Jefferson County
Solid Waste Management Plan

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Jefferson County
Solid Waste Management Plan

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Jefferson County
Solid Waste Management Plan

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The planning process was initiated in October 1999, and the draft plan was approved in April 2000. This final plan document represents a final compilation of the plan and resources.

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Introduction

The Jefferson County Solid Waste Management Plan is a guide for the County Solid Waste Committee to carry out its primary responsibilities, and also provided a means to explore the modification of the County's role in solid waste. The plan document is formatted to correspond with the steps used in the planning process, including:

1. Approach for the Solid Waste Management Plan: Preferred Steps (Plan for the Plan)

2. Stakeholder Analysis and Review Mandates

3. Mission, Purpose and Values

4. Assessment:
    a. Changes and Trends Report
    b. Strengths, Weaknesses, Opportunities and Threats Assessment

5. Strategic Issues and Outputs
    a. Issue Identification: Strategic Issues
    b. Outputs and Reporting Systems
        - Jefferson County Zoning Process Guidelines for Landfill Siting
        - Guide for Assessing Aesthetics
        - Guide for Landfill Monitoring (Executive Summary)
        - Guide for Operating Hazardous Waste Removal Programs

6. Strategy Formulation
    a. Performance Expectations for the Operational Guides
    b. Strategy Formulation for the Two Priority Strategic Issues

7. Plan Review and Adoption

8. Implementation
    a. Implement Details of the Planning Effort
    b. Develop Plan

Each section, or chapter, will provide a brief introductory context narrative. Extensive resource materials are also included to enable continuing plan use and reference.

Section 1
APPROACH FOR THE SOLID WASTE MANAGEMENT PLAN: PREFERRED STEPS (PLAN FOR THE PLAN)

In order to develop a meaningful plan, the Solid Waste Committee, staff and UW-Extension resources (plan development group) developed a detailed approach for carrying out the plan.

Diagnosis and Purpose of the Effort

The plan development group determined that a combination management guide and strategic plan process would be used.

The first purpose of this effort is to:

1. Guide the County Solid Waste Committee in carrying out its primary responsibilities as they currently exist for:
    a. Oversight of the County's landfills
    b. Operation of Hazardous Waste Removal Programs (Agricultural and Household Clean Sweeps)
    c. Promotion of recycling and composting
    d. Clarify existing role of Solid Waste Committee members, Zoning Committee and Zoning Department in Landfill Siting issues (example – work with the County Board Chair and County Administrator in assigning Solid Waste Committee members to Siting Committee)
2. Explore the modification or expansion of the County's role in solid waste

The plan development group also identified:

- Preferred steps in the process
- Form and timing of reports
- Role and function of the Solid Waste Committee
- Role and function of the Planning Team/Other Resources and Consultants
- The commitment of resources
- The assembly of report and report approval requirements
- A detailing of the planning effort

This is detailed in the Appendix.

Section 2
STAKEHOLDER ANALYSIS AND MANDATES REVIEW

An early step in the planning process was a determination of who would be affected by the Solid Waste Management Plan and also who would affect the plan. Therefore, the planning team identified those individual and groups that represented these stakeholders. The analysis looked at stakeholders both internally (within County government) and external to Jefferson County government. Those stakeholders of primary importance have been highlighted (Chart 1).

Also included in Section2 are the externally imposed mandates relating to solid waste management and planning. Mandates prescribe what must or should be done under legal or binding requirements including codes, regulations, formally approved policies and federal, state or local laws. A mandate can be expressed formally or informally. Informal mandates may include community expectations.

The mandates portion of the report contains formal mandates associated with broad purpose areas of:

a) Landfill Siting
b) Hazardous Waste Renewal Programs
c) Recycling.

By doing this mandates analysis, this section also identified areas in which the County has no mandates or requirements related to solid waste management and planning. Informal mandates relating to other community expectations are also included. And finally, this section contains supporting documentation related to mandates (Exhibits 1-8).

Section 2: Chart 1
STAKEHOLDER ANALYSIS

External

*Town of Farmington - Chair

*Town of Koshkonong - Chair

*All Local Government:
- Other Towns
- Cities
- Villages

Internal
- Solid Waste Committee
- Planning Team
- Zoning Department/Staff
- UW-Extension
- Corporation Counsel
- County Administrator
- County Board Chair
- *County Board Members
- Parks/Emergency Management
- Land and Water Conservation Committee
- Zoning Committee

Waste Haulers
- Valley Meadows/Vivendi
- John's
- Waste Management

State of Wisconsin:
- *DNR
- Commerce
- U.W./U.W.-Extension
- Siting Board
- Administration
- *DATCP
- Legislature
- DOT

*Landfills/Operators
- Deer Track Park
- Valley Meadows

Engineering Consultants

Environmentalists

Apartment Complexes

*Businesses/J.C.E.D.C.

*Schools/Educational Facilities

Agricultural Community

Hospitals/Nursing Homes

Individual Households/Residents

* Of particular importance

Definition:
Stakeholder: A stakeholder is any person, group or organization that can place a claim on the organization's resources, attention or output, or which is affected by its output.

Section 2
MANDATES REVIEW

Mandates are defined as formal and informal requirements placed on an organization or program. This section identifies both formal and informal requirements placed upon the Solid Waste Committee and the County.

PURPOSE 1A – LANDFILL SITING

Overview Comments on Landfill Siting

Method of Operation – The County should be involved early and do the best it can in negotiating of the County's interests.

Suggestion – History has shown that the County's representative on the Siting Committee should be from outside the effected town.

Reference to State Statute:

Subchapter III – Facilities Siting (289.10) – (See Exhibit 1)

289.22(3): The applicant seeks local approval of the proposed landfill facility, and the County's response has been that the County will not process the rezoning request through the normal procedures (as a consequence of the County wishing to participate in the Site Negotiation Process). However, elements of the Zoning Ordinance need to be included in a "negotiated siting agreement", as determined applicable during this negotiation process.

Possible Plan Response: Ordinances need to be tightened to fill in loopholes that exist in the "processing" of the application.

Reference to Waste Facility Siting Board Procedures (See Exhibit 2 – Chart of Section 144.445 and Exhibit 3)

Summary

The Negotiation Process, if successful, should resolve all local issues. If unsuccessful, the process will move to arbitration which focuses on a limited number of negotiation elements

It is in the County's best interest to participate in the process, and have a successful negotiation process

Determination of Landfill Need (See Exhibit 4)

The DNR has jurisdiction over determining need as a precondition of determining feasibility.

The County may input to the DNR on its local assessments of need.

Liability for Landfill Design Facilities (See Exhibit 5)

The DNR has "Regulator" jurisdiction along with associated liability.

The County may be involved in informal review, but is not considered a"Regulator".

Critique of Landfill Siting Law (See Exhibit 6)

This report indicates a significant commitment of local resources to pay for associated technical review and legal costs.

County Zoning Ordinance (See Exhibit 7)

The County has Zoning Ordinances identifying standards for conditional use permits for waste facilities.

These criteria represent locally approved standards that may be used or referred to during the State negotiation/arbitration processes.

Possible Plan Response: Other ordinance language might be considered to help address local concerns such as:

- Proximity to residential areas
- Aesthetic considerations
- Procedural matters on processing applications

PURPOSE 1B – HAZARDOUS WASTE REMOVAL PROGRAMS

Clean Sweep Programs are discretionary.

Jefferson County has conducted four Household Clean Sweeps and three Agricultural Clean Sweeps.

Jefferson County has committed to a Year 2000 Agricultural Clean Sweep and has opened it up to Very Small Quantity Generators (businesses and institutions).

Motivation – The evaluations from these programs illustrate support by participants.

The County Board annually supports these programs through formal resolution (See Exhibit 8).

PURPOSE 1C. – REFERENCE TO WISCONSIN RECYCLING LAW

Overall

The County's role in solid waste management is totally optional.

The County's role in recycling is totally optional.

Components of Wisconsin Recycling Law

Landfill bans for designated materials.

Concept of Responsible Units (R.U.)

- Vast majority of R.U.s are Towns
- 28 counties are R.U.s
- Jefferson County voted to <u>not</u> be a Responsible Unit

Responsible Unit Responsibilities:

- Ordinance
- Collection System
- Enforcement Process Mechanism
- Education

Possible Plan Response: Knowing responsibilities and associated costs, does the County want to revisit the prior decision to not be a Responsible Unit (RU)?

PURPOSE 1C AND PURPOSE 2: OTHER EXPECTATIONS

Back in the 1980's, all counties were required to prepare Solid Waste Management Plans if they wanted state funding for various waste management activities. The plans were to be prepared according to criteria in Chapter NR 185 of the Wisconsin Administrative Code.

This code and guidelines are no longer applicable.

The new Smart Growth Law refers to the need for a Solid Waste Element.

EXHIBIT 1

SUBCHAPTER III

FACILITIES; SITING

289.21 Initial site report. (1) INITIAL SITE REPORT REQUIRED. Prior to constructing a landfill, the person who seeks to construct the facility shall submit to the department an initial site report. The department shall specify by rule the minimum contents of an initial site report.

(2) DETERMINATION IF INITIAL SITE REPORT IS COMPLETE. Within 30 days after an initial site report is submitted, the department shall either determine that the initial site report is complete or notify the applicant in writing that the initial site report is not complete and specify the information which is required to be submitted before the initial site report is complete. The department shall notify the applicant in writing when the initial site report is complete.

History: 1995 a. 227 s. 543.

289.22 Local approval. (1) DEFINITION. In this section, "local approval" has the meaning specified under s. 289.33 (3) (d).

(1m) APPLICATION FOR LOCAL APPROVALS REQUIRED. Prior to constructing a solid waste disposal facility or hazardous waste facility, the applicant shall submit a written request for the specification of all applicable local approvals to each affected municipality. Within 15 days after the receipt of a written request from the applicant, a municipality shall specify all local approvals for which applications are required or issue a statement that there are
no applicable local approvals. Prior to constructing a solid waste disposal facility or a hazardous waste facility, the applicant shall apply for each local approval required to construct the waste handling portion of the facility.

(2) STANDARD NOTICE. The waste facility siting board shall develop and print a standard notice designed to inform an affected municipality of the time limits and requirements for participation in the negotiation and arbitration process under s. 289.33. An applicant shall submit a copy of this standard notice, if it has been printed, with any written request submitted under sub. (1m).

(3) ATTEMPTS TO OBTAIN LOCAL APPROVALS REQUIRED. Following applications for local approvals under sub. (1m) and prior to submitting a feasibility report, any applicant subject to s. 289.33 shall undertake all reasonable procedural steps necessary to obtain each local approval required to construct the waste handling portion of the facility except that the applicant is not required to seek judicial review of decisions of the local unit of government.

(4) WAIVER OF LOCAL APPROVALS. If a local approval precludes or inhibits the ability of the applicant to obtain data required to be submitted under 289.21 (1) or in a feasibility report or environmental impact report, the applicant may petition the department to waive the applicability of the local approval to the applicant. If a petition is received, the department shall promptly schedule a hearing on the matter and notify the local government of the hearing. If the department determines at the hearing that the local approval is unreasonable, the department shall waive the applicability of the local approval to the applicant.

(5) COMPLIANCE REQUIRED. Except as provided under sub. (4), no person may construct a solid waste disposal facility or a hazardous waste facility unless the person complies with the requirements of subs. (1m) and (3).

History: 1995 a. 227 s. 545.

Cross Reference: See also ch. WFSB 3, Wis. adm. code.

289.23 Feasibility report required; distribution; public notice. (1) FEASIBILITY REPORT REQUIRED. Prior to constructing a solid waste disposal facility or a hazardous waste facility the person who seeks to construct the facility shall submit to the department a feasibility report.

(2) LOCAL APPROVAL APPLICATION PREREQUISITE. No person subject to s. 289.33 may submit a feasibility report until the latest of the following periods:

(a) At least 120 days after the person submits applications for all applicable local approvals specified as required by the municipality under s. 289.22 (1m).

(b) At least 120 days after the receipt by the applicant of a statement by the municipality that there are no applicable local approvals.

(c) At least 120 days after the deadline for the municipal response under s. 289.22 (1m) if the municipality does not respond within that time limit.

(3) COMPLIANCE REQUIRED. No person may construct a solid waste disposal facility or a hazardous waste facility unless the person complies with the requirements of ss. 289.23 to 289.29.

(4) DISTRIBUTION OF FEASIBILITY REPORT. At the same time an applicant submits a feasibility report to the department, the applicant shall submit a copy of that feasibility report to each participating municipality under s. 289.33 (6) (b).

(5) NOTIFICATION OF PROPOSED FACILITY. Immediately upon receipt of a feasibility report the department shall send a notice to the persons specified under s. 289.32 containing a brief description of the proposed facility and a statement that the applicant is required to send a copy of the feasibility report after it is determined to be complete by the department.

