 Woburn to the Department of Environmental Protection (the "DEP") on August 24, 2021, which is incorporated herein by reference. A Positive Determination of Suitability Report on Site Suitability for New Site Assignment (the "Site Suitability Report") was issued by the DEP on January 6, 2022, and stated that the Site is suitable for the proposed solid waste handling activities.

PROCEDURAL HISTORY

On January 26, 2022, prior to the opening of the required public hearing, the Board's designated hearing officer, duly appointed in accordance with the provisions of 310 CMR 16.20(11), conducted a prehearing conference with all parties to establish a schedule for the filing of pre-filed direct testimony, deliberations, and issuance of a decision. The Board opened the public hearing on the requested new site assignment on February 7, 2022, overseen by the designated hearing officer. The Applicant, 887 Woburn, presented testimony from its expert witnesses. Questioning of the applicant's witnesses was undertaken by the Board and its counsel. Subsequent to the conclusion of the presentation by 887 Woburn, testimony from the Board of Health's expert witness was presented. The public hearing was recessed and continued until March 1, 2022.

On February 9, 2022 the hearing officer issued an Order on Schedule and On Presentation for Continued Public Hearing providing for submission of clarifying supplemental information by the applicant and a review response by the Board's expert witness. The public hearing was resumed on March 1, 2022, on which date the Applicant

completed entry of its case in its entirety, including all testimony from witnesses. The Board undertook deliberations on its decision on March 15, 2022.

The following witnesses testified or filed pre-filed direct testimony under oath on behalf of 887 Woburn:

- a. Anthony C. Martignetti, President/Manager of 887 Woburn,
- b. Gregory Wirsén, MSc, Green Seal Environmental, LLC;
- c. Laura Bugay, P.E., Green Seal Environmental, LLC;
- d. Rebecca Brown, P.E., Greenman-Pedersen, Inc.; and
- e. Heather Monticup, P.E., Greenman-Pedersen, Inc.

The following expert witness filed pre-filed direct testimony and testified under oath on behalf of the Board:

- a. Michael Penney, P.E., Verdantas, LLC

The exhibits received and entered into the record by the hearing officer, including all pre-filed testimony, are listed in the document entitled "Administrative Record" compiled by the hearing officer. This document, and the records referenced therein, are hereby incorporated by reference into this Decision.

STANDARD OF DECISION

In reviewing an application for a new site assignment, the Board of Health's decision is governed by the provisions of G.L. c. 111, § 150A and G.L. c. 111, § 150A1/2, and the regulations promulgated thereunder at 310 CMR 16.00 et seq. The Board is obligated to render its decision within 45 days of the initial date of the public hearing pursuant to 310 CMR 16.20(10)(k)(1).

The Board, in reviewing the application for a new site assignment, "shall determine that a site is suitable for assignment as a site for a new or expanded solid waste facility unless it makes a finding, supported by the record of the hearing, that the siting thereof would constitute a danger to the public health, safety or environment, based on the siting criteria set forth and established under 310 CMR 16.40." *See* 310 CMR 16.20(10)(k)(2). Further, "[t]he board of health shall assign a place requested by an applicant as a site for a new facility or the expansion of an existing facility which has received a positive site suitability report from the Department unless it makes a finding that the siting thereof would constitute a danger to public health, safety, or the environment. The finding shall be supported by the record of evidence and shall be based upon the relevant criteria set forth at 310 CMR 16.40(3), (4) and (5). The Board of Health shall not impose any condition pertaining to facility design except in accordance with conditions placed by the Department pursuant to 310 CMR 16.40(1)(c)3." *See* 310 CMR 16.40(1)(b).

REVIEW OF SITE SUITABILITY CRITERIA

The DEP issued a positive Site Suitability Report dated January 6, 2022, with regard to the proposed Facility which 887 Woburn subsequently provided to the Board on or about January 7, 2022 in connection with its "Application for Site Suitability for a New Site Assignment, BWP SW01-Transmittal 21-SW01-0001-APP". The Board proceeded, therefore, to review the application based upon the site suitability criteria as required pursuant to 310 CMR 16.20(10)(k)(2) and 310 CMR 16.40(1)(b). The site suitability criteria as specified in 310 CMR 16.40 were reviewed as follows:

Criteria for Solid Waste Handling Facilities (310 CMR 16.40(3)(d)):

1. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the waste handling area would be within the Zone I of a public water supply.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Facility waste handling area would not be within the Zone I of a public water supply.

2. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the waste handling area would be within the Interim Wellhead Protection Area (IWPA) or a Zone II of an existing public water supply well within a proposed drinking water source area, provided that the documentation necessary to obtain a source approval has been submitted prior to the earlier of either the site assignment application, or if the MEPA process does apply, the Secretary's Certificate on the Environmental Notification Form or Notice of Project Change, or where applicable, the Secretary's Certificate on the EIR or Final EIR, unless restrictions are imposed to minimize the risk of an adverse impact to the groundwater; and either

- a. the proponent can demonstrate to the satisfaction of the Department that the facility cannot reasonably be sited outside the IWPA or Zone II; or
- b. there would be a net environmental benefit to the groundwater by siting the facility within the Zone II or the IWPA where the site has been previously used for solid waste management activities.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Facility's waste handling area would not be within the IWPA or a Zone II of an existing public water supply well within a proposed drinking water source area.

3. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the waste handling area would be within the Zone A of a surface drinking water supply.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Facility's waste handling area would not be within the Zone A of a surface drinking water supply.

4. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the waste handling area would be within 500 feet upgradient, and where not upgradient, within 250 feet, of an existing or potential private water supply well existing or established as a Potential Private Water Supply at the time of submittal of the application, provided however, the applicant may show a valid option to purchase the restricted area including the well and a guarantee not to use the well as a drinking water source, the exercise of which shall be a condition of any site assignment.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Facility's waste handling area would not be within 500 feet upgradient, and where not upgradient, within 250 feet, of an existing or potential private water supply well existing or established as a Potential Private Water Supply at the time of submittal of the application, as there are no known private drinking water supply wells within 500 feet of the Facility waste handling area.

5. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the waste handling area of

- a. a transfer station that proposes to receive less than or equal to 50 tons per day of solid waste and utilizes a fully enclosed storage system such as a compactor unit, is 250 feet from;
 - i. an occupied residential dwelling; or
 - ii. a prison, health care facility, elementary school, middle school or high school, children's preschool, licensed day care center, or senior center or youth center, excluding equipment storage or maintenance structures.
- b. any other transfer station or any handling facility is 500 feet from:
 - i. an occupied residential dwelling; or
 - ii. a prison, health care facility, elementary school, middle school or high school, children's preschool, licensed day care center, or senior center or youth center, excluding equipment storage or maintenance structures.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board's staff, and in the absence of any testimony to the contrary, the Board determined that the

Facility's waste handling area would not be within 500 feet of an occupied residential dwelling; or a prison, health care facility, elementary school, middle school or high school, children's preschool, licensed day care center, or senior center or youth center, excluding equipment storage or maintenance structures.

6. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the waste handling area would be within the Riverfront Area as defined at 310 CMR 10.00.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Facility's waste handling area would not be within the Riverfront Area.

7. No site shall be determined to be suitable or be assigned as a solid waste handling facility where the maximum high groundwater table would be within two feet of the ground surface in areas where waste handling is to occur unless it is demonstrated that a two foot separation can be designed to the satisfaction of the Department.

Concerns expressed by the Board regarding separation from groundwater of the Facility's waste handling area were addressed in the testimony presented by the Applicant's witnesses. The Application indicated that 2.5 to 7.5 feet of fill will need to be placed at the Site to achieve tipping floor and rail loadout bay elevations and the required separation between the waste handling area and maximum high groundwater. The Applicant indicated that the elevation of the Site at Woburn Street would be maintained with the Facility building foundation establishing the grade for the tipping floor. The Applicant indicated that best stormwater management practices will be implemented to the maximum extent possible, including the use of deep-sump catchbasins and oil-water separators.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, including test pits dug and groundwater contours developed at the Facility, and in the absence of any testimony to the contrary, the Board of Health determined that a two foot separation from the Facility's waste handling area to the maximum high groundwater table could be achieved.

