

12/1/98

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Document No.
273671

OFFICE OF COUNTY RECORDER
County of Le Sueur, MN



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I hereby certify that the within instrument was filed in this office
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David A. Sexe
DAVID A. SEXE,
COUNTY RECORDER

LANDFILL CLEANUP AGREEMENT

BETWEEN

WASTE MANAGEMENT OF MINNESOTA, INC.

AND

THE COMMISSIONER OF

THE MINNESOTA POLLUTION CONTROL AGENCY

PURSUANT TO MINN. STAT. §§ 115B.39-115B.46

PREAMBLE

The Commissioner of the Minnesota Pollution Control Agency (Commissioner) has the power and duty to administer and enforce the provisions of the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.46 (1996) (the Act), including the authority to enter into binding agreements necessary to achieve compliance with the requirements of the Act.

Minn. Stat. § 115B.40, subd. 4 requires owners or operators of qualified facilities not subject to a cleanup order to complete specified activities and enter into a binding agreement with the Commissioner before the Commissioner can issue a Notice of Compliance for the facility under Minn. Stat. § 115B.40, subd. 7.

Sun Prairie Sanitary Landfill (hereinafter “the Landfill”) is a qualified facility within the meaning of Minn. Stat. § 115B.39, subd. 2(j) and is not subject to a cleanup order as that term is defined in the Act.

Waste Management of Minnesota, Inc., owner of the Landfill, has completed the closure activities at the Landfill, as required by Minn. Stat. § 115B.40, subd. 4(a)(1).

NOW, THEREFORE, it is hereby agreed as follows:

A. Parties to the Agreement.

The parties to this Agreement are:

- (1) Waste Management of Minnesota, Inc., (hereinafter “WMMI” or “Owner”) and
- (2) the Commissioner.

B. Purpose of the Agreement.

This Agreement sets forth the obligations which WMMI must perform under Minn. Stat. § 115B.40, subd. 4 to obtain a Notice of Compliance for the Landfill from the Commissioner under Minn. Stat. § 115B.40, subd. 7.

C. Definitions.

Unless otherwise explicitly stated, the definitions provided in Minn. Stat. § 115B.39, subd. 2, shall control the meaning of terms used in this Agreement.

D. Factual Background.

1. Landfill

a. The Landfill is a 80 acre mixed municipal solid waste disposal facility (Disposal Facility) and is located in Section 24, Township 111N, Range 24W, Lexington Township, LeSueur County, Minnesota (Attachment A). The Minnesota Pollution Control Agency (MPCA) issued Solid Waste Disposal Facility Permit SW-091 to Leo Reak on September 20, 1972. In 1988, WMMI purchased the Landfill and operated the Disposal Facility until it ceased operations and accepting solid waste on November 1, 1991. The Landfill is depicted on Attachment B, and is legally described as follows:

The West 1/2 of the Northeast Quarter (W 1/2 of NE 1/4), Section 24, Township 111, Range 24 West, LeSueur County, Minnesota (80 acres), and that portion of the Northwest Quarter of Section 24, Township 111 North Range 24 West, LeSueur County, Minnesota described as:

Beginning at the center of Section 24; thence South 90 degrees 00 minutes 00 seconds West (assumed bearing) along the East-West Quarter line of Section 24, a distance of 27.00 feet; thence North 01 degrees 39 minutes 16 seconds East; 513.63 feet; thence South 88 degrees 54 minutes 54 seconds East, 21.88 feet to the East line of the Northwest Quarter; thence South 01 degrees 05 minutes 04 seconds West, 513.10 feet to the point of the beginning.

Said parcel contains 0.29 acres and is subject to Township Road right-of-way along the southern boundary.

2. Disposal Area

a. The disposal area within the permitted Landfill is also depicted on

Attachment B, and is legally described as follows:

The South 20.00 acres of the West half of the Northeast Quarter of Section 24, Township 111 North, Range 24 West, LeSueur County, Minnesota.

Contains 20.00 acres of Landfill and is subject to Township Road right-of-way along the Southern boundary.

3. The Commissioner has determined that there has been a release or threatened release of hazardous substances or pollutants or contaminants from the Landfill to the ground water.

4. Leo Reak was the owner and operator of the Landfill and permitted the property on which the Landfill is located to be used for the disposal of waste until its purchase by WMMI in 1988. WMMI currently owns the property on which the Landfill is located and continued to operate the Landfill until its closure in 1991.

E. Transfer of Title to Property.

1. Title to Response Action Equipment and Landfill Materials. WMMI hereby transfers to the Commissioner, effective upon issuance of the Notice of Compliance by the Commissioner, all right, title and interest in all response action equipment and structures at the Landfill and the ownership of and the right to freely use, recover and sell, or contract for use, recovery and sale,

any material disposed of at the Landfill, including landfill gas. Said transfer shall not include the existing storage building or shop located on the Landfill.

2. Description of the Real Property. WMMI hereby agrees to transfer ownership of the following described real property to the State of Minnesota (State) acting through its Commissioner of the MPCA:

The West 1/2 of the Northeast Quarter (W 1/2 of NE 1/4), Section 24, Township 111, Range 24 West, LeSueur County, Minnesota (80 acres), and that portion of the Northwest Quarter of Section 24, Township 111 North Range 24 West, LeSueur County, Minnesota described as:

Beginning at the center of Section 24; thence South 90 degrees 00 minutes 00 seconds West (assumed bearing) along the East-West Quarter line of Section 24, a distance of 27.00 feet; thence North 01 degrees 39 minutes 16 seconds East; 513.63 feet; thence South 88 degrees 54 minutes 54 seconds East, 21.88 feet to the East line of the Northwest Quarter; thence South 01 degrees 05 minutes 04 seconds West, 513.10 feet to the point of the beginning.