History: 1995 a. 227 s. 547, 549, 551.

289.24 Feasibility report contents; completeness; distribution. (1) CONTENTS OF FEASIBILITY REPORTS; PREPARATION. The department shall specify by rule the minimum contents of a feasibility report and no report is complete unless the specified information is provided by the applicant. In addition to the requirements specified under sub. (2), the rules may specify special requirements for a feasibility report relating to any hazardous waste facility. The department may require a feasibility report to be prepared by a registered professional engineer. A feasibility report shall include:

(a) A general summary of the site characteristics as well as any specific data the department requires by rule regarding the site's topography, soils, geology, groundwaters and surface waters and other features of the site and surrounding area.

(b) Preliminary engineering design concepts including the proposed design capacity of the facility and an indication of the quantities and characteristics of the wastes to be treated, stored or disposed.

(c) A description of how the proposed facility relates to any applicable county solid waste management plan approved under s. 289.10.

(d) A description of the advisory process undertaken by the applicant prior to submittal of the feasibility report to provide information to the public and affected municipalities and to solicit public opinion on the proposed facility.

(e) The proposed date of closure for the facility.

(f) Sufficient information to make the determination of need for the facility under s. 289.28 unless the facility is exempt under s. 289.28 (2).

(g) An analysis of alternatives to the land disposal of waste including waste reduction, reuse, recycling, composting and energy recovery.

(h) A description of any waste reduction incentives and recycling services to be instituted or provided with the proposed facility.

(2) CERTAIN HAZARDOUS WASTE FACILITIES; ADDITIONAL REQUIREMENTS. A feasibility report for a hazardous waste disposal facility or surface impoundment, as defined in s. 291.37 (1) (d), shall include a list of all persons living within 0.5 mile of the facility and information reasonably ascertainable by the applicant on the potential for public exposure to hazardous waste or hazardous constituents through releases from the facility including, but not limited to, the following:

(a) A description of any releases that may be expected to result from normal operations or accidents at the facility, including releases associated with transportation to or from the facility.

(b) A description of the possible ways that humans may be exposed to hazardous waste or hazardous constituents as a result of a release from the facility, including the potential for groundwater or surface water contamination, air emissions or food chain contamination.

(c) The potential extent and nature of human exposure to hazardous waste or hazardous constituents that may result from a release.

(3) DETERMINATION IF A FEASIBILITY REPORT IS COMPLETE. Within 60 days after a feasibility report is submitted, the department either shall determine that the feasibility report is complete or shall notify the applicant in writing that the feasibility report is not complete and specify the information which is required to be submitted before the feasibility report is complete.

(4) DISTRIBUTION. Immediately after the applicant receives notification of the department's determination that the feasibility report is complete, the applicant shall distribute copies of the feasibility report to the persons specified under s. 289.32.

History: 1995 a. 227 s. 550, 991; 1997 a. 35.

289.25 Environmental review. (1) PRELIMINARY DETERMINATION IF ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED. Immediately after the department determines that the feasibility report is complete, the department shall issue a preliminary determination on whether an environmental impact statement is required under s. 1.11 prior to the determination of feasibility. If the department determines after review of the feasibility report that a determination of feasibility cannot be made without an environmental impact statement or if the department intends to require an environmental impact report under s. 23.11 (5), the department shall notify the applicant in writing within the 60–day period of these decisions and shall commence the process required under s. 1.11 or 23.11 (5).

(2) ENVIRONMENTAL IMPACT STATEMENT PROCESS. If an environmental impact statement is required, the department shall conduct the hearing required under s. 1.11 (2) (d) in an appropriate place it designates in a county, city, village or town which would be substantially affected by the operation of the proposed facility. The hearing on the environmental impact statement is not a contested case. The department shall issue its determination of the adequacy of the environmental impact statement within 30 days after the close of the hearing. Except as provided under s. 293.43,
the department shall complete any environmental impact statement process required under s. 1.11 before proceeding with the feasibility report review process under sub. (3) and ss. 289.26 and 289.27.

(3) NOTIFICATION ON FEASIBILITY REPORT AND PRELIMINARY ENVIRONMENTAL IMPACT STATEMENT DECISIONS. Immediately after the department issues a preliminary determination that an environmental impact statement is not required or, if it is required, immediately after the department issues the environmental impact statement, the department shall publish a class 1 notice under ch. 985 in the official newspaper designated under s. 985.04 or 985.05
or, if none exists, in a newspaper likely to give notice in the area of the proposed facility. The notice shall include a statement that the feasibility report and the environmental impact statement process are complete. The notice shall invite the submission of written comments by any person within 30 days after the notice for a solid waste disposal facility or within 45 days after the notice for a hazardous waste facility is published. The notice shall describe the methods by which a hearing may be requested under ss. 289.26 (1) and 289.27 (1). The department shall distribute copies of the notice to the persons specified under s. 289.32.

History: 1995 a. 227 ss. 552, 991.

289.26 Informational hearing. (1) REQUEST FOR AN INFORMATIONAL HEARING. Within 30 days after the notice under s. 289.25 (3) is published for a solid waste disposal facility, or within 45 days after the notice under s. 289.25 (3) is published for a hazardous waste facility, any county, city, village or town, the applicant or any 6 or more persons may file a written request for an informational hearing on the matter with the department. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why the hearing is requested.

(2) APPLICABILITY. This section applies if no request for the treatment of the hearing as a contested case is granted and if:

(a) An informational hearing is requested under sub. (1) within
the 30–day or 45–day period; or

(b) No hearing is requested under sub. (1) within the 30–day or 45–day period but the department determines that there is substantial public interest in holding a hearing.

(3) NONAPPLICABILITY; HEARING CONDUCTED AS A PART OF CERTAIN MINING HEARINGS. Notwithstanding sub. (2) this section does not apply if a hearing on the feasibility report is conducted as a part of a hearing under s. 293.43 and the time limits, notice and hearing provisions in that section supersede the time limits, notice and hearing provisions under s. 289.25 (2) and (3) and this section.

(4) INFORMATIONAL HEARING. The department shall conduct the informational hearing within 60 days after the expiration of the 30–day or 45–day period under sub. (1). The department shall conduct the informational hearing in an appropriate place designated by the department in a county, city, village or town which would be substantially affected by the operation of the proposed facility.

(5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY. Except as provided under s. 289.29 (5), the department shall issue a final determination of feasibility within 60 days after the informational hearing under this section is adjourned.

History: 1995 a. 227 ss. 553, 563, 991.

289.27 Contested case hearing. (1) REQUEST FOR TREATMENT AS A CONTESTED CASE. Within 30 days after the notice under s. 289.25 (3) is published for a solid waste disposal facility, or within 45 days after the

notice under s. 289.25 (3) is published for a hazardous waste facility, any county, city, village or town, the applicant or any 6 or more persons may file a written request that the hearing under s. 289.26 (1) be treated as a contested case, as provided under s. 227.42. A county, city, village or town, the applicant or any 6 or more persons have a right to have the hearing
treated as a contested case only if:

(a) A substantial interest of the person requesting the treatment of the hearing as a contested case is injured in fact or threatened with injury by the department's action or inaction on the matter;

(b) The injury to the person requesting the treatment of the hearing as a contested case is different in kind or degree from injury to the general public caused by the department's action or inaction on the matter; and

(c) There is a dispute of material fact.

(2) APPLICABILITY. This section applies only if a person requests the treatment of the hearing as a contested case under sub. (1) within the 30–day or 45–day period and has a right to a hearing under that subsection. Any denial of a request for the treatment of the hearing as a contested case received within the 30–day or 45–day period under sub. (1) shall be in writing, shall state the reasons for denial and is an order reviewable under ch. 227. If the department does not enter an order granting or denying the request for the treatment of the hearing as a contested case within 20 days
after the written request is filed, the request is deemed denied.

(3) NONAPPLICABILITY. Notwithstanding sub. (2), this section does not apply if a hearing on the feasibility report is conducted as a part of a hearing under s. 293.43 and the time limits, notice and hearing provisions under that section supersede the time limits, notice and hearing provisions under s. 289.25 (2) and (3) and this section.

(4) TIME LIMITS. Except as provided under s. 289.29 (5):

(a) The division of hearings and appeals in the department of administration shall schedule the hearing to be held within 120 days after the expiration of the 30–day or 45–day period under sub. (1).

(b) The final determination of feasibility shall be issued within 90 days after the hearing is adjourned.

(5) DETERMINATION OF NEED; DECISION BY HEARING EXAMINER. If a contested case hearing is conducted under this section, the secretary shall issue any decision concerning determination of need, notwithstanding s. 227.46 (2) to (4). The secretary shall direct the hearing examiner to certify the record of the contested case hearing to him or her without an intervening proposed decision. The secretary may assign responsibility for reviewing this record and
making recommendations concerning the decision to any employee of the department.

History: 1995 a. 227 s. 554, 565, 991.

289.28 Determination of need. (1) DETERMINATION OF NEED; ISSUES CONSIDERED. A feasibility report shall contain an evaluation to justify the need for the proposed facility unless the facility is exempt under sub. (2). The department shall consider the following issues in evaluating the need for the proposed facility:

(a) An approximate service area for the proposed facility which takes into account the economics of waste collection, transportation and disposal.

(b) The quantity of waste suitable for disposal at the proposed facility generated within the anticipated service area.

(c) The design capacity of the following facilities located within the anticipated service area of the proposed facility:

1. Approved facilities, including the potential for expansion of those facilities on contiguous property already owned or controlled by the applicant.

2. Nonapproved facilities which are environmentally sound. It is presumed that a nonapproved facility is not environmentally sound unless evidence to the contrary is produced.

3. Other proposed facilities for which feasibility reports are submitted and determined to be complete by the department.

4. Facilities for the recycling of solid waste or for the recovery of resources from solid waste which are licensed by the department.

5. Proposed facilities for the recycling of solid waste or for the recovery of resources from solid waste which have plans of operation which are approved by the department.

6. Solid waste incinerators licensed by the department.

7. Proposed solid waste incinerators which have plans of operation which are approved by the department.

(d) If the need for a proposed municipal facility cannot be established under pars. (a) to (c), the extent to which the proposed facility is needed to replace other facilities of that municipality at the time those facilities are projected to be closed in the plans of operation.

(2) DETERMINATION OF NEED; EXEMPT FACILITIES. Subsections (1) and (3) and ss. 289.24 (1) (f) and 289.29 (1) (d) do not apply to:

(a) Any facility which is part of a prospecting or mining operation with a permit under s. 293.45 or 293.49.

(b) Any solid waste disposal facility designed for the disposal of waste generated by a pulp or paper mill.

(3) ISSUANCE OF DETERMINATION OF NEED. Except for a facility which is exempt under sub. (2), the department shall issue a determination of need for the proposed facility at the same time the final determination of feasibility is issued. If the department determines that there is insufficient need for the facility, the applicant may not construct or operate the facility.

History: 1995 a. 227 ss. 556, 557, 560, 991.

Municipal replacement facilities are not exempt from the needs determination. 77 Atty. Gen. 81.

289.29 Determination of feasibility. (1) CRITERIA FOR DETERMINATION OF FEASIBILITY; ENVIRONMENTAL IMPACT.

(a) A determination of feasibility shall be based only on this chapter and ch. 291 and rules promulgated under those chapters. A determination of feasibility for a facility for the disposal of metallic mining waste shall be based only on this chapter and ch. 291 and rules promulgated under those chapters with special consideration given to
s. 289.05 (2) and rules promulgated under that section.

(b) If there is a negotiated agreement or an arbitration award prior to issuance of the determination of feasibility, the final determination of feasibility may not include any item which is less stringent than a corresponding item in the negotiated agreement or arbitration award.

(c) The department may receive into evidence at a hearing conducted under s. 289.26 or 289.27 any environmental impact assessment or environmental impact statement for the facility prepared under s. 1.11 and any environmental impact report prepared under s. 23.11 (5). The adequacy of the environmental impact assessment, environmental impact statement or environmental impact report is not subject to challenge at that hearing.

(d) The department may not approve a feasibility report for a solid or hazardous waste disposal facility unless the design capacity of that facility does not exceed the expected waste to be disposed of at that facility within 15 years after that facility begins operation. The department may not approve a feasibility report for a solid or hazardous waste disposal facility unless the design capacity of that facility exceeds the expected waste to be disposed of at that facility within 10 years after that facility begins operation except that this condition does not apply to the expansion of an
existing facility.

(2) MAXIMUM NUMBER OF FACILITIES. (a) Except as provided in par. (b), the department may not issue a favorable determination of feasibility for a solid waste disposal facility in a 3rd class city if 2 or more approved facilities that are solid waste disposal facilities are in operation within the city in which the solid waste disposal
facility is proposed to be located.

