

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File #581

3/13 order adopting returned to Michael Manner for dating. Also requested 1st order adopted.

3/21 Bob Mollaker advised me he will send 2 orders by messenger on 3/24

3/25. rec'd Order + Revised Order Jerry

Permanent Rule X

Temporary Rule

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 3/11 DUE DATE 3/31

Resubmitted and Received

a. Returned to Agency w/o Filing w/Secretary of State
b. Approved Date Sent Back to Agency

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓ a) SR 6.18.79 b) SR 10.15.79
3. Certificate of Board's Authorizing Resolution, where applicable ✓ i) and ii)
4. Order for Hearing ✓
5. i) Notice of Hearing ✓
   Sufficiency ✓
   ii) Reconvened Hearing
6. Secretary of State's List i) ✓ ii) ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List i) ✓ ii) ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency i) ✓ ii) ✓
9. Affidavit of Mailing i) ✓ iA) ✓ iB) ✓
   At least 30 days prior to hearing i) ✓ ii) ✓ iiA) ✓ ii) ✓
10. Publication in State Register i) ✓ SR 6.18.79 ii) 10.15.79
    At least 30 days prior to hearing i) ✓ ii) ✓
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓
14. Certificate of Board's Resolution Adopting Rules, where applicable ✓
15. A Order Adopting ✓ B) REVISED ORDER ADOPTING
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
20. Petition by Public, where applicable N/A

MN 1000 (REV. 4/77)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Attorney General - MPCA

TO : Ms. Judy Wehrwein
Legal Assistant
G-25 Administration Bldg.

DATE: 3/25/80

FROM : Robert C. Moilanen RM
Special Assistant
Attorney General

PHONE: 7345

SUBJECT: Minn. Rule SW 11

Enclosed you will find an original and three copies of both an Order Adopting Rules and Revised Order Adopting Rules.

Please contact me if I can be of any further assistance.

RCM/ps

ADMIN 1000 (Rev. 1/78)
SF-00005-01

#581

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ROBERT C. MOILANEN
Special Assistant
Attorney General

DATE: March 28, 1980

FROM : JERRY ANDERSON JSA
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsley Populated Areas from Certain Sanitary Landfill Operating Standards

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JA/bw
Enclosure
cc: Duane Harves
Susan Robertson

Minn. Rule SW 11 Exemptions for Solid Waste Disposal Facilities Located in Sparsely Populated Areas and County Solid Waste Management Plans

A. The Agency shall issue permits for the operation of land disposal sites located in sparsely populated areas. These permits shall be entitled "Modified Landfill Permits" and shall be issued to proposed land disposal sites provided:

1. The proposed land disposal site will be utilized by a year-round, permanent residential population of less than 2,500.

2. No prudent and feasible alternative to the proposed modified landfill exists as demonstrated by an economic and environmental analysis of at least the following alternatives:

a. Cannister systems;

b. Transfer stations;

c. Use of an existing permitted solid waste facility.

3. No material adverse economic and environmental impact on existing solid waste disposal systems currently operating under Agency permits will be caused by the operation of the proposed modified landfill.

4. The proposed modified landfill will not cause pollution, impairment or destruction of the environment as defined in Minn. Stat. ch. 116B (1978).

5. The proposed modified landfill will not accept any hazardous waste as defined in 6 MCAR §4.9002.

In order to show the existence of the above criteria, the applicant may provide the Agency with information relating to: seasonal fluctuations in population; large areas of publicly-owned lands; circuitous transportation routes; topography, soils or geologic conditions; adverse climatic conditions; economics; waste types; waste quantities; and, energy considerations.

B. Locational and operational requirements for modified sanitary landfills shall comply with Minn. Rules SW 6(1) and (2) with the following exceptions:

1. Minn. Rule SW 6(2)(a) shall not apply, rather, open burning of certain materials shall be allowed in accordance with Minn. Rule APC 8 provided the burning is done in a separate, controlled access area at least 200 feet from any fill area and permits are obtained.

2. Minn. Rule SW 6(2)(c) shall not apply, rather, dumping of solid waste shall be confined to as small an area as practicable and with appropriate facilities to confine windblown material within the area. All windblown material resulting from the operation shall be collected and returned to the site by the owner or operator as necessary to prevent nuisance conditions.

3. Minn. Rule SW 6(2)(d)(i) as it relates to the time of covering and compaction shall not apply, rather, covering and compaction of waste material shall take place on a weekly basis from May 1 to November 30 of each year and on a monthly basis from

December 1 to April 30 of each year or in accordance with a less stringent cover and compaction plan approved by the Agency. Agency approval shall be given for a less stringent cover and compaction plan upon a showing that such a plan will not cause pollution, impairment or destruction of a protectable natural resource or that there exists no prudent and feasible alternative in accordance with Minn. Stat. 116B (1978).

4. Minn. Rule SW 6(2)(k) shall not apply, rather, equipment shall be available for adequate operation and fire protection of the site but does not have to be maintained at the site.

5. Minn. Rule SW 6(2)(m), (t), (u), and (w) shall not apply to the operation of modified sanitary landfills permitted in accordance with this rule.

6. Minn. Rule SW 6(2)(z) shall not apply, rather, the permittee shall properly complete the Agency's operational report forms and submit them quarterly.

C. Permit applications for the operation of modified landfills shall comply with Minn. Rule SW 6 (3) with the following exceptions:

1. The permit application requirements in Minn. Rule SW 6(3)(b)(ii) shall not be required, however, a site analysis shall be submitted with the permit application and shall include surface features, underground formations, soil boring data, water table profile, direction of underground water flow, need and availability of cover material, and existing refuse deposits.

2. The permit application requirements in Minn. Rule SW 6(3)(c)(ii) shall apply in total except those requirements relating to contour intervals of two feet or less and hazardous waste storage areas which shall not be required, rather, contour intervals sufficient to show drainage shall be provided by the applicant.

3. The permit application requirements in Minn. Rule SW 6(3)(c)(iv) relating to an ultimate land-use plan shall not be required.

D. A modified landfill shall not be placed in operation until compliance with the provisions of Minn. Rule SW 6(4).

E. On or before July 1, 1971, each County shall submit to the Agency a workable preliminary plan for a solid waste management system within such County. On or before July 1, 1972, each County shall submit for the approval of the Agency a workable final plan for a solid waste management system within such County. The plan shall be amended from time to time as changing conditions occur, by filing revisions for the approval of the Agency. Such plans and revisions shall be adopted by the Board of Commissioners of the County prior to filing with the Agency.

Each County shall provide for a solid waste management system plan to serve all persons within the County. Two or more counties may elect to submit a joint plan.

F. Public Hearings. Any person may request a public hearing on any matter relating to the administration of this rule

in accordance with 6 MCAR §4.3009. If the Agency denies a County plan or a revision to a County plan submitted in accordance with Minn. Rule SW 11(E), the Agency shall grant a public hearing when requested to do so by a resolution duly and properly passed by a majority of the County Board whose plan or revision was denied.

G. Severability. If any provision of this rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of this rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections and subdivisions thereof are declared to be severable.

H. Variance from Rules. Any person may apply for a variance from any requirements of this rule. Such variances shall be applied for and acted upon by the Agency in accordance with Minn. Stat. §116.07 subd. 5 (1978) and other applicable statutes and rules.

b. Dental examination;

c. Reports of any illness or injury and treatment given;

d. Psychological examinations and treatment;

e. Use of drugs;

f. Routine physical examinations and other medical contacts;

g. Consent for necessary dental, medical and surgical treatment, and hospitalization.

2. The record shall include a summary of the resident's progress. These reports shall be recorded regularly and shall include the following:

a. Reports of significant incidents, both positive and negative, and changes in the family situation;

b. Plans which involve the resident;

c. Grievance and disciplinary actions.

3. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

a. Name;

b. Date and place of birth;

c. Sex;

d. Religion;

e. Race;

f. Name of person(s) to contact in emergencies;

g. Guardianship and custody;

h. Date of admission;

i. Insurance policy numbers, medical number, if any;

j. Name of probation officer, parole officer, or welfare worker;

k. Date of termination;

l. Special medical problems or needs;

m. Financial arrangements for medical care;

n. Legal status, including jurisdiction, length and conditions of placement;

o. Financial arrangements for care.

4. Group Foster Parents shall refer any individuals or agencies requesting resident data to the Supervising Agent of the Youth.

5. Unless applicable law provides otherwise, all case records must be turned over to the Supervising Agent after discharge of the resident.

B. Personnel. Group Foster Parents shall have access to their personnel files which are maintained by the Supervising Agent or Coordinator.

Pollution Control Agency

Proposed Amendment to SW 11 Granting An Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

Notice of Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be held at the following locations:

July 19, 1979, Thursday, Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, convening at 10:00 a.m.

July 23, 1979, Monday, Room 135 of Mesabi State Community College, 9th Avenue and West Chestnut, Virginia, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 24, 1979, Tuesday, Bemidji State University, Lower

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Student Union, Crying Wolf Room, 14th and Birchmont Drive, Bemidji, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 25, 1979, Wednesday, Crow Wing County Social Service Building, Meeting Room No. 2, East Laurel and 4th Streets, Brainerd, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 27, 1979, Friday, Mankato State University, Upper Campus, Centennial Student Union, Room 253-254, Ellis and South Road, Mankato, Minnesota, convening at 1:00 p.m.

The hearings will continue until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-entitled matter at the hearing in Roseville, Minnesota.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Howard Kaibel, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8107, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Notice: The proposed amendment to Rule SW 11 is subject to change as a result of the rule hearing process. Specifically, the Agency is considering travel distance requirements in 6 MCAR § 4.5011 A. 1. ranging from 15 to 40 miles among other changes. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendment to participate in the rule hearing process.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in Rule SW 6) by the establishment of separate standards for these communities. Currently, the Agency is in the process of revising all of the rules governing the collection, transportation and disposal of solid waste and this amendment is intended to provide an interim exemption for sparsely populated areas pending these total revisions.

The Agency's authority to promulgate the proposed amendment is contained in Minn. Stat. § 116.07 subd. 4 (1978).

Copies of the proposed amendment to rule SW 11 are now available and one free copy may be obtained by writing to Mr. Michael Kanner, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed amendment to rule SW 11. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

June 1, 1979

Terry Hoffman
Executive Director

Rules as Proposed

~~SW 11 Exemptions and County Solid Waste Management System~~

~~The Agency will consider permitting annual exemptions.~~

during a transition and planning period ending July 1, 1972, for the operation of existing intermediate solid waste disposal sites, but only under the following circumstances:

(1) When a disposal operation serves a resident population of less than 1,000 people, open dumps may be operated under the following conditions:

(a) The permit is reviewed annually with particular regard to all aspects of potential hazard to public health and safety.

(b) At the site entrance is a permanent sign identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use; the penalty for non-conforming dumping, that toxic and hazardous wastes may not be dumped therein, and other pertinent information.

(c) No toxic or hazardous wastes, no domestic sewage, and no industrial wastes are dumped at the site.

(d) The dumps is at least ¼ mile from any residence or place of public gathering.

(e) The dump is compacted and covered with earth at least 12 inches in depth at least four times per year, or more often when directed by the Agency.

(f) Animal carcasses and garbage are buried at least weekly.

(g) Adequate measures are taken to protect the surrounding area from wind blown debris, and from the spread of accidental fires from the disposal site.

(h) Open burning of solid waste is prohibited except as otherwise provided by Agency Regulation APC 8.

(i) Arrangements have been made with a local fire-fighting department to provide for immediate fire-fighting service in case of an emergency.

(j) That the dumping and disposal at such dump complies with Regulation SW 6 Section (2)(b) and (2)(g).

(2) When the disposal operation serves a resident population of 1,000 to 2,500 people, modified sanitary landfills may be operated under the following conditions:

(a) The permit is reviewed annually with regard to potential hazard to the public health and safety.

(b) The disposal operation is located at least ¼ mile from the nearest residence or place of public gathering.

(c) Animal carcasses and garbage are buried daily.

(d) The fill area is compacted and covered with six inches of earth weekly, on a regular schedule, or more frequently as may be required by the Agency.

(e) Adequate measures are taken to protect the surrounding area from wind-blown debris, and such materials are cleaned up promptly.

(f) Adequate measures are taken to protect the surrounding area from the spread of accidental fires from the disposal area, and arrangements have been made with a local fire-fighting department to provide for immediate fire-fighting service in case of emergency.

(g) An insect and rodent control program is followed for protection of the public health and safety.

(h) Open burning of solid waste is prohibited except as otherwise provided by Agency Regulation APC 8.

(i) At the site entrance is a permanent sign identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use, the penalty for non-conforming dumping, and other pertinent information.

(j) The disposal operation has a gate at the entrance.

(k) The road leading to the disposal site is all-weather construction.

(l) That the disposal of waste at such disposal site complies with Regulation SW 6 Section (2)(b).

(3) On or before July 1, 1971 each county shall submit to the Agency a workable preliminary plan for a solid waste management system within such county. On or before July 1, 1972 each county shall submit for the approval of the Agency a workable final plan for a solid waste management system within such county. The plan shall be amended from time to time as changing conditions occur, by filing revisions for the approval of the Agency. Such plans and revisions shall be adopted by the Board of Commissioners of the county prior to filing with the Agency.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

~~Each county shall provide for a solid waste management system plan to serve all persons within the county. Two or more counties may elect to submit a joint plan.~~

SW 11 Exemptions for solid waste disposal facilities located in sparsely populated areas and county solid waste management plans.

A. The Agency shall issue permits for the operation of land disposal sites located in sparsely populated areas. These permits shall be entitled "Modified Landfill Permits" and shall be issued to proposed land disposal sites provided:

1. The proposed land disposal site is not located within a travel distance of 30 miles from an existing permitted sanitary landfill, modified landfill or transfer system;

2. The proposed land disposal site serves a resident population of less than 2,500.

3. The issuance of a permit for a land disposal site under this rule shall not cause pollution, impairment or destruction of the environment as defined in Minn. Stat. ch. 116B (1978).

B. Locational and operational requirements for modified sanitary landfills shall comply with rules SW 6(1) and (2) with the following exceptions:

1. Rule SW 6(2)(a) shall not apply, rather, open burning of certain materials shall be allowed in accordance with Rule APC 8 provided the burning is done in a separate, controlled access area at least 200 feet from any fill area and a permit is obtained.

2. Rule SW 6(2)(c) shall not apply, rather, dumping of solid waste shall be confined to as small an area as practicable and with appropriate facilities to confine windblown material within the area. All windblown material resulting from the operation shall be collected and returned to the site by the owner or operator as necessary to prevent nuisance conditions.

3. Rule SW 6(2)(d)(i) shall not apply, rather, covering and compaction of waste material shall take place on a weekly basis from May 1 to November 30 of each year and on a monthly basis from December 1 to April 30 of each year or in accordance with a winter cover and compaction plan approved by the Agency.

4. Rule SW 6(2)(k) shall not apply, rather, equipment shall be available for adequate operation and fire protection of the site but does not have to be maintained at the site.

5. Rule SW 6(2)(m), (t), (u), and (w) shall not apply to the operation of modified sanitary landfills permitted in accordance with this rule.

6. Rule SW 6(2)(z) shall not apply, rather, the permittee shall properly complete the Agency's operational report forms and submit them quarterly.

C. Permit applications for the operation of modified landfills shall comply with Rule SW 6(3) with the following exceptions:

1. The permit application requirements in Rule SW 6(3)(b)(ii) shall not be required, however, a site analysis shall be submitted with the permit application and shall include surface features, underground formations, soil boring data, water table profile, direction of underground water flow, need and availability of cover material, and existing refuse deposits.

2. The permit application requirements in Rule SW 6(3) (c) (ii) relating to contour intervals of two feet or less and hazardous waste storage areas shall not be required, rather, contour intervals sufficient to show drainage shall be provided by the applicant.

3. The permit application requirements in Rule SW 6(3)(c)(iv) relating to an ultimate land-use plan shall not be required.

D. A modified landfill shall not be placed in operation until the provisions of Rule SW 6(4) have been complied with.

E. Each county shall have an Agency approved plan for solid waste management within such county. The plan shall be amended from time to time as changing conditions occur by filing revisions for the approval of the Agency. Prior to filing such amendments and revisions, the county shall consider the economic and environmental consequences of feasible alternatives. Such plans and revisions shall be adopted by the Board of Commissioners of the county prior to filing with the Agency. Each county shall provide for a solid waste management system plan to serve all persons within the county. Two or more counties may elect to submit a joint plan.

employee shall be considered free from tuberculosis during the period of continuous employment in schools or day care centers in Minnesota. The State Board of Health may require more frequent testing if employees are exposed unless exposure to a known an active tuberculosis case or cases occurs.

7 MCAR § 1.328 Annual Examinations of all employees Employees showing positive reactions. All employees showing positive reaction (10mm or greater of induration) to the standard intradermal tuberculin test shall have such additional examinations as are necessary to enable their physician to certify their freedom from tuberculosis. These examinations may include any or all of the following considerations: History, physical examination, chest x-ray, additional skin test, laboratory examination including sputum and culture; however, Minimum minimum requirement shall be a report by a roentgenologist of a satisfactory negative 14 x 17 inch full-sized chest x-ray taken within 60 days of prior to employment and annually thereafter for duration of employment. All employees showing positive reaction to the standard intradermal tuberculin test shall present annually, a report by a roentgenologist of a satisfactory negative full-sized chest x-ray until five (5) years have elapsed since a documented positive skin test, after which time the employee shall be considered free from tuberculosis during the period of continuous employment in schools or day care centers in Minnesota. All employees showing positive reaction to the intradermal tuberculin test who take a complete course of preventive therapy as directed by their physician, will be considered free from tuberculosis at the completion of the treatment program.

Pollution Control Agency

Proposed Amendment of SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

Notice of Reconvened Hearing

Notice is hereby given that rule hearings in the above-entitled matter will be reconvened at the following locations:

November 15, 1979, Thursday, Detroit Lakes Area Vocational Technical Institute, Multi-Purpose Room, South One-Half, Highway 34 East of Detroit Lakes, Minnesota, convening at 10:00 a.m.

November 15, 1979, Thursday, Itasca Community College, Wilson Hall, Room 137, Route 3 East of Grand Rapids, Minnesota, convening at 7:00 p.m.

November 19, 1979, Monday, Minnesota Pollution Control Agency, Board Room, 1935 West County Road B2, Roseville, Minnesota, convening at 10:00 a.m.

The hearings will continue until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-entitled matter at the hearing in Roseville, Minnesota.

The above-described hearing is a continuation of the hearing which was held on July 19, 23, 24, 25, 26, 27 and August 14, 1979. The Agency, after listening to comments from the public, is proposing certain revisions to the rule as it was originally proposed and noticed in 3 S.R. 2235 (June 18, 1979). The Agency indicates the revisions to the proposed rule as published in the *State Register* on June 18, 1979, through crossing out deletions and underlining additions. It is the Agency's intent to incorporate the previous notice and proposed rule as it appeared in 3 S.R. 2235 (June 18, 1979). Specifically, the Agency incorporates that section of the previous notice indicating the repeal of existing rule SW 11.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Howard Kaibel, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8107, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

Notice: The proposed amendment to rule SW 11 (6 MCAR § 4.6011) is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendment to participate in the rule hearing process.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in rule SW 6) by the establishment of separate standards for these communities. Currently, the Agency is in the process of revising all of the rules governing the collection, transportation and disposal of solid waste and this amendment is intended to provide an interim exemption for sparsely populated areas pending these total revisions.

The Agency's authority to promulgate the proposed amendment is contained in Minn. Stat. § 116.07 subd. 4 (1978).

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Copies of the proposed amendment to rule SW 11 (6 MCAR § 4.6011) are now available and one free copy may be obtained by writing to Mr. Michael Kanner, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

Notice: Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the hearing justifying both the need for and the reasonableness of the proposed amendment to rule SW 11. The Statement of Need and Reasonableness will incorporate certain sections of the Statement of Need and Reasonableness which has already been submitted to the Office of Hearing Examiners and will focus on the revisions to the rule as originally proposed and published. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

September 28, 1979

Terry Hoffman, Executive Director
Pollution Control Agency

Amendments as Proposed

SW 11 Exemptions for Solid Waste Disposal Facilities Located in Sparsely Populated Areas and County Solid Waste Management Plans.

A. The Agency shall issue permits for the operation of land disposal sites located in sparsely populated areas. These permits shall be entitled "Modified Landfill Permits" and shall be issued to proposed land disposal sites provided:

~~1. The proposed land disposal site is not located within a travel distance of 30 miles from an existing permitted sanitary landfill, modified landfill or transfer station;~~

1. ~~2.~~ The proposed land disposal site will serves a resident population of less than 2,500.

2. No prudent and feasible alternative to the proposed modified landfill exists as demonstrated by an economic and environmental analysis of at least the following alternatives:

a. Cannister systems;

b. Transfer stations;

c. Use of an existing permitted solid waste facility.

3. No material adverse economic and environmental impact on existing solid waste disposal systems currently operating under Agency permits will be caused by the operation of the proposed modified landfill.