Said parcel contains 0.29 acres and is subject to Township Road right-of-way along the southern boundary.

For purposes of paragraph E herein, the above-described property will be referred to as "the Property".

WMMI agrees to transfer and grant to the Commissioner all of WMMI's right, title and interest to the Property in fee simple absolute without restrictions and without any reservations by the grantor subject to the lease attached hereto as Attachment C.

3. Abstract. By November 30, 1998, WMMI shall provide the Commissioner with a currently updated Abstract of Title or, if the Property is registered, an Owner's Duplicate Certificate of Title and Registered Property Abstract covering the Property. The cost of providing and updating the abstract or certificate shall be paid by WMMI. The Commissioner shall have sixty (60) business days after receipt of the updated abstract or certificate to examine the title and notify WMMI of any title objections or issues that need resolution. WMMI's present ownership is subject to the terms and conditions of the land lease arrangement attached hereto as Attachment C. Failure to deliver an updated abstract or certificate by November 30, 1998, shall not void this Agreement or otherwise preclude the

Commissioner from demanding an abstract or certificate. Any unpaid rent on the leased property shall be payable to the owner of record when due.

4. Title Corrections. If the Minnesota Attorney General's Office is of the opinion that WMMI does not have marketable title to the Property, WMMI shall have one hundred twenty (120) days after notice thereof to make title marketable. After all title issues are resolved so that, in the opinion of the Attorney General, WMMI has marketable title, the Commissioner will request WMMI to execute and deliver title to the Property.

5. Title. Within 10 days after the Commissioner's request, following issuance of the Notice of Compliance (NOC) by the Commissioner, WMMI shall execute and deliver a warranty deed conveying the Property to the Commissioner, free and clear of all taxes, liens, encumbrances, restrictions, rights, or exceptions except those of record which are acceptable to the State subject to the lease attached hereto as Attachment C.

6. Real Estate Taxes and Special Assessments. All delinquent real estate taxes, all current real estate taxes, all Green Acres taxes and all levied assessments are the responsibility of WMMI and shall be satisfied of record by WMMI before conveyance of the Property to the Commissioner. The full amount of current real estate taxes due the year the deed is dated shall be paid by WMMI. Under no circumstances shall such current taxes be prorated but instead shall be the sole responsibility of WMMI.

7. Condition of the Property. WMMI shall not transfer, encumber, or grant any interest in the Property prior to conveyance to the Commissioner. WMMI shall keep the Property in its current condition except that WMMI shall remove the existing storage building, shop and their contents by December 31, 1998.

8. Right of Entry and Inspection. The Commissioner and employees, agents and contractors of the MPCA and the Commissioner shall have the right to enter upon the Property at

reasonable times prior to transfer of the property for surveying and for other purposes related to this Agreement.

F. Lien Language.

The Commissioner reserves the right to file liens under Minn. Stat. § 115B.412, subd. 5, with respect to the landfill described herein for all eligible costs incurred by the Commissioner in accordance with the procedures referenced therein. Minn. Stat. § 115B.41, subd. 2, does not apply to this landfill described herein.

G. Insurance.

1. The Minnesota Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115.445, authorizes the State of Minnesota, through its Attorney General and the Commissioner (the State), to recover its environmental response costs for qualified landfill facilities from responsible persons to the extent of their insurance coverage, and to settle, or approve settlements by policy holders, with insurance carriers for environmental response costs and natural resource damages recoverable by the State for qualified facilities.

2. The Owners hereby represent that they did not engage in any waste hauling, disposal, operation, or other activities relative to the Sun Prairie Landfill prior to their purchase of the Landfill in 1988. Further, they represent that any and all acquisitions by Waste Management of Minnesota, Inc. (WMMI) of waste hauling companies that may have brought waste to the Sun Prairie Landfill prior to 1988 did not include acquisition of liabilities or insurance coverage for environmental damages or costs arising out of pre-acquisition activities of the hauling companies. Therefore, the Owners do not appear to have conducted or acquired liability for activities relative to the Sun Prairie Landfill during the time period for which the Commissioner would seek to assert claims or make settlement offers pursuant to Minn. Stat. §§ 115B.39-115.445.

3. In consideration for, and in reliance upon the Owner's representations, the State agrees that it will not assert claims relating to WMMI insurance coverage in any settlement offer or

direct action related to its claims for environmental response costs or natural resource damages for the Sun Prairie Landfill under Minn. Stat. §§ 115B.443-.444.

4. Except as expressly provided in this paragraph G., and except as expressly provided in the Landfill Cleanup Agreement between Waste Management of Minnesota, Inc. and the Commissioner of the MPCA, effective October 15, 1997, relating to the Anoka Regional Mixed Municipal Solid Waste Land Disposal Facility, the State reserves all of its authority under the Act with respect to any claims of the State related to qualified landfill facilities other than the Sun Prairie Landfill involving WMMI insurance coverage, and WMMI agrees to cooperate with the State and take all actions with respect to such claims as required under the Act. Nothing in this paragraph G. affects the rights or authority of the State under the Act with respect to any claims related to the Sun Prairie Landfill involving insurance coverage of any potential insurance policyholders other than WMMI and its wholly owned subsidiaries and affiliates.

5. If not previously provided, WMMI will provide to the Commissioner a list and copies of all its insurance policies that potentially provide coverage, including those that have been exhausted. WMMI will cooperate with the State and its legal counsel in the furtherance of any claims and causes of action to recover any insurance claims, not excluded above, that may be brought by the State relative to the Sun Prairie Landfill under the Act pursuant to the last sentence of subparagraph 4 above.