(b) The prohibition in par. (a) does not apply to an expansion of or addition to an existing approved facility that is a solid waste disposal facility by the owner or operator of the existing approved facility on property that is contiguous to the property on which the existing approved facility is located and that is owned or under option to lease or purchase by the owner or operator of the existing approved facility.

(3) CONTENTS OF FINAL DETERMINATION OF FEASIBILITY. The department shall issue a final determination of feasibility which shall state the findings of fact and conclusions of law upon which it is based. The department may condition the issuance of the final determination of feasibility upon special design, operational or other requirements to be submitted with the plan of operation under s. 289.30. The final determination of feasibility shall specify the design capacity of the proposed facility. The issuance of a favorable final determination of feasibility constitutes approval
of the facility for the purpose stated in the application but does not guarantee plan approval under s. 289.30 or licensure under s. 289.31.

(4) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY. Except as provided under sub. (5), if no hearing is conducted under s. 289.26 or 289.27, the department shall issue the final determination of feasibility within 60 days after the 30–day or 45–day period under s. 289.27 (1) has expired.

(5) ISSUANCE OF FINAL DETERMINATION OF FEASIBILITY IN CERTAI N SITUATIONS INVOLVING UTILITIES AND MINING. If a determination of feasibility is identified in the listing specified in s. 196.491 (3) (a) 3. a., the issuance of a final determination of feasibility is subject to the time limit under s. 196.491 (3) (a) 3. b. If a determination of feasibility is required under s. 293.43, the issuance of a final determination of feasibility is subject to the time limits
under s. 293.45 (2) or 293.49, whichever is applicable.

History: 1995 a. 227 ss. 555, 558, 559, 561, 991; 1997 a. 204.

289.30 Plan of operation. (1) PLAN OF OPERATION REQUIRED. Prior to constructing a solid waste disposal facility or
a hazardous waste facility, the applicant shall submit to the department a plan of operation for the facility.

(2) FEASIBILITY REPORT PREREQUISITE. No person may submit a plan of operation for a facility prior to the time the person submits a feasibility report for that facility. A person may submit a plan of operation with the feasibility report or at any time after the feasibility report is submitted. If a person submits the plan of operation prior to the final determination of feasibility, the plan of operation is not subject to review at any hearing conducted under s. 289.26 or 289.27 and is not subject to judicial review under ss. 227.52 to 227.58 in the review of any decision under s. 289.26 or
289.27.

(3) FEASIBILITY REPORT; CERTAIN FACILITIES. The department may require the applicant for a hazardous waste treatment or storage facility to submit the feasibility report and the plan of operation at the same time and, notwithstanding subs. (2), (10) and (11), both the feasibility report and the plan of operation shall be considered at a public hearing conducted under ss. 289.26 and 289.27, and both are subject to judicial review in a single proceeding.

(4) PREPARATION; CONTENTS. The proposed plan of operation shall be prepared by a registered professional engineer and shall include at a minimum a description of the manner of solid waste disposal or hazardous waste treatment, storage or disposal and a statement setting forth the proposed development, daily operation, closing and long–term care of the facility. The proposed plan of operation shall specify the method by which the owner or operator
will maintain proof of financial responsibility under s. 289.41. The department shall specify by rule the minimum contents of a plan of operation submitted for approval under this section and no plan is complete unless the information is supplied. The rules may specify special standards for plans of operation relating to hazardous waste facilities. Within 30 days after a plan of operation is submitted or, if the plan of operation is submitted with the feasibility report under sub. (2), within 30 days after the department issues notice that the feasibility report is complete, the department shall notify the applicant in writing if the plan is not complete, specifying the information which is required to be submitted
before the report is complete. If no notice is given, the report is deemed complete on the date of its submission.

(5) DAILY COVER. The department shall include in an approved plan of operation for a municipal waste landfill a requirement that the operator use foundry sand or shredder fluff for daily cover at part or all of the municipal waste landfill for the period specified in a request from a person operating a foundry or a scrap dealer in this state if the department receives the request prior to approving the plan of operation under sub. (6) and if all of the following conditions are met:

(a) The foundry operator or scrap dealer agrees to transport the foundry sand or shredder fluff to the landfill either daily or on another schedule acceptable to the municipal waste landfill operator.

(b) The department approves the use of the foundry sand or shredder fluff for daily cover at the municipal waste landfill.

(c) The municipal waste landfill operator is not contractually bound to obtain daily cover from another source.

(d) The amount of daily cover to be provided by the requesting foundry operator or scrap dealer does not exceed the amount of daily cover required under the plan of operation for the municipal waste landfill less any daily cover provided by another foundry operator or scrap dealer.

(6) APPROVAL; DISAPPROVAL. The department may not approve or disapprove a plan of operation until a favorable determination of feasibility has been issued for the facility. Upon the submission of a complete plan of operation, the department shall either approve or disapprove the plan in writing within 90 days or within 60 days after a favorable determination of feasibility is issued for the facility, whichever is later. The determination of the department shall be based upon compliance with sub. (5) and the standards established under s. 289.05 (1) and (2) or, in the case of

hazardous waste facilities, with the rules and standards established under ss. 291.05 (1) to (4) and (6) and 291.07 to 291.11. An approval may be conditioned upon any requirements necessary to comply with the standards. Any approval may be modified by the department upon application of the licensee if newly discovered information indicates that the modification would not inhibit compliance with the standards adopted under s. 289.05 (1) and (2) or, if applicable, ss. 291.05 (1) to (4) and (6) and 291.07 to 291.11. No plan of operation for a solid or hazardous waste facility may be approved unless the applicant submits technical and financial information required under ss. 289.05 (3) and 289.41.

(7) NO ENVIRONMENTAL IMPACT STATEMENT REQUIRED. A determination under this section does not constitute a major state action under s. 1.11 (2).

(8) APPROVAL. (a) Approval under sub. (6) entitles the applicant to construct the facility in accordance with the approved plan for not less than the design capacity specified in the determination of feasibility, unless the department establishes by a clear preponderance of the credible evidence that:

1. The facility is not constructed in accordance with the approved plan;

2. The facility poses a substantial hazard to public health or welfare; or

3. In–field conditions, not disclosed in the feasibility report or plan of operation, necessitate modifications of the plan to comply with standards in effect at the time of plan approval under s. 289.05 (1) and (2) or, if applicable, ss. 291.05 (1) to (4) and (6) and 291.07 to 291.11. (b) Paragraph (a) does not limit the department's authority to modify a plan of operation to ensure compliance with a federal statute or regulation applicable to the solid waste disposal facility
or hazardous waste facility.

(9) FAILURE TO COMPLY WITH PLAN OF OPERATION. Failure to operate in accordance with the approved plan subjects the operator to enforcement under s. 289.97 or 291.95. If the department establishes that any failure to operate in accordance with the approved plan for a solid waste disposal facility is grievous and continuous, the operator is subject to suspension, revocation or denial of the operating license under s. 289.31. If the operator fails to operate a hazardous waste facility in accordance with the approved plan, the department may suspend, revoke or deny the
operating license under s. 289.31.

(10) FEASIBILITY REPORT NOT SUBJECT TO REVIEW. In any judicial review under ss. 227.52 to 227.58 of the department's decision to approve or disapprove a plan of operation, no element of the feasibility report, as approved by the department, is subject to judicial review.

(11) NO RIGHT TO HEARING. There is no statutory right to a hearing before the department concerning the plan of operation but the department may grant a hearing on the plan of operation under s. 289.07 (1).

History: 1995 a. 227 s. 566, 568.

289.31 Operating license. (1) LICENSE REQUIREMENT. No person may operate a solid waste facility or hazardous waste facility unless the person obtains an operating license from the department. The department shall issue an operating license with a duration of one year or more except that the department may issue an initial license with a duration of less than one year. The department may deny, suspend or revoke the operating license of a solid waste disposal facility for failure to pay fees required under this chapter or for grievous and continuous failure to comply with the approved plan of operation under s. 289.30 or, if no plan of operation exists with regard to the facility, for grievous and continuous failure to comply with the standards adopted under s. 289.05 (1) and (2). The department may deny, suspend or revoke the operating license of a hazardous waste facility for any reason specified under s. 291.87 (1m).

(2) ENVIRONMENTAL IMPACT STATEMENT NOT REQUIRED. A determination under this section does not constitute a major state action under s. 1.11 (2).

(3) ISSUANCE OF INITIAL LICENSE. The initial operating license for a solid waste disposal facility or a hazardous waste facility shall not be issued unless the facility has been constructed in substantial compliance with the operating plan approved under s. 289.30. The department may require that compliance be certified in writing by a registered professional engineer. The department may by rule require, as a condition precedent to the issuance of the operating license for a solid waste disposal facility, that the applicant submit evidence that a notation of the existence of the facility has been recorded in the office of the register of deeds in each county in which a portion of the facility is located.

(4) NOTICE; HAZARDOUS WASTE FACILITIES. Before issuing the initial operating license for a hazardous waste facility, the department shall give notice of its intent to issue the license by all of the following means:

(a) Publishing a class 1 notice, under ch. 985, in a newspaper likely to give notice in the area where the facility is located.

(b) Broadcasting a notice by radio announcement in the area where the facility is located.

(c) Providing written notice to each affected municipality.

(5) FEASIBILITY REPORT AND PLAN OF OPERATION NOT SUBJECT TO REVIEW. In any judicial review under ss. 227.52 to 227.58 of the department's decision to issue or deny an operating license, no element of either the feasibility report or the plan of operation, as approved by the department, is subject to judicial review.

(6) NO RIGHT TO HEARING. There is no statutory right to a hearing before the department concerning the license but the department may grant a hearing on the license under s. 289.07 (1).

(7) MONITORING REQUIREMENTS. (a) In this subsection, "monitoring" means activities necessary to determine whether contaminants are present in groundwater, surface water, soil or air in concentrations that require investigation or remedial action. "Monitoring" does not include investigations to determine the extent of contamination, to collect information necessary to select or design remedial action, or to monitor the performance of remedial action.

(b) Upon the renewal of an operating license for a nonapproved facility, the department may require monitoring at the facility as a condition of the license.

(c) The owner or operator of a nonapproved facility is responsible for conducting any monitoring required under par. (b).

(d) The department may require by special order the monitoring of a closed solid or hazardous waste disposal site or facility which was either a nonapproved facility or a waste site, as defined under s. 292.01 (21), when it was in operation.

(e) If the owner or operator of a site or facility subject to an order under par. (d) is not a municipality, the owner or operator is responsible for the cost of conducting any monitoring ordered under par. (d).

(f) If the owner or operator of a site or facility subject to an order under par. (d) is a municipality, the municipality is responsible for conducting any monitoring ordered under par. (d). The department shall, from the environmental fund appropriation under s. 20.370 (2) (dv), reimburse the municipality for the costs of monitoring that exceed an amount equal to $3 per person residing in the municipality for each site or facility subject to an order under par. (d), except that the maximum reimbursement is $100,000 for each site or facility. The department shall exclude any monitoring costs paid under the municipality's liability insurance coverage in calculating the municipal cost of monitoring a site or facility.

(g) The department shall promulgate rules for determining costs eligible for reimbursement under par. (f).

(8) CLOSURE AGREEMENT. Any person operating a solid or hazardous waste facility which is a nonapproved facility may enter into a written closure agreement at any time with the department to close the facility on or before July 1, 1999. The department shall incorporate any closure agreement into the operating license. The operating license shall terminate and is not renewable if the operator fails to comply with the closure agreement. Upon termination
of an operating license under this subsection as the result of failure to comply with the closure agreement, the department shall collect additional surcharges and base fees as provided under s. 289.67 (3) and (4) and enforce the closure under ss. 299.95 and 299.97.

(9) DAILY COVER. Within 12 months after receiving a request from a person operating a foundry or a scrap dealer in this state, the department shall modify the operating license issued under sub. (1) to a person operating a municipal waste landfill to require the operator to use foundry sand from the foundry or shredder fluff from the scrap dealer's operation as daily cover at part or all of the municipal waste landfill for a period specified in the request, if all
of the conditions in s. 289.30 (5) are met.

History: 1995 a. 227 s. 569, 570.

Corporate officers responsible for the overall operation of a facility are personally liable for violations. State v. Rollfink, 162 Wis. 2d 121, 469 N.W.2d 398 (1991).

289.32 Distribution of documents. One copy of the notice or documents required to be distributed under ss. 289.21 to 289.31 shall be mailed to:

(1) The clerk of each affected municipality.

(2) The main public library in each affected municipality.

(3) The applicant if the notice or document is not required to be distributed by the applicant.

History: 1995 a. 227 s. 571.