General Site Suitability Criteria (310 CMR 16.40(4)):

(a) Agricultural Lands. No site shall be determined to be suitable or be assigned as a solid waste management facility where:

1. the land is classified as Prime, Unique, or of State and Local Importance by the United States Department of Agriculture, Natural Resources Conservation Service; or

2. the land is deemed Land Actively Devoted to Agricultural or Horticultural Uses, except where the facility is an agricultural composting facility; and
3. a 100 foot buffer would not be present between the facility and those lands classified at 310 CMR 16.40(4)(a)1. or 2.

887 Woburn demonstrated, through testimony and documentation, including MassGIS files and October 2019 USDA Farmland Soil Classes of Massachusetts Update document, that the Facility waste handling areas will not be constructed on or within 100 feet of land classified as Prime, Unique, or of State and Local Importance by the United States Department of Agriculture, Natural Resources Conservation Service; or land deemed Land Actively Devoted to Agricultural or Horticultural Uses.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that no lands classified according to 310 CMR 16.40(4)(a) are located within 100 feet of the Facility.

(b) Traffic and Access to the Site. No site shall be determined to be suitable or be assigned as a solid waste management facility where traffic impacts from the facility operation would constitute a danger to the public health, safety, or the environment taking into consideration the following factors:

1. traffic congestion;
2. pedestrian and vehicular safety;
3. road configurations;
4. alternate routes; and
5. vehicle emissions.

The Application contains a report titled Traffic Impact and Access Study (TIAS), Proposed Solid Waste Handling Facility dated July 30, 2020 [Revised January 31, 2022], and prepared by Greenman-Pedersen, Inc. ("GPI"). The report provides an assessment of the impact of the proposed facility on traffic conditions in the vicinity of the Site. The report concludes that the development would not have any appreciable impact on the operations of the study area intersections or roadways and that no mitigation measures are necessary to accommodate the proposed development. The sight distances were also evaluated in an Updated Traffic Assessment Letter dated January 31, 2022 by GPI and found to be more than adequate to provide safe operation.

At the hearing, the Board questioned whether the Applicant considered the impacts of the Facility with respect to the traffic generated from the proposed 316 New Boston Street, Woburn, multifamily residential development and construction of the New Boston Street Bridge project. The Applicant's expert testimony indicated that, given project schedules, those project proposals would need to address traffic impacts from the Facility; however, the Applicant's expert

testimony indicated that the impacts from the Facility would be negligible and could be safely accommodated. The Applicant stressed its intent to rely upon rail transport to further reduce traffic impacts.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the operation of the Facility would not constitute a danger to the public health, safety, or the environment taking into account the factors of traffic congestion, pedestrian and vehicular safety, road configurations, alternate routes, and vehicle emissions.

(c) Wildlife and Wildlife Habitat. No site shall be determined to be suitable or be assigned as a solid waste management facility where such siting would:

1. have an adverse impact on Endangered, Threatened, or Special Concern species listed by the Natural Heritage and Endangered Species Program of the Division of Fisheries and Wildlife in its database;
2. have an adverse impact on an Ecologically Significant Natural Community as documented by the Natural Heritage and Endangered Species Program in its database; or
3. have an adverse impact on the wildlife habitat of any state Wildlife Management Area.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the siting of the Facility does not have an adverse impact on Endangered, Threatened, or Special Concern species listed by the Natural Heritage and Endangered Species Program of the Division of Fisheries and Wildlife in its database, Ecologically Significant Natural Community as documented by the Natural Heritage and Endangered Species Program in its database, or the wildlife habitat of any state Wildlife Management Area.

(d) Areas of Critical Environmental Concern. No site shall be determined to be suitable or be assigned as a solid waste management facility where such siting:

1. would be located within an Area of Critical Environmental Concern (ACEC), as designated by the Secretary of the Executive Office of Environmental Affairs; or
2. would fail to protect the outstanding resources of an ACEC as identified in the Secretary's designation if the solid waste management facility is to be located outside, but adjacent to the ACEC.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of

Health determined that the Facility will not be located within or adjacent to an ACEC.