H. Cooperation With Environmental Response Actions, Access to Property and Records, Assignments of Claims, and Other Matters.

1. Cooperation. WMMI shall cooperate with the Commissioner and with employees, agents, and contractors of the MPCA and the Commissioner when the Commissioner takes any environmental response actions that the Commissioner deems necessary at the Landfill. WMMI shall not take any action that interferes with such environmental response actions including any actions

that disturb or impede the cover, monitoring system, or the gas venting or recovery system to be installed at the Landfill.

WMMI agrees not to place, or allow others to place any materials, personal property, equipment or any other items either on or in the Landfill without the written consent of the MPCA Project Manager.

2. Access to Property. WMMI hereby grants to the Commissioner and to employees, agents, and contractors of the MPCA and the Commissioner, access to the Landfill for the purpose of taking environmental response action and related actions as the Commissioner deems necessary to carry out this Agreement and his duties and authorities under the Act, including installation of structures and equipment deemed necessary by the Commissioner, sampling of ground water monitoring wells located hereon and installing additional ground water monitoring wells as the Commissioner deems necessary.

3. Access to Records. WMMI shall retain and preserve all records (other than financial records including but not limited to balance sheets, financial statements, pricing data or similar information) relating to the operation of the Landfill and other businesses of WMMI related to the Landfill including but not limited (except as to financial records) to customer lists, disposal records, and hauling records. WMMI shall retain such records for ten (10) years after the effective date of this Agreement or until receiving written notice from the Commissioner releasing WMMI from this requirement, whichever is sooner. WMMI hereby grants to the Commissioner, and to employees, agents and contractors of the MPCA and the Commissioner, access to all said records of the Landfill and the said records of other businesses of WMMI related to the Landfill, regardless of the location of such records, but WMMI shall not be obligated to send, deliver or otherwise relocate such records. WMMI shall not move the location of such records without prior notice to and written approval of the Commissioner. WMMI shall honor all reasonable requests for access to such records conditioned only upon presentation of proper identification and upon at least five (5) business days prior written notice.

The information contained in the referenced records shall be used by the Commissioner only for the purpose of carrying out its obligations under the Act and no other use shall be made of said records without the prior written consent of WMMI.

4. Provision of Information. By the date of execution of this Agreement, WMMI shall provide the Commissioner with a list of all known solid waste haulers who delivered waste to the Landfill. This list shall include the following information for each hauler: a start date and an end date during which the hauler made deliveries to the Landfill, the hauler's proportional contribution to the annual tonnage delivered to the Landfill, the hauler's mailing address, and a contact person at the hauler's organization. If WMMI collected waste as a hauler, WMMI shall also provide a list of its commercial accounts. WMMI shall cooperate and work with the Commissioner to locate and provide this information.

5. Assignment of Claims, Warranties and Licenses Related to Remedy Construction, Installation and Equipment. WMMI hereby assigns to the Commissioner any and all rights arising out of contracts, excluding contracts with its wholly owned subsidiaries and affiliates, for the design, construction, installation or purchase of response actions or response action components for the Landfill including rights with respect to deficient or defective design, construction, or installation; rights under warranties; and licenses to use any equipment or processes.

6. Lawsuits. WMMI warrants that there are no pending lawsuits related to the Landfill or to other property referenced in this Agreement as of the date of execution of this Agreement except that WMMI is currently engaged in environmental claims litigation with its insurance carriers in the courts of the state of New Jersey. WMMI has a continuing obligation to promptly inform the Commissioner of pending lawsuits related to all property referenced in this Agreement during the term of this Agreement.

7. Post-Closure Care. WMMI shall continue to perform post-closure care at the Landfill until the issuance of the Notice of Compliance unless otherwise directed by the Commissioner.

8. Bond Financed Property. The Commissioner may spend state general obligation bond funds to implement environmental response actions associated with the Landfill. The sale of all or any portion of the Landfill or any other property owned by WMMI for which such bond money has been or will be expended must comply with the requirements of Minn. Stat. § 16A.695, and any amendments thereto, and any orders or rules of the Commissioner of Finance issued or adopted pursuant to that statute.

I. Restrictive Covenant.

1. Construction. WMMI shall not construct or allow to be constructed any structure on the Landfill without the written approval of the Commissioner.

2. Filing of Restrictive Covenant. The Commissioner may file the Declaration of Restrictions and Covenants with the county recorder or registrar of titles where the property is located (Attachment D).

J. Claims Against the Commissioner Waived.

Notwithstanding any other provisions of this Agreement, WMMI hereby waives any claims against the Commissioner or the State for any taking of property rights, including inverse condemnation, restriction of use, diminution of value, or loss of use or enjoyment of any property owned by WMMI arising out of: (1) any work to be performed by or under the direction of the Commissioner to carry out his duties or authorities under the Act; (2) the presence of the Landfill or any releases or threatened releases of hazardous substances or pollutants or contaminants or methane gas from the Landfill; and (3) the installation, operation or maintenance of any associated structures and equipment at the Landfill.

K. Transfer of Financial Assurance Funds.

By the date of the execution of this Agreement, WMMI shall provide evidence that it has transferred to the Commissioner of Revenue the amount of money it would have accumulated, as determined by the Commissioner, if WMMI had utilized a trust fund rather than a letter of credit for

proof of financial responsibility under Minn. Stat. § 116.07, subd. 4h, less any amount used for closure, postclosure care and response actions at the Landfill.

L. Recording of the Agreement.

The Commissioner will record with the county recorder or registrar of titles of the county where the Landfill is located, a copy of this Agreement.