4. ~~3. The issuance of a permit for a land disposal site under this rule shall~~ proposed modified landfill will not cause pollution, impairment or destruction of the environment as defined in Minn. Stat. ch. 116B (1978).

5. The proposed modified landfill will not accept any hazardous waste as defined in 6 MCAR § 4.9002.

In order to show the existence of the above criteria, the applicant may provide the Agency with information relating to: seasonal fluctuations in population; large areas of publicly-owned lands; circuitous transportation routes; topography, soils or geologic conditions; adverse climatic conditions; economics; waste types; waste quantities; and, energy considerations.

B. Locational and operational requirements for modified sanitary landfills shall comply with rules SW 6(1) and (2) with the following exceptions:

1. Rule SW 6(2) (a) shall not apply, rather, open burning of certain materials shall be allowed in accordance with Minn. Rule APC 8 provided the burning is done in a separate, controlled access area at least 200 feet from any fill area and permits are obtained.

2. Rule SW 6(2) (e) shall not apply, rather, dumping of solid waste shall be confined to as small an area as practicable and with appropriate facilities to confine windblown material within the area. All windblown material resulting from the operation shall be collected and returned to the site by the owner or operator as necessary to prevent nuisance conditions.

3. Rule SW 6(2) (d) (i) as it relates to the time of covering and compaction shall not apply, rather, covering and compaction of waste material shall take place on a weekly basis from May 1 to November 30 of each year and on a monthly basis from December 1 to April 30 of each year or in accordance with a winter cover and compaction plan approved by the Agency.

4. Rule SW 6(2) (k) shall not apply, rather, equipment shall be available for adequate operation and fire protection of the site but does not have to be maintained at the site.

5. Rule SW 6(2) (m), (t), (u), and (w) shall not apply to the operation of modified sanitary landfills permitted in accordance with this rule.

6. Rule SW 6(2) (z) shall not apply, rather, the permittee shall properly complete the Agency's operational report forms and submit them quarterly.

C. Permit applications for the operation of modified landfills shall comply with rule SW 6 (3) with the following exceptions:

1. The permit application requirements in rule SW 6(3) (b) (ii) shall not be required, however, a site analysis shall be submitted with the permit application and shall include surface features, underground formations, soil boring data, water table profile, direction of underground water flow, need and availability of cover material, and existing refuse deposits.

2. The permit application requirements in rule SW 6(3) (c) (iv) shall apply in total except those requirements relating to contour intervals of two feet or less and hazardous waste storage areas which shall not be required, rather, contour intervals sufficient to show drainage shall be provided by the applicant.

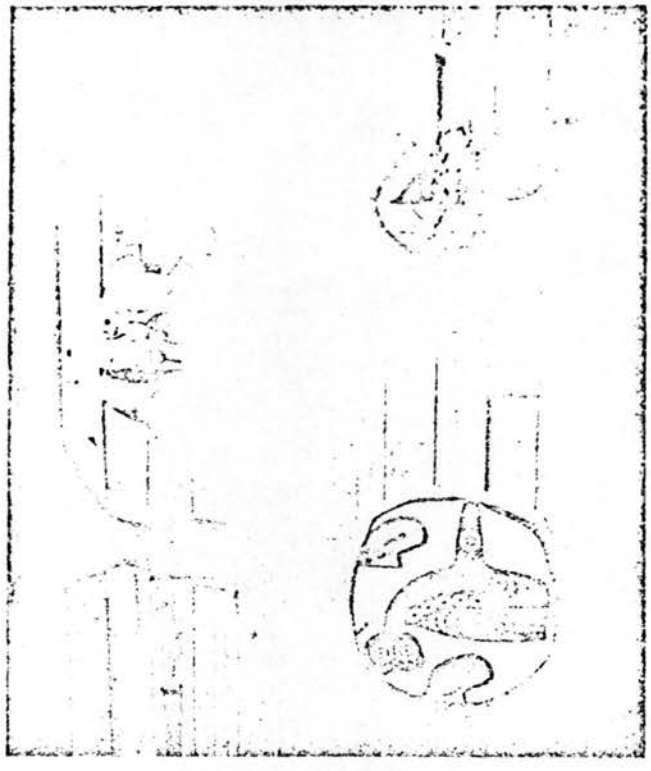
3. The permit application requirements in rule SW 6(3) (c) (iv) relating to an ultimate land-use plan shall not be required.

D. A modified landfill shall not be placed in operation until compliance with the provisions of rule SW 6(4).

E. Each county shall have an Agency approved plan for solid waste management within such county. The plan shall be amended from time to time as changing conditions occur by filing revisions for the approval of the Agency. Prior to filing such amendments and revisions, the county shall consider the economic and environmental consequences of feasible alternatives. Such plans and revisions shall be adopted by the Board of Commissioners of the county prior to filing with the Agency. Each county shall provide for a solid waste management system plan to serve all persons within the county. Two or more counties may elect to submit a joint plan.

F. Severability. If any provision of this rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of this rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections and subdivisions thereof are declared to be severable.

G. Variance from rules. Any person may apply for a variance from any requirements of this rule. Such variances shall be applied for and acted upon by the Agency in accordance with Minn. Stat. § 116.07 subd. 5 (1978) and other applicable statutes and rules.



MYTHS, MASKS AND MUSIC — The Science Museum of Minnesota features a colorful display of masks and spectacular totemic carvings of the Northwest Coast Indians as part of its new anthropology hall's "Myths, Masks and Music" exhibit area on the second floor of the museum's new building at 505 Wabasha Street in downtown St. Paul. (Courtesy of the Science Museum of Minnesota)

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike~~ outs indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike~~ outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

No. PCA-79-007-HK

ORDER ADOPTING RULES

The above-entitled matter came duly on for hearing before Howard Kaibel, Jr., Hearing Examiner, on the 19th day of July, 1979, at the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, commencing at 10:00 A.M. Said hearing was duly recessed and reconvened at the following times and locations: Mesabi State Community College, Virginia, Minnesota, on July 23, 1979, commencing at 1:00 P.M. and 7:00 P.M.; Bemidji State University, Bemidji, Minnesota, on July 24, 1979, commencing at 1:00 P.M. and 7:00 P.M.; Crow Wing County Social Services Building, Brainerd, Minnesota, on July 25, 1979, commencing at 1:00 P.M. and 7:00 P.M.; Fergus Falls Community College, Fergus Falls, Minnesota, on July 26, 1979, commencing at 1:00 P.M.; Mankato State University, Mankato, Minnesota, on July 27, 1979, commencing at 1:00 P.M.; Minnesota Pollution Control Agency Board Room, Roseville, Minnesota, on August 14, 1979, commencing at 9:00 A.M.; Detroit Lakes Area Vocational Technical Institute, Detroit Lakes, Minnesota, on November 15, 1979, commencing at 10:00 A.M.; Itasca Community College, Grand Rapids, Minnesota, commencing at 7:00 P.M.; Minnesota Pollution Control Agency Board Room, Roseville, Minnesota, on November 19, 1979, commencing at 10:00 A.M.; and the Crow Wing County Social Service Building, Brainerd, Minnesota, on November 20, 1979, commencing at 1:00 P.M.

After affording interested parties an opportunity to present written and oral data, statements and arguments, having considered all the evidence adduced and upon the records, files and proceedings herein, and applicable standards or criteria, and having confirmed the need for the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED THAT, pursuant to authority vested in this Agency by Minn. Stat. §116.07 subd. 2 (1978) and Minn. Stat. §116.07 subd. 4 (1978), the amendments to Minn. Rule SW 11 which establish a separate set of standards for the permitting and operation of solid waste disposal facilities in sparsely populated areas are adopted this 5th day of February, 1980, as published in the State Register on June 18, 1979, with the amendments appearing in the State Register on October 15, 1979, and with the additions and deletions which are attached to this Order.

BE IT FURTHER ORDERED THAT, all of the provisions contained in existing Minn. Rule SW 11, with the exception of existing Minn. Rule SW 11(3), be formally repealed five days after final publication of Minn. Rule SW 11 as adopted and that existing Minn. Rule SW 11(3) be made a part of the new rule.

MINNESOTA POLLUTION CONTROL AGENCY

Dated: 3/17/80

Virgil B. Hewrich, Vice Chairman, for
Art Engelbrecht, Chairman

Terry Hoffman
Terry Hoffman, Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

MINNESOTA POLLUTION CONTROL AGENCY'S FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came duly on for hearing before Howard Kaibel, Jr., Hearing Examiner, on the 19th day of July, 1979, at the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota commencing at 10:00 A.M. Said hearing was duly recessed and reconvened at the following times and locations: Mesabi State Community College, Virginia, Minnesota, on July 23, 1979, commencing at 1:00 P.M. and 7:00 P.M.; Bemidji State University, Bemidji, Minnesota on July 24, 1979, commencing at 1:00 P.M. and 7:00 P.M.; Crow Wing County Social Services Building, Brainerd, Minnesota, on July 25, 1979, commencing at 1:00 P.M. and 7:00 P.M.; Fergus Falls Community College, Fergus Falls, Minnesota, on July 26, 1979, commencing at 1:00 P.M.; Mankato State University, Mankato, Minnesota, on July 27, 1979, commencing at 1:00 P.M.; Minnesota Pollution Control Agency Board Room, Roseville, Minnesota, on August 14, 1979, commencing at 9:00 A.M.; Detroit Lakes Area Vocational Technical Institute, Detroit Lakes, Minnesota, on November 15, 1979, commencing at 10:00 A.M.; Itasca Community College, Grand Rapids, Minnesota, commencing at 7:00 P.M.; Minnesota Pollution Control Agency Board Room, Roseville, Minnesota on November 19, 1979, com-

mencing at 10:00 A.M.; and the Crow Wing County Social Service Building, Brainerd, Minnesota, on November 20, 1979, commencing at 1:00 P.M.

All interested persons, representatives of individuals or associations, or other interested groups present at the hearing had an opportunity to present evidence, make statements and question Minnesota Pollution Control Agency (hereinafter "Agency") witnesses. The records of the proceeding remained open until 4:30 P.M., December 10, 1979. All written submissions received by the Office of Hearing Examiners before the close of the record are considered part of the record of this proceeding.

Pursuant to Minn. Stat. §15.0412 subd. 4 (1979), the Hearing Examiner's Report has been made available for review to all affected individuals upon request for more than five (5) working days before the Agency took action on the proposed amendments to Minn. Rule SW 11. The Agency will submit the complete hearing record, including its Findings and Order, to the Attorney General for his review. The Agency will give notice of such submission to all persons who requested to be informed of such submission.

The Minnesota Pollution Control Agency Board, based upon all records, files, evidence, written comments filed before the close of the records and the Hearing Examiner's Report, hereby makes the following Findings of Fact and Conclusions:

FINDINGS OF FACT

1. On January 23, 1979, the Legislative Commission to Review Administrative Rules (hereinafter "Commission") held a hearing to review complaints brought against the Agency's Solid Waste Landfill Rules. The hearing was held primarily as a result of a petition from fifteen (15) counties in northern Minnesota, alleging that the Agency's Solid Waste Rules failed to differentiate between densely and sparsely populated areas of the state in accordance with Minn. Stat. §116.07 subd. 2 (1978). The Agency contended that its Solid Waste Rules and Program did meet the statutory mandate contained within Minn. Stat. §116.07 subd. 2 (1978). However, the Commission approved the following Motion:

> The Commission finds that the PCA did not follow legislative intent in its Solid Waste Rules; that the standards were unreasonable for sparsely populated areas of the State. PCA must report to the Commission by February 15, 1979, as to how it planned to resolve the problems with its rules.

MPCA Exhibit 20 and 12B.

2. On February 12, 1979, a Notice of Intent to Solicit Outside Opinion was published in the State Register. The Notice of Intent to Solicit Outside Opinion was also published in the Environmental Quality Board Monitor. MPCA Exhibit 1.

3. On February 15, 1979, a letter was sent to the Commission from the Agency in which a three-phased approach was proposed to address the concerns of the Commission, namely,

a. Continue to consider through the operation of the Solid Waste Program the differences in sparsely and densely populated areas.

b. Take immediate action to amend SW 11 to establish two thresholds based on population that allow for relaxed operating requirements.

c. Begin a detailed analysis, restructure and promulgation of new rules related to solid waste treatment and disposal.

The purpose behind this approach was to grant some immediate, interim relief to sparsely populated communities pending major rule revisions anticipated within two years. Specifically, the letter proposed to modify existing Minn. Rule SW 11 by merely deleting the expiration date of July 1, 1972. MPCA Exhibit 13B.

4. The Commission never formally met to approve the plan proposed by the Agency, however, informal approval was given by the members of the Commission. MPCA Exhibit 20 and 12B. The Agency Staff understood that the Commission was approving the specific approach of deleting the expiration date within existing Minn. Rule SW 11.

5. On March 27, 1979, the Agency Board formally authorized a rulemaking hearing on a proposed amendment to Minn. Rule SW 11. The hearing was authorized on an amendment to existing Minn. Rule SW 11 which simply deleted the July, 1972, expiration date contained in the existing Rule. The statutory authority to conduct such hearings is contained in Minn. Stat. chs. 115 and 116 (1978). MPCA Exhibits 15 and 16. Specifically, the statutory authority for a rulemaking hearing on the control and regulation of solid waste disposal is contained in Minn. Stat. §116.07 subd. 2 and subd. 4 (1978). MPCA Exhibit 16.

6. During April, 1979, the Agency staff began to work on developing its justification for the proposed rule amendment. After many hours of work, numerous in-house meeting and many discussions with potentially impacted persons, the Agency staff determined that the need for and reasonableness of simply deleting the expiration date contained in existing Minn. Rule SW 11 could not be affirmatively shown through technical evidence in accordance with Minn. Stat. §15.0412 (1978).

7. On or about April 30, 1979, an attorney representing the Agency met with the Executive Secretary to the Commission in order to obtain a complete copy of the Commission's hearing record. The attorney explained to the Executive Secretary to the Commission that the Agency would have to primarily rely on the Commission's approval of the proposed deletion of the expiration date in existing Minn. Rule SW 11 in order to meet the rulemaking procedural burden set out in Minn. Stat. §15.0412 (1978).

8. On May 3, 1979, the Commission wrote to the Agency stating that the actual language, standards and requirements to be contained in the revisions to Minn. Rule SW 11 were left up to the Agency in cooperation with those attending the public hearing and those who had an interest in the Agency's solid waste regulatory system. MPCA Exhibit 12B.

9. Upon receipt of the letter from the Commission, the Agency staff immediately began to draft revisions to the language of existing Minn. Rule SW 11. The revisions were drafted in

accordance with comments the Agency had received informally, in accordance with the comments discussed before the Commission and with the understanding that the rule amendments would have to be justified by an affirmative showing of the need for and reasonableness of the rule amendments in accordance with Minn. Stat. §15.0412 subd. 4 (1978).

10. On May 25, 1979, the Agency staff invited all of the County Solid Waste Officers in the state to meet in Brainerd on May 31, 1979, to discuss the proposed draft of Minn. Rule SW 11. The Agency staff mailed out copies of a proposed draft to County Solid Waste Officers at that time. On May 31, 1979, the Agency staff met with nine county representatives at Brainerd and received comments on the proposed draft. Additional comments were received over the telephone. Based upon the comments received, further revisions were made to the proposed draft.

11. On June 5, 1979, the Agency Board reauthorized the public hearing. The Board's authorization was on the proposed draft revisions as they were subsequently published in the State Register on June 18, 1979. MPCA Exhibit 6.

12. On June 8, 1979, the Secretary of State's List was delivered to the Agency. A Certificate of Delivery of Secretary of State's List and an Affidavit of Receipt of Secretary of State's List were duly and properly executed and made part of the Hearing Record. MPCA Exhibits 7 and 8.

13. On June 11, 1979, the Notice of Hearing was published in the Environmental Quality Board Monitor.

14. On June 14, 1979, the Notice of Hearing was mailed to individuals and groups listed with the Secretary of State and numerous other parties, including, all sanitary landfill operators, all known dump operators, County Solid Waste Officers, participants in the Commission's hearing and other interested parties. An Affidavit of Mailing was duly and properly executed and made part of the hearing record. MPCA Exhibit 9.

15. On June 18, 1979, the Notice of Hearing and the Proposed Rule were published in the State Register. MPCA Exhibit 6.

16. On June 22, a copy of the Agency's Statement of Need and Reasonableness was duly and properly filed with the Office of Hearing Examiners along with the Order for Hearing, Notice of Hearing, the Proposed Rule, the Certificate of Delivery of Secretary of State's List, the Affidavit of Receipt of the Secretary of State's List, the Affidavit of Mailing and copies of all materials received in response to the Notice to Solicit Outside Opinion. MPCA Exhibits 12, 4, 5, 6, 7, 8, 9, 1 respectively.

17. The Notice for Hearing set out times and locations for hearings during July, 1979. Those hearings were scheduled to be held in Roseville, Virginia, Bemidji, Brainerd and Mankato, Minnesota. At the request of certain citizens and state legislators, the Agency scheduled an additional hearing in Fergus Falls,

Minnesota. While this hearing was not contained in the original Notice of Hearing, the Agency conducted an additional mailing for persons living in and around the Fergus Falls area. Furthermore, the scheduling of the additional hearing in Fergus Falls was announced at each proceeding hearing. MPCA Exhibits 5 and 10.

18. The record reflects that each of the hearings scheduled in July, 1979, were well-publicized in and around each location. The Agency published the Notice of Hearing in local newspapers and also issued a general press release which was printed by many local newspapers. MPCA Exhibit 11 and 14B.

19. On July 19, 1979, during the first day of hearing in Roseville, Minnesota, the Agency staff offered certain clarifying changes to the rule as it was published in the State Register. MPCA Exhibit 14. The Agency staff also presented the written testimony of five technical witnesses discussing the following provisions of the proposed amendments:

a. Dale Wikre's testimony discussed the need for the proposed amendments to Minn. Rule SW 11. MPCA Exhibit 47.

b. Bruce Brott's testimony discussed the section of the proposed amendments to Minn. Rule SW 11 relating to permitting. MPCA Exhibit 49.

c. Rich Sandberg's testimony discussed the section of the proposed amendments to Minn. Rule SW 11 relating to open burning of certain materials in accordance with Minn. Rule APC 8. MPCA Exhibit 51.

d. Michael Kanner's testimony discussed the section of the proposed amendments to Minn. Rule SW 11 relating to operating standards. MPCA Exhibit 50.

e. Curtis Spark's testimony discussed the section of the proposed amendments to Minn. Rule SW 11 relating to eligibility and county plans. MPCA Exhibit 52.

f. Tom Clark's testimony briefly summarized the entire rule amendments. MPCA Exhibit 52.

The Agency's testimony was submitted into the record and incorporated into the transcript by reference.

20. Basically, the amendments to Minn. Rule SW 11 proposed by the Agency in July established a separate, less stringent set of permitting and operating standards for land disposal of municipal refuse in sparsely populated areas of the state. The intent of the proposed amendments was to grant immediate, interim relief pending comprehensive revisions to the solid waste regulatory scheme. The proposed amendments set up the less stringent standards by carving out exceptions to the permitting and operating requirements currently contained within Minn. Rule SW 6. Additionally, the Agency proposed certain eligibility criteria in order for a community to qualify for the less stringent standards.

21. The hearings held in July were well attended with many interested persons participating. The transcripts from the hearing in July ran over 1200 pages which reflects the significant amount of public interest in the rule amendments which were being proposed by the Agency.

22. Very few comments were received during the public hearings in July concerning the specific permitting and operating standards being put forward by the Agency. Additionally, very few comments were received with respect to the provision in the proposed amendments relating to county plans. However, many comments were received supporting the need for immediate, interim relief.

Also, many comments were received during the public hearings in July focused upon the eligibility criteria then being proposed by the Agency. Specifically, the Agency proposed a travel distance requirement which would have prohibited the construction and operation of a modified landfill (a modified landfill is a solid waste disposal facility meeting the less restrictive permitting and operating standards set out in the proposed amendments to Minn. Rule SW 11) within 30 miles of an existing sanitary landfill, cannister system or transfer station. The Agency received many comments directed at changing that travel distance requirement. Some individuals and government entities wanted a shorter travel distance in order to qualify for the less stringent standards and in order to save energy. Other individuals testified that a shorter travel distance would drain refuse away from existing, environmental sound solid waste disposal facilities, thereby promoting a downgrading of those facilities and greater environmental degradation. MPCA Exhibit 4B at p. 3-5.

23. On July 27, 1979, at the last scheduled hearing in Mankato, Minnesota, the Agency asked to recess the hearing until August 14, 1979. The recess was requested by the Agency in order for the Agency to reassess the eligibility criteria which it had proposed.

24. On August 14, 1979, the Agency requested that the hearings be reconvened at a later date. The Agency had decided to rewrite the eligibility criteria in order to insure that the interim

relief intended to be provided by the rule would reach the affected parties without promoting a breakdown in existing, environmentally sound solid waste management systems which had developed in most of the state. Based upon all of the testimony received at the July hearings, the Agency Staff determined that the travel distance criteria was too inflexible because it was so specific and would have to be deleted and replaced. Furthermore, the Agency Staff determined that a change in the eligibility criteria would potentially impact parties that did not participate in the hearing and was potentially a "substantial change" in accordance with 9 MCAR §2.111.