(e) Protection of Open Space. No site shall be determined to be suitable or be assigned as a solid waste management facility where such siting would have an adverse impact on the physical environment of, or on the use and enjoyment of:

1. state forests;
2. state or municipal parklands or conservation land, or other open space held for natural resource purposes in accordance with Article 97 of the Massachusetts Constitution;
3. MDC reservations;
4. lands with conservation, preservation, agricultural, or watershed protection restrictions approved by the Secretary of the Executive Office of Environmental Affairs; or
5. conservation land owned by private non-profit land conservation organizations and open to the public.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the siting of the Facility does not have an adverse impact on the physical environment of, or on the use and enjoyment of state forests; state or municipal parklands or conservation land, or other open space held for natural resource purposes in accordance with Article 97 of the Massachusetts Constitution; MDC reservations; lands with conservation, preservation, agricultural, or watershed protection restrictions approved by the Secretary of the Executive Office of Environmental Affairs; or conservation land owned by private non-profit land conservation organizations and open to the public.

(f) Potential Air Quality Impacts. No site shall be determined to be suitable or be assigned as a solid waste management facility where the anticipated emissions from the facility would not meet required state and federal air quality standards or criteria or would otherwise constitute a danger to the public health, safety or the environment, taking into consideration:

1. the concentration and dispersion of emissions
2. the number and proximity of sensitive receptors; and
3. the attainment status of the area.

The Applicant provided testimony that no stationary fuel-burning equipment would be used at the facility, and the processing line will be electrically powered. These measures, together with the planned reliance on rail transport of C&D Materials, is expected to reduce potential air quality impacts.

887 Woburn presented testimony that airborne particulate emissions associated with the acceptance and transport of C&D Materials would be managed at the Facility. Nuisance dust mitigation measures would at a minimum

include the paving on the Site to minimize dust generation and regular sweeping of the Site to remove dust. 887 Woburn committed to handling all waste materials within the building and utilizing an atomized misting system to control dust and particulates generated inside the building.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board's staff, and in the absence of any testimony to the contrary, the Board determined that the anticipated emissions from the Facility would meet state and federal air quality standards based upon the use of best management practices at the proposed Facility.

(g) Potential for the Creation of Nuisances. No site shall be determined to be suitable or be assigned as a solid waste management facility where the establishment or operation of the facility would result in nuisance conditions which would constitute a danger to the public health, safety or the environment taking into consideration the following factors:

1. noise;
2. litter;
3. vermin such as rodents and insects;
4. odors;
5. bird hazards to air traffic; and
6. other nuisance problems.

The Applicant testified that the 2000 foot distance of the Facility from existing occupied dwellings and the 500 foot distance from the proposed 316 New Boston Street, Woburn, multifamily residential development would minimize nuisance impacts. Nuisance impacts were addressed as follows:

1. Noise. Noise arising from operations will be managed by conducting all tipping, handling, and loading of waste materials within an enclosed building. Trucks delivering waste to the site will utilize major roadway networks. Inbound and outbound truck traffic will be required to travel southerly to and from the Site, subject to certain exceptions as shall be conditioned. The processing line will be electrically powered and the on-site mobile equipment has the ability to use squawking or ambient based back-up alarm systems if necessary. In addition, the placement of the subject building has been strategically located on the Site to have the tipping/delivery doors facing southerly away from surrounding receptors and towards the furthest site assignment boundary, allowing the building to act as a sound buffer to the closest receptors. Through design and distance from the closest receptors, noise will not present an off-site nuisance condition. The Applicant indicated that an acoustical barrier could be erected to further address noise impacts.

2. Litter. Construction and Demolition Waste ("C&D") will typically enter the Facility within covered roll off containers and live floor trailer trucks that have collected the C&D from commercial and residential sources. In addition to serve

the local community, some of the vehicles entering the facility will be small trucks and vehicles. All inbound loads, if they have the potential to emit dust and/or litter will be transported to/from the site covered by a tarp. Vehicles will enter the waste handling building and dump the load on the floor. In all instances, the C&D will be tipped within the confines of the building. Once the material is processed to extract the recyclable and diversionary material, the products as well as the residual non-recyclable waste will be loaded in bulk trailers, railcars or containers within the processing building. All trailers, railcars and containers will be properly covered. Good housekeeping measures will be employed at the Facility which, combined with indoor handling, covered trucks, equipment monitoring, misting and sweeping of the tipping floor, are intended to address litter and dust mitigation. An operations and maintenance plan will specify the litter control program.