289.33 Solid and hazardous waste facilities; negotiation and arbitration. (1) LEGISLATIVE FINDINGS. (a) The legislature finds that the creation of solid and hazardous waste is an unavoidable result of the needs and demands of a modern society.

(b) The legislature further finds that solid and hazardous waste is generated throughout the state as a by–product of the materials used and consumed by every individual, business, enterprise and governmental unit in the state.

(c) The legislature further finds that the proper management of solid and hazardous waste is necessary to prevent adverse effects on the environment and to protect public health and safety.

(d) The legislature further finds that the availability of suitable facilities for solid waste disposal and the treatment, storage and disposal of hazardous waste is necessary to preserve the economic strength of this state and to fulfill the diverse needs of its citizens.

(e) The legislature further finds that whenever a site is proposed for the solid waste disposal or the treatment, storage or disposal of hazardous waste, the nearby residents and the affected municipalities may have a variety of legitimate concerns about the location, design, construction, operation, closing and long–term care of facilities to be located at the site, and that these facilities must be established with consideration for the concerns of nearby residents and the affected municipalities.

(f) The legislature further finds that local authorities have the responsibility for promoting public health, safety, convenience and general welfare, encouraging planned and orderly land use development, recognizing the needs of industry and business, including solid waste disposal and the treatment, storage and disposal of hazardous waste and that the reasonable decisions of local authorities should be considered in the siting of solid waste disposal facilities and hazardous waste facilities.

(g) The legislature further finds that the procedures for the siting of new or expanded solid waste disposal facilities and hazardous waste facilities under s. 144.44, 1979 stats., and s. 144.64, 1979 stats., are not adequate to resolve many of the conflicts which arise during the process of establishing such facilities.

(2) LEGISLATIVE INTENT. It is the intent of the legislature to create and maintain an effective and comprehensive policy of negotiation and arbitration between the applicant for a license to establish either a solid waste disposal facility or a hazardous waste treatment, storage or disposal facility and a committee representing the affected municipalities to assure that:

(a) Arbitrary or discriminatory policies and actions of local governments which obstruct the establishment of solid waste disposal facilities and hazardous waste facilities can be set aside.

(b) The legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the applicant in a fair manner and reduced to a written document that is legally binding.

(c) An adequate mechanism exists under state law to assure the establishment of environmentally sound and economically viable solid waste disposal facilities and hazardous waste facilities.

(3) DEFINITIONS. In this section:

(a) “Applicant” means a person applying for a license for or the owner or operator of a facility.

(b) “Board” means the waste facility siting board.

(c) “Facility” means a solid waste disposal facility or a hazardous waste facility.

(d) “Local approval” includes any requirement for a permit, license, authorization, approval, variance or exception or any restriction, condition of approval or other restriction, regulation, requirement or prohibition imposed by a charter ordinance, general ordinance, zoning ordinance, resolution or regulation by a town, city, village, county or special purpose district, including without limitation because of enumeration any ordinance, resolution or regulation adopted under s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (4), (5), (6), (7), (8), (10) and (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30, 91.73, 196.58, 200.11 (8), 236.45, 281.43 or 349.16 or subch. VIII of ch. 60.

(e) “Local committee” means the committee appointed under sub. (7).

(f) “Participating municipality” means an affected municipality which adopts a siting resolution and appoints members to the local committee.

(fm) "Preexisting local approval" means a local approval in effect at least 15 months prior to the submission to the department of either a feasibility report under s. 289.23 or an initial site report, whichever occurs first.

(g) "Siting resolution" means the resolution adopted by an affected municipality under sub. (6) (a).

(4) RULES. The board may promulgate rules necessary for the implementation of this section.

(5) APPLICABILITY OF LOCAL APPROVALS. (a) The establishment of facilities is a matter of statewide concern.

(b) An existing facility is not subject to any local approval except those local approvals made applicable to the facility under pars. (c) to (g).

(c) Except as provided under par. (d), a new or expanded facility is subject to preexisting local approvals.

(d) A new or expanded facility is not subject to any preexisting local approvals which are specified as inapplicable in a negotiation agreement approved under sub. (9) or an arbitration award issued under sub. (10).

(e) Except as provided under par. (f), a new or expanded facility is not subject to any local approvals which are not preexisting local approvals.

(f) A new or expanded facility is subject to local approvals which are not preexisting local approvals if they are specified as applicable in a negotiation agreement approved under sub. (9).

(g) This subsection applies to a new or expanded facility owned or operated by a county in the same manner it applies to all other new or expanded facilities.

(6) SITING RESOLUTION. (a) *Municipal participation.* An affected municipality may participate in the negotiation and arbitration process under this section if the governing body adopts a siting resolution and appoints members to the local committee within 60 days after the municipality receives the written request from the applicant under s. 289.22 (1m) and if the municipality sends a copy of that resolution and the names of those members to the board within 7 days after the municipality adopts the siting resolution and appoints members to the local committee. The siting resolution shall state the affected municipality's intent to negotiate and, if necessary, arbitrate with the applicant concerning the proposed facility. An affected municipality which does not adopt a siting resolution within 60 days after receipt of notice from the applicant may not appoint members to the local committee.

(b) *Notification of participation.* Within 5 days after the board receives copies of resolutions and names of members appointed to the local committee from all affected municipalities or within 72 days after all affected municipalities receive the written request under s. 289.22 (1m), the board shall submit a notification of participation by certified mail to the applicant and each participating municipality identifying the participating municipalities and the
members appointed to the local committee and informing the applicant and participating municipalities that negotiations may commence or, if no affected municipality takes the actions required to participate in the negotiation and arbitration process under par. (a), the board shall notify the applicant of this fact by certified mail within that 72–day period.

(c) *Revised notification of participation.* If the board issues a notice under par. (b) and subsequently it is necessary for the applicant to submit a written request under s. 289.22 (1m) to an additional affected municipality because of an error or changes in plans, the board may issue an order delaying negotiations until that affected municipality has an opportunity to participate in the negotiation and arbitration process by taking action under par. (a). Within 5 days after the board receives a copy of the resolution and the names of members appointed to the local committee by that affected municipality or within 72 days after that affected municipality receives the written request from the applicant under s. 289.22 (1m), the board shall submit a revised notification of participation by certified mail to the applicant and each participating municipality stating the participating municipalities and members appointed to the local committee and informing the applicant and participating municipalities that negotiations may recommence or
if the additional affected municipality does not take the actions required to participate in the negotiation and arbitration process under par. (a), the board shall notify the applicant and other participating municipalities of this fact by certified mail and informing them that negotiations may recommence.

(d) *Rescission.* A siting resolution may be rescinded at any time by a resolution of the governing body of the municipality which adopted it. When a siting resolution is rescinded, individuals appointed by the governing body of the municipality to serve on the local committee are removed from membership on the local committee.

(e) *Prohibition on participation by municipality which is also applicant.* An affected municipality which is also the applicant or which contracts with the applicant to construct or operate a facility may not adopt a siting resolution.

(f) *Failure to participate.* If no affected municipality takes the actions required to participate in the negotiation and arbitration process under par. (a), the applicant may continue to seek state approval of the facility, is

not required to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5).

(g) *Extension for filing.* If the governing body of an affected municipality adopts a siting resolution under par. (a) or (b), and if the affected municipality does not send a copy of the siting resolution to the applicant and the board within 7 days, the board may grant an extension of time to allow the affected municipality to send a copy of the siting resolution to the applicant and the board, if the board determines that:

1. The municipality failed to send the siting resolution through mistake, inadvertence or excusable neglect; and

2. The granting of an extension will not create a significant hardship for other parties to the negotiation and arbitration process.

(7) LOCAL COMMITTEE. (a) *Appointment of members.* Members of the local committee shall be appointed by the governing body of each affected municipality passing a siting resolution, as follows:

1. A town, city or village in which all or part of a facility is proposed to be located shall appoint 4 members or the number of members appointed under subds. 1m. and 2. plus 2, whichever is greater, no more than 2 of whom are elected officials or municipal employees.

1m. A county in which all or part of a facility is proposed to be located shall appoint 2 members.

2. Any affected municipality, other than those specified under subd. 1. or 1m., shall appoint one member.

(b) *Disclosure of private interests.* Each member of a local committee shall file a statement with the board within 15 days after the person is appointed to the local committee specifying the economic interests of the member and his or her immediate family members that would be affected by the proposed facility and its development.

(c) *Failure to disclose private interests.* If a person fails to file a statement of economic interest as required under par. (b), he or she may not serve on the local committee and the position to which he or she was appointed is vacant.

(d) *Removal; vacancies.* A participating municipality may remove and replace at will the members it appoints to the local committee. Vacancies on the local committee shall be filled in the same manner as initial appointments.

(e) *Chairperson.* The local committee shall elect one of its members as chairperson.

(f) *Quorum.* A majority of the membership of the local committee constitutes a quorum to do business and a majority of that quorum may act in any matter before the local committee. Each member of the local committee has one vote in any matter before the committee and no member may vote by proxy.

(g) *Open meetings.* Meetings of the local committee are subject to subch. V of ch. 19.

(7n) ADDITIONAL MUNICIPAL PARTI ES. (a) *Agreement to add.* Upon the written agreement of all parties to a negotiation and arbitration proceeding commenced under this section, a municipality which does not qualify as an affected municipality may be added as a party to the proceeding.

(b) *Siting resolution.* If a municipality is added to the negotiation and arbitration proceeding under par. (a), it shall adopt a siting resolution under sub. (6) within 30 days of the agreement and otherwise comply with the other provisions of this section.

(8) SUBJECTS OF NEGOTIATION AND ARBITRATION. (a) The applicant and the local committee may negotiate with respect to any subject except:

1. Any proposal to make the applicant's responsibilities under the approved feasibility report or plan of operation less stringent.

2. The need for the facility.

(b) Only the following items are subject to arbitration under this section:

1. Compensation to any person for substantial economic impacts which are a direct result of the facility including insurance and damages not covered by the waste management fund.

1m. Reimbursement of reasonable costs, but not to exceed $20,000, incurred by the local committee relating to negotiation, mediation and arbitration activities under this section.

2. Screening and fencing related to the appearance of the facility. This item may not affect the design capacity of the facility.

3. Operational concerns including, but not limited to, noise, dust, debris, odors and hours of operation but excluding design capacity.

4. Traffic flows and patterns resulting from the facility.

5. Uses of the site where the facility is located after closing the facility.

6. Economically feasible methods to recycle or reduce the quantities of waste to the facility. At facilities for which the applicant will not provide or contract for collection and transportation services, this item is limited to methods provided at the facility.

7. The applicability or nonapplicability of any preexisting local approvals.

(9) NEGOTIATION. (a) *Commencement of negotiation.* Negotiation between the applicant and the local committee may commence at any time after receipt of notification of participation from the board under sub. (6) (b). The time and place of negotiating sessions shall be established by agreement between the applicant and the local committee. Negotiating sessions shall be open to the public.

(b) *Determination of negotiability.* Either party may petition the board in writing for a determination as to whether a proposal is excluded from negotiation under sub. (8) (a). A petition may be submitted to the board before a proposal is offered in negotiation. A petition may not be submitted to the board later than 7 days after the time a proposal is offered for negotiation. The board shall conduct a hearing on the matter and issue its decision within 14 days after receipt of the petition. The decision of the board is binding on the parties and is not subject to judicial review. Negotiation on any issue, including issues subject to a petition under this paragraph, may continue pending the issuance of the board's decision.

(c) *Mediation.* Negotiating sessions may be conducted with the assistance of a mediator if mediation is approved by both the applicant and the local committee. Either the applicant or the local committee may request a mediator at any time during negotiation. The function of the mediator is to encourage a voluntary settlement by the applicant and the local committee. The mediator may not compel a settlement. The board shall provide the applicant and the local committee with the names and qualifications of persons willing to serve as mediators. If the applicant and the local committee cannot agree on the selection of a mediator, the applicant and the local committee may request the board to appoint a mediator.

(d) *Mediation costs.* The mediator shall submit a statement of his or her costs to the applicant, the local committee and the board. Except as otherwise specified in the negotiated agreement or the arbitration award under sub. (10), the costs of the mediator shall be shared equally between the applicant and the local committee. The local committee's share of the mediator's costs shall be divided among the participating municipalities in proportion to the number of members appointed to the local committee by each participating municipality.

(e) *Failure to participate; default.* Failure of the applicant or the local committee to participate in negotiating sessions constitutes default except as provided in this paragraph. It is not default if the applicant or the local committee fails to participate in negotiating sessions either for good cause or if further negotiations cannot be reasonably expected to result in a settlement. Either party may petition the board in writing for a determination as to whether a given situation constitutes default. The board shall conduct a hearing in the matter. Notwithstanding s. 227.03 (2), the decision of the board on default is subject to judicial review under ss. 227.52 to 227.58. If the applicant defaults, the applicant may not construct the facility. If the local committee defaults, the applicant may continue to seek state approval of the facility, is not required to continue to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5).