25. The Agency then redrafted the eligibility section of the rule in order to meet the needs which had been articulated during the hearings in July. On August 31, 1979, Michael Kanner of the Agency staff mailed out a draft of proposed changes to the eligibility criteria to approximately 500 persons in order to solicit comments. MPCA Exhibit 9B. The mailing list included participants in the hearing, County Solid Waste Officers, dump operators and sanitary landfill operators. The comments received by the Agency in response to this mailing were made a part of the record. MPCA Exhibit 9B. The revised eligibility criteria promoted flexibility through a case-by-case review and by addressing many of the specific concerns raised by participants in the hearings which were held in July. However, the eligibility criteria also set out the specific criteria which the Agency would

look at in determining the need for relief from existing sanitary landfill permitting and operating standards.

26. On October 1, 1979, the Secretary of State's List was delivered to the Agency. A Certificate of Delivery of the Secretary of State's List and an Affidavit of Receipt of Secretary of State's List were duly and properly executed and made part of the hearing record. MPCA Exhibit 5B and 6B.

27. On October 9, 1979, the Notice of Reconvened Hearing was mailed to individuals and groups listed with the Secretary of State and with numerous other parties, including, prior participants in the hearing, dump operators, sanitary landfill operators and county solid waste operators. An Affidavit of Mailing was duly and properly executed and made part of the hearing record. MPCA Exhibit 7B.

28. The Notice of Reconvened Hearing was published in the Environmental Quality Board Monitor on October 15, 1979.

29. The Notice of Reconvened Hearing and Proposed Rule Amendments was published in the State Register on October 15, 1979. MPCA Exhibit 3B. The Agency published its proposed clarifying changes to the Rule on October 15, 1979, along with the revisions to the eligibility criteria. MPCA Exhibits 1B and 2B.

30. An Addendum to the Statement of Need and Reasonableness was submitted to the Office of Hearing Examiners on October 22, 1979. MPCA Exhibit 4B.

31. The Notice for Reconvened Hearing set out times and locations for hearings in November, 1979. The hearings were scheduled to be held in Roseville, Detroit Lakes and Grand Rapids, Minnesota. At the request of certain citizens and state legislators, the Agency scheduled an additional hearing in Brainerd, Minnesota. While this additional hearing was not contained in the original Notice of Hearing, the Agency conducted an additional mailing for persons living in and around the Brainerd area. MPCA Exhibit 8B. Furthermore, the scheduling of the additional hearing in Brainerd was announced at each proceeding hearing.

32. The record reflects that each of the hearings scheduled in November was well publicized in and around each location. The Agency published the Notice of Hearing in local newspapers and also issued a general press release which was printed by many local newspapers. MPCA Exhibit 14B.

33. On November 15, 1979, during the first day of the reconvened hearing in Detroit Lakes, Minnesota, the Agency staff presented the written testimony of Mr. Dale Wikre. Mr. Wikre's testimony discussed the history of the hearings, the decision by the Agency to reconvene the hearing and discussed the need for and reasonableness of the revised eligibility criteria. MPCA Exhibit 10B.

34. The revisions to the proposed amendments to Minn. Rule SW 11 were generally well received by participants in the November hearings. The Minnesota Solid Waste Association supported the pro-

posed amendments to Minn. Rule SW 11 with the revisions which were published in the State Register on October 15, 1979. Additionally, overall support for the proposed amendments with the revisions came from Itasca County, St. Louis County, Beltrami County, Crow Wing County, Clearwater County, Hubbard County, Wadena County, Mahnomen County, Robert Altringer a Solid Waste Hauler and Representative Dominic Elioff of the Fifth District in St. Louis County. Some of these groups and individuals suggested minor language changes to the proposed amendments, however, most comments were generally supportive of the Agency's proposal. These minor language changes are discussed in Findings 41 and 42 infra.

35. On the other hand, Ottertail County and political subdivisions within that County expressed dissatisfaction with the Agency's proposal. Ottertail County recommended that the Agency "go back to the drafting board." Basically, the County felt that the proposed amendments to Minn. Rule SW 11 should not be drafted as a list of exceptions because of the possibility for confusion. The County's main concern was with form and not substance, although, the County did wish to have the population figure raised. Interestingly, no other participants in the hearing shared Ottertail County's concern. The concern raised by the County can easily be remedied by the Agency if it proceeds to provide reasonable notification of the provisions contained within Minn. Rule SW 6. The Agency will do this.

36. On November 20, 1979, the last hearing on the proposed amendments to Minn. Rule SW 11 was held in Brainerd, Minnesota. The hearing record formally closed on December 10, 1979. A Hearing Examiner's Report was issued on January 8, 1979.

37. The need for the proposed amendments arise from the statutory mandate contained within Minn. Stat. §116.07 subd. 2 (1978), the Findings of the Commission, the administrative difficulties the Agency has experienced in attempting to enforce Minn. Rule SW 6 in sparsely populated areas and the economic burden faced by individuals in sparsely populated areas attempting to comply with existing Agency rules.

38. Specifically, the Agency has demonstrated through an affirmative presentation of facts, the need for and reasonableness of the variance provision in Minn. Rule SW 11G. It is necessary and reasonable for the Agency to provide a means for individuals to avoid undue hardship from the application of the proposed amendments to Minn. Rule SW 11. Additionally, it is necessary and reasonable to have a variance provision in light of the wide ranging and unique solid waste management circumstances which exist in various parts of the state. The Hearing Examiner found that the variance provision of the proposed amendments was needed and reasonable. See Hearing Examiner's Finding of Fact No. 9.

39. The Agency has also demonstrated through an affirmative presentation of facts, the need for and reasonableness of the severability provision of the proposed amendments contained in

Minn. Rule SW 11(F). The necessity and reasonableness of such a standard clause is self-evident. If one provision of the proposed amendments to the Rule is challenged and subsequently stricken, the other provisions of the proposed amendments to the Rule should not be automatically null and void. The Hearing Examiner found that the severability provision of the proposed amendments was needed and reasonable. See Hearing Examiner's Finding of Fact No. 9.

40. The Hearing Examiner concluded that the Agency has not demonstrated the need for and reasonableness of the proposed language contained in Minn. Rule SW 11(E), the provision relating to county plans. The Hearing Examiner recommends that this section of the proposed rule amendments be deleted and that the Agency exercise an oversight function of county activities through enforcement activities.

The record concerning this section of the proposed rule is limited. It was the Agency's position during the hearing that it need not justify existing law and that the proposed amendments to Minn. Rule SW 11(3) were only minor modifications. MPCA Exhibit 48. The matter was not discussed in any detail by any of the participants in the hearing.

The Agency now concurs with the Hearing Examiner and finds that the proposed amendments to Minn. Rule SW 11(3) be deleted. However, the Agency does not believe, based upon the record, that the Agency should play an oversight function of county planning

activities through enforcement procedures. The Agency should continue to work with counties by assisting and cooperating with them in solid waste planning. Therefore, in deleting the section in the proposed amendments relating to county plans, the Agency also finds that it is needed and reasonable to maintain its traditional role and not repeal the existing language in Minn. Rule SW 11(3). In taking this approach, the Agency is mindful of the Hearing Examiner's concern that the criteria for Agency approval should be clearly delineated. It is the Agency's intention to mitigate this concern, in part, through the establishment of a hearing process for counties whose plans or revisions to plans have been denied. See Finding of Fact 45, infra. Furthermore, the Agency will consider the concern of the Hearing Examiner when it promulgates new rules for solid waste disposal.

41. The Agency demonstrated through an affirmative presentation of facts, the need for and reasonableness of the provisions contained within Minn. Rule SW 11 D requiring compliance with Minn. Rule SW 6(4). Minn. Rule SW 6(4) states that a sanitary landfill shall not be placed in operation until an Agency permit is issued, until a construction certification showing that the facility has been constructed in accordance with the plans approved by the Agency has been approved by the Director of the Agency and that the site is consistent with the county solid waste management plan. Such requirements are needed and reasonable in light of Minn. Stat. §116.081, the need of the Agency to insure that their permit processing procedure is credible and the empha-

sis the Agency is placing on the role of counties in developing solid waste management plans. The Hearing Examiner found that this provision was needed and reasonable. See Hearing Examiner's Finding of Fact No. 9.

42. The Agency demonstrated through an affirmative presentation of facts, the need for and reasonableness of the relaxed permitting standards contained in Minn. Rule SW 11 C. The relaxation of permitting standards is necessary and reasonable in light of the economic costs involved with applying for a permit to operate a land disposal facility. Additionally, such a relaxation of standards is reasonable in light of the limited amount of municipal refuse which will be deposited in these sparsely populated areas and the location of these facilities away from dense areas of human population. However, it was also shown by the Agency that site specific information is necessary in order to evaluate potential environmental impacts. The permitting requirements put forward by the Agency and contained within Minn. Rule SW 11 C are specifically found to be necessary and reasonable. The Hearing Examiner also found that this provision was needed and reasonable. See Hearing Examiner's Finding of Fact No. 9.

43. The Agency demonstrated the need for and reasonableness of the operating requirements contained in the proposed amendments to Minn. Rule SW 11 B. The Agency showed that the less stringent operating standards would reduce costs while not promoting serious environmental degradation. However, it is reasonable for the

Agency to amend Minn. Rule SW 11 B.3. by deleting the word "winter" from the last sentence. Such an amendment was encouraged by James Sullivan, Itasca County Zoning and Planning Officer, in order to allow greater creativity and flexibility in complying with the cover requirements. Allowing greater flexibility in this instance by deleting the word "winter" is specifically found to be needed and reasonable. Additionally, the Hearing Examiner found that it would be reasonable to replace the word "winter" with the words "less stringent." See Hearing Examiner's Finding of Fact No. 10. The Hearing Examiner concluded that without words like "less stringent," the rule would allow the Agency to impose a higher minimum standard and that would be unreasonable. It is the Agency's intention to allow for creativity in the development of cover and compaction plans. Therefore, the Agency finds that the Hearing Examiner's Recommendation is needed and reasonable. However, the Agency is bound not to approve cover plans which violate existing law. In order to clarify the criteria which the Agency will use in approving such less stringent cover plans, it is needed and reasonable to insert a line at the end of proposed Minn. Rule SW 11(B) which states: "Approval shall be given for such less stringent cover and compaction plans upon a showing that such a plan will not cause pollution, impairment or destruction of a protectable natural resource or that there exists no prudent and feasible alternatives in accordance with Minn. Stat. 116.B (1978)."

44. The need for and reasonableness of the eligibility criteria contained in the proposed amendments to Minn. Rule SW 11 A. as published in the State Register on October 15, 1979, are found to be needed and reasonable. The Agency demonstrated that eligibility criteria were needed in order to avoid environmental backsliding in many areas of the state which currently have sound solid waste management systems. The changes in the eligibility criteria which were promoted by the Agency during the November hearing were generally well received by participants in the hearings. However, it is reasonable for the Agency to amend Minn. Rule SW 11 A.1. in order to clarify the Agency's intent. This provision should be amended to reflect the fact that the proposed amendments to Minn. Rule SW 11 refer to year-round, permanent residents who will actually utilize the proposed land disposal site. Robert Birch of Itasca County suggested this clarification. The Hearing Examiner found that the eligibility criteria contained in proposed Minn. Rule SW 11(A) were needed and reasonable with the above-mentioned clarification. See Hearing Examiner's Finding of Fact No. 12.

45. The Hearing Examiner found that the proposed amendments to Minn. Rule SW 11 may not be reasonable in the absence of a right to a mandatory public hearing. The record reflects that the concept of a right to a mandatory public hearing conducted in accordance with Minn. Stat. ch. 15 was an idea which was originated and advocated by the Hearing Examiner throughout the hearing

process. While the Agency appreciates the concern raised by the Hearing Examiner, the Agency should not be forced into a position of conducting costly public hearing in front of an independent hearing examiner in cases where there is not Agency jurisdiction or no serious environmental issue at stake. Therefore, the Agency rejects the notion of placing in the proposed rule a requirement for a mandatory public hearing which could be requested by any individual on any matter relating to the administration of the rule. However, in taking this position, the Agency finds that it is reasonable to place individuals on notice of the procedure for requesting a public hearing. Furthermore, the Agency finds that it is reasonable to grant counties the right to a public hearing in instances where their County plans or revisions to their plans have been denied by the Agency. In such circumstances, it is clear that the issues involved are environmental in nature and within the jurisdiction of the Agency. Therefore, based upon the entire record, the Agency finds it necessary and reasonable to add the following provision to the rule:

> F. Public Hearing. Any person may request a public hearing on any matter relating to the administration of this rule in accordance with 6 MCAR §4.3009. If the Agency denies a County plan or a revision to a County plan submitted in accordance with Minn. Rule SW 11(E), the Agency shall grant a public hearing when requested to do so by a resolution duly and properly passed by a majority of the County Board whose plan on revision was denied.

CONCLUSIONS

A. The Minnesota Pollution Control Agency duly acquired and now has jurisdiction over this proceeding.

B. All relevant legal and procedural requirements of statute and regulations have been properly complied with.

C. The Minnesota Pollution Control Agency has statutory authority to promulgate and adopt the proposed rule amendments.

D. Considering the complete record of the within proceedings, the Hearing Examiner's Report, and considering the proposed amendments to Minn. Rule SW 11 as published for the reconvened hearings, the Minnesota Pollution Control Agency concludes that the proposed amendments to Minn. Rule SW 11 are necessary and reasonable for the purposes of complying with Minn. Stat. §§15.0412 subd. 4 and 116.07 subd. 2 (1978) if amended in accordance with the above Findings of Fact.

MINNESOTA POLLUTION CONTROL AGENCY

Art Engelbrecht, Chairman

Terry Hoffman, Executive Director

Dated:

PCA-79-007-HK

RECEIVED
JAN 08 1980
MPCA
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came duly on for hearing before Howard L. Kaibel, Jr., State Hearing Examiner, on the 19th day of July, 1979, at the Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, commencing at 10:00 a.m. Said hearing was duly recessed and reconvened at the following times and locations: Mesabi State Community College, Virginia, Minnesota, on July 23, 1979, commencing at 1:00 p.m. and 7:00 p.m.; Bemidji State University, Bemidji, Minnesota on July 24, 1979, commencing at 1:00 p.m. and 7:00 p.m.; Crow Wing County Social Services Building, Brainerd, Minnesota, on July 25, 1979, commencing at 1:00 p.m. and 7:00 p.m.; Fergus Falls Community College, Fergus Falls, Minnesota, on July 26, 1979, commencing at 1:00 p.m.; Mankato State University, Mankato, Minnesota, on July 27, 1979, commencing at 1:00 p.m.; Minnesota Pollution Control Agency Board Room, Roseville, Minnesota, on August 14, 1979, commencing at 9:00 a.m.; Detroit Lakes Area Vocational Technical Institute, Detroit Lakes, Minnesota, on November 15, 1979, commencing at 10:00 a.m.; Itasca Community College, Grand Rapids, Minnesota, commencing at 7:00 p.m.; Minnesota Pollution Control Agency Board Room, Roseville, Minnesota, on November 19, 1979, commencing at 10:00 a.m.; and the Crow Wing County Social Service Building, Brainerd, Minnesota, on November 20, 1979, commencing at 1:00 p.m.

All interested persons, representatives of individuals or associations, or other interested groups present at the hearing had a full opportunity to present evidence, make statements and question Minnesota Pollution Control Agency (hereinafter "Agency") witnesses. Robert C. Moilanen, Special Assistant Attorney General, appeared for and on behalf of the Agency in support of the proposed amendments to Minn. Rule SW 11.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Agency shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4 (1978). The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Agency on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 (1978) within ten calendar days. The Agency will be

responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

BACKGROUND AND PROCEDURAL HISTORY

On January 23, 1979, the Legislative Commission to Review Administrative Rules (hereinafter "Commission") held a hearing to review complaints brought against the Agency's Solid Waste Landfill Rules. The hearing was held primarily as a result of a petition from fifteen (15) counties in northern Minnesota, alleging that the Agency's Solid Waste Rules failed to differentiate between densely and sparsely populated areas of the state in accordance with Minn. Stat. § 116.07, subd. 2 (1978). The Agency contended that its Solid Waste Rules and Program did meet the statutory mandate contained within Minn. Stat. § 116.07, subd. 2 (1978). However, the Comission approved the following Motion:

> The Commission finds that the PCA did not follow legislative intent in its Solid Waste Rules; that the standards were unreasonable for sparsely populated areas of the State. PCA must report to the Commission by February 15, 1979, as to how it planned to resolve the problems with its rules.

(MPCA Exhibit 20 and 12B.)

On February 15, 1979, a letter was sent to the Commission from the Agency in which a three-phased approach was proposed to address the concerns of the Commission, namely:

a. Continue to consider, through the operation of the Solid Waste Program, the differences in sparsely and densely populated areas.

b. Take immediate action to amend SW 11 to establish two thresholds based on population that allow for relaxed operation requirements.

c. Begin a detailed analysis, restructure and promulgation of new rules related to solid waste treatment and disposal.

The purpose behind this approach was to grant some immediate, interim relief to sparsely populated communities pending major rule revisions anticipated within two years. Specifically, the letter proposed to modify existing Minn. Rule SW 11 by merely deleting the expiration date of July 1, 1972. (MPCA Ex. 13B.)

During April, 1979, the Agency Staff began to work on developing its justification for the proposed rule amendment. After many hours of work, numerous in-house meetings and many discussions with potentially impacted persons, the Agency Staff determined that the need for and reasonableness of simply deleting the expiration date contained in existing Minn. Rule SW 11 could not be affirmatively shown though technical evidence in accordance with Minn. Stat. § 15.0412 (1978).

On or about April 30, 1979, the attorney representing the Agency met with the Executive Secretary to the Commission in order to obtain a complete copy of the Commission's hearing record. The attorney explained to the Executive Secretary to the Commission that the Agency would have to primarily rely on the Commission's approval of the proposed deletion of the expiration date in existing Minn. Rule SW 11 in order to meet the procedural burden set out in Minn. Stat. § 15.0412 (1978).

On May 3, 1979, the Commission wrote to the Agency stating that the actual language, standards and requirements to be contained in the revisions to Minn. Rule SW 11 were left up to the Agency in cooperation with those attending the public hearing and those who had an interest in the Agency's solid waste regulatory system. (MPCA Exhibit 12B.)

Upon receipt of the letter from the Commission, the Agency Staff immediately began to draft revisions to the language of existing Minn. Rule SW 11. The revisions were drafted in accordance with comments the Agency has received informally, in accordance with the comments discussed before the Commission and with the understanding that the rule amendments would have to be justified by an affirmative showing of the need for and reasonableness of the rule amendments in accordance with Minn. Stat. § 15.0412, subd. 4 (1978).

Basically, the amendments to Minn. Rule SW 11 proposed by the Agency in July established a separate, less stringent set of permitting and operating standards for land disposal of municipal refuse in sparsely populated areas of the state. The intent of the proposed amendments was to grant immediate, interim relief pending comprehensive revisions to the solid waste regulatory scheme. The proposed amendments set up the less stringent standards by carving out exceptions to the permitting and operating requirements currently contained within Minn. Rule SW 6. Additionally, the Agency proposed certain eligibility criteria in order for a community to qualify for the less stringent standards.

The hearings held in July were well attended with many interested persons participating. The transcripts from the hearings in July ran over 1,200 pages which reflects the significant amount of public interest in the rule amendments which were being proposed by the Agency.

Many comments were received supporting the need for immediate, interim relief. Also, many comments focused upon the eligibility criteria then being proposed by the Agency. Specifically, the Agency proposed a travel distance requirement which would have prohibited the construction and operation of a modified landfill (a modified landfill is a solid waste disposal facility meeting the less restrictive permitting and operating standards set out in the proposed amendments to Minn. Rule SW 11) within 30 miles of an existing sanitary landfill, canister system or transfer station. The Agency received many comments directed at changing that travel distance requirement. Some individuals and government entities wanted a shorter travel distance in order to qualify for the less stringent standards and in order to save energy. Other individuals testified that a shorter travel distance would drain refuse away from existing, environmentally sound solid waste disposal facilities, thereby promoting a downgrading of those facilities and greater environmental degradation. (MPCA Exhibit 4B at p. 3-5.)

On July 27, 1979, at the last scheduled hearing in Mankato, Minnesota, the Agency asked to recess the hearing until August 14, 1979. The recess was requested by the Agency in order for the Agency to reassess the eligibility criteria which it had proposed.

On August 14, 1979, the Agency requested that the hearings be reconvened at a later date. The Agency had decided to rewrite the eligibility criteria in order to insure that the interim relief intended to be provided by the rule

would reach the affected parties without promoting a breakdown in existing, environmentally sound solid waste management systems which had developed in most of the state. Based upon all of the testimony received, the Agency determined that the travel distance criteria was too inflexible and would have to be deleted and replaced. Furthermore, the Agency determined that a change in the eligibility criteria would potentially impact parties that did not participate in the hearing and was potentially a "substantial change" requiring new notice and hearing in accordance with 9 MCAR § 2.111.