3. Other nuisances. The Applicant testified that with general housekeeping and adherence to an operation and maintenance plan, as well as the nature of C&D waste, vermin, odors and bird hazards are not expected. The Applicant indicated that the Facility can be retrofitted with odor controls as deemed necessary.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the operation of the Facility would not result in nuisance conditions which would constitute a danger to the public health, safety or the environment taking into consideration issues of noise, litter, vermin, odors, bird hazards to air traffic, and other nuisance problems.

(h) Size of Facility. No site shall be determined to be suitable or be assigned as a solid waste management facility if the size of the proposed site is insufficient to properly operate and maintain the proposed facility. The minimum distance between the waste handling area or deposition area and the property boundary shall be 1000 feet, provided that a shorter distance may be suitable for that portion of the waste handling or deposition area which borders a separate solid waste management facility.

The Applicant provided testimony indicating that the Facility is properly sized for the anticipated waste stream, with the incorporation of a second scale to manage materials and vehicles. The proposed waste handling building is approximately 37,000 square feet. The building can accommodate a large scale, state-of-the-art C&D processing line, a tipping area, pre-processed material storage area as well as storage for post processed materials (recycled, diversionary and waste). The size of this building is large enough to accommodate the requested tonnage and is similar in size to recently approved facilities.

The Application indicates that the proposed waste handling area is located within 100 feet of the property boundary (75 feet on the north, east and west sides of the Site). The Application further documents the layout of the Site, as

proposed, affords sufficient space to accommodate the Facility. As proposed in the Application, the waste handling building would include solid concrete push walls on the north and east sides where a reduced set-back is proposed. To the east, the Site is bordered by Woburn Street. The load-out area is located in the western most part of the waste handling building and is bordered by active railroad tracks. All overhead doors providing access to the waste handling area would face to the south where the 100-foot property line set-back is maintained.

887 Woburn's Application requested a waiver from DEP for the Site's setback criteria. DEP reviewed the Applicant's Waiver Request and performed an analysis of the project with respect to the waiver criteria at 310 CMR 16.40(6)(a), (b) & (c), and granted the waiver to the property setback criteria found at 310 CMR 16.40(4) (h) on January 6, 2022. Copies of the Applicant's Waiver Request and DEP's Waiver Decision are included in the Administrative Record.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the size of the Site is adequate to properly operate and maintain the proposed Facility at the Site.

(i) Areas Previously Used for Solid Waste Disposal. Where an area adjacent to the site of a proposed facility has been previously used for solid waste disposal the following factors shall be considered by the Department in determining whether a site is suitable and by the board of health in determining whether to assign a site:

1. the nature and extent to which the prior solid waste activities on the adjacent site currently adversely impact or threaten to adversely impact the proposed site;
2. the nature and extent to which the proposed site may impact the site previously used for solid waste disposal; and
3. the nature and extent to which the combined impacts of the proposed site and the previously used adjacent site adversely impact on the public health, safety and the environment; taking into consideration:
 - a. whether the proposed site is an expansion of or constitutes beneficial integration of the solid waste activities with the adjacent site;
 - b. whether the proposed facility is related to the closure and/or remedial activities at the adjacent site; and
 - c. the extent to which the design and operation of the proposed facility will mitigate existing or potential impacts from the adjacent site.

The Application and the hearing testimony indicate that the Site was not previously used for solid waste disposal. As stated in the Application, no former solid waste landfill disposal activities were identified on properties directly abutting the Site. The Olin Chemical Superfund Site (and associated capped landfill) is located across the MBTA railroad property to the west of the Site. The closed and capped Woburn Landfill is located approximately 800 feet to the

southwest, separated from the Site by the MBTA railroad tracks and two other industrial properties.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that no area adjacent to the Facility has been previously used for solid waste disposal.