(em) *Default hearing costs.* The board shall submit to the applicant and local committee a statement of the costs of a hearing held under par. (e) to determine whether the failure of an applicant or a local committee to participate in the negotiation sessions under this subsection constitutes default. Except as otherwise specified in an arbitration award, the costs of a hearing to determine whether a given situation constitutes default shall be shared between the applicant and the local committee. The local committee's share of the hearing costs shall be divided among the participating municipalities in proportion to the number of members appointed to the local committee by each participating municipality.

(f) *Submission of certain items to the department.* Any item proposed to be included in a negotiated agreement which affects an applicant's responsibilities under an approved feasibility report or plan of operation may be submitted to the department for consideration. An item may be submitted to the department under this paragraph after agreement on the item is reached by the applicant and the local committee either during or at the conclusion of negotiation. The department shall approve or reject items submitted under this paragraph within 2 weeks after receipt of the item. The department shall reject those items which would make the applicant's responsibilities less stringent than required under the approved feasibility report or plan of operation. The department shall provide written reasons for the rejection. Items which are rejected may be revised and resubmitted. The department may incorporate all items which are not rejected under this paragraph into the approved feasibility report or the plan of operation. The department shall inform the applicant, the local committee and the board of its decisions under this paragraph.

(g) *Written agreement.* All issues subject to negotiation which are resolved to the satisfaction of both the applicant and the local committee and, if necessary, are approved by the department under par. (f), shall be incorporated into a written agreement.

(h) *Public hearings.* The local committee may hold public hearings at any time concerning the agreement in any town, city or village where all or a portion of the facility is to be located.

(i) *Submission for approval.* Within 2 weeks after approval of the written agreement by the applicant and the local committee, the local committee shall submit the negotiated agreement to the appropriate governing bodies for approval.

(j) *Appropriate governing bodies for approval.* If the local committee includes members from a town, city or village where all or a portion of the facility is to be located, the appropriate governing bodies consist of the governing body of each town, city or village where all or a portion of the facility is to be located with members on the local committee. If the local committee does not include members from any town, city or village where all or a portion of the facility is to be located, the appropriate governing bodies consist of the governing body of each participating town, city
or village.

(k) *Approval.* If the local committee includes members from any town, city or village where all or a portion of the facility is to be located and if the negotiated agreement is approved by resolution by each of the appropriate governing bodies, the negotiated agreement is binding on all of the participating municipalities but if the negotiated agreement is not approved by any appropriate governing body, the negotiated agreement is void. If the local committee does not include members from any town, city or village where all or a portion of the facility is to be located and if the
negotiated agreement is approved by resolution by all of the appropriate governing bodies, the agreement is binding on all of the participating municipalities but if the negotiated agreement is not approved by all of the appropriate governing bodies, the negotiated agreement is void.

(L) *Submission of agreement to board and department.* The applicant shall submit a copy or notice of any negotiated agreement approved under par. (k) to the board and the department by mail within 10 days after the agreement is approved.

(10) ARBITRATION. (a) *Joint petition for arbitration.* If agreement is not reached on any items after a reasonable period of negotiation, the applicant and the local committee may submit a joint written petition to the board to initiate arbitration under this subsection.

(b) *Unilateral petition for arbitration.* Either the applicant or the local committee may submit an individual written petition to the board to initiate arbitration under this subsection but not earlier than 120 days after the local committee is appointed under sub. (7) (a).

(c) *Decision concerning arbitration.* Within 15 days after receipt of a petition to initiate arbitration, the board shall issue a decision concerning the petition and notify the applicant and the local committee of that decision.

(d) *Order to continue negotiation.* The board may issue a decision ordering the applicant and the local committee to continue negotiating for at least 30 days after the date of the notice if, in the judgment of the board, arbitration can be avoided by the negotiation of any remaining issues. If the board issues a decision ordering the applicant and the local committee to continue negotiation, the petition to initiate arbitration may be resubmitted after the extended period of negotiation.

(e) *Decision to delay arbitration pending submittal of feasibility report.* The board may issue a decision to delay the initiation of arbitration until the department notifies the board that it has received a feasibility report for the facility proposed by the applicant. The board may decide to delay the initiation of arbitration under this paragraph if the applicant has not made available information substantially equivalent to that in a feasibility report. The petition to initiate arbitration may be resubmitted after the feasibility report is submitted.

(f) *Order for final offers.* The board may issue a decision ordering the applicant and the local committee to submit their respective final offers to the board within 90 days after the date of the notice.

(g) *Failure to submit final offer.* If the local committee fails to submit a final offer within the time limit specified under par. (f), the applicant may continue to seek state approval of the facility, is not required to continue to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5). If the applicant fails to submit a final offer within the time limit specified under par. (f), the applicant may not construct or operate the facility.

(h) *Final offers.* A final offer shall contain the final terms and conditions relating to the facility proposed by the applicant or the local committee and any information or arguments in support of the proposals. Additional supporting information may be submitted at any time.

(i) *Issues and items in final offer.* A final offer may include only issues subject to arbitration under sub. (8). A final offer may include only items offered in negotiation except that a final offer may not include items settled by negotiation and approved under sub. (9) (k).

(j) *Continued negotiation; revised final offers.* Negotiation may continue during the arbitration process. If an issue subject to negotiation is resolved to the satisfaction of both the applicant and the local committee and, if

necessary, is approved by the department under sub. (9) (f), it shall be incorporated into a written agreement and the final offers may be amended as provided under par. (n).

(k) *Public hearings.* The local committee may conduct public hearings on the proposed final offer prior to submitting the final offer to the governing bodies under par. (L).

(L) *Submission for approval.* The final offers prepared by the local committee are required to be submitted for approval by resolution of the governing body of each participating municipality before the final offer is submitted to the board.

(m) *Public documents.* The final offers are public documents and the board shall make copies available to the public.

(n) *Amendment of offer.* After the final offers are submitted to the board, neither the applicant nor the local committee may amend its final offer, except with the written permission of the other party. Amendments proposed by the local committee are required to be approved by the participating municipality to which the amendment relates. If the governing body of any participating municipality fails to approve the final offer prepared by the local committee, the applicant may amend those portions of his or her final offer which pertain to that municipality without obtaining
written permission from the local committee.

(o) *Public meeting.* Within 30 days after the last day for submitting final offers, the board shall conduct a public meeting in a place reasonably close to the location of the facility to provide an opportunity for the applicant and the local committee to explain or present supporting arguments for their final offers. The board
may conduct additional meetings with the applicant and the local committee as necessary to prepare its arbitration award. The board may administer oaths, issue summonses under s. 788.06 and direct the taking of depositions under s. 788.07.

(p) *Arbitration award.* Within 90 days after the last day for submitting final offers under par. (f), the board may issue an arbitration award with the approval of a minimum of 5 board members. If the board fails to issue an arbitration award within this period, the governor shall issue an arbitration award within 120 days after the last day for submitting final offers under par. (f).The arbitration award shall adopt, without modification, the final offer of either the applicant or the local committee except that the arbitration award shall delete those items which are not subject to
arbitration under sub. (8) or are not consistent with the legislative findings and intent under subs. (1) and (2). A copy of the arbitration award shall be served on the applicant and the local committee.

(q) *Award is binding; approval not required.* If the applicant constructs and operates the facility, the arbitration award is binding on the applicant and the participating municipalities and does not require approval by the participating municipalities.

(r) *Applicability of arbitration statutes.* Sections 788.09 to 788.15 apply to arbitration awards under this subsection.

(s) *Environmental impact.* An arbitration award under this subsection is not a major state action under s. 1.11 (2).

(11) SUCCESSORS IN INTEREST. Any provision in a negotiated agreement or arbitration award is enforceable by or against the successors in interest of any person directly affected by the award. A personal representative may recover damages for breach for which the decedent could have recovered.

(12) APPLICABILITY. (a) *Solid waste disposal facilities.* 1. This section applies to new or expanded solid waste disposal facilities for which an initial site report is submitted after March 15, 1982, or, if no initial site report is submitted, for which a feasibility report is submitted after March 15, 1982.

2. This section does not apply to modifications to a solid waste disposal facility which do not constitute an expansion of the facility or to a solid waste disposal facility which is exempt from the requirement of a feasibility report under this chapter or by rule promulgated by the department.

(b) *Hazardous waste facilities.* 1. This section applies to all new or expanded hazardous waste facilities for which an initial site report is submitted after March 15, 1982, or, if no initial site report is submitted, for which a feasibility report is submitted after March 15, 1982.

2. Except as provided under subd. 1. and par. (c), only subs.(3) and (5) (a) and (b) apply to a hazardous waste facility which is in existence on May 7, 1982, which has a license, an interim license or a variance under s. 291.25 or 291.31 or the resource conservation and recovery act and which complies with all local approvals applicable to the facility on May 7, 1982.

3. Only subs. (3) and (5) (a) to (c) and (e) apply to a hazardous waste treatment or storage facility which accepts waste only from the licensee.

(c) *Existing solid waste disposal facilities or hazardous waste facilities.* 1. This section applies to an existing solid waste disposal facility or hazardous waste facility which shall be treated as a new or expanded facility upon the adoption of a siting resolution by any affected municipality under sub. (6):

a. At any time during the life of a solid waste disposal facility or a hazardous waste facility if the owner or operator and one or more affected municipalities agree to negotiate and arbitrate under this section.

b. When a negotiated settlement or arbitration award under this section provides for the reopening of negotiations.

c. At any time after the date specified in the feasibility report, if such a date has been specified under s. 289.24 (1), as the proposed date of closure of a solid or hazardous waste disposal facility and if the facility is not closed on or before that date.

2. Except as provided under subd. 1. and pars. (a), (b) and (d), only subs. (3) and (5) (a) and (b) apply to an existing solid waste disposal facility or a hazardous waste facility.

(d) *Nonapplicability to mining waste facilities.* This section does not apply to any waste facility which is part of a prospecting or mining operation with a permit under s. 293.45 or 293.49.

History: 1981 c. 374; 1983 a. 128; 1983 a. 282 ss. 6 to 32, 34; 1983 a. 416 s. 19; 1983 a. 532 s. 36; 1983 a. 538; 1985 a. 182 s. 57; 1987 a. 27, 204, 399; 1987 a. 403 s. 256; 1991 a. 39; 1995 a. 201; 1995 a. 227 s. 626; Stats. 1995 s. 289.33; 1997 a. 35, 241; 1999 a. 83, 150; 2001 a. 38.

Cross Reference: See also WFSB, Wis. adm. code.

Design features that affect the operation of a facility are subject to arbitration under s. 144.445 (8) (b) [now s. 289.33 (8) (b)]. Madison Landfills v. Libby Landfill, 188 Wis. 2d 613, 524 N.W.2d 833 (Ct. App. 1993).

Only local approvals that arbitrarily or discriminatorily obstruct the establishment of a waste facility may be set aside by an arbitration award under s. 144.445 (10) (b) [now s. 289.33 (10) (b)]. Madison Landfills v. Libby Landfill, 188 Wis. 2d 613, 524 N.W.2d 833 (Ct. App. 1993).

Wisconsin's landfill negotiation/arbitration statute. Ruud and Werner, WBB Nov. 1985.

Down in the dumps and wasted: The need determination in the Wisconsin landfill siting process. 1987 WLR 543.

289.34 Noncompliance with plans or orders. (1) In this section, "applicant" means any natural person, partnership, association or body politic or corporate that seeks to construct a solid waste disposal facility or hazardous waste facility under ss. 289.21 to 289.32.

(2) The department may not issue a favorable determination of feasibility, approve a plan of operation or issue an operating license for a solid waste disposal facility or hazardous waste facility if the applicant or any person owning a 10% or greater legal or equitable interest in the applicant or the assets of the applicant either:

(a) Is named in and subject to a plan approved, or an order issued, by the department regarding any solid waste facility or hazardous waste facility in this state and is not in compliance with the terms of the plan or order; or

(b) Owns or previously owned a 10% or greater legal or equitable interest in a person or the assets of a person who is named in and subject to a plan approved, or an order issued, by the department regarding any solid waste facility or hazardous waste facility in this state and the person is not in compliance with the terms of the plan or order.

(3) Subsection (2) does not apply if the person named in and subject to the plan or order provides the department with proof of financial responsibility ensuring the availability of funds to comply with the plan or order using a method under s. 289.41.

History: 1995 a. 227 s. 572.