The Agency then redrafted the eligibility section of the rule in order to meet the needs which had been articulated during the hearings in July. On August 31, 1979, Michael Kanner of the Agency Staff mailed out a draft of proposed changes to the eligibility criteria to approximately 500 persons in order to solicit comments. (MPCA Exhibit 9B.) The mailing list included participants in the hearing, county solid waste officers, dump operators and sanitary landfill operators. The revised eligibility criteria promoted flexibility through a case-by-case review and by addressing many of the specific concerns raised by participants in the hearings which were held in July. The comments received by the Agency in response to this mailing were made a part of the record. (MPCA Exhibit 9B.)

FINDINGS OF FACT

1. On May 1, 1979, the Agency filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On June 18, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 2235.

3. On June 14, 1979, the Agency mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On June 22, 1979, the Agency filed the following documents:

(a) The Order for Hearing and authorizing resolution.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 3 State Register 1570 (February 12, 1979).
(h) The names of Agency personnel who would represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through December 10, 1979, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 20 calendar days following the hearing.

6. The statutory authority for a rulemaking hearing on the control and regulation of solid waste disposal is contained in Minn. Stat. § 116.07, subd. 2 and subd. 4 (1978). (MPCA Exhibit 16.)

7. The revisions to the proposed amendments to Minn. Rule SW 11 were generally well received by participants in the November hearings. The Minnesota Solid Waste Association supported the proposed amendments to Minn. Rule SW 11 with the revisions which were published in the State Register on October 15, 1979. Additionally, overall support for the proposed amendments with the revisions came from Itasca County, St. Louis County, Beltrami County, Crow Wing County, Clearwater County, Hubbard County, Wadena County, Mahnomen County, Robert Altringer, a solid waste hauler, and State Representative Dominic Elioff of the Fifth District in St. Louis County. Some of these groups and individuals suggested minor language changes to the proposed amendments, however, most comments were generally supportive of the Agency's proposal.

8. On the other hand, Ottertail County and political subdivisions within that county expressed dissatisfaction with the Agency's proposal. Ottertail County recommended that the Agency "go back to the drafting board". The County's main concern was with form and not substance, although the County did wish to have the population figure raised. Basically, the County felt that the proposed amendments to Minn. Rule SW 11 should not be drafted as a list of exceptions because of the possibility for confusion. The concern raised by the County can easily be remedied by the Agency if it proceeds to provide reasonable notification of the provisions contained within Minn. Rule SW 6. The Agency has agreed to do this. Additionally, if the Agency desired to publish the rule describing the specific requirements rather than listing SW 6 "exceptions", such a change would not be substantial.

9. The Agency has demonstrated through an affirmative presentation of facts, the need for and reasonableness of the provisions of proposed Minn. Rule SW 11 as published in the State Register on October 15, 1979, except as otherwise noted in subsequent Findings. Basically, the need for and reasonableness of the proposed amendments arise from the statutory mandate contained within Minn. Stat. § 116.07, subd. 2 (1978), the Findings of the Commission, the administrative difficulties the Agency has experienced in attempting to enforce Minn. Rule SW 6 in sparsely populated areas and the economic burden faced by individuals in sparsely populated areas attempting to comply with existing Agency rules. The relaxation of permitting standards is necessary and reasonable in light of the economic costs involved with applying for a permit to operate a land disposal facility. Additionally, such a relaxation of standards is reasonable in light of the limited amount of municipal refuse which will be deposited in these sparsely populated areas and the location of these facilities away from dense areas of human population. However, it was also shown by the Agency that site specific information is necessary in order to evaluate potential environmental impacts.

10. The Agency has not demonstrated through an affirmative presentation of facts, the reasonableness of the county planning provision of the proposed amendments contained in Minn. Rule SW 11 E. The rule would require that all counties "shall have an agency approved plan", without specifying what standards and criteria will be applied in granting or denying agency approval.

The rule further fails to specify what happens in the event that a county and the agency disagree over what is a reasonable or appropriate plan. It appears quite likely on this record that such disagreements will occur. County planning can be encouraged and facilitated without mandating agency approval. The Agency will retain ultimate control over environmentally unsound waste disposal activities via its enforcement program.

11. If the operating requirements of Section 11 B. are revised and made more specific, the Agency will have adequately documented their need and reasonableness. The Agency showed that the less stringent operating standards would reduce costs while not promoting serious environmental degradation. It further demonstrated that the operating standards within Minn. Rule SW 11 B. which would be required for large modified landfills were necessary and reasonable to promote environmentally sound land disposal of municipal refuse. The rule will be reasonable if the Agency amends Minn. Rule SW 11 B.3. by deleting the word "winter" from the last sentence. Such an amendment was encouraged by James Sullivan, Itasca County Zoning and Planning Officer, and other hearing participants in order to allow greater creativity and flexibility in complying with the non-winter cover requirements. Allowing greater flexibility in this instance by deleting the word "winter" is specifically found to be needed and reasonable, particularly as the rule would affect very small modified landfills. Control is retained over such exceptional situations by requiring agency advance approval. The word "winter" must be replaced with language such as "less stringent" to clarify that the provision is not intended to allow the agency to impose unspecified higher minimum standards. Without such a clarification the rule would be unreasonably vague.

12. If the eligibility criteria contained in the proposed amendments to Minn. Rule SW 11 A. as published in the State Register on October 15, 1979, are amended and made more specific, they are hereby found to be needed and reasonable. The Agency demonstrated that eligibility criteria were needed in order to avoid environmental backsliding in many areas of the state which currently have sound solid waste management systems. The changes in the eligibility criteria which were promoted by the Agency during the November hearings were generally well received by participants in the hearings. However, it is necessary that the Agency amend Minn. Rule SW 11 A.1. in order to clarify its intent. Final written comments of Agency Staff indicate they agree that this provision should be amended to reflect the fact that the proposed amendments to Minn. Rule SW 11 refer to year-round, permanent residents who will actually utilize the proposed land disposal site.

13. Most members of the public strongly supported adding some provision guaranteeing a contested case hearing upon request on the interpretation and application of the proposed rule. The issue is very important because of the following relevant facts.

a. The crux of this rule is the elimination of a hearing. It will establish a threshold where specific relaxed standards will apply without the necessity of a variance hearing conducted pursuant to the Administrative Procedure Act with an independent hearing examiner, notice and other procedural guarantees. The rule is simply a list of exceptions or variances from Minn. Rule SW 6, and everything it could accomplish can already be accomplished

utilizing variances from SW 6 after a hearing. Agency Staff confirmed this with regard to a stipulation agreement it has with Crow Wing County (7/25, p. 45).

b. The "prudent and feasible alternative" standard for eligibility is vague, with a lot of room for interpretation.

c. A hearing is a safeguard against unfair, inconsistent, insensitive administration of the rule and the uncontroverted testimony indicates that Agency Staff administering it have not received better than average marks with regard to equity, consistency, predictability and sensitivity.

d. Agency Staff candidly indicated that they dislike variance hearings because of the expense and time involved. The public repeatedly testified that they were unaware of variance procedures or that they felt the Agency discouraged them. An independent former State Planning Agency employee, who studied the situation, testified:

> I think there has been in the mind of people, a barrier against the variance procedure between the PCA and people requesting variances. A number of people aren't even aware that the variance procedure exists.

It is consequently unlikely that the affected public will be informed of its right to request a contested case hearing under other provisions of Agency rules or that the Staff will recommend to the Agency Board that such requests be granted.

e. Interpretation of the rule will involve crucial rights, privileges and interests of affected nearby landowners, existing permitted landfills and applicants.

f. Interpretation of the rule will involve extraordinary potential for fundamental disagreements between affected parties.

The proposed rule cannot be specifically found to be unquestionably and irretrievably unreasonable without the addition of a due process hearing guarantee. The rule on the other hand cannot be found objectively to be reasonable without a hearing provision on request of county boards or at least upon permit denial. Without a hearing provision, the rule is at best "on the line" between reasonable and unreasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and now has jurisdiction over this proceeding.

2. All relevant legal and procedural requirements of statute and rules have been properly complied with.

3. The Minnesota Pollution Control Agency has statutory authority to promulgate and adopt the proposed rule amendments.

4. Considering the complete record of the within proceedings and considering the proposed amendments to Minn. Rule SW 11 as published for the reconvened hearings, it is specifically concluded that the proposed amendments to Minn. Rule SW 11, as amended in accordance with the Recommendations, infra, are necessary and reasonable for the purposes of complying with Minn. Stat. §§ 15.0412, subd. 4 and 116.07, subd. 2 (1978).

5. In proposing the changes suggested in the Recommendations, infra, and reviewing the proposed amendments to Minn. Rule SW 11 as published on June 18,

1979, and as subsequently published on October 15, 1979, considering 9 MCAR § 2.110 which sets forth the criteria necessary to determine whether a rule as finally adopted is substantially different from the rule as originally proposed; it does not appear that the changes suggested by the Recommendations, infra, will result in a substantial change from the rule as originally proposed. The final decision on substantial change and compliance with the Administrative Procedure Act is the responsibility of the Chief Hearing Examiner.

RECOMMENDATIONS

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Minnesota Pollution Control Agency adopt the proposed amendments to Minn. Rule SW 11 as published in 4 S. R. 579-581 (October 15, 1979) with the following changes:

1. 4 S.R. 580, Minn. Rule SW 11 A.1. should read:

The proposed land disposal site will be utilized by a permanent, year-round population of less than 2,500.

2. 4 S.R. 580, Minn. Rule SW 11 B.3. should read:

Rule SW 6(2)(d)(i) as it relates to the time of covering and compaction shall not apply, rather, covering and compaction of waste material shall take place on a weekly basis from May 1 to November 30 of each year and on a monthly basis from December 1 to April 30 of each year, or in accordance with a less stringent cover and compaction plan approved by the Agency.

3. 4 S.R. 581, Minn. Rule SW 11 E. should be deleted in its entirety and a provision guaranteeing a contested case hearing upon request of a county board should be substituted.

Dated: January 8, 1980.

HOWARD L. KAIBEL, JR.
Hearing Examiner

MEMORANDUM

The accompanying Report should not be interpreted as a rejection of the urgent concerns of Ottertail County and others. A better rule needs to be drafted. The process of overall revision of solid waste rules is being initiated. In the interim, adoption of this rule is needed to meet the equally urgent concerns of many other affected citizens, such as the Fall Lake Township Supervisor, who took an evening and drove roughly 215 miles round trip to attend the Grand Rapids hearing and plead for rapid adoption of this rule, describing his problems:

> We have a seasonal problem with resorts, canoe outfitters, and find that hauling from one end of the township, 40, 50, 60 miles to the other end of the township where then it is picked up and hauled into St. Louis County to a landfill is far too great a distance. When the one contractor gets the bid on the hauling, it goes all the way to the north shore to Castle Danger, over 100 miles, and we feel that's just out of the question with gas and transportation costs.

H.L.K., Jr.

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

In 1967, the Minnesota Legislature created the Minnesota Pollution Control Agency (hereinafter the "Agency"), whose powers and duties are set out in Minn. Stat. chs. 115 and 116 (1978), in order:

> [t]o meet the variety and complexity of problems relating to water, air and land pollution in the areas of the state affected thereby, and to achieve a reasonable degree of purity of water, air and land resources of the state consistent with the maximum enjoyment and use thereof in furtherance of the welfare of the people of the state . . . Minn. Stat. §116.01 (1978).

Specifically, the legislature recognized the need to control the collection, transportation, storage and disposal of solid wastes. At that time, the State of Minnesota had approximately 1,200 open dumps. Many of these open dumps presented potential human health hazards, threatened many State natural resources and constituted public nuisances. Accordingly, the legislature mandated the Agency to develop standards and a system for permitting solid waste disposal facilities. Minn. Stat. §§116.07 and 116.081 (1978).

To respond to this legislative mandate, the Agency established a Division of Solid Waste. In 1970, working through the Division of Solid Waste, the Agency promulgated Minn. Rules SW 1-11 following public hearings in Moorhead, Duluth, St. Cloud,

Rochester, and St. Paul. In 1973, Minn. Rule SW 6 was amended and Minn. Rule SW 12 was added. These rules affecting solid waste disposal practices were promulgated in order to meet the legislature's mandate and have not been changed since 1973 except the portion of Minn. Rule SW 6 relating to hazardous waste storage areas which was repealed in 1979. However, in light of technological changes which have occurred affecting solid waste disposal practices and because of recent changes in federal law, the Agency is planning, within the next two years, significant changes in the regulatory program governing solid waste disposal practices.

Since the initiation of the Solid Waste Program in 1970, the Agency has worked cooperatively with counties to close or upgrade and permit approximately 90 percent of the initial 1,200 open dumps in the State. Currently, there are 130 permitted sanitary landfills operating in the State. Unlike unregulated open dumps, sanitary landfills have received a permit from the Agency and are required to meet locational and operational standards designed to protect Minnesota's natural resources. The Solid Waste Program has generally resulted in a consolidation of the waste stream in Minnesota and has promoted a system of waste management which provides greater environmental protection for the State's natural resources.

However, approximately 100 unpermitted, open dump sites remain in operation in the State. These sites are mostly located in the northern half of the State and are often found in areas of sparse human population. It has been the Agency's experience that closing these open dumps and establishing alternative, permitted

facilities is difficult due to unique economic, climatic, demographic and geographic problems. The Agency is in the process of analyzing these problems in order to establish a different regulatory approach for these sparsely populated areas when it promulgates new rules for solid waste disposal approximately two years from now. However, it has become necessary and reasonable to grant some immediate interim relief to these sparsely populated areas which are apparently unable to comply with Agency rules. In proposing this amendment to Minn. Rule SW 11, the Agency seeks to grant interim relief to sparsely populated areas while assuring that existing permitted solid waste disposal facilities continue to meet sanitary landfill operating standards.

The proposed amendments to Minn. Rule SW 11 are being promulgated in accordance with Minn. Stat. §§115.03 and 116.07 (1978) which authorize the Agency to adopt reasonable standards and rules in order to prevent, control or abate water, air, and land pollution. Specifically, these statutes mandate the Agency to recognize that due to variable factors, no single standard of solid waste control is applicable to all areas of the state. Accordingly, in proposing specific amendments to Minn. Rule SW 11, the Agency is seeking to protect environmental quality while giving due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the State.

II. STATEMENT OF NEED

The need for the proposed amendments to Minn. Rule SW 11 arises primarily from four sources:

A. The statutory mandate contained in Minn. Stat. §116.07, subd. 2 (1978);

B. The findings of the Legislative Commission to Review Administrative Rules;

C. The administrative difficulties the Agency has experienced in attempting to enforce Minn. Rule SW 6 in sparsely populated areas;

D. The economic burden faced by people in sparsely populated areas attempting to comply with existing Agency rules.

A. The Statutory Mandate Contained in Minn. Stat. §116.07, subd. 2 (1978).

In granting the Agency the authority to promulgate rules and develop standards governing the collection, transportation, storage and control of solid waste, the legislature specifically required the Agency to consider the special problems of solid waste management in sparsely populated, remote areas:

> In adopting standards, the Pollution Control Agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others, which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation and land use.
> Minn. Stat. §116.07, subd. 2 (1978).

In 1970, the Agency granted an exemption for sparsely populated areas of the state through the promulgation of Minn. Rule SW 11.

This exemption was for small communities and expired approximately two years after it was promulgated. It has been the Agency's position that this two-year exemption, combined with the Agency's variance procedures, protected sparsely populated communities from unreasonable elements of control and met the legislature's mandate. However, the legislature may have intended a permanent differentiation in standards of control for densely and sparsely populated areas and, in essence, wished two separate sets of the standards. This is a reasonable interpretation of Minn. Stat. §116.07, subd. 2 (1978), and makes the promulgation of the proposed amendments reasonable and necessary.

B. The Findings of the Legislative Commission to Review Administrative Rules

The Legislative Commission to Review Administrative Rules (hereinafter the "LCRAR"), is a joint legislative commission consisting of five State Senators and five State Representatives whose powers and duties are set out in Minn. Stat. §3.965 (1978). Basically, the LCRAR is granted the authority to review administrative rules and has the apparent authority to temporarily suspend any rule by the affirmative vote of six members.

In May of 1978, the LCRAR received petitions from 15 northern counties requesting a review of the Agency's solid waste rules. The petitions cited the language of Minn. Stat. §116.07, subd. 2 (1978), relating to the differentiation between densely and sparsely populated areas and complained that the Agency rules failed to meet this statutory requirement. After research into the complaints and after a public hearing, the LCRAR passed a

motion stating that the Agency's existing solid waste rules did not follow the statutory mandate contained in Minn. Stat. §116.07, subd. 2 (1978) and required the Agency to immediately develop a plan to address the problem. In responding to the LCRAR, the Agency proposed to amend Minn. Rule SW 11. It is necessary for the Agency to provide an amendment to Minn. Rule SW 11 because the LCRAR's action has impacted the Agency's solid waste regulatory process.

C. The Administrative Difficulties the Agency has Experienced in Attempting to Enforce Minn. Rule SW 6 in Sparsely Populated Areas

As discussed earlier, in the late 1960s the State of Minnesota had approximately 1200 open dump sites. Generally, these sites constituted a potential pollution problem and often created nuisance conditions which threatened human health and safety. After the initial promulgation of the solid waste rules in 1970,the Agency set out to inventory and close or upgrade and permit open dump sites. Because of the exemptions contained in Minn. Rule SW 11 for sparsely populated areas, the Agency's early efforts focused upon the open dumps within the metropolitan area and the establishment of viable, environmentally sound alternatives. By the end of 1972, all sites identified to be open dumps in the metropolitan area had been closed and the Agency had issued permits for the operation of eight sanitary landfills in the Twin Cities area. The Agency then turned its attention to rural, less populated areas outside the metropolitan area, and,

by the middle of 1976, a system of county landfills and rural collection had been established in the southern half of the State. This closure or upgrading and permitting of facilities in the southern part of the state was accomplished through cooperative efforts between the Agency and the counties in the development and implementation of county solid waste management plans. The statutory authority of counties to perform solid waste management is contained in Minn. Stat. ch. 400 (1978).

Conversely, the Agency's administrative efforts to work with small communities in the northern part of the state containing the majority of open dumps was not as successful. The Agency expended a great deal of administrative time and manpower attempting to work with government units in the northern part of the State in an effort to obtain compliance. While some successes were noted by the Agency, often the Agency's efforts were ignored or actively opposed. Hostilities between the Agency and certain northern communities have grown in recent years. The Agency often perceived the behavior of some northern communites as simply recalcitrance. However, this perception may have been wrong because community opposition may not be the result of an unwillingness to comply with certain Agency rules, rather, it appears to be the result of a financial inability to comply with certain Agency rules and the lack of available alternatives. The inability of certain nothern communities in sparsely populated areas to comply with Agency rules has been partially based upon unique factors affecting solid waste management in the north, such as, the longer travel distance between towns, the numerous bodies of waters requiring

circuitous transportation routes, the dramatic seasonal fluctuations in population, the severity of the winters and the large acreages of land set aside by federal and state governments which do not contribute to the tax base. In certain cases it has been a failure by the Agency to clearly recognize and be sensitive to these unique factors, while in other cases it has been the failure of the counties to clearly articulate the uniqueness of these problems which has lead to an administrative stalemate in the goal to provide economically viable, environmentally sound waste management in these northern regions.

The extent to which the unique problems in northern Minnesota actually impact solid waste management is now being analyzed by the Agency, although it appears that the factors stated above and others play a substantial role in the economic and environmental management of the solid waste stream in northern Minnesota. Based upon further analysis of these unique factors and others, the Agency proposes to make significant revisions to Minn. Rules SW 1-12 within the next two years. A citizen advisory committee will be formed during the summer of 1979 to assist in the development of these revisions. However, the Agency wishes to resolve the current administrative deadlock with northern communities in sparsely populated areas (which is promoting continued open dumping) by proposing interim relief in the form of the proposed amendment to Minn. Rule SW 11. It is reasonable and necessary for the Agency to cooperate with governmental units to develop environmentally sound waste disposal practices which are economically viable during this interim period.

D. The Economic Burden Faced By People in Sparsely Populated Areas in Attempting to Comply with Agency Rules

The revenue generated for the purpose of providing funds to operate a sanitary landfill in accordance with Minn. Rule SW 6 depends on the number of people contributing solid waste to the facility. The national average for generation of solid waste is equal to 3.2 pounds per capita per day and the national average cost for collection, transportation, and disposal of solid waste is $30 a ton per person. In areas of the state where a sparse population exists, the total solid waste generated within a service area of a sanitary landfill becomes the limiting factor in determining the amount of revenue which will be generated by the disposal fees at a sanitary landfill. On the other hand, the cost of disposal of solid waste in a sanitary landfill is not determined by the volume of refuse alone. There are certain fixed costs associated with the disposal of solid waste which will occur regardless of the amount of solid waste to be disposed. For example, equipment is needed to spread, compact, and cover solid waste. This equipment is required regardless of whether one ton or fifty tons per day of waste must be disposed of. There is a disproportionate relationship between the operational costs of a landfill and the waste volume to be disposed of. Therefore, one can calculate a minimum sanitary landfill operating cost without primary regard to the volume of waste to be disposed of.