(j) Existing Facilities. In evaluating proposed sites for new solid waste management facilities the Department and the board of health shall give preferential consideration to sites located in municipalities in which no existing landfill or solid waste combustion facilities are located. This preference shall be applied only to new facilities which will not be for the exclusive use of the municipality in which the site is located. The Department and the board of health shall weigh such preference against the following considerations when the proposed site is located in a community with an existing disposal facility:

1. the extent to which the municipality's or region's solid waste needs will be met by the proposed facility; and
2. the extent to which the proposed facility incorporates recycling, composting or waste diversion activities.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Town does not have an existing handling facility for C&D Materials. In addition, the Town does not have any active solid waste landfills, large transfer stations, or combustion facilities, and the Town does not participate in a Regional Disposal District. The proposed Facility will receive and process C&D Materials generated in the regional service area that will generally encompass eastern Massachusetts. The Applicant indicated that the facility will be designed to recover recyclable materials from C&D Waste and meet the DEP's "Minimum Performance Standard for Construction and Demolition Handling Facilities to Comply with DEP's Waste Ban Regulations and Waste Ban Compliance Plans." Recovered recyclable materials will be sent off-site for further processing.

(k) Consideration of Other Sources of Contamination or Pollution. The determination of whether a site is suitable and should be assigned as a solid waste management facility shall consider whether the projected impacts of the proposed facility pose a threat to public health, safety or the environment, taking into consideration the impacts of existing sources of pollution or contamination as defined by the Department, and whether the proposed facility will mitigate or reduce those sources of pollution or contamination.

The Facility is located on property which has been the site of prior releases of hazardous materials and hazardous waste for which a release tracking

number has been assigned for the Site, RTN 3-0001787, pursuant to 310 CMR 40.00, the Massachusetts Contingency Plan (the "MCP"). The Site is currently the subject of an Audit by the DEP pursuant to the MCP. The Board itself and its expert witness expressed concern regarding the site conditions and the status of remediation in light of the ongoing Audit, with no certainty as to what will be required as a result of that Audit. The Applicant committed to complying fully with all requirements arising from the Audit findings and, through testimony of its expert witnesses, indicated that such compliance would not impact the construction and operation of the Facility. While the Application did not identify specific remedial actions proposed for the Facility with respect to the ongoing Audit process, the Applicant further indicated that construction and operation of the Facility would be undertaken so as to incorporate, and not impede, all MCP compliance requirements.

While the operation of the Facility will not necessarily mitigate or reduce other sources of pollution, the Applicant indicated that the Facility will not be a significant emitter of emissions, including VOCs, particulates and/or other contaminants and will not increase levels or extent of existing pollution. Further, the use of best management practices and operational controls will mitigate impacts from the Facility.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Facility may be constructed so that the operation will not pose a threat to public health, safety or the environment due to the impacts of existing sources of pollution at the Site.

(I) Regional Participation. The Department and the board of health shall give preferential consideration to sites located in municipalities not already participating in a regional disposal facility. The Department and the board of health shall weigh such preference against the following considerations when the proposed site is located in a community participating in a regional disposal facility:

1. the extent to which the proposed facility meets the municipality's and the region's solid waste management needs; and
2. the extent to which the proposed facility incorporates recycling, composting, or waste diversion activities.

Based upon documentation contained in the Application, the presentation made and testimony presented by 887 Woburn, review by the Board of Health's staff and expert, and in the absence of any testimony to the contrary, the Board of Health determined that the Town does not participate in a regional disposal facility, and no other local facility is available. The Application documents that the proposed Facility will receive and process C&D Materials generated in the regional service area that will encompass eastern Massachusetts. The facility will be designed to recover recyclable materials from C&D Materials and meet the

DEP's "Minimum Performance Standard for Construction and Demolition Handling Facilities to Comply with DEP's Waste Ban Regulations and Waste Ban Compliance Plans." Recovered recyclable materials will be sent off-site for further processing. The Site's access to freight rail will provide eastern Massachusetts C&D Materials generators access to disposal outlets outside of the region. By having a facility in close proximity to major roadway networks I-93 and I-95, the facility is designed around regional participation and waste diversion.