289.35 Shoreland and floodplain zoning. Solid waste facilities are prohibited within areas under the jurisdiction of shoreland and floodplain zoning regulations adopted under ss. 59.692, 61.351, 62.231 and 87.30, except that the department may issue permits authorizing facilities in such areas.

History: 1981 c. 374 s. 148; 1983 a. 416 s. 19; 1995 a. 201; 1995 a. 227 s. 638; Stats. 1995 s. 289.35.

289.36 Acquisition of property by condemnation. (1) DEFINITION. In this section, "property" includes any interest in land including an estate, easement, covenant or lien, any restriction or limitation on the use of land other than those imposed by exercise of the police power, any building, structure, fixture or improvement and any personal property directly connected with land.

(2) PROPERTY MAY BE CONDEMNED. Notwithstanding s. 32.03, property intended for use as a solid or hazardous waste facility may be condemned if all of the following conditions are met:

(a) The entity proposing to acquire the property for use as a solid or hazardous waste facility has authority to condemn property for this purpose.

(b) The property is determined to be feasible for use as a solid or hazardous waste facility by the department if that determination is required under s. 289.29.

(c) The property is acquired by purchase, lease, gift or condemnation by a municipality, public board or commission or any other entity, except for the state, so as to bring the property within the limitations on the exercise of the general power of condemnation under s. 32.03 within:

1. Five years prior to the determination of feasibility if a determination of feasibility is required for the facility under s. 289.29.

2. Five years prior to the service of a jurisdictional offer under s. 32.06 (3) if a determination of feasibility is not required for the facility under s. 289.29.

History: 1981 c. 374; 1995 a. 227 s. 628; Stats. 1995 s. 289.36.

EXHIBIT 2

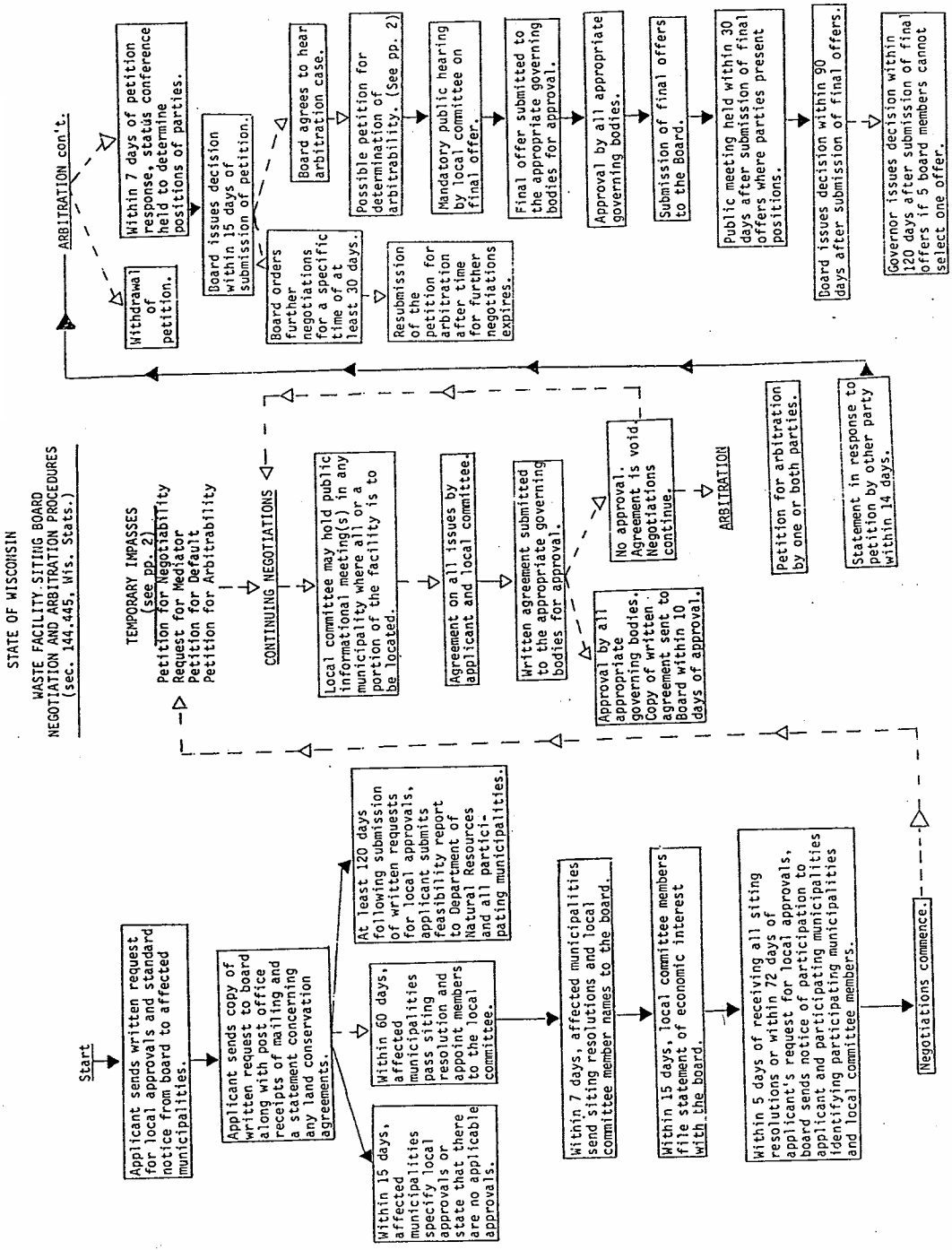
STATE OF WISCONSIN
WASTE FACILITY SITING BOARD
NEGOTIATION AND ARBITRATION PROCEDURES
(sec. 144.445, Wis. Stats.)
Start
Applicant sends written request for local approvals and standard notice from board to affected municipalities.
Applicant sends copy of written request to board along with post office receipts of mailing and a statement concerning any land conservation agreements.
Within 15 days, affected municipalities specify local approvals or state that there are no applicable approvals.
Within 60 days, affected municipalities pass siting resolution and appoint members to the local committee.
At least 120 days following submission of written requests for local approvals, applicant submits feasibility report to Department of Natural Resources and all participating municipalities.
Within 7 days, affected municipalities send siting resolutions and local committee member names to the board.
Within 15 days, local committee members file statement of economic interest with the board.
Within 5 days of receiving all siting resolutions or within 72 days of applicant's request for local approvals, board sends notice of participation to applicant and participating municipalities identifying participating municipalities and local committee members.
Negotiations commence.
TEMPORARY IMPASSES (see pp. 2)
Petition for Negotiability
Request for Mediator
Petition for Default
Petition for Arbitrability
CONTINUING NEGOTIATIONS
Local committee may hold public informational meeting(s) in any municipality where all or a portion of the facility is to be located.
Agreement on all issues by applicant and local committee.
Written agreement submitted to the appropriate governing bodies for approval.
Approval by all appropriate governing bodies. Copy of written agreement sent to Board within 10 days of approval.
No approval. Agreement is void. Negotiations continue.
ARBITRATION
Petition for arbitration by one or both parties.
Statement in response to petition by other party within 14 days.
ARBITRATION con't.
Withdrawal of petition.
Within 7 days of petition response, status conference held to determine positions of parties.
Board issues decision within 15 days of submission of petition.
Board orders further negotiations for a specific time of at least 30 days.
Resubmission of the petition for arbitration after time for further negotiations expires.
Board agrees to hear arbitration case.
Possible petition for determination of arbitrability. (See pp. 2)
Mandatory public hearing by local committee on final offer.
Final offer submitted to the appropriate governing bodies for approval.
Approval by all appropriate governing bodies.
Submission of final offers to the Board.
Public meeting held within 30 days after submission of final offers where parties present positions.
Board issues decision within 90 days after submission of final offers.
Governor issues decision within 120 days after submission of final offers if 5 board members cannot select one offer.

EXHIBIT 2 (cont.)

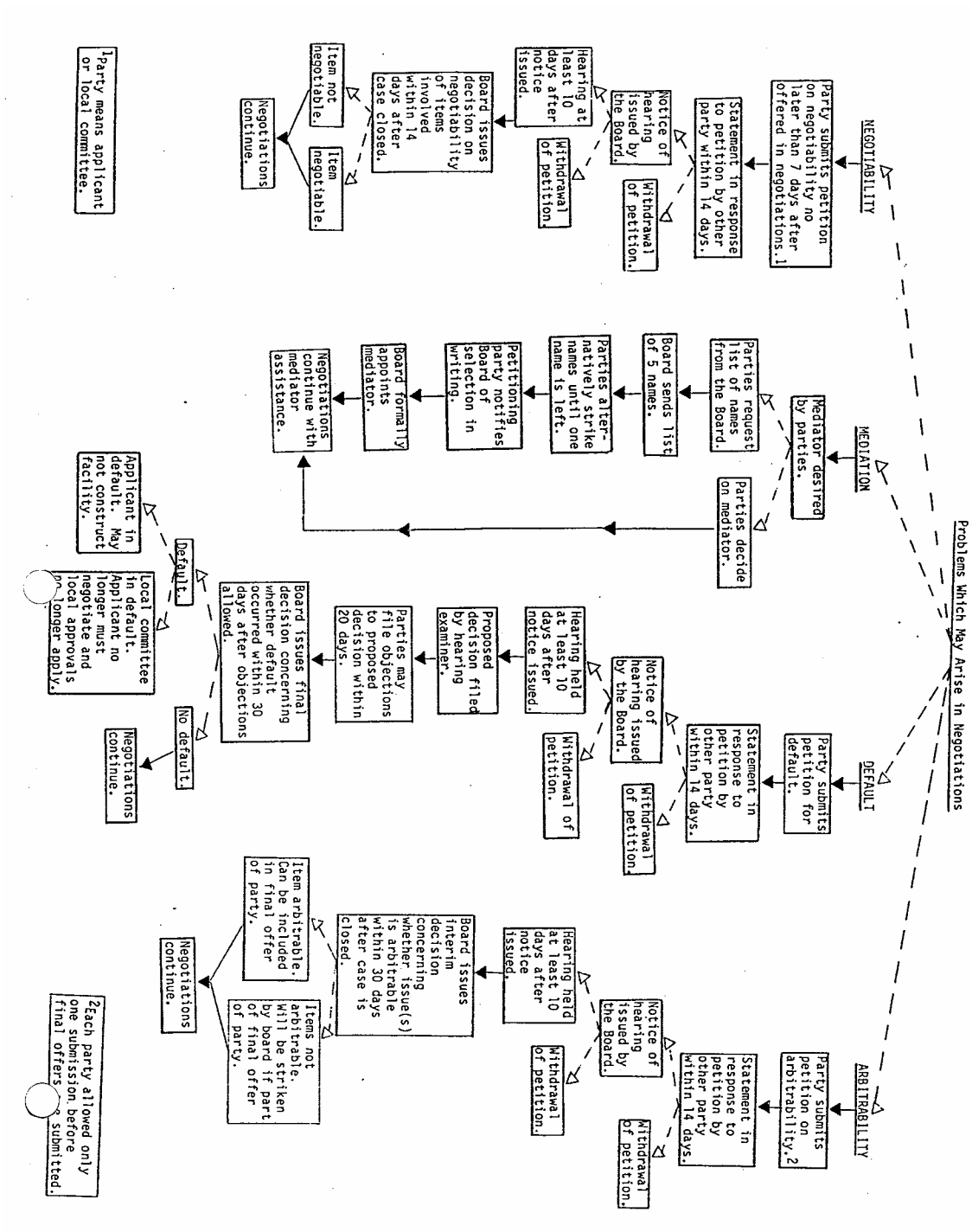

EXHIBIT 3

State of Wisconsin

Waste Facility Siting Board
201 West Washington Avenue, Madison, WI 53702-0001
(608) 267-7854
FAX (608) 267-3770

Don Trettin
Chairman

Patti Cronin
Executive Director

STANDARD NOTICE

TIME LIMITS AND REQUIREMENTS FOR MUNICIPALITIES
TO PARTICIPATE IN THE NEGOTIATION AND ARBITRATION PROCESS
FOR THE SITING OF A SOLID OR HAZARDOUS WASTE FACILITY
UNDER SEC. 289.33, WISCONSIN STATUTES.

PLEASE READ ALL PAGES CAREFULLY.

This notice informs a municipality of the actions and deadlines required to qualify for participation in negotiations and arbitration concerning the proposed siting of all new or expanded solid or hazardous waste facilities in the state of Wisconsin.

This standard notice shall be submitted with any written requests for local approval by the applicant to the clerk of each affected municipality and to the main public library in each affected municipality. s. 289.22(1m)(2) and s. 289.32, Wis. Stats.

Who is the Waste Facility Siting Board?

The Waste Facility Siting Board is an impartial body composed of six members. These members include the secretaries, or their formally appointed designees, of the Departments of Agriculture, Trade and Consumer Protection; Commerce; and Transportation; and two town elected officials and one county elected official appointed by the governor for three year terms.