Since there is a minimum cost to run a sanitary landfill and because revenues generated by a sanitary landfill are determined

by the volume of waste, sparsely populated areas are at an economic disadvantge in complying with Minn. Rule SW 6 because, in some cases, they cannot generate sufficient revenue to meet the minimum landfill disposal costs.

Approximately 25 percent of the cost of operating a landfill is associated with operational requirements. Since land, buildings, insurance, utilities, maintenance, equipment ownership, and certain labor costs are essentially fixed, the remaining costs which can be reduced for sparsely populated areas consist of operational and permit application requirements. The proposed amendments to Minn. Rule SW 11 allow for reduced operation and permit application requirements to ease the economic burden on sparsely populated areas. Therefore, it is necessary and reasonable for the Agency to amend Minn. Rule SW 11 because of the economic problems resulting, in part, from low volumes of refuse and smaller revenues generated to operate a sanitary landfill in accordance with the standards specified in Minn. Rule. SW 6, provided environmental quality can be maintained.

CONCLUSION

It is both necessary and reasonable for the Agency to provide an exemption from certain sanitary landfill permitting and operating rules for sparsely populated regions of the state. The need for this exemption arises from the statutory mandate given the Agency in Minn. Stat. §116.07, subd. 2 (1978), the findings of the Legislative Commission for Review of Administrative Rules, the

need to ease the administrative deadlock between the Agency and certain small northern communities caused by the unique problems facing many northern residents and, finally, because of the economic burdens faced by individuals in sparsely populated areas attempting to comply with existing Agency rules governing the collection, transportation, storage and disposal of solid waste. In proposing amendments in Minn. Rule SW 11, the Agency will be granting interim relief to certain sparsely populated communities pending the promulgation of substantial revisions to Minn. Rules SW 1-12. Furthermore, in granting this interim relief, the Agency seeks to avoid environmental backsliding in those areas of the State effectively operating economically and environmentally sound waste disposal systems. The Agency, through the proposed amendments, intends to promote a reasonable method for permitting and operating existing unpermitted open dumps in sparsely populated areas.

III. THE NEED FOR AND REASONABLENESS OF EACH SECTION OF THE PROPOSED AMENDMENTS TO MINN. RULE SW-11

In amending Minn. Rule SW 11, the Agency proposes to create certain exceptions to Minn. Rule SW 6 which currently governs the permitting and operation of solid waste disposal facilities. The Agency's testimony and exhibits will relate to the need for and reasonableness of each exception which it is proposing. The Agency will not seek to affirmatively justify the various retained provisions of Minn. Rule SW 6 during the course of this hearing,

although, the Agency is prepared to listen to and consider comments relating to the need to broaden or narrow the exceptions which are being proposed in the amendments to Minn. Rule SW 11. The Agency anticipates that some of the comments received during the course of this hearing will properly be addressed during the hearings on the revisions of Minn. Rule SW 1-12. Accordingly, the Agency will emphasize the fact that the proposed amendments to Minn. Rule SW 11 are only an interim measure until Minn. Rules SW 1-12 are totally revised. Finally, the Agency begins this hearing with the assumption that its existing regulatory program is legally sound, and that the operation of sanitary landfills cause less pollution than the operation of modified landfills.

A. The Need For and Reasonableness of the Eligibility Criteria Set Out in Minn. Rule SW 11

Eligibility criteria are needed and reasonable because such criteria will place persons on notice with respect to who qualifies for a modified landfill permit. These criteria also serve to avoid environmental backsliding in areas which serve densely populated areas of the State or areas in which environmentally sound alternatives currently exist.

1. Minimum Travel Distance

The first eligibility criterion refers to a minimum travel distance between an existing permitted sanitary landfill, modified landfill or transfer station and the proposed area which is under consideration for a new modified land disposal site. The Agency

has reviewed existing information on travel distances between permitted landfills, modified landfills, and transfer stations within the state. For the parts of the state which have established sound land disposal systems (primarily central and southern Minnesota), there are very few locations which are not within thirty miles of an existing permitted land disposal facility. On the average, the current distance between any two landfills is determined by the volume of refuse generated within the area which translates to revenue available to operate a land disposal facility. Experience indicates that where large populations exist, landfills are located closer together and where sparse populations exist, the landfills are located further apart. This reflects a competitive market system.

There is a need for establishing a minimum travel distance between a modified landfill and an existing permitted modified landfill, a sanitary landfill or a transfer station. This will ensure the establishment of modified landfills only in those areas where no environmentally sound alternative currently exists and thus provides reasonable protection for the environment in areas which are adequately served by permitted facilities. However, after informally soliciting a great deal of comment on this distance criteria, the Agency is in the position of being able to justify distances from 15 to 45 miles. Therefore, as mentioned in the Notice for Hearing, the Agency is prepared to listen to the comments of participants to this hearing in order to determine what minimum distance ought to be adopted.

2. Population Size

The second eligibility criterion relates to population size of the service area. The Agency has compared solid waste disposal costs throughout the state in order to determine the percent of the average individual's income which is used for solid waste management. In addition, the Agency has compared these figures with national averages. It has been determined that approximately 0.25 percent of an average individual's annual income in rural Minnesota goes toward solid waste management. From this figure, the Agency has calculated the amount of revenue available for solid waste management from several different population sizes. Furthermore, the Agency has calculated reasonable high and low cost figures for a sanitary landfill which could satisfactorily serve a population of 2,500 people. For the purposes of comparison, the Agency has calculated probable high and low average costs of operating a modified landfill. Using the highest probable cost for operating a sanitary landfill and the per capita incomes from the county with the lowest average annual per capita income, the Agency has determined that a service area population of more than 2,500 can reasonably be expected to support the operation of a sanitary landfill. Therefore, for service area populations under 2,500, a modified landfill should be eligible for consideration. It is necessary and reasonable to have a population figure as an eligibility criterion in order to avoid having large communities in densely populated areas which can afford environmentally sound alternatives choose to operate modified landfills.

3. Minn. Stat. Ch. 116B (1978)

The final eligibility criterion is intended to satisfy the mandate of Minn. Stat. ch. 116B (1978). For example, if a proposed modified landfill would cause pollution, impairment and destruction of a protectable natural resource, the Agency cannot issue a permit and alternatives should be examined. This is merely a statement of existing law, and it is necessary and reasonable in order to place individuals on notice of its existence.

B. The Need for and Reasonableness of Certain Exemptions from Operating Standards Required by Minn. Rule SW 6

The proposed amendments to Minn. Rule SW 11 outline certain exceptions to operating requirements to Minn. Rule SW 6. Because the costs of operation in accordance with Minn. Rule SW 6 can be burdensome on communities in sparsely populated areas, the Agency is seeking to alleviate this burden by granting certain exemptions to some of the operating standards in Minn. Rule SW 6 without allowing significant environmental degradation.

1. Burning

The proposed amendments to Minn. Rule SW 11 allow for open burning of certain materials at modified landfills when the burning is done in a separate controlled access area of the site which is at least 200 feet from the fill area and is permitted under Minn. Rule APC 8. Currently, burning at a waste disposal site is prohibited. This exception to the current rules is

necessary and reasonable because the cost of handling and covering certain tree wastes and demolition materials can be high for sparsely populated communities. In addition, such burning will generally involve small quantities of material located at isolated sites and will always be under the control of local Minnesota Department of Natural Resources personnel and fire officials. Therefore, environmental and safety concerns should be minimized and the proposed amendment is reasonable. However, it is reasonable for the Agency to require a 200 foot separation distance from the fill area and a controlled access area of the site in order to avoid the significant pollution problems and the potential health and safety hazards which occur from burning putrescible materials.

2. Litter Cleanup

The proposed amendment to Minn. Rule SW 11 requires that windblown material resulting from a modified landfill be collected or cleaned up to prevent nuisance conditions. Currently, collection of windblown material at permitted sanitary landfills must be done at the conclusion of each day of operation. The proposed rule does not insist on daily policing of litter because of the cost involved, the small quantities of waste and the isolated nature of the sites. For all of these reasons, this is a necessary and reasonable exemption for sparsely populated communities.

3. Cover and Compaction

The proposed amendments to Minn. Rule SW 11 require weekly cover and compaction of waste with six inches of soil, except during the period of December 1 to April 30 when monthly cover and compaction is allowed. Alternatively, the proposed amendment allows the permittee to submit a cover and compaction plan to the Agency which, if approved by the Agency, shall be followed. Currently, covering and compaction of refuse is required on a daily basis. The proposed cover and compaction criterion are necessary and reasonable based upon economic grounds, the small quantities of waste involved, the isolated nature of the sites and the extreme conditions of winter in northern Minnesota compared with those elsewhere in the State. Daily cover and compaction at a sanitary landfill is a significant operational cost, therefore, weekly rather than daily cover will greatly decrease the cost of solid waste management for sparsely populated areas. It is reasonable for the Agency to seek to reduce the economic burden on these areas while at the same time require a minimum cover and compaction plan in order to control disease vectors, reduce the infiltration of water through the waste, and provide minimum control of fires, odors, and blowing paper.

4. Equipment

The proposed amendments to Minn. Rule SW 11 require the availability of equipment adequate for the operation of the site

as well as for fire protection. Currently, equipment for the operation of permitted sanitary landfills and for fire prevention must be kept on the landfill site at all times. This exemption is necessary and reasonable because of a reduced operational need for equipment and because of the cost involved in maintaining equipment on site. The proposed amendments should promote the circulation of earth-moving equipment between various solid waste disposal facilities, and this should prove less costly.

5. Miscellaneous Operation Criteria

The proposed amendments to Minn. Rule SW 11 do not require sanitary facilities and shelter for site personnel, leachate collection and treatment systems or decomposition gases control as are required by Minn. Rule SW 6. Additionally, the proposed amendments delete the language referring to hazardous waste storage which is consistent with the recently promulgated hazardous waste rules. Finally, the proposed amendments will require quarterly, rather than monthly, submittal of operational and monitoring report forms.

It is not reasonable to require a shelter at a modified landfill from the point of view of cost. A modified landfill will not be a full-time operation and the presence of a permanent shelter is not necessary. Similarly, it is not reasonable to require leachate collection and treatment systems and decomposition gas control at a modified landfill because it is anticipated that

modified landfills will be located in remote areas away from persons or structures that might be directly endangered or impacted by groundwater contamination or by gases. Furthermore, because of the small amount of refuse which will go into a modified landfill, only a minimal amount of leachate or gas should be generated. The cost of installation of these pollution abatement technologies outweighs the potential problems which could result. Additionally, hazardous waste storage is not necessary and, in fact, inadvisable at a modified facility because the expertise and security to handle such storage is inadequate. The Agency will not permit hazardous waste storage at these facilities, and this deletion is consistent with the recently promulgated hazardous waste rules. Finally, quarterly rather than monthly reports of waste types and quantities disposed at the site, as well as Agency inspections and water monitoring data, should provide the Agency with the necessary information to regulate modified landfills and is, in fact, consistent with reporting periods currently required by the Agency for other types of disposal facilities.

C. The Need for and Reasonableness of Certain Exemptions from Permitting Requirements Contained in Minn. Rule SW 6 (3)

The permit application requirements in Minn. Rule SW 6 (3) provide the Agency with information necessary to determine compliance with location, construction and operational requirements for a sanitary landfill. However, it is necessary and reasonable to relax certain permit application requirements for proposed modified landfills because such landfills dispose of

small quantities of waste in remote or sparsely populated areas. It is also necessary and reasonable to relax certain permit application requirements for proposed modified landfills because of cost, although the Agency must continue to receive all information necessary to ensure the environmental soundness of the proposed sites.

1. Site Analysis - Hydrogeologic Study

The permit application requirements in Minn. Rules SW 6 (3)(b)(ii), shall not be required, however, a site analysis shall be submitted with the permit application and shall include surface features, underground formations, soil borings data, water table profiles, direction of underground water flows, the need and availability of cover material and existing refuse deposits. Currently, permit applications for proposed sanitary landfills include, in addition to the above, a complete hydrogeologic study, at least one soil boring to a minimum depth of 50 feet below proposed excavation, a discussion of the use of water resources in the potential zone of influence of the sanitary landfill and certain climatological data. It is reasonable to eliminate the need for major portions of the hydrogeological and soils information required by Minn. Rule SW 6 in order to permit a modified sanitary landfill because of their remote locations and the smaller amount of land used for filling. By granting these exemptions, the Agency intends to substantially reduce the cost for preparing a site analysis and this is necessary and reasonable for sparsely populated communities.

2. Development Plan

The permit application requirements in Minn. Rule SW 6 (3)(c)(ii), relating to contour intervals of two feet or less and hazardous waste storage areas shall not be required, rather, contour intervals sufficient to show surface water drainage patterns shall be provided by the permit applicant. Because of the less complicated construction at a modified landfill, it is reasonable not to specifically require two-foot contour intervals in the development plan. Adequate construction and drainage information may be provided in the development plan for modified landfill using larger contour intervals. Maps containing larger contour intervals may already be available to the public. Therefore, this exemption may eliminate the need for a detailed site survey. This would substantially reduce the cost of preparing the development plan and is needed and reasonable for sparsely populated communities.

The new hazardous waste rules (6 MCAR §§4.90001 - 4.90010), repeal the portion of Minn. Rule SW 6 related to hazardous waste storage areas. It is reasonable to have the proposed amendments to Minn. Rule SW 11 reflect this change.

3. Ultimate Land Use Plan

The permit application requirements in Minn. Rule SW 6 (3)(c)(iv) relating to an ultimate land use plan shall not be required for proposed modified landfills. Because of the remote locations of proposed modified landfills and the relatively small

area to be filled with refuse, it is reasonable to not require a costly ultimate land use plan that addresses gas migration and differential settlement. Maximum acreage for a modified landfill serving a population of 2,500 would only be approximately one acre of land 15 feet deep in a period of five years. The Agency anticipates that in the majority of cases, a completed modified landfill will be returned to open space, which would make an ultimate land use plan.

D. The Need for and Reasonableness of a Section Relating to County Plans

Minn. Rule SW 11 required counties to submit a county plan for solid waste management systems by July 1, 1972. Additionally, the existing rule requires the plan to be amended from time to time as changing conditions occur.

The proposed amendments to Minn. Rule SW 11 are primarily intended to clarify this section of the rule. Specifically, the Agency proposes to have the counties analyze the economic and environmental consequences of feasible alternatives. It has been the Agency's experience that a proposal to employ a certain type of waste disposal system may not be either economically or environmentally sound when compared with another alternative. For example, a transfer station or cannister system may or may not be less expensive and cause less environmental degradation than a proposed modified landfill. Since the Agency will be looking at the feasibility of alternatives when reviewing amendments to county plans, it is necessary and reasonable to place counties on notice of that fact.

IV. Proposed Agency Exhibits and Witnesses to Support the Need for and Reasonableness of Proposed Amendments to Minn. Rule SW 11

A. Exhibits

As proof of the need for and reasonableness of the proposed amendments to Minn. Rule SW 11, the Agency intends to introduce the following exhibits:

1. Barr Engineering and Gordian Associates: Resource Recovery, for MPCA SWD, June 1979.
2. Brunner, Dirk R. and D.J. Keller: Sanitary Landfill Design and Operation, U.S. Environmental Protection Agency, Report SW-65ts, 1972.
3. Hart, Fred C. and Associates, Inc.: Draft Environmental Impact Statement on the Proposed Guidelines for the Landfill Disposal of Solid Waste, U.S. EPA Contract No. 68-01-4895, 1979, 186 pages.
4. Landfill Disposal of Solid Waste: Proposed Guidelines, U.S. EPA, Federal Register Volume 44, No. 59, March 26, 1976, pages 18,139 - 18,148.
5. Legislative Commission for Review of Administrative Rules Hearing Record
6. Meyer, Edward R.: Calculations Justifying the Population Criterion of the Proposed Amendment of Minn. Rule SW 11, MPCA in-house staff work, June 1979.
7. Minn. Rule APC 8.
8. Minn. Rules SW 1-12.

9. Minn. Stat. chs. 115, 116 B, 116 D and 400 (1978).

10. Permit Applications and Permits Issued for Certain Sanitary Landfills and Modified Landfills in the State of Minnesota.

11. Procedural Exhibits, including, but not limited to, Required Notices and Afidavits.

12. Proposed Amendments to Minn. Rule SW 11.

13. Shuster, Kenneth A.: Leachate Damage Assessment Case Study of the People Avenue Solid Waste Disposal Site in Rockford, Illinois, U.S. EPA, Report SW 517, 1976.

14. Shuster, Kenneth A.: Leachate Damage Assessment Case Study of the Sayville Solid Waste Disposal Site in Islip (Long Island), New York, U.S. EPA Report SW-509, 1976.

15. Solid Waste Disposal Facilities: Proposed Classification Criteria, U.S. EPA, Federal Register, Volume 43, No. 25, February 6, 1978, pages 4,942 - 4,955.

16. Tchobanoglous, George, H. Theisen and R. Eliassen: Solid Wastes Engineering Principles and Management Issues, McGraw-Hill Book Company, 1977.

B. Testimony

As further proof of the need for and reasonableness of the proposed amendments to Minn. Rule SW 11, the Agency may present the following witnesses and testimony:

1. Dale Wikre, Director of the Division of Solid Waste, Minnesota Pollution Control Agency, who will testify about the history of the solid waste program, the need for an exemption from certain Agency rules and with respect to future revisions of solid waste rules and regulations.
2. Curt Sparks, Deputy Director of the Division of Solid Waste, Minnesota Pollution Control Agency, who will testify considering the need for and reasonableness of the eligibility criteria of the proposed amendment to Minn. Rule SW 11 and the county solid waste management plan section of the proposed amendment.
3. Bruce Brott, Chief of the Permit Section, Division of Solid Waste, Minnesota Pollution Control Agency, who will testify concerning the need for and reasonableness of the exemptions from certain permit application requirements for sparsely populated communities.
4. Michael Kanner, Research Scientist, Division of Solid Waste, Minnesota Pollution Control Agency, who will testify concerning the need for and reasonableness of certain exemptions from sanitary landfill operating requirements for sparsely populated communities.

5. Thomas Clark, Chief of the Enforcement Section, Division of Solid Waste, Minnesota Pollution Control Agency, who will testify concerning the need for and reasonableness of certain exemptions from sanitary landfill operating requirements for sparsley populated communities.

6. Richard Sandberg, Engineer, Division of Air Quality, Minnesota Pollution Control Agency, who will testify concerning the permit application requirements of Minn. Rule APC 8.

Terry Hoffman

Dated: 6/22/79

CERTIFICATE OF AGENCY'S
ADOPTION OF RULES RESOLUTION

I, Terry Hoffman, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at meetings of the Agency duly and properly called and held on the 5th day of February, 1980, and on the 26th day of February, 1980; that a quorum was present at said meetings; and that said resolutions are set forth in the minutes of said meetings and have not been rescinded or modified.

BE IT RESOLVED, that the MPCA Board adopts the MPCA staff's Proposed Findings of Fact, Conclusions and Order Adopting Rules concerning the proposed adoption of amendments to Minn. Rule SW-11 establishing standards for the permitting and the operation of solid waste disposal facilities located in sparsely populated areas.

BE IT FURTHER RESOLVED, that the Chairman and the Executive Director are hereby authorized to execute the Findings of Fact and Conclusions and the Order Adopting Rules on behalf of the Agency. (February 5, 1980)

BE IT RESOLVED, that the Minnesota Pollution Control Agency authorize the Chairman and Executive Director to execute an Order Adopting Rules in the matter involving the proposed amendment to Minn. Rule SW 11 in which the language in Minn. Rule SW 11 A.1. reads:

1. The proposed land disposal site will be utilized by a year-round, permanent residential population of less than 2,500. (February 26, 1980)

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of March, 1980.

for Louis Breimhurst
Terry Hoffman, Executive Director

Subscribed and sworn to before me
this 12th day of March, 1980.

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

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CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Terry Hoffman, do certify that I am the Executive Director of the Minnesota Pollution Control Agency, an Agency duly authorized under the laws of the State of Minnesota, and that resolutions were adopted at the meetings of the Agency properly called on the 5th day of June, 1979, and the 10th day of September, 1979, and that a quorum was present at said meetings; and that the resolutions are set forth in the minutes of said meetings and have not been rescinded or modified; and that the resolutions authorized public hearings for the purpose of amending Minn. Rule SW 11 in order to establish permitting and operating standards for solid waste disposal facilities in sparsely populated areas.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7th day of March, 1980.

for Louis Breimhurst
TERRY HOFFMAN
Executive Director

Subscribed and Sworn to before me
this 7th day of March, 1980.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

ORDER FOR HEARING

IT IS HEREBY ORDERED that public hearings on the above-captioned amendment to Minn. Rule SW 11 be held in the following locations on the following dates and times:

July 19, 1979, Thursday, Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, convening at 10:00 a.m.