M. Issuance of Notice of Compliance.

The Commissioner agrees to issue to WMMI a Notice of Compliance for the Landfill upon: (1) satisfactory completion by WMMI of the obligations under this Agreement, as determined by the Commissioner; and (2) receipt by the Commissioner of the signed Waiver of Claims under Minn. Stat. § 115B.40, subd. 7(a)(2), as provided in Attachment E. The WMMI shall sign the Waiver of Claims at the time of signing of this Agreement. After issuance of the Notice of Compliance, (1) the Commissioner shall assume all obligations and undertake all further environmental response actions related to the Landfill in accordance with Minn. Stat. § 115B.40, subd. 7(b)(1); (2) the Commissioner shall refrain from cost recovery related to the Landfill in accordance with Minn. Stat. § 115B.40, subd. 7(b); (3) the Commissioner shall release any and all letters of credit held by the Commissioner with respect to WMMI as financial assurance pursuant to Minn. Stat. § 116.07, subd. 4h; (4) any continuing responsibility of WMMI under any permits issued with respect to the Landfill and its cleanup activities, including but not limited to, NPDES permits, air permits, storm water permits and the Landfill permit, shall terminate; and (5) if required by law, the Commissioner shall assume all continuing obligations and responsibilities under any permits issued by any other governmental entity, including, but not limited to, the Minnesota Department of Public Health and the Metropolitan Council, with respect to the Landfill. WMMI shall have a continuing obligation after issuance of the Notice of Compliance to fully comply with this Agreement including the requirements of paragraph G (Insurance), H. (Cooperation with Environmental Response Actions, etc.), I. (Restrictive Covenants), and J. (Claims Against the Commissioner Waived).

N. Enforceability.

This Agreement is enforceable by the Parties. This Agreement shall be governed by and construed under the laws of the State of Minnesota. The venue of any action under this Agreement shall be in Ramsey County District Court.

The Parties hereto retain the right to take any action, legal, equitable or administrative, that may be available to implement or enforce the terms of this Agreement and the Commissioner retains the right to take any action under the Commissioner's authority in the event of any non-compliance with this Agreement.

O. Liability and Governmental Immunities.

Each party agrees that it shall be responsible for its own acts and omissions and the result thereof, and those of its officers, employees and agents, in carrying out its obligations under this Agreement, and shall not be responsible for the acts or omissions of the other party, its officers, employees or agents. The liability of the Commissioner shall be governed by the provisions of the Minnesota Tort Claims Act, Minn. Stat. § 3.732, et seq., and other applicable law. Nothing contained in this Agreement shall constitute a waiver by the Commissioner of any governmental immunity afforded by law.

P. Amendments.

This Agreement may be amended only by written agreement among the parties to this Agreement.

Q. Successors and Assigns.

This Agreement is binding upon WMMI and its heirs, successors and assigns, and upon the Commissioner and his successors and assigns.

R. Severability.

If any provision of this Agreement is held to be void, invalid, unenforceable, or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby, unless the

Commissioner determines that the provisions rendered invalid are so necessary to the proper execution of the Agreement that it would be in the best interests of the State to rescind the Agreement. In that event, this Agreement may be canceled by the Commissioner upon 30 days written notice to WMMI and the parties shall be returned to the status quo ante.

S. Effective Date

This Agreement is effective upon the date that it is signed by the Attorney General.

BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT THEY HAVE AUTHORITY TO BIND THE PARTIES THEY REPRESENT, THEIR AGENTS, SUCCESSORS AND ASSIGNS.

IT IS SO AGREED:

Waste Management of Minnesota, Inc.
(Two corporate officers must sign.)

By [Signature]

Title Vice President

Date Dec 17, 1998

By [Signature]

Title V.P.

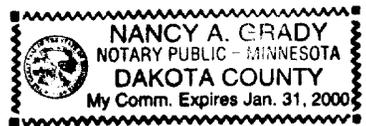
Date 12-22-98

STATE OF ~~WISCONSIN~~ Minnesota

COUNTY OF Dakota ss:

On this 17 day of Dec, 1998, before me a notary public within and for said County and State, personally appeared Steve Batchelor and [Signature] the a Vice President and [Signature] of Waste Management of Minnesota, Inc., to me personally known, who, being duly sworn by me on oath, did say that they are the persons who signed the foregoing instrument and acknowledged that they signed the same as their free act and deed for the uses and purposes therein set forth.

Nancy A. Grady
Notary Public, Dakota County, WI-MN
My commission expires: 1/31/00



MINNESOTA POLLUTION CONTROL AGENCY
PEDER A. LARSON, COMMISSIONER

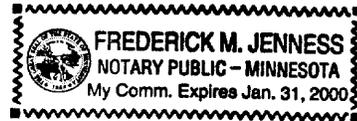
By *Douglas N. Day*
Lanny Peissig or Douglas N. Day
Deleegees of the Commissioner

Date 4-15-99

STATE OF MINNESOTA)
) ss:
COUNTY OF Ramsey)

On this 15th day of April, 1999, before me a notary public within and for said County and State, personally appeared Douglas N. Day, Delegee of the Commissioner of the Minnesota Pollution Control Agency, to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed said instrument as the free act and deed of the State of Minnesota.

Frederick M. Jenness
Notary Public, Ramsey County, MN
My commission expires: January 31, 2000



As to form and execution by the
ATTORNEY GENERAL

By *Tibor Gallo*
Tibor Gallo
Assistant Attorney General

Date April 21, 1999

Landfill Cleanup Agreement between WMMI and the Commissioner of the MPCA.