What does the Waste Facility Siting Board do?

The Waste Facility Siting Board administers the negotiation and arbitration process for the siting of every solid and hazardous waste facility in the state of Wisconsin.

The board's authority is created by law in Chapter 289, Subchapter III, Wis. Stats. The intent of the law is to create and maintain a comprehensive and effective policy of negotiation and arbitration between an applicant for a waste facility license and a local committee representing the affected municipalities.

Who is an Applicant?

An "applicant" is any person applying for a license or the owner or operator of a facility.

What is an Affected Municipality?

An affected municipality is any town, village, city, or county:

(a) where any or all of the proposed waste site will be located, or
(b) whose boundary is within 1500 feet of the facility designated in the feasibility report for the disposal of solid waste or the treatment, storage or disposal of hazardous waste.

An applicant that is a municipality or is under contract with a municipality for development of the site, is not considered an affected municipality for purposes of negotiation.

What is an Additional Municipality?

An additional municipality is any town, city, village, or county which does not qualify as an affected municipality but is included in the negotiation and arbitration process by written agreement of the applicant and the participating affected municipalities.

How does the negotiation-arbitration process begin?

The process is initiated by the applicant. Before submitting a feasibility report to the Department of Natural Resources (DNR), the applicant must submit by certified mail to the clerk of each affected municipality a written request for specification of all applicable local approvals. The municipality has 15 days to respond.

What is a "local approval"?

The term "local approval" is defined in s. 289.33(3)(d), Stats. It essentially means any requirement, restriction, condition, or prohibition imposed by a municipality on a waste facility site by ordinance, resolution, or regulation.

The law gives special weight to "pre-existing local approvals." Pre-existing local approvals are those that have been in effect at least 15 months before the applicant submits to DNR an initial site report or a feasibility report, whichever happens first. A new or expanded waste facility is subject to pre-existing local approvals unless specified as inapplicable in a negotiated agreement or an arbitration award. A new or expanded waste facility is not subject to other local approvals unless specified as applicable in a negotiated agreement.

If an Affected Municipality wants to negotiate with the applicant concerning the site what is required?

There are three requirements.

First, an affected municipality must pass a siting resolution within 60 days of receipt of the applicant's initial written request for local approvals. If this deadline is missed, a municipality may not participate in negotiations. A copy of the siting resolution must be sent to the board within 7 days of passage.

Each affected municipality that wishes to negotiate with the applicant about the proposed facility must pass a siting resolution which shall state the following:

(1) the name and location of the municipality,
(2) the name and location of the applicant,
(3) the specific location of the proposed facility, and
(4) the municipality's intent to negotiate and, if necessary, arbitrate with the applicant concerning the proposed facility.

Second, an affected municipality must appoint members to the local committee within 60 days of receipt of the applicant's request for local approvals. Names and addresses of local committee members must be sent to the Waste Facility Siting Board within 7 days of appointment.

Each affected municipality that wishes to negotiate with the applicant must appoint members to the local negotiating committee. Each town, village, or city where all or part of the proposed waste facility is to be located may appoint 4 members, or 2 more than the total number of all other members, whichever number is greater; no more than 2, however, may be elected officials or municipal employees. Each county where all or any part of the proposed waste facility will be located may appoint 2 members. Every other town, village, city, or county within 1500 feet of the proposed waste facility may appoint 1 member. Appointment of members may be included in the siting resolution or in a separate resolution.

Third, each member appointed to the local committee must file with the Waste Facility Siting Board a Statement of Economic Interest within 15 days of appointment. A member who fails to file a Statement of Economic Interest may not serve on the local committee.

These forms are available at no cost from the Waste Facility Siting Board.

What is required if an Additional Municipality wants to negotiate with the applicant concerning the site?

There are four requirements.

First, an additional municipality must receive written agreement of all parties to be added to the process.

Second, an additional municipality must pass a siting resolution within 30 days of the agreement between the parties to allow participation by the additional municipality. A copy of the siting resolution must be sent to the board within 7 days of passage.

The siting resolution must state the following:

(1) the name and location of the municipality,
(2) the name and location of the applicant,
(3) the specific location of the proposed facility, and
(4) the municipality's intent to negotiate and, if necessary, arbitrate with the applicant concerning the proposed facility.

Third, an additional municipality must appoint one member to the local committee within 60 days. The name and address of the local committee member must be sent to the Waste Facility Siting Board within 7 days of appointment.

Fourth, the appointed member to the local committee must file with the Waste Facility Siting Board a Statement of Economic Interest within 15 days of appointment. A member who fails to file a Statement of Economic Interest may not serve on the local committee.

These forms are available at no cost from the Waste Facility Siting Board.

When may negotiations begin?

Negotiations may begin at any time after notification by the Waste Facility Siting Board. The board will send a notification of participation to the applicant and the clerk of each participating municipality within 5 days after the board receives copies of the resolutions and names and addresses of members appointed to the local committee, or within 72 days after all affected municipalities have received written request for local approvals. This notice will identify the participating municipalities, identify the names of the members of the local committee, and inform the parties that negotiations may begin.

If, for error or change in plans, the applicant must add any other affected municipality following the board's notification of participation, that affected municipality shall have the same rights and obligations as outlined above. The board may issue an order delaying negotiations until that affected municipality has time to act. This procedure is outlined in s. 289.33(6)(c), Stats.

Either the applicant or the local committee may initiate negotiations. The time and place of negotiating sessions are determined by agreement between the applicant and the local committee. Negotiating sessions must be open to the public.

What issues can be negotiated?

Any subject may be negotiated except the need for the facility and any proposal that would make the applicant's responsibilities less stringent than required by the Department of Natural Resources. Either party may petition the board in writing for a determination as to whether a proposal is negotiable. The board will conduct a hearing and issue a binding decision in 14 days.

If a negotiated settlement is reached, what is required?

There are two requirements.

First, the agreement must be approved by all appropriate bodies.

An appropriate body is the governing body of each town, city, or village where all or a portion of the waste facility is to be located. If the agreement is approved by all of the appropriate bodies, the agreement is binding on all participating municipalities.

EXHIBIT 3 (cont.)

Second, if the agreement is approved, the applicant shall send a copy or notice of any negotiated agreement to the Waste Facility Siting Board and to the Department of Natural Resources within 10 days after the agreement is approved by all appropriate bodies. If the agreement is not approved by all of the appropriate bodies, the agreement is void. The parties may resume negotiations, begin mediation, or initiate arbitration.

Who initiates mediation?

Either party may request a mediator at any time during the negotiation.

Who is the mediator?

The board maintains a list of competent, impartial, disinterested persons consisting of lawyers, retired judges, and professional mediators who serve as mediators.

Who chooses the mediator?

Upon receipt of a request for a mediator, the board will immediately send the parties a list of 5 mediators. The parties shall alternately strike names until one name is left who will be appointed by the board.

What is the role of the mediator?

The role of the mediator is to encourage a voluntary settlement. The mediator may not impose a settlement on either party.

Who pays for the mediator?

Unless specified in the negotiated agreement or the arbitration award, the costs of the mediator will be shared equally by the applicant and the local committee.

What happens if the mediator fails to bring settlement?

The parties may resume negotiations or initiate arbitration.

Who initiates arbitration?

The applicant or the local committee may petition the board jointly or separately to initiate arbitration.

Arbitration may not be initiated until at least 120 days after the appointment of the local committee.

A statement in response to the arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

1. Any proposal to make the applicant's responsibilities under the approved feasibility report or plan of operation less stringent.

1m. Reimbursement of reasonable costs, but not to exceed $20,000, incurred by the local committee relating to negotiations, mediation and arbitration activities under this section.

2. Screening and fencing related to the appearance of the facility. This item may not affect the design capacity of the facility.
3. Operational concerns including, but not limited to, noise, dust, debris, odors and hours of operation but excluding design capacity.
4. Traffic flows and patterns resulting from the facility.
5. Uses of the site where the facility is located after closing the facility.
6. Economically feasible methods to recycle or reduce the quantities of waste to the facility. At facilities for which the applicant will not provide or contract for collection and transportation services, this item is limited to methods provided at the facility.
7. The applicability or nonapplicability of any preexisting local approvals.

If requested by either party, the board will rule on the arbitrability of a specific issue.

Once initiated, how does the arbitration process work?

Within 15 days of receipt of a petition to initiate arbitration, the board will issue a decision either to have the parties continue negotiation for at least 30 days, delay arbitration until a feasibility report is submitted, or order the parties to submit their final offers within 90 days. If, when ordered by the board, the applicant fails to submit a final offer within 90 days, the applicant may not construct or operate the facility. If the local committee fails to submit a final offer in

90 days the local committee loses all rights to further negotiation and the facility is not subject to any local approval.

Within 30 days after the last day for submitting final offers, the board shall conduct a public meeting for the parties to explain their final offers.

Within 90 days after the last day for submitting final offers, the board will issue an arbitration award. If the board fails to issue an award because it lacks the necessary five votes, the governor will issue an arbitration award within 120 days after the last day for submitting final offers.

The board's arbitration award is binding on the applicant and the participating municipalities.

The information presented here serves as a guide to help affected and additional municipalities comply with the negotiation-arbitration laws concerning siting of solid and hazardous waste facilities under s. 289.33, Stats. For specific legal advice, or changes in the statute or administrative rules, an applicant or affected municipality should consult its attorney or contact the Waste Facility Siting Board, 201 West Washington Avenue, Madison, Wisconsin 53702, (608) 267-7854, FAX: (608) 267-3770.

STANDARD NOTICE
09/01/98

EXHIBIT 4

COOPERATIVE EXTENSION PROGRAMS
UNIVERSITY OF WISCONSIN–EXTENSION

610 LANGDON STREET MADISON, WISCONSIN 53706 AREA CODE 608/262-9960

COMMUNITY DYNAMICS INSTITUTE

November 7, 1983

LEGISLATIVE UPDATE

FROM: Patrick Walsh, Solid Waste Specialist Pat Walsh

SUBJECT: Requirement Of Proving Need As Part Of Landfill Feasibility Process

As part of the recent special session, the Legislature passed 1983 Senate Bill 410. Senate Bill 410 includes a requirement that the Department of Natural Resources consider the need for a solid waste disposal facility or a hazardous waste treatment, storage or disposal facility as part of the landfill feasibility process. The bill responds to criticism from environmental groups and neighbors in the vicinity of proposed landfills who felt that in many cases the landfills proposed were not in accordance with county solid waste plans or sound waste management practice. All new proposed facilities, except mining, prospecting, and pulp and papermill waste facilities, must prove need as a precondition of a favorable determination of feasibility.

Under current law, an applicant is required to go through a three-stage approval procedure and may be required to go through negotiation and arbitration before a waste facility may be licensed. The first stage of the approval procedure consists of the determination of feasibility by the Department of Natural Resources (DNR). The DNR makes its determination based in part upon a feasibility report submitted by the applicant.

Senate Bill 410 changes the requirements for feasibility in two major ways. First, the DNR may not approve a site as feasible unless the proposed site design has a minimum of 10 year's site life and a maximum of 15 year's site life, based upon the expected volume of waste to be disposed of at the site. This requirement does not apply to proposed expansions of an existing site. This requirement will force landfill applicants to predict the annual volume of waste which will be entering the landfill and to design the site capacity accordingly.

Second, Senate Bill 410 requires the DNR to evaluate the need for the facility as part of the feasibility review process. The DNR must consider the approximate service area of the proposed waste facility, the quantity of waste generated within that service area and the effect of other facilities located within the same service area. These other facilities include landfills, recycling facilities, and solid waste incinerators. For municipal facilities, the DNR may also consider the extent to which the proposed facility is needed to replace a current municipal facility site banking.

The determination of need is made at the same time as the final determination of feasibility. If a contested case hearing is held, the secretary of DNR issues any decision concerning need upon a record certified by a hearing examiner. The secretary may assign responsibility for reviewing the record and making recommendations to any DNR employee.

PW:mf

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Consultant and Regulator Liability

for Landfill Design Failures

by Patrick Walsh[1]

ABSTRACT

Lawsuits involving leaking landfills have resulted in large judgments for damages and site cleanup. Both landfill designers and regulators could face increased liability as injured parties seek potentially liable parties. Design professionals may face personal as well as corporate liability for contract and tort causes of action. Regulators who negligently perform inspection or review duties may also be liable. In order to decrease potential liability, care should be taken to insure contractual documents state clearly the responsibility of all parties. Reasoning supporting design and regulatory decisions should be put in writing and retained as part of standard operating practice.