July 23, 1979, Monday, Room 135 of Mesabi State Community College, 9th Avenue and West Chestnut, Virginia, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 24, 1979, Tuesday, Bemidji State University, Lower Student Union, Crying Wolf Room, 14th and Birchmont Drive, Bemidji, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 25, 1979, Wednesday, Crow Wing County Social Service Building, Meeting Room No. 2, East Laurel and 4th Streets, Brainerd, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 27, 1979, Friday, Mankato State University, Upper Campus, Centennial Student Union, Room 253-254, Ellis and South Road, Mankato, Minnesota, convening at 1:00 p.m.

The hearings will continue until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Terry Hoffman
Executive Director

Dated: 6/22/79

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that rule hearings in the above-entitled matter will be held at the following locations:

July 19, 1979, Thursday, Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, convening at 10:00 a.m.

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July 27, 1979, Friday, Mankato State University, Upper Campus, Centennial Student Union, Room 253-254, Ellis and South Road, Mankato, Minnesota, convening at 1:00 p.m.

The hearings will continue until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-entitled matter at the hearing in Roseville, Minnesota.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Howard

Kaibel, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8107, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

NOTICE: The proposed amendment to Minn. Rule SW 11 (6 MCAR §4.6011) is subject to change as a result of the rule hearing process. Specifically, the Agency is considering travel distance requirements in 6 MCAR §4.5011(A)(1) ranging from 15 to 40 miles among other changes. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendment to participate in the rule hearing process.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in Minn. Rule SW 6) by the establishment of separate standards for these communities. Currently, the Agency is in the process of revising all of the rules governing the collection, transportation and disposal of solid waste and this amendment is intended to provide an interim exemption for sparsely populated areas pending these total revisions.

The Agency's authority to promulgate the proposed amendment is contained in Minn. Stat. §116.07 subd. 4 (1978).

Copies of the proposed amendment to Minn. Rule SW 11 (6 MCAR §4.6011) are now available and one free copy may be obtained by writing to Mr. Michael Kanner, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

NOTICE IS HEREBY GIVEN that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed amendment to Minn. Rule SW 11. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

for Terry Hoffman
Executive Director
Minnesota Pollution Control Agency

Dated: 5/1/79

exhibit 1B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendment of Minn. Rule SW 11
Granting an Exemption for Sparsely
Populated Areas from Certain
Sanitary Landfill Operating
Standards

NO. PCA-79-007-HK

NOTICE OF
RECONVENING OF HEARING

NOTICE IS HEREBY GIVEN that rule hearings in the above-entitled matter will be reconvened at the following locations:

November 15, 1979, Thursday, Detroit Lakes Area Vocational Technical Institute, Multi-Purpose Room, South One-Half, Highway 34 East of Detroit Lakes, Minnesota, convening at 10:00 a.m.

November 15, 1979, Thursday, Itasca Community College, Wilson Hall, Room 137, Route 3 East of Grand Rapids, Minnesota, convening at 7:00 p.m.

November 19, 1979, Monday, Minnesota Pollution Control Agency, Board Room, 1935 West County Road B2, Roseville, Minnesota, convening at 10:00 a.m.

The hearings will continue until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-entitled matter at the hearing in Roseville, Minnesota.

The above-described hearing is a continuation of the hearing which was held on July 19, 23, 24, 25, 26, 27 and August 14, 1979. The Agency, after listening to comments from the public, is proposing certain revisions to the rule as it was originally proposed and noticed in 3 S.R. 2235 (June 18, 1979). The Agency indicates the revisions to the proposed rule as published in the State Register on June 18, 1979, through ~~crossing out~~ deletions and

underlining additions. It is the Agency's intent to incorporate the previous notice and proposed rule as it appeared in 3 S.R. 2236 (June 19, 1979). Specifically, the Agency incorporates that section of the previous notice indicating the repeal of existing Minn. Rule SW 11.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Howard Kaibel, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8107, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

NOTICE: The proposed amendment to Minn. Rule SW 11 (6 MCAR §4.6011) is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendment to participate in the rule hearing process.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sani-

tary landfills (contained in Minn. Rule SW 6) by the establishment of separate standards for these communities. Currently, the Agency is in the process of revising all of the rules governing the collection, transportation and disposal of solid waste and this amendment is intended to provide an interim exemption for sparsely populated areas pending these total revisions.

The Agency's authority to promulgate the proposed amendment is contained in Minn. Stat. §116.07 subd. 4 (1978).

Copies of the proposed amendment to Minn. Rule SW 11 (6 MCAR §4.6011) are now available and one free copy may be obtained by writing to Mr. Michael Kanner, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

NOTICE IS HEREBY GIVEN that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed amendment to Minn. Rule SW 11. The Statement of Need and Reasonableness will incorporate certain sections of the Statement of Need and Reasonableness which has already been submitted to the Office of Hearing Examiners and will focus on the revisions to the rule as originally proposed and published. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A (1978) requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month lobbying. The statute in question provides certain exceptions. Questions should

be directed to the Minnesota Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

for Louis Breimhurst
Terry Hoffman
Executive Director
Minnesota Pollution Control Agency

Dated: September 28, 1979

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendment of Minn. Rule SW 11
Granting an Exemption for Sparsely
Populated Areas from Certain
Sanitary Landfill Operating
Standards

NO. PCA-79-007-HK

CERTIFICATE OF DELIVERY OF
SECRETARY OF STATE'S LIST

I hereby certify that the attached 534 labels and 13 sheets constitute the complete list of persons, associations, and other interested groups who as of 2 o'clock p., this 26th day of June, 1979, have requested pursuant to Minn. Stat. §15.0412 subd. 4 (1978), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules.

SECRETARY OF STATE

JOAN ANDERSON GROWE

Joan Anderson Growe

By _____

exhibit 5B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

CERTIFICATE OF DELIVERY OF SECRETARY OF STATE'S LIST

I hereby certify that the attached 329 labels and 13 sheets constitute the complete list of persons, associations, and other interested groups who as of 8:00 a.m., this 1st day of October, 1979, have requested pursuant to Minn. Stat. §15.0412 subd. 4 (1978) that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules.

SECRETARY OF STATE

JOAN ANDERSON GROWE

By Joanne Beatt

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendment of Minn. Rule SW 11
Granting an Exemption for Sparsely
Populated Areas from Certain
Sanitary Landfill Operating
Standards

NO. PCA-79-007-HK

AFFIDAVIT OF RECEIPT OF
SECRETARY OF STATE'S LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner being duly sworn on oath deposes and says:

1. That he is an employee of the Solid Waste Division, Minnesota Pollution Control Agency, State of Minnesota

2. That on the 8th day of June, 1979, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. §15.0412.

3. That on the 8th day of June, 1979, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

FURTHER AFFIANT SAYETH NOT.

Michael Kanner

Subscribed and sworn to before me
this 8th day of June, 1979:

Lila Holmdahl
Notary Public

LILA HOLMDAHL
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 1, 198

exhibit 6B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

AFFIDAVIT OF RECEIPT OF SECRETARY OF STATE'S LIST LL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner, being duly sworn on oath deposes and says:

1. That he is an employee of the Solid Waste Division, Minnesota Pollution Control Agency, State of Minnesota.

2. That on the 1st day of October, 1979, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. §15.0412.

3. That on the 1st day of October, 1979, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

FURTHER AFFIANT SAYETH NOT.

Michael Kanner
Michael Kanner

Subscribed and sworn to before me this 14th day of November 1979:

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 28, 1985

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendment of Minn. Rule SW 11
Granting an Exemption for Sparsely
Populated Areas from Certain
Sanitary Landfill Operating
Standards

NO. PCA-79-007-HK

AFFIDAVIT OF MAILING

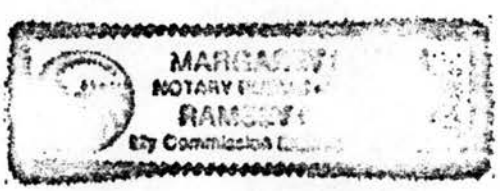
STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner, being first duly sworn, hereby deposes and says that in the City of Roseville, county and state aforesaid, on the 14th day of June, 1979, he served the foregoing "Notice of Hearing," by depositing in the United States mail at said City of St. Paul, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists, including the Secretary of State's list.

Michael Kanner

Subscribed and sworn to before me
this 9th day of June, 1979:

Margaret Frank
Notary Public



- Minn. R[illegible] SW 11
MPCA Exhibit #10

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner, being first duly sworn, hereby deposes and says that in the City of Roseville, county and state aforesaid, on the 6th day of July, 1979, he served the foregoing "Notice of Hearing" and Notice of an additional hearing in Fergus Fall, by depositing in the United States mail at said City of Roseville, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists.

Michael Kanner

Subscribed and sworn to before me this 16th day of July, 1979.

MARY E. WYATT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 24, 1983

Mary E. Wyatt
Notary Public

Minnesota Pollution Control Agency

To Whom It May Concern:

An additional public hearing in the matter of the proposed amendment of Minnesota Rule SW 11, granting an exemption for sparsely populated areas from certain sanitary landfill operating standards, will be held on:

> July 26, 1979, Thursday, at Fergus Falls Community College, Classroom Building, Room F209, Old Highway 210, west of Fergus Falls, Minnesota, convening at 1:00 P.M.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in Minnesota Rule SW 6) by the establishment of separate standards for these communities.

The attached notice of hearing, which appeared in the State Register of June 18, 1979, shall apply to this meeting as well.

Your participation is welcomed.

Sincerely,

Michael Kanner

Michael Kanner
Research Scientist
Enforcement Section
Division of Solid Waste

MK:rrs

Enclosure

Phone: (612) 296-7352

1935 West County Road B2, Roseville, Minnesota 55113
Regional Offices • Duluth / Brainerd / Fergus Falls / Marshall / Rochester / Roseville
Equal Opportunity Employer

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendment of Minn. Rule SW 11
Granting an Exemption for Sparsely
Populated Areas from Certain
Sanitary Landfill Operating
Standards

NO. PCA-79-007-HK

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that rule hearings in the above-entitled matter will be held at the following locations:

July 19, 1979, Thursday, Board Room of the Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, convening at 10:00 a.m.

July 23, 1979, Monday, Room 135 of Mesabi State Community College, 9th Avenue and West Chestnut, Virginia, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 24, 1979, Tuesday, Bemidji State University, Lower Student Union, Crying Wolf Room, 14th and Birchmont Drive, Bemidji, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 25, 1979, Wednesday, Crow Wing County Social Service Building, Meeting Room No. 2, East Laurel and 4th Streets, Brainerd, Minnesota, convening at 1:00 p.m. and reconvening at 7:00 p.m.

July 27, 1979, Friday, Mankato State University, Upper Campus, Centennial Student Union, Room 253-254, Ellis and South Road, Mankato, Minnesota, convening at 1:00 p.m.

The hearings will continue until all persons have had an opportunity to be heard. The Agency will present its witnesses and evidence in support of the adoption of the above-entitled matter at the hearing in Roseville, Minnesota.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Howard

Kaibel, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, (612) 296-8107, either before or after the hearings until the record is closed. The record will remain open for five working days after the rule hearings end, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner. In the interest of efficiency, it is suggested that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests.

NOTICE: The proposed amendment to Minn. Rule SW 11 (6 MCAR §4.6011) is subject to change as a result of the rule hearing process. Specifically, the Agency is considering travel distance requirements in 6 MCAR §4.5011(A)(1) ranging from 15 to 40 miles among other changes. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendment to participate in the rule hearing process.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in Minn. Rule SW 6) by the establishment of separate standards for these communities. Currently, the Agency is in the process of revising all of the rules governing the collection, transportation and disposal of solid waste and this amendment is intended to provide an interim exemption for sparsely populated areas pending these total revisions.

The Agency's authority to promulgate the proposed amendment is contained in Minn. Stat. §116.07 subd. 4 (1978).

Copies of the proposed amendment to Minn. Rule SW 11 (6 MCAR §4.6011) are now available and one free copy may be obtained by writing to Mr. Michael Kanner, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113. Additional copies will be available at the hearing at each location.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Agency may not take any final action on the rule for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearings. After the hearings, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

NOTICE IS HEREBY GIVEN that 25 days prior to the hearings, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the Hearing justifying both the need for and the reasonableness of the proposed amendment to Minn. Rule SW 11. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

,jou City
ayor Melvin Thompson
ejou, MN 56516

trawberry Lake
allas Lindsay
hairman, Sugar Bush Twp.
oute 1, Ogema, MN 56569

sage
ranklin Blanchard
hairman Osage Twp.
sage, MN 56570

oad Lake Dump
arvin Feldt
hairman, Toad Lake Twp.
oute 2
razee, MN 56544

ent
ayor Leo J. Winkels
ent, MN 56528

ise Twp.
lvin Schmidt, Chairman
oute 4
ergus Falls, MN

ambler Twp.
win Bakkan, Chairman
oute 2
elican Rapids, MN

id Nelson
hairman, Ottertail Co
ourthouse
ergus Falls, MN

Carlos City Dump
Mayor Percy Black
Carlos, MN 56319

Two Inlets
Albert J. Gartner
Chairman, Two Inlets Twp.
Park Rapids, MN 56470

Wolf Lake
Mayor Arthur Hillukka
Wolf Lake, MN 56593

Paul Ballard Demo Dump
R. 1 W. Lake Carlos
Alexandria, MN 56308

Parkers Prairie
Mayor Werner R. Knapp
Parkers Prairie, MN 56361

Ottertail City
Mayor E.V. Busch
Ottertail, MN 56571

Henning City
Mayor F.S. Trites
Henning, MN 56551

Mahnomen City Dump
Mayor Kenneth O. Johnstad
City Hall
Mahnomen, MN 56557

Pine Point Dump
Darrell Wadena
Chairman, P.O. Box 418
White Earth, MN 56591

Round Lake
Dale Anderson
Chairman, Round Lake Twp.
Ponsford, MN 56575

Tamarac Refuge
Omar Swenson
Manager, Tamarac Natl
Wildlife Refuge
Rochert, MN 56578

Dalton City
Mayor Donald Adams
Dalton, MN 56324

Erhard City
Mayor Robert Danicourt
Erhard, MN 56534

Aastad Twp.
Chairman, Twp.
Charles Evenson
Route 5
Fergus Falls, MN 56537

of Moorhead
779
orhead, MN 56560

Otter Tail Power Co.
215 S. Cascade St.
Fergus Falls, MN 56537

City of Alexandria
114 7th Ave. West
Box 231
Alexandria, MN 56308

Edward Ebeling
161 W. Main
Perham, MN 56573

City of Detroit Lakes
106 E. Holmes St.
Detroit Lakes, MN 56501

W. Central Reg. Development
Administration Bldg.
Community College
Fergus Falls, MN 56537

Robert Poyzer
Box 675
Fergus Falls, MN 56357

Concordia College
Dean
Moorhead, MN 56560

Mostca
P.O. Box J
Perham, MN 56573

Donald Richards
Clay County Engineer
1300 15th Avenue N.
Moorhead, MN 56568

N. Central Electric Assn.
P.O. Box 202
Battle Lake, MN 56515

Joanne Terway
Mahnomen County Auditor
Mahnomen, MN 56557

City of Fergus Falls
Attn: James Nitchals
City Administrator
Fergus Falls, MN 56537

Vernon T. Korzendorfer
Becker Co. Hwy. Engineer
Detroit Lakes, MN 56501

Richard Holpan
Douglas County Auditor
Alexandria, MN 56309

Dick Bjerk
Mahnomen Co. Zoning
Office
Mahnomen, MN 56557

Malcolm K. Lee
Otter Tail Co. Courthouse
Fergus Falls, MN 56537

COUNTY COMMISSIONERS

Becker

1. Ray Wattenhofer
   Itasca Star Route
   Park Rapids, Mn. 56470
   218/732-5389

2. C.A. Boyer
   P.O. Box 306
   Detroit Lakes, Mn. 56501
   218/847-7143

3. Gordon Sanders
   P.O. Box 265
   Frazee, Mn. 56544
   218/334-4141

4. Cecil B. Berquist
   Route 1
   Detroit Lakes, Mn. 56501
   218/847-8603

5. Jim Rothschadl
   Route 2
   Waubun, Mn. 56589
   218/473-3436

Clay

1. Cliff Halmrast
   402 Maple Lane
   Moorhead, Mn. 56560
   218/233-4281

2. Marvin K. Dauner
   R. #1
   Hawley, Mn. 56549
   218/438-4152

3. Arvid R. Thompson
   Barnesville, MN 56514
   218/493-4468

4. Charles U. Brantner
   R. #1
   Moorhead, Mn. 56560
   218/233-7012

5. Hilding Hagen
   Box 36
   Moorhead, Mn. 56560
   218/236-5726

Douglas

1. Arthur Henneman
   Evansville, Mn. 563
   218/948-2843

2. Norman Anderson
   Holmes City,, Mn. 56
   612/886-5371

3. W.F. Myren
   Miltona, Mn. 56354
   218/943-4612

4. Edith M. Kelly
   304 12th Ave. E.
   Alexandria, Mn. 563
   612/763-6053

5. R.I. Pennar
   Rt. 4
   Alexandria, Mn. 563
   612/763-7636

Otter Tail

1. Sidney G. Nelson
   Route #1
   Sebeka, Mn. 56477
   218/837-5368

2. Berton Hovland
   Pelican Rapids, Mn. 56572
   218/863-3241

3. Andy Leitch
   Underwood, Mn. 56586
   218/826-6969

4. A. Hub. Nordgren
   Henning, Mn. 56551
   218/583-2320

5. John Snowberg
   720 North Aurdal
   Fergus Falls, Mn. 56537
   218/736-5630

Mahnomen

1. Lester Norby
   Mahnomen, MN 56557
   218/935-5516

2. Richard Larson
   Mahnomen, Mn. 56557
   218/435-4263

3. David Siedschlag
   Lengby, MN 56651
   218/935-2168

4. Leo Winter
   Mahnomen, Mn. 56557
   218/935-2414

5. Fred Rothschadl
   Waubun, Mn. 56589
   218/473-2464

- Minn. R[illegible] SW 11
MPCA Exhibit #3

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Terry Hoffman, do certify that I am the Executive Director of the Minnesota Pollution Control Agency, an Agency duly authorized under the laws of the State of Minnesota, and that the following resolution was adopted at a meeting of the Agency properly called on the 27th day of March, 1979, that a quorum was present at said meeting; that the following resolution is set forth in the minutes of said meeting and has not been rescinded or modified; however, a subsequent resolution reauthorizing the public hearing was passed on June 5, 1979, at a meeting of the Agency properly called and that a quorum was also present on that date. The resolution adopted by the Agency stated:

> Be it resolved, that the Minnesota Pollution Control Agency authorizes a public hearing to be held concerning amendments to Minnesota Rule SW 11. The Executive Director is authorized to execute all documents necessary for this public hearing, including, but not limited to, the Order for Hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18th day of July, 1979.

Terry Hoffman
Executive Director

Subscribed and sworn to before me
this 18th day of July, 1979:

Mary E. Wyatt
Notary Public

MARY E. WYATT
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Oct. 24, 1983

exhibit 9B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

AFFIDAVIT OF MAILING 1B

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner, being duly sworn on oath hereby deposes and says that in the City of St. Paul, county and state aforesaid, on the 31st day of August, 1979, he served the foregoing letter and draft rule by depositing in the United States mail at said City of St. Paul, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to more than 500 persons, including all Minnesota county solid waste officers, sanitary landfill permittees, open dump operators and registered attendees of the SW 11 public hearings held in July and August, 1979.

He further deposes and says that he received the eleven attached written responses, as well as five verbal responses, as a result of this mailing.

Michael Kanner

Subscribed and Sworn to before me this 2nd day of November 1979.

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

VILLAGE OF MARBLE

Box 38
MARBLE, MINNESOTA 55764
Sept. 13, 1979

RECEIVED
SEP 14 1979
MINN. POLLUTION
CONTROL AGENCY

Minn. Polution Control Agency
1935 West County Road B2
Roseville, Minn.

Dear Sirs:

We are interested in the relaxing of standards for solid waste land disposal facilities.

As per my conversation with Mr. Clark, we have a very good dump site in Marble.

We have plenty of space for our dump and we keep it in very good condition.

Our foreman covers the dump on the average of once a week and we have a gate at the entrance.

We would be in favor of keeping our own dump site to save on gas and to have the convenience of not having to haul our garbage to another dump.

We would be in favor of amending the law to make it possible for small communities to keep their own dump sites.

Thank you for your consideration.

Sincerely,

Lyle Hachey

Lyle Hachey-Mayor

Office of the County Auditor

OTTER TAIL COUNTY

SYLVIA G. BERGERUD, Auditor
RUTH BAKKEN, Deputy

Phone 218-739-2271
FERGUS FALLS, MINNESOTA 56537

RECEIVED
SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

September 7, 1979

Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota

Gentlemen:

The following action was taken by the Board of Commissioners of Otter Tail County Minnesota at their meeting on September 4th:

> "Motion was made by Andy Leitch, seconded by Bert Hovland and carried, requesting the County Auditor write to the Minnesota Pollution Control Agency, requesting different guide lines be set in the rural, less populated areas, to conform with legislative intent."