273671

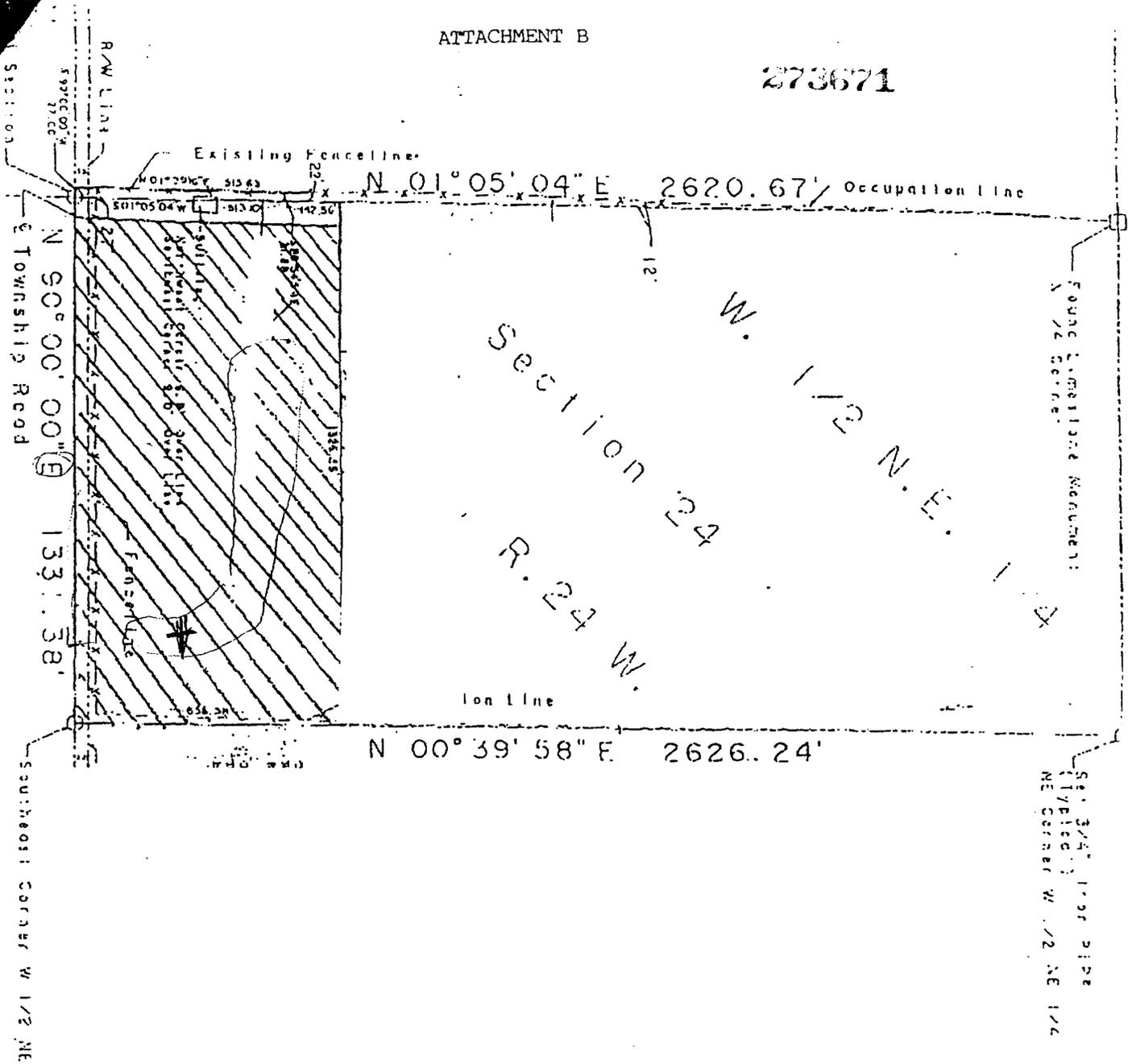
STATE OF ILLINOIS)
) ss:
COUNTY OF DUPAGE)

On this 23rd day of December, 1998, before me a notary public within and for said County and State, personally appeared Dan Shoener of Waste Management of Minnesota, Inc., to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed the same as his free act and deed for the uses and purposes therein set forth.

Linda J. Kostro
Notary Public, DuPage County, IL
My commission expires: June 4, 2001

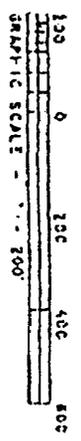
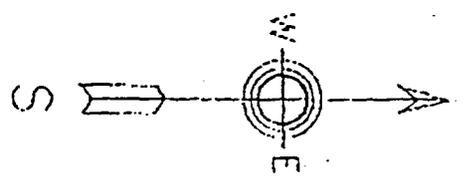


273671



Found Limestone Monument:
NE Corner W 1/2 NE 1/4

Set 3/4\"/>



273671

PROPERTY LEASE

This lease of the land identified below is entered into this 8th day of April 1998 by and between Waste Management of Minnesota, Inc. (hereinafter referred to as "Landlord"), and Dale Tidde, Route 1, Box 73, LeCenter, Minnesota 56057 (hereinafter referred to as "Tenant") on the following terms and conditions.