CONCLUSION

Based upon the foregoing findings, as supported by the record of evidence, the Board of Health determines that the siting of the 887 Woburn Facility at 887 Woburn Street, Wilmington, MA would not constitute a danger to the public health, safety or environment. Therefore, the Board of Health hereby grants the requested new facility site assignment, allowing for the acceptance of construction and demolition materials at the Site and Facility, with a capacity limited to 500 tons per day for a total annual capacity of 182,500 tons, as stated in the DEP Site Suitability Report.

This approval of the requested new facility site assignment is subject to the following conditions:

1. The Facility shall not accept more than 500 tons per day or 182,500 tons per year of C&D Materials.
2. The Facility shall be operated in compliance with all applicable local, state and federal statutes, laws, rules, and regulations.
3. The Board of Health shall have the right to perform inspections of the Facility during operating hours or at any other time deemed appropriate by the Board of Health for the purposes of confirming compliance with the final approved site assignment operational controls.
4. The Facility shall be limited to accepting inbound deliveries of C&D Materials between the hours of 5am to 7pm Monday through Friday, and 5am to 1pm on Saturdays. In emergency situations or for any Town-sponsored or requested activities or events, or as the Board of Health otherwise approves at a regularly-scheduled meeting, the Facility may accept deliveries outside of those specified days and times, subject to the same daily and annual tonnage limitations (or as otherwise approved by the DEP). Emergency operations include but are not limited to the acceptance of solid waste, recyclables, C&D Materials, brush, and debris from storm events, natural disasters, or other similar unusual events; and/or in the event of other facilities being temporarily shut down and as

allowed by the DEP pursuant to an Emergency Capacity Allocation, or equivalent. The Facility shall provide 24-hour advance written notice (email acceptable) to the Board of Health when "emergency" materials are to be accepted, which can be approved by the Director of Public Health.

5. 887 Woburn shall provide the Board of Health with a copy of any DEP Audit Findings relative to RTN 3-0001787 when issued by the DEP. Construction and operation of the Facility shall be undertaken in accordance with and subject to site-specific requirements pursuant to the MCP, as well as any additional requirements contained within any Audit Findings and pursuant to any orders or requirements of the DEP. 887 Woburn shall incorporate any changes required with respect to Site monitoring, remediation, and/or use limitations into the planned design, construction, and operation of the proposed Facility, and shall provide the Board of Health with notice of such changes. Regardless of any Audit Findings, 887 Woburn shall undertake construction of the Facility pursuant to a Site-Specific Health and Safety Plan and Soil Management Plan to address proper measures and controls needed to protect the public health, safety, and the environment.
6. 887 Woburn shall install and maintain sound-reducing measures in the building and acoustical barriers on the southern and southeast property line for noise mitigation. Property line acoustical barriers will be designed with a minimum Sound Transmission Class (STC) rating of 26. Prior to construction of the Facility, 887 Woburn shall provide the Board of Health with a specific plan outlining such installations, including specifications of materials and locations for installation.
7. 887 Woburn shall install doors designed to minimize and suppress noise, and OSHA compliant "squawking" or "ambient" style alarms in place of existing back-up beepers on the rolling on-site equipment (e.g., loaders, excavators, etc.) to address noise concerns.
8. The Facility shall implement "Hauler Rules" to outline queuing procedures, traffic routes, and disciplinary actions for violations. Specifically, the Facility shall require that trucks over 10,000 GVWR using the Facility shall not travel northerly on Woburn Street to or from the Facility (with the exception being any truck traveling to or from a garaging location located at: 779 thru 856 Woburn Street, Eames Street and/or Jewel Drive). All such trucks entering the Facility must be properly registered with the MassRMV to the aforementioned garaging locations. The "Hauler Rules" shall be provided to the Board of Health prior to operation of the Facility.