It is the feeling of the County Board that the regulations imposed on the rural areas in the State are irrational, unrealistic and pose an extreme hardship, when the intent of the Legislature was to solve a problem of disposal of solid waste rather than increase the problems in areas where such stringent regulations are unnecessary.

Sincerely,

Sylvia Bergerud
County Auditor
SGbergerud

C:Senator Wayne Olhoft
Governor Al Quie
Legislative Committee to REview Administrative Rules
Room 433 SW
State Office Building
Saint Paul, Minnesota 55155

PHONE
507/532-4678

BOX 36
MARSHALL MINN. 56258

RITTER'S SANITARY SERVICE, INC.
BILL AND ELAINE RITTER, OWNERS

September 6th, 1979

RECEIVED
SEP 10 1979
MINN. POLLUTION CONTROL AGENCY

Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, MN. 55113

Att; Mike Kenner

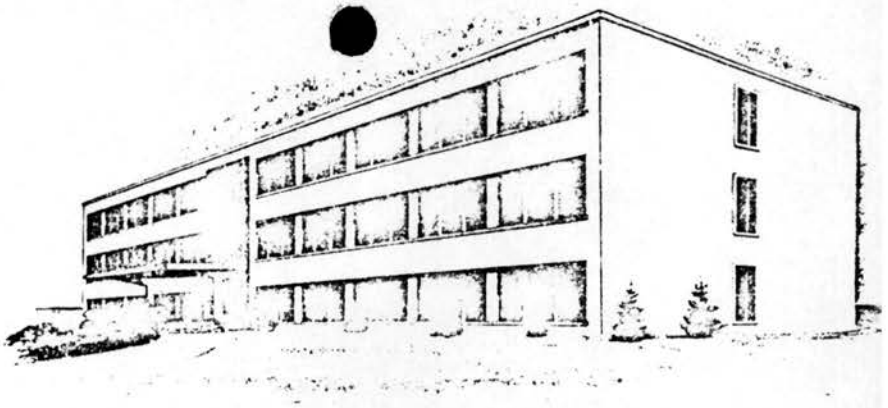
I am writing in regards to M.W. Rule 6 II Exceptions for Solid Waste Disposal Facilities Located in Sparsely Populated Areas and County Solid Waste Mgmt. Plans.

I do not object to modified landfills in the northern part of the State where the population is sparse, but, I do object to the covering of the solid waste on a monthly basis in the winter. My concern is rodent problems that could exist because of this mulching.

I feel it is just as important to have the same requirements for modified sites as for sanitary landfills in the metro area, such as site analysis, soil borings etc. The solid waste per unit of modified sites may be less volume, but the potential environmental problems will still be there, modified or sanitary landfill. The refuse doesn't change just because it's in a smaller site.

On page Draft-page 5-3, Item B.5 (3) (e) (iv) I object to the storage of hazardous waste, by this draft I interpret this to mean potential approval to encourage hazardous wastes to be put into modified landfills. Disposal of hazardous wastes problems now, I'm fully aware the State could not handle the problem with the hazardous wastes, but, to modified sites.

Itasca County
Solid Waste Management
COURTHOUSE
GRAND RAPIDS, MINNESOTA 55744
Phone: 218 - 326-9288



J. H. SULLIVAN
Solid Waste Management Officer

RECEIVED
SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

September 7, 1979

Dale L. Wikre
Acting Director
Division of Solid Waste
1935 West County Road B2
Roseville, MN 55113

Dear Mr. Wikre:

In response to your letter of August 31, 1979, relative to Solid Waste Regulations for modified landfill sites.

On Page 2, Item #3 -- It was my understanding that the modified sites could be covered and compacted on a bi-weekly basis. Therefore, I am suggesting the following rewording of this paragraph.

3. Minn. Rule SW 6 (2) (d) (i) as it relates to the time of covering and compaction shall not apply, rather, covering and compaction of waste material shall take place on a bi-weekly basis from May 1 to November 30 of each year or in accordance with a winter cover and compaction plan approved by the Agency.

Sincerely,

James H. Sullivan
Itasca County Solid Waste Management Officer

JHS:ne

Protect our land of clean air and water!

Angora Minn
Sept 7, 1979

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SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

Minnesota Pollution Control Agency
Attention: Michael Kanner
Roseville Minn.

Good morning Michael Kanner

Thank you so much for giving us an opportunity to make comments.

I and others are certainly glad you are relaying the regulations for landfill disposal facilities

Because it is extremely difficult to educate people regarding disposal of waste in that every one is so set in their ways with the Angora-Allenger landfill - most area people recall about changing especially now with gas - fingers not it is, it would only mean indiscriminate dumping of waste and we'd really have pollution.

I'm sure if those operating our landfill knew we care, keep maintain and use it they would make every effort to keep it up to standards.

Also I don't if we can educate people in not being so wasteful - which is our biggest problem but please give consideration to our landfill in Allenger-Angora. We feel this is the best solution for this area.

Thank you for your consideration

Sincerely
Mrs. Nobody

IRON RANGE TOWNSHIP

Taconite, Minnesota 55786

September 8, 1979

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SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

Mr. Dale L. Wikre
Acting Director
Division of Solid Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Dear Mr. Wikre:

This is to inform you that I agree with the draft of resolutions for solid waste disposal facilities located in sparsely populated areas - MN Rule SW 11.

Thank you.

Sincerely,

Wallace E. Gardinier
Landfill Supervisor

WEG:so Resolution Landfill 5-10-73

September 5, 1979

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SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

Michael Kanner
Solid Waste Division
MPCA
1935 West County Road B2
Roseville, MN 55113

RE: Your August 31st revised draft
of proposed changes (land fill)

Dear Mr. Kanner;

The removal of the 30 mile travel distance requirement is an excellent change, how ever adding point 2 regarding alternatives which must be explored, will be difficult to live with. I am concerned that decisions on point 2C will be weighted in favor of existing land fill operators. While it is easy to understand that existing land fill operators must be able to compete, decision makers in this matter should also consider that some of these land fill operators were put in business as a result of MPCA rules, which at the time seemed correct, but have since proven to have been too strict .

It seems wrong to continue to compound the problem by favoring a few land fill operators at the expense of many people and a country side desecrated by garbage and refuse.

Therefore I would propose that item 2 in your August 31st draft release, be removed as a requirement, and be included as a suggested item for study by applicants for a modified land fill permit.

Sincerely,

Bob Chapman

Bob Chapman
Crooked Lake Town Board
Outing, MN 56662

CITY OF RED WING, MINNESOTA
DEPARTMENT OF PUBLIC WORKS

DEAN A. MASSETT
DIRECTOR of PUBLIC WORKS

RED WING, MINNESOTA 55066

September 5, 1979

RECEIVED
SEP 6 1979
MINN. POLLUTION
CONTROL AGENCY

Michael Kanner
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, MN 55113

Dear Sir:

This is in response to Mr. Dale L. Wikie's letter dated August 31, 1979, regarding the relaxation of standards for landfills in sparsely populated areas.

It has taken MPCA several years to close the small dumps throughout the counties, and I to feel that, by relaxing the regulations, you will be giving thetownships permission to re-open the dumps. The figure of 2,500 people is really meaningless. There is no way to determine how many people will be using the site, if you do not have an attendant. Nothing would prohibit people driving several miles to dump a truck load at a dump where there are no charges, and no attendant.

I have one other concern regarding the elimination of S.W.6 (2)(+). Those areas that will be authorized for this type of landfill, are rural areas. They are farm communities that use chemicals. I am concerned that they may take advantage of the relaxed regulations and dump containers and unused chemicals at these sites. This practice could cause trouble to their neighbor, with regards to wells, etc.

I do however, agree that outstate areas, should not necessarily be required to meet the same regulations as the metropolitan counties (who have a tendancy to disregard PCA's regulations anyway), but to what degree of freedom they should have, I am not sure at this point.

Sincerely,

Dean A. Massett
Dean A. Massett
Director of Public Works

rmt

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SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

Hawley
Sept. 6.

To Whom it
May Concern.

I believe that not enough emphasis is placed on the costed inconvenience Nuisance and Real Hardship that must be born by area Residents When a landfill, Sanitary or Modified is installed.

I also believe that any type landfill should be privately owned. My reasons being that When a government body is in Charge. It seems all Agency and inforcement officers are Very reluctant to see to it that all Rules and Regulations are followed and inforced.

There must be a better way to Handle my all other sewage

Reusable material. than just throwing it away. Causing problems for Area residents Contaminating the under ground Water table. Increasing the fly and rodent problem the litter on surrounding property And on the roads leading to the landfill. These are real problems that nothing is done about. Ofcourse it is cheaper to take it out and dump it But it is Rankly resulting the cost should be born by people using the landfill not by surrounding Residents.

Sincerly
Mrs Mae Weaver
Rt. 2 Hanley
Minn. 56549.

September 7, 1979

The Township of Iron Range, Taconite, Minn., agrees with the terms of the recent draft for dumps and landfills.

W. E. Gardinier, Supervisor
(In charge of Iron Range
landfill)

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SEP 10 1979
MINN. POLLUTION
CONTROL AGENCY

City of
New York Mills
Box H
New York Mills, MN. 56567

MK returned

September 18, 1979

RECEIVED
SEP 21 1979
MINN. POLLUTION
CONTROL AGENCY

Minnesota Pollution Control Agency
Division of Solid Waste
1935 W. County Rd B2
Roseville, MN 55113

Attention: Michael Kanner

Dear Sir:

In reviewing the new proposals to the solid waste rules and regulations, I would like to make the following comments.

1. I feel it is totally wrong that New York Mills, Perham, and the adjoining townships must belong to the Northeast Ottertail County Landfill. These towns and townships were forced into this organization. With the new proposed regulations, according to the Pollution Control Office at Detroit Lakes, we will not qualify, because we serve a population exceeding 2500. Seperately each community would qualify for a modified landfill. I feel that the present landfill has proven it can not economically operate with the present regulations. The population served of 7500 is a false figure. A large portion of it does not, and will not, use the facility because they are rural, and dispose of trash on their own property. I feel it could operate under modified rules.

2. If other modifieds are allowed to operate, and if we have the present neighboring landfills which people live closer to, we will not have enough garbage coming into ours to justify the investment.

3. I feel that in rural areas all landfills should be changed to a modified type of operation. All the landfill operators we have talked to feel they need financila assistance from someone to operate. Private operators state they will not be able to stay open do to the costs caused by present regulations.

I hope you will give our landfill operation very serious consideration, as we have already spent a considerable amount of money, and can not justify doing so under present conditions and regulations.

Sincerely,

Dean Simpson
CITY MAYOR

cc: Bob Anderson
State Representative
District 103

Sandy DeBritto
City Manager
Perham, MN

DS/dh

exhibit 7B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

AFFIDAVIT OF MAILING ii

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner, being first duly sworn, hereby deposes and says that in the City of St. Paul, county and state aforesaid, on the 9th day of October, 1979, he served the foregoing "Notice of Hearing," by depositing in the United States mail at said City of St. Paul, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists, including the Secretary of State's list.

Michael Kanner

Michael Kanner

Subscribed and sworn to before me this 14th day of November 1979:

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

exhibit 8B

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

AFFIDAVIT OF MAILING

ii A

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Michael Kanner, being first duly sworn, hereby deposes and says that in the City of St. Paul, county and state aforesaid, on the 6th day of November, 1979, s/he served the attached "Notice of an Additional Hearing," by depositing in the United States mail at said City of St. Paul, true and correct copies thereof, properly enveloped, with postage prepaid, and addressed to those named on the attached mailing lists.

Michael Kanner

Subscribed and sworn to before me this 14th day of November 1979:

Maryanne Gibbons
Notary Public

MARYANNE GIBBONS
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 26, 1985

Minnesota Pollution Control Agency

NOV 6 1979

TO WHOM IT MAY CONCERN:

An additional public hearing in the matter of the proposed amendment of Minnesota Rule SW-11, granting an exemption for sparsely populated areas from certain sanitary landfill operating standards, will be held on:

> November 20, 1979, Tuesday, at Crow Wing County Social Service Building, Meeting Room 1, East Laurel and 4th Streets, Brainerd, Minnesota, convening at 1:00 p.m.

The proposed amendment, if adopted, will exempt certain small communities from the Agency's standards for the operation of sanitary landfills (contained in Minnesota Rule SW-6) by the establishment of separate standards for these communities.

The notice of hearing, which appeared in the State Register of October 15, 1976 (4 S.R. 579), shall apply to this meeting as well. You or your county solid waste officer have already received a copy. Additional copies of the full notice and proposed rule may be obtained by writing me.

Your participation is welcomed.

Sincerely,

Michael Kanner

Michael Kanner
Research Scientist
Enforcement Section
Division of Solid Waste

MK:ds

Phone: 612-296-7352

1935 West County Road B2, Roseville, Minnesota 55113
Regional Offices • Duluth / Brainerd / Detroit Lakes / Marshall / Rochester / Roseville
Equal Opportunity Employer

Other Interested Parties

Larry Landherr, Regional Director
1200 South Broadway
Suite 140
Rochester, MN 55901

Larry Johnson, Regional Director
Cline Pharmacy Bldg.
Marshall, MN 56258

Willis Mattison, Regional Director
116 East Front Street
Detroit Lakes, MN 56501

Larry Shaw, Regional Director
304 East River Road
Suite 3
Brainerd, MN 56401

John Pegors, Regional Director
1015 Torrey Building
Duluth, MN 55802

Bernice Diede
Itasca Co. Real Estate
Taxpayers Assoc.
Grand Rapids, MN 55744

John Chapuran
Assoc. of Minn. Counties
2305 Ford Parkway
St. Paul, MN 55116

Marshall Whitlock
LCRAR
Room 47, State Office Building
St. Paul, MN 55155

Rep. Jim Evans
Dist. 10A
1424 Lori Avenue
Detroit Lakes, MN 56501

Barbara Battiste Kelley
Minnesota Waste Assoc.
1821 University Ave., #253
St. Paul, MN 55104

Ms. Darlene Vobejda, President
Itasca Co. Twsp.
9015 River Road
Grand Rapids, MN 55744

Tom Todd
Joint Legislative Comm.
Haz. and Solid Waste
17 Capitol Bldg.
St. Paul, MN 55155

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Minnesota Waste Assoc.
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John Guillemette
Box 261
Mankato, MN 56001

Jap Munson
Redwood Sanitary Landfill
Box 567
Walnut Grove, MN 56180

Cathy Bergmann
Cass Co., Acting Solid
Waste Officer
Cass Co. Hwy. Dept.
Walker, MN 56484

L.D. Lound
Crondale Township
Star Route 1, Box 270
Deerwood, MN 56444

Bob Chapman
Crooked Lake Township
Outing, MN 56662

Robert Lountzen
Deal Township
Star Route 1
Sequot Lakes, MN 56472

Doug Henschel
City of Milaca
Milaca, MN 56353

Hanna King
Route 1, Box 216
Browerville, MN 56438

Ralph Sondgeroth
Bowstring Township
Box 120
Deer River, MN 56636

Robert Attringer
Regional Sanitation Service
Crookston, MN 56716

Walter Willenbring
Two Inlets-Savannah Twps.
Itasca Star Route
Park Rapids, MN 56470

George Shelen
Two Inlets-Savannah Twps.
Itasca Star Route
Park Rapids, MN 56470

Gerald Finke
Mahnomen County
Route 1, Box 90
Mahnomen, MN 56557

Robert Paddock
Blackduck, MN 56630

Henry Pickett
Niawa Star Route
Park Rapids, MN 56470

Robert Bernsford
Route 3, Box 278
Bemidji, MN 56601

Vern Massie
Hubbary City
Park Rapids, MN 56470

Joyce Paddock
Penington Route
Blackduck, MN 56630

Richard H. Hogan
City of Kerrick
Kerrick, MN 55756

Bruce L. Jones
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Box 308
Brainerd, MN 56401

John G. Appelget
Itasca County
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Bovey, MN 55709

Lloyd Nesseth
Itasca County
Courthouse
Grand Rapids, MN 55744

James Sullivan
Itasca County
Courthouse
Grand Rapids, MN 55744

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Angora, MN 55703

Tom Rukavina
Pike Township
Star Route
Virginia, MN 55798

Roger Metsa
Alango Township
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Angora, MN 55703

Lee E. Phillips
Alango Township
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Kenneth Miller
Vermilion Landfill Auth.
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Tower, MN 55790

Nancy Mrowicki
Colvin Township
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Makinen, MN 55763

llen Maijala
olvin Township
ox 124
akinen, MN 55763

lfred Hakala
olvin Township
ox 80
akinen, MN 55763

ames Leete
olvin Township
ox 118
akinen, MN 55763

arie Hakala
lango Township
oute 1, Box 28
ngora, MN 55703

onna Anderson
ermilion Landfill Auth.
ox 449
ower, MN 55790

ichard Maddern
anitary Engineer
ermilion Landfill Auth.
ower, MN 55790

oan Carlson
ield Township
tar Route, Box 27
ook, MN 55723

arvey Carlson
ield Township
tar Route, Box 27
ook, MN 55723

arry Enzmann
ook Sanitary Landfill
ox 21
ook, MN 55723

ominic J. Elioff
tate Representative
8 - 6th Street So.
irginia, MN 55792

oseph Wardir
ox 24
cKinley, MN 55761

ill Betzler
x 724
Buhl, MN 55713

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Anton Zgonc
Cotton Area Landfill
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Kelsey, MN 55755

Wayne Toittonen
Angora Township
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Angora, MN 55703

Frank J. Sisker
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DeLoris G. Meyer
Portage Landfill Auth.
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Crane Lake, MN 55725

Walt Meyer
Portage Landfill Auth.
Box 25
Crane Lake, MN 55725

Lorena Nygard
Box 211
Biwabik, MN 55708

Laura Nicew
Lake Vermilion
Biwabik, MN 55708

Margret Erchul
Tower, MN 55790

Jerome P. Loegering
Long Prairie SLF
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Long Prairie, MN 56347

Evelyn E. Lundeen
Tower, MN 55790

Joseph J. Erchul
Tower, MN 55790

E. A. Lundeen
Tower, MN 55790

Bonnie Dovenmuehle
Superior National Forest
P.O. Box 338
Federal Building
Duluth, MN 55801

Dave Mahoney
Superior National Forest
P.O. Box 338
Federal Building
Duluth, MN 55801

Herschel Faulkner
City of Orr
Orr, MN 55771

Tim Flimal, Engineer
Star Route, Box 2205
Tower, MN 55790

Gloris V. Brekke
Vermilion Landfill Auth.
Star Route, Box 2870
Tower, MN 55790

~~Jack Polipnick~~
~~Sauk Centre, MN 56378~~

~~Victor Sawer~~
~~Clitherall, MN 56524~~

DISTRICT I

COMMISSIONERS

HONORABLE MICHAEL Z[illegible]RBE
AITKIN COUNTY COMMIS[illegible]NER
504 4TH STREET N.W.
AITKIN, MN 56431

HONORABLE DONALD DAVIES
AITKIN COUNTY COMMISSIONER
ROUTE 4
AITKIN, MN 56431

HONORABLE MELVIN JOHNSON
AITKIN COUNTY COMMISSIONER
TAMARACK, MN 55787

HONORABLE WILLIAM F. LAKE
AITKIN COUNTY COMMISSIONER
McGREGOR, MN 55760

HONORABLE L.H. SCHROEDER
AITKIN COUNTY COMMISSIONER
HILL CITY, MN 55748

HONORABLE KENNETH M. BROWN
CARLTON COUNTY COMMISSIONE
MOOSE LAKE, MN 55767

HONORABLE MARC A. RAIHALA
CARLTON COUNTY COMMISSIONE
802 HAWTHORNE
CLOQUET, MN 55720

HONORABLE PAUL W. NORDMAN
CARLTON COUNTY COMMISSIONE
414 SIXTH STREET
CLOQUET, MN 55720

HONORABLE ARVID KONU
CARLTON COUNTY COMMISSIONE
ESKO, MN 55733

HONORABLE MIKE SCHUL[illegible]
CARLTON COUNTY COMM[illegible]NE
515 COUNTY HIGHWAY
CARLTON, MN 55718