1. **Leased Land.** The Landlord hereby leases to the Tenant, to use for agricultural/ farming purposes the northerly 46.9 acres of land directly north of the Sun Prairie Landfill which is owned by the Landlord.
2. **Term.** The term of this lease shall commence on January 1, 1998, and shall end on December 31, 1998, both dates inclusive. This lease shall not be automatically renewed and must be renewed prior to being effective.
3. **Rent.** The tenant shall pay as rent to the Landlord the sum of \$55.00 per acre for a total amount of \$2,579.50. One half (\$1,289.75) shall be due within 10 days of executing this lease. The second half (\$1,289.75) shall be due on or before December 31, 1998. Payment shall be made to the Landlord by mail or in person.
4. **Assignment or Subletting.** Tenant shall not assign this lease nor sublet the land or any part thereof without the prior written consent of the Landlord. If Landlord permits an assignment or a Sublease, such permission shall in no way relieve Tenant of Tenant's liability under the lease. The Landlord may assign this lease at any time during its term.
5. **Vacating Property.** Tenant agrees to vacate the premises at the end of the lease term and promptly remove any equipment or materials.
6. **Landlord's Right to Enter.** Landlord may enter the property at any reasonable time with or without Tenant's permission, to inspect the property, make repairs, show the property to prospective tenants or purchasers, or to comply with applicable laws, orders, or regulations.
7. **Abandonment by Tenant.** If Tenant shall abandon the property before the expiration of the lease term, Landlord shall make reasonable efforts to re-lease the property and shall apply any rent receipts, less costs of re-leasing, to the rent due or to become due on this lease, and Tenant shall retain liability for any deficiency. If Tenant is absent from the property for four (4) consecutive weeks without notifying Landlord in writing of such an absence, Landlord, at Landlord's sole option, may deem the premises abandoned.
8. **Disposal of Tenants Property.** If Tenant shall leave any equipment or materials on the property after vacation or abandonment, Tenant shall be deemed to have abandoned the equipment or materials and Landlord shall have the right to dispose of the property as provided by law.

9. **Tenants Obligations Under This Lease.** During the lease term, as a condition to Tenant's continuing right to use and occupy the property, Tenant agrees and promises:

- a. To use the property for agricultural/farming purposes only by Tenant and Tenant's immediate family.
- b. Not to make or permit use of the property for any unlawful purpose or any purpose that will injure the reputation of the property or Landlord.
- c. Not to use or keep on the property anything which would adversely coverage of the property under an insurance policy.
- d. Not to make excessive noise or engage in activities which unduly disturb neighbors.
- e. Not to keep any pet or guard dog/animal on the property unless specifically authorized in this lease.
- f. To obey all lawful orders, rules and regulations of all governmental authorities.
- g. To keep the property in clean tenantable condition and in as good repair as at the beginning of the lease term, normal wear and tear excepted.
- h. Not to permit any guest or any invitees to reside on the property.
- I. To be liable for all acts of negligence or breaches of this lease by Tenant and tenant's immediate family, guests or invitees.

10. **Liability Insurance.** Tenant shall pay the premiums on and maintain in effect at all times during the term of this lease, liability insurance in the amount of Three Hundred Thousand Dollars and No/100 (\$300,000.00) protecting the Landlord against all claims for bodily injury or death occurring on the property. A liability policy covering Landlord and Tenant, as their interests may appear, shall be deemed in compliance with the provisions of this paragraph.

11. **Default.** If default be made in payment of the above rent, or any part thereof, or in any of the covenants herein contained to be kept by Tenant, it shall be lawful for Landlord at any time, at his election, with notice, to declare said term ended and to re-enter the property or any part thereof, with or without process of law, and to remove any equipment, materials or any persons occupying the same, without prejudice to any remedies which might otherwise be used for arrears of rent, and Landlord shall have at all times the right to distrain for rent due and shall have a valid and first lien upon all personal property which Tenant owns or may hereafter acquire or have an interest in, whether exempt by law or not, as security for payment of the rent herein reserved.

12. **Rent After Notice or Suit.** After the service of notice, or the commencement of a suit, or after final judgement for possession of the property, the Landlord may receive and collect any rent due, and the payment of said rent shall not waive or affect said notice, and suit, or said judgement.

13. **Payment of Costs.** The Tenant further covenants and agrees to pay and discharge all reasonable costs, attorney fees and expenses that shall be made and incurred by Landlord in enforcing the covenants and agreements of this lease.

14. **Successors.** All persons executing this lease as Tenant shall be jointly and severally liable hereon, and all the covenants and agreements herein contained shall be binding upon, and indure to, their respective successors, heirs, executors, administrators, and assigns.

15. **Inspection, Disclaimer of Warranty.** Tenant has inspected the property and accepts the same in an "as is" condition. Landlord has made no warranties of any nature relating to the physical condition or intended use of the property.

16. **Waiver of Claims.** Tenant, on their own belief, and on behalf of their children, immediate families and invitees, covenant and agree that their use of the property during the period of this lease shall be at their own risk and that they expressly assume all risk of and waive any claim against the Landlord for any and all claims for damages, loss, expenses, or any other causes of action or claims known or unknown which they may now or hereafter have and which is caused by, arises from, or in any way related to the property or Landlord's adjacent Sanitary Landfill and soil borrow operation and area.

17. **Severability.** If any provision of this lease or portion of such provision or the application thereof to any person or circumstance is held invalid, the remainder of the lease (or the remainder of the provision) and the application thereof to other persons or circumstances shall not be affected.

18. **Late Fee.** A \$50.00/month late fee will be assessed for unpaid rent after December 31, 1998 and shall be assessed at the rate of \$50.00 per month until such time that all unpaid rent is paid in full to the Landlord at the Landlord's address.

19. **Special Concerns.** A well for the measurement of groundwater elevation is located in approximately the center of the property. Tenant shall protect this well and shall be liable for any damage caused to the well by the Tenant's operations.