9. To maintain traffic safety, 887 Woburn shall keep any proposed plantings, vegetation, landscaping, and signage along the Site frontage low to the ground (no more than 3.0 feet above the street level) or set back sufficiently from Woburn Street so as to not inhibit the available sight lines.
10. Stormwater controls and treatment shall be designed and constructed to meet or exceed Massachusetts Stormwater Standards and any applicable local or federal stormwater requirements to the maximum extent practicable and such that no infiltration will exacerbate existing subsurface contamination on site or downgradient thereof. Any above-ground holding tanks constructed to receive and store stormwater and/or material collected by floor drains shall have a high level alarm and be located on an appropriate containment slab.
11. 887 Woburn shall develop and operate the Facility pursuant to a comprehensive Operation and Maintenance Plan pursuant to the provisions of 310 CMR 19.205 through 19.207. Such plan shall be provided to the Board of Health prior to operation of the Facility.
12. The Facility shall be operated using BMPs that address nuisance conditions as indicated in the Site Suitability Application and as otherwise specified in this Decision, including but not limited to, the following:
 - a. All equipment used on the Site (including during construction) shall be at a minimum EPA Tier III and IV compliant or shall be retrofitted to meet said compliance.
 - b. All processing line fixed equipment shall be powered electrically.
 - c. The Facility shall employ a high-pressure atomizing misting system to control dust and odors.
13. Copies of all applications, reports, notices, and orders, between the DEP and 887 Woburn with respect to Site conditions and the Facility construction and operation shall be provided to the Board of Health no later than 10 business days of filing or issuance.
14. All storage and processing of C&D Materials and recyclable materials shall occur indoors, except to the extent that C&D Materials stored outside shall be contained within covered rail cars, containers and/or trailers. Recyclable materials shall be stored in covered containers, trailers and/or railcars within the site assigned area. No C&D Materials or recyclable materials shall be loose or on the Site grounds outside of the solid waste handling building. Use of covered rail cars, containers, and trailers shall

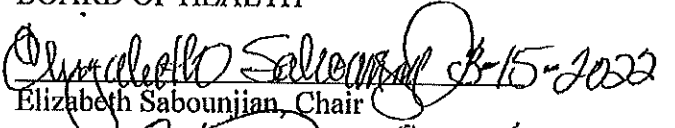
be detailed in an Operations and Maintenance Plan provided to the Board of Health prior to operation of the Facility.

15. At the close of each day of operation, any C&D Materials remaining on the Facility tipping floor shall be removed and placed within trailers or containers which shall remain indoors overnight with the overhead doors of the Facility closed, or within covered rail cars, containers, and/or trailers if stored outside.
16. To promote safety, residential users of the Facility shall be provided with a hard hat and vest to wear while using the Facility, directed to a designated section of the tipping floor, and provided with operational instructions on how to unload deliverables.
17. Adequate areas within the Site shall be designated for vehicle queuing. The Commonwealth of Massachusetts 5-minute idling policy shall be strictly enforced at the Site. At no time shall vehicles be permitted to queue on public ways.
18. Prior to Site construction, 887 Woburn shall provide to the Board of Health a preliminary or final grading plan indicating placement of fill necessary to achieve the required two foot separation between the waste handling area and the estimated high groundwater. Such plan shall demonstrate the proposed Site topography, particularly at the lot lines and roadways, and the general slope topography for stormwater flows and management, and for floor drain or holding tank flow.
19. Prior to construction, 887 Woburn shall provide to the Board of Health a plan demonstrating the proposed Site surficial topography relative to estimated high groundwater contours and areas of contamination.
20. Prior to construction, 887 Woburn shall provide the Board of Health with documentation demonstrating commercially reasonable efforts to obtain the provision of rail service to the Facility.
21. This decision shall be incorporated into the hearing record and made available for inspection and copying as set forth in 310 CMR 16.20(8)(a).
22. ~~Notice of this decision shall be published within 7 days of its issuance as required by 310 CMR 16.20(13)(b).~~

This Decision voted and issued by the Board of Health this fifteenth day of March, 2022.

Pursuant to the provisions of 310 CMR 16.20(13)(c), any person aggrieved by the decision of the Board of Health may, within 30 days of publication of the Notice of Decision appeal under the provisions of M.G.L. c. 30A, § 14.

TOWN OF WILMINGTON
BOARD OF HEALTH


Elizabeth Sabounjian, Chair


Dr. Daniel King, DDS, Vice Chair


Dr. Jane Williams MD, MPH, Member

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