HONORABLE JAMES HULL
COOK COUNTY COMMISSIONER
GRAND PORTAGE, MN 55605

HONORABLE SIDNEY BACKLUND
COOK COUNTY COMMISSIONER
GRAND MARAIS, MN 55604

HONORABLE CHESTER H. LINDSKOG
COOK COUNTY COMMISSIONER
GRAND MARAIS, MN 55604

HONORABLE JAMES C. THOMPSON
COOK COUNTY COMMISSIONER
GRAND MARAIS, MN 55604

HONORABLE FRANK HANSEN
COOK COUNTY COMMISSIONER
TOFTE, MN 55615

HONORABLE RICHARD THORNGREN
LAKE COUNTY COMMISSIONER
BOX 245
LITTLE MARAIS, MN 55611

HONORABLE LLOYD H. HOULE
LAKE COUNTY COMMISSIONER
19 HAYS CIRCLE
SILVER BAY, MN 55614

HONORABLE RALPH G. SANDVIK
LAKE COUNTY COMMISSIONER
632 11TH AVENUE
TWO HARBORS, MN 55616

HONORABLE LENORE JOHNSON
LAKE COUNTY COMMISSIONER
ROUTE 1, BOX 152Z
TWO HARBORS, MN 55616

HONORABLE EDWIN W. HANSEN
LAKE COUNTY COMMISSIONER
1514 NINTH AVENUE
TWO HARBORS, MN 55616

HONORABLE JAMES YOUNGBAUER
PINE COUNTY COMMISSIONER
PINE CITY, MN 55063

HONORABLE KENNETH CLEMENTSON
PINE COUNTY COMMISSIONER
200 NORTH 3RD STREET
PINE CITY, MN 55063

HONORABLE EDWARD O. ANDERSON
PINE COUNTY COMMISSIONER
DENHAM, MN 55728

HONORABLE EVERETTE KOECHER
PINE COUNTY COMMISSIONER
KERRICK, MN 55756

HONORABLE DONALD A. LINDQUIST
PINE COUNTY COMMISSIONER
HINCKLEY, MN 55037

HONORABLE GARY L. DOTY
ST. LOUIS CO. COMMISSIONER
20 MINNEAPOLIS AVENUE
DULUTH, MN 55811

HONORABLE BILL KRON
ST. LOUIS CO. COMMISSIONER
2915 WILLINGTON STREET
DULUTH, MN 55806

HONORABLE ALVIN S. HALL
ST. LOUIS CO. COMMISSIONER
209 EAST CHAPMAN STREET
ELY, MN 55731

HONORABLE A. LLOYD SHANNON
ST. LOUIS CO. COMMISSIONER
COURTHOUSE
DULUTH, MN 55802

HONORABLE ED HOFF
ST. LOUIS CO. COMMISSIONER
401 1/2 14th STREET N.
VIRGINIA, MN 55792

HONORABLE [illegible]
ST. LOUIS CO. COMMISSI[illegible]ER
1522 EAST 25TH STREET
HIBBING, MN 55746

HONORABLE DEIDRE DOI[illegible]
ST. LOUIS CO. COMMIS[illegible]ER
322 21ST AVENUE EAST
DULUTH, MN 55812

DISTRICT II

COMMISSIONERS

HONORABLE LOWELL BJEL
BELTRAMI COUNTY COMM ONE
16TH AND PARK
BDMIDJI, MN 56601

HONORABLE RODNEY BENSON
BELTRAMI COUNTY COMMISSIONE
PUPOSKY, MN 56667

HONORABLE RAYMOND E. BOYER
BELTRAMI COUNTY COMMISSIONE
912 PARK AVENUE
BEMIDJI, MN 56601

HONORABLE CAROL A. MILOWSK
BELTRAMI COUNTY COMMISSIONE
ROUTE 6, BOX 431
BEMIDJI, MN 56601

HONORABLE RAYMER HOYU
BELTRAMI COUNTY COMMI ONE
KELLIHER, MN 56650

HONORABLE RAYMOND F. AC ER
CASS COUNTY COMMISSIONER
PILLAGER, MN 56473

HONORABLE MAHLON SWENTKOFS
CASS COUNTY COMMISSIONER
REMER, MN 56672

HONORABLE VIRGIL FOSTER
CASS COUNTY COMMISSIONER
CASS LAKE, MN 56633

HONORABLE MAURICE ZAFF
CASS COUNTY COMMISSIO
BACKUS, MN 56435

HONORABLE CLARENCE
CASS COUNTY COMMISS
ACKUS, MN 56435

HONORABLE DONALD A. McCOLLUM
CLEARWATER CO. COMMISSIONER
BAGLEY, MN 56621

HONORABLE JOSEPH CHAVALIER
CLEARWATER CO. COMMISSIONER
SHEVLIN, MN 56676

HONORABLE CLAYTON STEENERSON
CLEARWATER CO. COMMISSIONER
CLEARBROOK, MN 56634

HONORABLE D.B. JONES
CLEARWATER CO. COMMISSIONER
BAGLEY, MN 55621

HONORABLE FRANCIS BAGNE
CLEARWATER CO. COMMISSIONER
GONVICK, MN 56644

HONORABLE MARK THOMASON
HUBBARD COUNTY COMMISSIONER
ITASCA STAR ROUTE
PARK RAPIDS, MN 56470

HONORABLE WINSTON MANLOVE
HUBBARD COUNTY COMMISSIONER
ROUTE #4
PARK RAPIDS, MN 56470

HONORABLE DOUGLAS C. COOK
HUBBARD COUNTY COMMISSIONER
RURAL ROUTE
AKELEY, MN 56433

HONORABLE GARY L. GAULDIN
HUBBARD COUNTY COMMISSIONER
ROUTE #1
PARK RAPIDS, MN 56470

HONORABLE ERVIN KAHLSTORF
HUBBARD COUNTY COMMISSIONER
LAPORTE, MN 56461

HONORABLE SHERLEY JOKINEN
ITASCA COUNTY COMMISSIONER
322 N.E. TENTH AVENUE
GRAND RAPIDS, MN 55744

HONORABLE GEORGE PREDOVICH
ITASCA COUNTY COMMISSIONER
COLERAINE, MN 55722

HONORABLE ALF MADSEN
ITASCA COUNTY COMMISSIONER
318 THIRD AVENUE S.E.
GRAND RAPIDS, MN 55744

HONORABLE BOB HERBST
ITASCA COUNTY COMMISSIONER
ROUTE #2
COHASSET, MN 55721

HONORABLE GEORGE ORLOVICH
ITASCA COUNTY COMMISSIONER
PENGILLY, MN 55775

HONORABLE DONALD SANDBECK
KOOCHICHING CO. COMMISSIONER
ISLAND VIEW ROUTE
INTERNATIONAL FALLS, MN 56649

HONORABLE INNIS NESBITT
KOOCHICHING CO. COMMISSIONER
109 PARK AVENUE
INTERNATIONAL FALLS, MN 56649

HONORABLE OTTO L. JOURDAN
KOOCHICHING CO. COMMISSIONER
NORTHOME, MN 56661

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HONORABLE HANLON OLSO
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COMMISSIONER
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HONORABLE BILL MOUW
LAKE OF THE WOODS COU
COMMISSIONER
BAUDETTE, MN 56623

HONORABLE HOPE GULLIN RUD
LAKE OF THE WOODS COU Y
COMMISSIONER
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HONORABLE LAURENCE ANDERSO
LAKE OF THE WOODS COUNTY
COMMISSIONER
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HONORABLE MARVIN A. PULJU
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DISTRICT III

COMMISSIONERS

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RED LAKE COUNTY COMMISSIONE
RED LAKE FALLS, MN 56750

HONORABLE RUSSELL HOUTARI
RED LAKE COUNTY COMMISSIONE
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HONORABLE IRVING BEYER
RED LAKE COUNTY COMMISSIONE
RED LAKE FALLS, MN 56750

HONORABLE DON GAGNER
RED LAKE COUNTY COMMISSIONE
MENTOR, MN 56736

HONORABLE DORAN HORNER
ROSEAU COUNTY COMMISSIONER
WARROAD, MN 56763

HONORABLE GEORGE LARSON
ROSEAU COUNTY COMMISSIONER
ROSEAU, MN 56751

HONORABLE MARLIN ERICKSON
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PENCER, MN 56746

HONORABLE JOHN GAUKERUD
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ROSEAU, MN 56751

ONORABLE WAYNE JOHL
SEAU COUNTY COMMIS ER
ENBUSH, MN 567

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HONORABLE ORVILLE ANDERSON
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HONORABLE GARFIELD ERLANDSON
KITTSON COUNTY COMMISSIONER
KENNEDY, MN 56733

HONORABLE RICHARD LARSON
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MAHNOMEN, MN 56557

HONORABLE LEO WINTER
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HONORABLE FRED ROTHSCHADL
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LENGBY, MN 56651

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THIEF RIVER FALLS, MN 56

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THIEF RIVER FALLS, MN 567

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[illegible]LAY COUNTY COMMISSI[illegible]R
[illegible]ORHEAD, MN 565[illegible]

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POPE COUNTY COMMISSIONER
GLENWOOD, MN 56334

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SEDAN, MN 56380

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HANCOCK, MN 56244

HONORABLE GRANVILLE WALBURN
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BROWNS VALLEY, MN 5: 219

HONORABLE ROBERT FRI: RIC
WILKIN COUNTY COMMIS: NEI
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DISTRICT IV

COMMISSIONERS

-2-

HONORABLE RAYMOND PACKER
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ROUTE #1
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MEEKER COUNTY COMMISSIONER
ROUTE 2
WATKINS, MN 55389

HONORABLE C. ALVIN JOHNSON
MEEKER COUNTY COMMISSIONER
ROUTE #1
LITCHFIELD, MN 55355

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LITCHFIELD, MN 55355

DISTRICT V

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CLEAR LAKE, MN 55319

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WRIGHT COUNTY COMMISSIONER
ST. MICHAEL, MN 55376

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DISTRICT VI

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CORRELL, MN 56227

HONORABLE ROBERT KNOLI
BIG STONE COUNTY COMMISSIO
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MENCER JOHNSON
AITKIN COUNTY ZONING OFFICE
COURTHOUSE
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COTTONWOOD CTY
1453 3RD AVE
WINDOM MN 56101

DUANE BLANCK
CROW WING COUNTY ZONING COORD
COURTHOUSE
BRAINERD MN 56401

DAVE GURNEY
DAKOTA COUNTY
1560 W TRUNK HWY 55
HASTINGS, MN 55033

RICHARD HOLTAN
DODGE COUNTY COURTHOUSE
MANTORVILLE, MN 55955

DENNIS NAGLE
DOUGLAS COUNTY ZONING ADMINIS
ALEXANDRIA MN 56309

HERSHEL L. KOENIG
FARIBAULT COUNTY ENGINEER
BLUE EARTH MN 56013

WEB KASTEN
FILLMORE CTY SOLID WASTE OFF
PRESTON MN 55965

JOSEPH DUPONT/TRUMAN THROND
FREEBORN COUNTY ENGINEERS
ALBERT LEA MN 56007

CHUCK DONAT
GOODHUE COUNTY ZONING ADMINIS
RED WING MN 55066

JIM STANDISH
GRANT COUNTY SOLID WASTE OFF
ELBOW LAKE MN 56531

LUTHER NELSON
HENNEPIN CTY DEP PUBLIC WORKS
ENVIRONMENTAL SERVICE DIVISION
320 WASHINGTON SOUTH
HOPKINS MN 55343

RICK FRANK
HOUSTON COUNTY COURTHOUSE
CALEDONIA MN 55921

VERN MASSIE
HUBBARD COUNTY ZONING OFFICER
COURTHOUSE
PARK RAPIDS, MN 56470

JACK PUTERBAUGH
ISANTI COUNTY SOLID WASTE OFF
CAMBRIDGE MN 55008

SCHUYLER MITCHELL
ITASCA CTY PLANNING + ZONING
COURTHOUSE
GRAND RAPIDS MN 55744

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JACKSON CTY POLL CONT ENV HLTH
BOX 184
JACKSON MN 56143

ALDEN E. SMITH
KANABEC COUNTY BOARD
MORA MN 55051

MELVIN FLADEBOE/STEVE PETERSON
KANDIYOHI COUNTY ENGINEER
COURTHOUSE
WILLMAR MN 56201

KITTSON CO.
CHAIRMAN OF THE COUNTY BOARD
HALLOCK MN 56649

LEONARD PELLAND
KOOCHICHING CTY SOLID WASTE
COUNTY ZONING OFFICE
COURTHOUSE
INTERNATIONAL FALLS MN 56649

M. D. HANSON
LAC QUI PARLE COUNTY ENGINEER
MADISON MN 56256

JOHN BJORUM
ASST HWY ENG
LAKE COUNTY COURTHOUSE
TWO HARBORS MN 55616

GARY LOCKNER
LAKE OF THE WOODS COUNTY CTHSE
ROUTE 1, BOX 272B
BAUDETTE MN 56623

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LE SUEUR COUNTY HIGHWAY DEPT
LE CENTER MN 56057

PETER BOOMGARDEN
LINCOLN COUNTY ENGINEER
IVANHOE MN 56182

MIKE GORT
LYON COUNTY ENVIRONMENTAL ADMN
MARSHALL MN 56258

ED HOMAN
MCLEOD COUNTY ZONING ADMINIS
MCLEOD COUNTY COURTHOUSE
GLENCOE MN 55336

MIKE KRACKER COUNTY ATTNY
MAHNOMEN COUNTY
MAHNOMEN MN 56557

CHUCK CHEENY
MARSHALL COUNTY COURTHOUSE
WARREN MN 56762

WAYNE FLOHRS
MARTIN CTY ZONING SOLID WASTE
SECURITY BLDG
ROOM 124
FAIRMONT MN 56031

H. A. KNIEFF
MEEKER COUNTY ENGINEER
COURTHOUSE
LITCHFIELD MN 55355

MAHLON DAHL
MILLE LACS CTY ZONING ADMINIS
MILACA MN 56353

LEE MCKINNON
MORRISON CTY LANDFILL BRD OFF
LITTLE FALLS MN 56345

WILLIAM BUCKLEY
MOWER COUNTY SANITARIAN
AUSTIN MN 55912

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MURRAY COUNTY ENGINEER
SLAYTON MN 57172

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ST. PETER MN 56082

G. C. BOMGAARS
NOBLES COUNTY ZONING OFFICER
WORTHINGTON MN 56187

KENNETH BENESH
NORMAN COUNTY AUDITOR
ADA MN 56510

BILL POBLETE
OLMSTED COUNTY HEALTH DEPT
ROCHESTER MN 55901

MALCOLM K. LEE
OTTER TAIL COUNTY COURTHOUSE
FERGUS FALLS MN 56537

ARVID OLSON
PENNINGTON COUNTY ENGINEER
THIEF RIVER FALLS MN 56701

WAYNE R. GOLLY
PINE COUNTY SOLID WASTE OFFICE
PINE COUNTY ZONING OFFICE
PINE CITY MN 55063

DENNIS K. STOECKMAN
PIPESTONE COUNTY ENGINEER
PIPESTONE MN 56164

BERNARD LIEDER
POLK COUNTY HIGHWAY ENGINEER
CROOKSTON MN 56716

MICHAEL D. HOWE
POPE CTY ENVIR PLANNING OFFICE
GLENWOOD MN 56347

DOUGLAS WOODS
COMMUNITY HEALTH SERVICES
906 AMERICAN CENTER BLDG
150 E KELLOGG BLVD
ST PAUL MN 55101

ORIN LINDER
RED LK CTY
RED LAKE FALLS MN 56750

GARY ZICK
SOLID WASTE MANAGEMENT OFFICER
REDWOOD COUNTY COURTHOUSE
REDWOOD FALLS MN 56283

CLIFFORD A. THORESON
RENVILLE PLANNING ZONING ADMIN
COURTHOUSE
OLIVIA MN 56277

MERT HOOVER
RICE COUNTY SOLID WASTE DEPT
COURTHOUSE
FARIBAULT MN 55021

FRED O. WARDEN
ROCK COUNTY ENGINEER
LUVERNE MN 56156

RAY SAUVE
ROSEAU CTY ENGINEER DIRECTOR
ROSEAU MN 56751

JIM KURTZ/BILL LANGENBRUNNER
ST. LOUIS COUNTY HEALTH DEPT
504 EAST SECOND STREET
DULUTH MN 55805

AL FRECHETTE
SCOTT CTY ENV HEALTH OFFICER
SHAKOPEE MN 55379

BRIAN BENSON
SHERBURNE COUNTY SANITARIAN
COUNTY ADMINISTRATION BUILDING
ELK RIVER MN 55330

WILLIAM C. NOVOBAD
SIBLEY COUNTY AUDITOR
GAYLORD MN 55334

JACK WIMMER/KEN HOPKE
STEARNS COUNTY COURTHOUSE
DIRECTOR CTY PLAN COMMISSION
P.O. BOX 604
ST. CLOUD MN 56301

DAVID SEVERSON
STEELE COUNTY SANITARIAN
OWATONNA MN 55060

L. B. SCHAUB
STEVENS COUNTY ENGINEER
MORRIS MN 56267

FRANCIS PERRIZO
SWIFT COUNTY AUDITOR
BENSON MN 56215

AL STEUCK
TODD CTY
COURTHOUSE
LONG PRAIRIE MN 56347

LES DEYO
TRAVERSE CTY SOLID WASTE DIR
WHEATON MN 56296

CHARLES MCDONALD
WABASHA COUNTY AUDITOR
WABASHA MN 55981

G. J. KEMPF
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WADENA MN 56482

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WASECA MN 56093

CHAS SWANSON/PAUL BRANDT
11660 MYERON RD
WASHINGTON COUNTY COURTHOUSE
STILLWATER MN 55082

RATONWAN COUNTY HIGHWAY BLDG.
P.O. BOX 6
ST. JAMES MN 56081

GLEN MACTAGGERT
WILKIN COUNTY COURTHOUSE
BRECKENRIDGE, MN 56520

ART PERSON
WINONA COUNTY
WINONA MN 55987

CHUCK DAVIS
WRIGHT COUNTY SANITARIAN
BUFFALO MN 55313

BOB OLSON
YELLOW MEDICINE COUNTY
BOX 675
CLARKFIELD MN 56223

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Minn. Rule SW 11 Granting an Exemption for Sparsely Populated Areas from Certain Sanitary Landfill Operating Standards

NO. PCA-79-007-HK

STATEMENT OF COMPLIANCE WITH MANUAL OF RULEMAKING PROCEDURES

I, Special Assistant Attorney General Robert C. Moilanen, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rulemaking Procedures has been followed.

ROBERT C. MOILANEN
Special Assistant
Attorney General

Dated:

Notice of Filing of Application for License by Lee's Hospital Supply

On January 15, 1979, Lee's Hospital Supply filed application with George Pettersen, M.D., Commissioner of Health for a license to operate a land non-emergency ambulance service with a base of operation in Hibbing, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subdivision 2 of that statute states, in part: "The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing based upon the application, at which hearing all issues will be heard de novo."

Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to George Pettersen, M.D., within the time period outlined by statutes.

Department of Natural Resources Planning Division

Notice of Change of Hearing Date Re: Proposed Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cloquet River from Its Source at Cloquet Lake to Its Mouth at the St. Louis River, and the Proposed Adoption of a Management Plan for the Cloquet River

Notice is hereby given of a change of date for the public hearing on these proposed rules authorized under Minn. Stat. §§ 104.31-104.40 published at *State Register*, Volume 3, p. 1258, December 18, 1978. The hearing originally was scheduled for February 19, 1979, at 7:00 p.m. in the Two Harbors High School Auditorium, Two Harbors, Minnesota, and February 20, 1979, at 7:00 p.m., at the University of Minnesota-Duluth, Chemistry 200 Auditorium. It has been tentatively rescheduled for June 11 and 12, 1979. Further notice will be published as to the time and location.

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Rules Affecting the Disposal of Solid Waste in the State of Minnesota

Notice is hereby given that the Minnesota Pollution Control Agency is considering revisions to Minn. Rules SW 1-12 which affect the disposal of solid waste in the State of Minnesota. The Agency is seeking outside opinion concerning the effect of these rules in densely and sparsely populated areas. All interested persons or groups are requested to submit data or views on the subject in writing or orally.

Written statements may be addressed to:

Richard Person
Minnesota Pollution Control Agency
Division of Solid Waste
1935 W. County Road B2
Roseville, Minnesota 55113

Oral statements will be received over the telephone at (612) 296-7297 and in person at the above address during regular business hours (8:00 a.m. to 4:30 p.m.).

Any written materials received by the Agency shall become part of the hearing record in the event revisions regarding Minn. Rules SW 1-12 are promulgated. Further notice of proposed revisions to Minn. Rules SW 1-12 and of any hearing concerning Minn. Rules SW 1-12 will be given as required by law, including notice in the *State Register*.

Sandra S. Gardebring
Acting Executive Director

Rulemaking

Minnesota Department of Agriculture

Refuse and Dunnage Disposal in Lake Superior Harbors

The Minnesota Department of Agriculture has begun consideration of amending rules governing the disposal of refuse and dunnage of foreign origin from vessels at Minnesota ports on Lake Superior waters. Minn. Rules Agr. 190-212 presently govern this matter. The proposed amendments, if adopted, would allow for additional methods of acceptable disposal of refuse and dunnage.

In order to adequately determine the nature and utility of such amendments to the rules the Department of Agriculture requests information and comments from all interested or affected individuals or groups concerning the subject matter of the proposed amendments to the rules. Statements of information and comment may be made orally or in writing.

Written statements of information and comment may be addressed to:

Robert Flaskerd, Director
Plant Industry Division
670 State Office Building
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3347, and in person at the above address.

All statements of information and comment must be received by March 2, 1979. Any written material received by the Department shall become part of the hearing record.

Minnesota Pollution Control Agency

Solid Waste Disposal

The Minnesota Pollution Control Agency is considering revisions to Minn. Rules SW 1-12 which affect the disposal of solid waste in the State of Minnesota. The Agency is seeking outside opinion concerning the effect of these rules in densely and sparsely populated areas. All interested persons or groups are requested to submit data or views on the subject in writing or orally.

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