Landlord:

By: *Ronald D. Ditta*

Date: 4/8/98

Tenant:

By: *Dale Tiede*

Date: 4/13/98

Attachment D

**DECLARATION OF RESTRICTIONS
AND COVENANTS**

THIS DECLARATION, made this 17th day of December, 19 98, by Waste Management of Minnesota, Inc. (WMMI) (hereinafter referred to as "Declarant"):

WITNESSETH:

WHEREAS, Declarant is the fee owner of the real property legally described herein; and

WHEREAS, Declarant entered into a Landfill Cleanup Agreement on December 17, 1998 with the Commissioner of the Minnesota Pollution Control Agency pursuant to the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.46 (1996) (the "Act"), related to Sun Prairie Landfill which Declarant owns and which is located in Section 24, Township 111N, Range 24N, Lexington Township, Le Sueur County, Minnesota; and

WHEREAS, under the Landfill Cleanup Agreement, Declarant agreed to place a Restrictive Covenant on portions of certain parcels of property that he/she/they/it own/owns and which are hereinafter described.

NOW THEREFORE, Declarant makes the following declarations as to limitations, restrictions and uses to which the subject property may be put, and specifies that such declarations shall constitute

covenants to run with the land as provided by law and shall be binding on all parties and all persons claiming under them.

1. There shall be no construction of any structure without the written approval of the Commissioner of the Minnesota Pollution Control Agency (MPCA) on the following described parcels of property:

The West 1/2 of the Northeast Quarter (W 1/2 of NE 1/4), Section 24, Township 111, Range 24 West, Le Sueur County, Minnesota (80 acres) and that portion of the Northwest Quarter of Section 24, Township 111 North Range 24 West, LeSueur County, Minnesota described as:

Beginning at the center of Section 24; thence South 90 degrees 00 minutes 00 seconds West (assumed bearing) along the East-West Quarter line of Section 24, a distance of 27.00 feet; thence North 01 degrees 39 minutes 16 seconds East; 513.63 feet; thence South 88 degrees 54 minutes 54 seconds East, 21.88 feet to the East line of the Northwest Quarter; thence South 01 degrees 05 minutes 04 seconds West, 513.10 feet to the point of the beginning.

Said parcel contains 0.29 acres and is subject to Township Road right-of-way along the southern boundary.

2. Drinking water wells may only be installed in compliance with Minn. R. 4725.4450 and any amendments thereto and after the written approval of the Commissioner of the MPCA and the Minnesota Department of Health on the above described parcels of property.

3. When the MPCA Commissioner determines that a Restrictive Covenant is no longer necessary to carry out his duties or authorities under the Act or to protect public health or welfare, the Commissioner may terminate this declaration and release all or a portion of the affected property from all or any part of the terms and conditions of this declaration.

BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT THEY HAVE AUTHORITY TO BIND THE PARTIES THEY REPRESENT, THEIR AGENTS, SUCCESSORS AND ASSIGNS.

IT IS SO AGREED:

Waste Management of Minnesota, Inc.
(Two corporate officers must sign.)

By [Signature]

Title V.P.

Date Dec 17, 1998

By [Signature]

Title V.P.

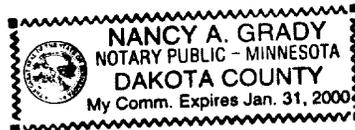
Date 12-22-98

STATE OF ~~WISCONSIN~~) MN

COUNTY OF Dakota) ss:

On this 17th day of December, 1998, before me a notary public within and for said County and State, personally appeared Steve Batchelor and _____ the a Vice President and _____ of Waste Management of Minnesota, Inc., to me personally known, who, being duly sworn by me on oath, did say that they are the persons who signed the foregoing instrument and acknowledged that they signed the same as their free act and deed for the uses and purposes therein set forth.

Nancy Grady
Notary Public, Dakota County, WI MN
My commission expires: 1/31/00



273671

Accepted by the Commissioner of
the Minnesota Pollution Control Agency
pursuant to Minn. Stat. §§ 115B.412, subd. 3
and 115B.17, subd. 15

By *Douglas N. Day*
Lanny Peissig or Douglas N. Day
Delegates of the Commissioner

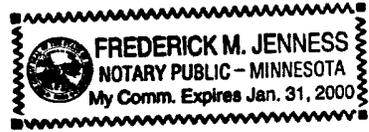
ACKNOWLEDGMENT

STATE OF MINNESOTA

COUNTY OF RAMSEY

On this 15th day of April, 1999, before me a notary public within and for said County and State, personally appeared Douglas N. Day, Delegee of the Commissioner of the Minnesota Pollution Control Agency, to me personally known, who being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed said instrument as the free act and deed of the State of Minnesota.

Frederick M. Jenness
Notary Public, Ramsey County, MN
My commission expires January 31, 2000



THIS INSTRUMENT WAS DRAFTED BY:

Tibor Gallo
Assistant Attorney General
900 NCL Tower
445 Minnesota Street
St. Paul, Minnesota 55101

273571

STATE OF ILLINOIS)
) ss:
COUNTY OF DUPAGE)

On this 22nd day of December, 1998, before me a notary public within and for said County and State, personally appeared Dan Hoener of Waste Management of Minnesota, Inc., to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed the same as his free act and deed for the uses and purposes therein set forth.

Linda L. Kostro
Notary Public, DuPage County, IL
My commission expires June 4, 2001



ATTACHMENT E

WAIVER OF CLAIMS

Under the Landfill Cleanup Act
Minn. Stat. § 115B.40, subd. 7(a)(2)

WHEREAS, Waste Management of Minnesota, Inc. has executed on December 17,
1998, a Landfill Cleanup Agreement with the Commissioner of the Minnesota Pollution Control
Agency (MPCA) under the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.46 (1996) ("the Act"),
relating to the Sun Prairie Sanitary Landfill ("the Landfill"); and

WHEREAS, Minn. Stat. § 115B.40, subd. 7(a)(2) provides that before the Commissioner can
issue a Notice of Compliance to the owner or operator of a qualified landfill or a person subject to a
cleanup order for a qualified landfill, the recipient of the Notice of Compliance must waive certain
claims as provided in the Act; and

WHEREAS, beginning on the date of the Notice of Compliance, the Commissioner will assume
all obligations of the owner or operator, persons subject to a cleanup order, or other persons, for
environmental response actions in accordance with Minn. Stat. § 115B.40, subd. 7(b); and

WHEREAS, the Commissioner acknowledges that the Act defines the response action
obligations for qualified landfills of owners and operators, persons subject to a cleanup order, and other
persons associated with the landfills, as well as the extent to which the Commissioner may seek to assert

liability for the cost of environmental response action against such persons, including any such liability under CERCLA; and

WHEREAS, the Commissioner further acknowledges that, by a separate agreement between the Commissioner and the USEPA entered pursuant to CERCLA and the Act (EPA Agreement), USEPA and the Commissioner have agreed on the terms and conditions by which the Commissioner will assume responsibility under the Act for all further response actions at the Landfill under CERCLA, and by which the USEPA agrees to close its outstanding cost recovery case under CERCLA for the Landfill rather than seeking payment of such costs from responsible persons, and that owners and operators, persons subject to a cleanup order, and other persons associated with qualified landfills which have received notices of compliance under the Act are among the persons who are protected from future USEPA cost recovery and response action requirements under the EPA Agreement.

NOW, THEREFORE, in accordance with the requirements of Minn. Stat. § 115B.40, subd. 7(a)(2) and in fulfillment of and in consideration for the provisions of the Landfill Cleanup Agreement, Waste Management of Minnesota, Inc. (the "waiving party") hereby waives all claims that the waiving party may have against any other person for recovery of any environmental response costs related to the Landfill that were incurred prior to the date that the Commissioner of the MPCA issues the Notice of Compliance for the Landfill. This waiver applies to all such claims regardless of how they may be asserted, including commencement of a lawsuit, assertion of a counterclaim, cross claim, or third party claim, demand for payment, offer of settlement, or commencement of an administrative action, or other means of asserting a claim under state or federal statute or common law. The waiving party expressly retains all defenses that the waiving party may have to environmental response cost claims made against it. For the purpose of this waiver, the term "claims" does not include the enforcement of any right to payment under a contract, including an insurance contract, or to any claim for reimbursement of environmental response costs under Minn. Stat. § 115B.43. This waiver does not affect any right the

waiving party may have to seek relief against the Commissioner under the Landfill Cleanup Agreement for the Landfill or with respect to the Commissioner's duties and responsibilities under the Act. This waiver is subject to the provisions of Minn. Stat. § 115B.40, subd. 8.

It is the intent of the waiving party and the Commissioner that this waiver benefit any person against whom the waiving party may purport to assert a claim which has been waived herein for recovery of any environmental response costs related to the Landfill that were incurred prior to the date that the Commissioner issues the Notice of Compliance for the Landfill.

This Waiver is binding upon the waiving party and its heirs, successors and assigns. This waiver is effective on the date when the Commissioner issues the Notice of Compliance for the Landfill under Minn. Stat. § 115B.40, subd. 7.

The Commissioner acknowledges that, upon the execution of this waiver and upon issuance of the Notice of Compliance for the Landfill, all of the actions for which the waiving party is responsible under the Act for the Landfill have been completed, including construction of environmental response actions required under any cleanup order for the Landfill, and that any and all liability which could be asserted by the Commissioner against the waiving party under CERCLA for the Landfill is resolved except for any claims which the Commissioner may assert under Minn. Stat. § 115B.40, subd. 7(b)(2)(i). Based upon this resolution of CERCLA liability, and effective upon the issuance of the Notice of Compliance for the Landfill, the waiving party is entitled to contribution protection to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2) for response costs and response actions with respect to the Landfill.

BY THE SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT THEY HAVE THE AUTHORITY TO BIND THE PARTY THEY REPRESENT, THEIR AGENTS, SUCCESSORS AND ASSIGNS.

WASTE MANAGEMENT OF MINNESOTA, INC.

(Two corporate officers must sign.)

By: [Signature]

Title: V. P.

Date: 1/4/99

By: [Signature]

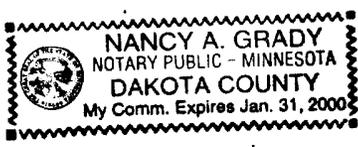
Title: V. P.

Date: 1/5/99

MN
STATE OF WISCONSIN)
COUNTY OF Dakota) ss:

On this 4th day of January, 1999, before me a notary public within and for said County and State, personally appeared Steve Batchelor the a Vice President and _____ of Waste Management of Minnesota, Inc., to me personally known, who, being duly sworn by me on oath, did say that they are the persons who signed the foregoing instrument and acknowledged that they signed the same as their free act and deed for the uses and purposes therein set forth.

Nancy A. Grady
Notary Public, Dakota County, WI
My commission expires: 1/31/00



STATE OF ^{IL} ~~WISCONSIN~~)
) ss:
COUNTY OF DUPAGE)

On this 5th day of January, 1999, before me a notary public within and for said County and State, personally appeared Jan Moener and the Vice President and _____ of Waste Management of Minnesota, Inc., to me personally known, who, being duly sworn by me on oath, did say that they are the persons who signed the foregoing instrument and acknowledged that they signed the same as their free act and deed for the uses and purposes therein set forth.

Linda L. Kostro
Notary Public, DUPAGE County, ~~WI~~ IL
My commission expires: June 4, 2001