Introduction

When a landfill begins polluting, everyone associated with the landfill becomes a potential litigant. Owners and operators of waste disposal facilities, as well as generators and transporters, are being looked to to provide compensation to victims of pollution and to pay the costs of cleanup. Court judgments have been running in the millions of dollars.

In the current age of increased regulation, requiring detailed landfill designs and complex construction techniques, litigants, both plaintiffs and defendants, may seek payment from those who either designed or approved the polluting landfill. Allegations that pollution problems are due to either faulty design and/or inadequate regulatory oversight may be made, in an attempt to shift legal fault to designers and/or regulators.

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[1]Solid Waste Specialist, University of Wisconsin-Extension, Madison.

Presented at the Eighth Annual Madison Waste Conference, September 18-19, 1985, Department of Engineering and Applied Science, University of Wisconsin-Extension, Madison.

This paper discusses various legal theories that may be employed in an attempt to place liability for landfill problems upon those who designed the landfill and those who approved the design. Descriptive court cases will be cited and analyzed for their applicability to landfill failure situations. Recommendations for protecting oneself against liability will be made.

It should be noted at the outset that not all of the legal theories to be discussed are currently applicable in every state. Some may be considered a minority viewpoint and others, although settled with regard to narrow fact situations, have not been applied directly to landfill problems. The purpose here is to give a general overview of an area of environmental law that is changing rapidly.

Potential Legal Liability of Design Professionals for Landfill Problem

Claims against design professionals can arise pursuant to either contract or tort causes of action. Different legal standards apply to each. Although the courts often mix contract and tort principles when deciding cases, certain rules have developed generally that have defined the standard of conduct applicable in each legal framework.

In some states, personal liability is statutorily imposed on design professional for design defects, even in cases where design work was performed for a professional corporation. (For example, see sec 443.08(4)(a), Wisconsin Statutes). This increases the personal risk associated with landfill design by stripping away the legal protection normally provided by incorporation. Where a consulting corporation's assets or insurance are insufficient to cover a judgment, additional payments may be sought personally from the designer who signed the plans or supervised construction.

Contract Related Causes of Action Based on Contract

1. Breach of Express Warranty

The contract entered into between the landfill designer and the landfill owner will normally state the degree of involvement of the designer in the project. In order to increase profitability, many engineering consultants are offering construction services in addition to design services. Many firms also feel that controlling landfill construction is necessary to eliminate the risk that a well designed landfill will begin to leak due to faulty construction.

Thus there is a trade-off. Design and construction control over a landfill project improves the probability that construction will be performed according to design standard but exposes the designer to increased liability for landfill failures.

Where landfill problems develop, courts will first look to the wording of contractual documents to determine the duties and responsibilities of potentially liable parties. By signing the contract, the design professional expressly warrants to the owner that design work and construction work will be performed as stated in the contract. Except for inherent expressed warranties, such as compliance with state law, an action for a breach of an express warranty must be supported by contractual language. Rozny v Marnul 43 Ill.2d 54, 250 N.E.2d 656 (1969)

In Rozny, the plaintiff hired the defendant to survey a piece of property. The survey was inaccurate, forcing the plaintiff to move his house. The court noted that while the law does not normally require professional plans and services to be perfect, the defendant had expressly provided an "absolute guarantee for accuracy" in the survey. (43 Ill. 2d at 66) Since the defendant had expressly guaranteed accuracy, the defendant was held to this standard and was deemed liable for the mistake.

Likewise, design professionals should be acutely aware of the terms of contracts they entered into, especially where other contractors or supervisors are involved in the project. Care should be taken to carefully delineate the degree of responsibility for each party. Where limited construction responsibility is involved, language such as "general administration" or "periodic inspection" is preferable to the term "supervision of construction." Words like "supervision" imply control, which implies liability. The American Institute of Architects and the National Society of Professional Engineers have developed model contract forms which attempt to protect against sloppy language in professional service contracts. While each situation should determine exact contract language, these model contract forms may be a good place to start to limit potential liability pursuant to express warranty.

2. Breach of Implied Warranty

Because design professionals are required to deal in an inexact science and are continually called upon to exercise skilled judgment in areas incapable of precise mathematical definition, professionals have not historically been forced by the courts to bear the risks of unforeseen difficulties. City of Mounds View v Walijarvi, 263 N.W.2d 420 (Minn. 1978). This is still the majority rule in this country.

However, in a number of jurisdictions, in addition to having a duty to comply with the express words of a contract, design professionals, especially design-builders, impliedly warrant that a project will be fit for its stated purpose. Robertson Lumber Company v Stephen Farmers Cooperative Elevator Company, 143 N.W.2d 622 (1966).

In Robertson Lumber Company, the plaintiff attempted to foreclose on a mechanic's lien for work performed in designing and constructing a grain storage building. The defendant argued that the lumber company that had designed the building, which later collapsed, was liable for breach of an implied warranty of fitness and should not be able to recover on the lien. The Supreme Court agreed, holding that the lumber company had held itself out as competent, and the cooperative had relied on its statement, creating an implied warranty that the building would be fit for its intended purpose.

In a landfill problem situation, in which a purchaser of landfill design and construction services normally must rely upon the expert judgment of its engineering consultant, an implied warranty that plans, specifications, and construction techniques will result in a nonpolluting landfill may be imposed upon the design/constructor. While the extension of the implied warranty concept to professional services contracts is still a minority view, contract documents should attempt to reduce the possibility of liability by affirmatively stating that no implied warranties are included.

3. Fraud and Misrepresentation

When a landfill problem develops, owners, operators, or other contractors may attempt to shift blame by arguing that the landfill designer fraudulently misled them. The elements of fraudulent misrepresentation are 1) there must be a false representation; 2) the representation must be made with intent to defraud and for the purpose of inducing another to act upon it; and 3) such other person must rely on it and be induced to act, to his injury or damage. Goerke v Vojvodich, 67 Wis.2d 102, 226 N.W.2d 211 (1975). The law also requires that a party alleging misrepresentation has made a reasonable investigation or reasonable inquiries concerning the truth of the alleged fraudulent statements.

To protect against allegations of fraud or misrepresentation, landfill professional should clearly state the risks and uncertainties inherent in landfill design, preferably in writing. Broad public statements that a proposed landfill will never cause problems could lead to trouble.

B. Tort Causes of Action

I. Privity versus Foreseeability

Historically, neighbors to a polluting landfill could not recover from the landfill designer because the neighbors had no legal connection, or "privity" with the designer. Only someone in privity with the designer, such as the owner of the landfill, had a right to claim damages from the designer for design defects. Pursuant to the privity argument, the designer's only duty was to his/her client, and to no one else.

Today the ability of a professional to insulate himself/herself through the concept of privity is almost nonexistent. Rather, it is the legal duty of a design professional to use due care to refrain from any act that will cause foreseeable harm to others even though the nature of that harm and the identity of the harmed person or harmed interest is unknown at the time of the act. A. E. Investment Corp. v Link Builders, Inc., 62 Wis.2d 479 (1973). In A. E. Investment Corp., a tenant in a building, which had settled due to the designer architect's failure to account for soil conditions, sued the designer for damages. The defendant architect raised the privity defense. In rejecting the defendant's argument, the court stated "the defendant's alleged failure to properly take into account the condition of the subsoil when designing and supervising the construction of the building was an act or omission that would foreseeably cause some harm to someone. The duty was to refrain from such act or omission." (62 Wis.2d at 485)

The foreseeability standard broadens the potential liability of design professionals considerably. Landfill neighbors, aquifer users, and even visitors to neighboring properties could be within a group which could be foreseeably affected by a landfill problem.

2. Negligence/Malpractice

Negligence is a breach of a duty to act with due care, which causes actual loss or injury to another. Coffey v Milwaukee, 74 Wis.2d 526 (1976). In situations in which direct causation is difficult to prove, but the injury could only have been caused by a single occurrence, courts often invoke an additional theory which has the Latin name "res ipsa loquitor" (the thing speaks for itself). The doctrine of res ipsa loquitor has been implied in an environmental context. Town of East Troy v Soo Line Railroad, 653 Fed.2d 1123 (7th Circuit 1980).

In the East Troy case, the plaintiff town sought reimbursement from the defendant railroad for the cost of a new water supply which had to be installed because of a carbolic acid spill which occurred during a derailment. While the town sought to prove that the pollution problem was caused directly by the railroad's spill, the town also invoked the doctrine of res ipsa loquitor on the grounds that the carbolic acid which contaminated the town's water supply could only have come from the railroad's spill. The court agreed that the doctrine of res ipsa loquitor applied in this situation. No doubt the doctrine would also be invoked in cases in which a leaking landfill is polluting a neighbor's well.

Malpractice is actually professional negligence. The difference between negligence and malpractice is that a professional has a duty to act in accordance with the skill usually exercised by others in their profession in the same general area, Pitman Construction Company v New Orleans, 178 So. 2d 312, 321 (La. Court of Appeals), while in the negligence area the standard is that of an average person. Determining the prevailing level of professional skill is difficult and often requires the use of expert testimony. Some courts have held that "mere errors of judgment" will not result in negligence. Maloney v Oak Builders, Inc., 224 So. 2d 161 (1969). Others have held however, that since design professionals represent themselves as experts, their clients have a right to expect architect's or engineer's services to produce reasonable results for the purposes for which the professional was retained. Broyles v Brown Engineering Company, 151 So.2d 767 (1963). Even where a professional's activity followed local custom or practice, negligence was found where the action was a violation of a state statute. Henry v. Britt, 20 So.2d 917 (1969).

With respect to a landfill pollution problem, liability would probably depend upon whether faulty design, faulty construction, or faulty operation or a combination of these is the cause of the problem. If different parties performed the design, construction, and operation, each would claim the other had breached its duty of due care. The professional standards of care that would apply to the activities of each party would be different.

3. Strict Liability

Strict liability is liability without fault. Where in a contract dispute a party must prove a breach of an agreement, and in a negligence action a party must prove a breach of due care, a party in a strict liability action need only prove that a defendant's act

caused its injury in order to recover damages. Since it is easier to win pursuant to a strict liability cause of action than a negligence or contract related cause of action, injured plaintiffs are attempting to extend legal causes of action against professionals to fall within the concept of strict liability. The strict liability standard has been applied for ultrahazardous activities, for products liability and for certain statutorily imposed pollution violations.

a. Ultrahazardous Activity

Strict liability normally applies if an activity is considered ultrahazardous or unduly dangerous. Cities Service Company v State, 312 So.2d 799 (1975). In that case, the Cities Services Company was found to be strictly liable for damages resultant from the breach of a mining impoundment holding billions of gallons of phosphatic slimes, which polluted a river causing extensive damage. Applying the American Law Institute's restatement of the law of torts, the court set forth the factors which were to determine whether an activity is abnormally dangerous: a) whether the activity involves a high degree of risk of harm to the person, land, or chattels of others; b) whether the harm which may result from it is likely to be great; c) whether the risk cannot be eliminated by the exercise of reasonable care; d) whether the activity is not a matter of common usage; e) whether the activity is inappropriate to the place where it is carried on; and f) the value of the activity to the community. Balancing these factors, some of which were in favor of the company and some of which were not, the court deemed the waste impoundment to be an abnormally dangerous activity, creating strict liability.

While a number of states have adopted this analysis to apply to waste disposal/groundwater pollution situations, none has yet extended the reach of ultrahazardous strict liability to include the designers of a waste impoundment. Liability has generally been restricted to those operating the facility. Whether the courts will extend the concept of ultrahazardous activity to include design and/or construction remains to be seen.

b. Products Liability

A strict liability standard has also been applied in the case of products. Where a seller is engaged in the marketing of a product which is defective or unreasonably dangerous to a user or consumer, strict liability will apply where a third party has been harmed by

the product. The failure to provide adequate warnings concerning a product can constitute a defect rendering the product unreasonably dangerous. Gracyalny v Westinghouse Electric Corporation, 723 Fed.2d 1311 (1983). Policy reasons for making the producers of defective products strictly liable for defects include the ability of product producers to get insurance to cover potential liability and as an incentive to force better control of product liability.

With regard to landfill problems, the question is whether landfill design services can be considered products within the concept of products liability. The general rule is that they are not. Costaldo v Pittsburg/Des Moines Steel Company, 376 Atl.2d 88 (1977). In Costaldo, the defendant architects designed and supervised the construction of a storage tank, but played no role in the construction of the tank itself. The court found that because the defendant provided only professional services, strict liability did not apply. Rather, the defendant was judged by the malpractice standard of breach of due care.

However, a number of cases have muddied the waters. In Langford v Kraft, 551 S.W.2d 392 (1977), a defendant engineer, who designed and supervised the construction of a drainage system, was held strictly liable for damage when the plaintiff's land was damaged by water. In Dubin v Michael Reese Hospital, 393 N.E.2d 588 (1979), the plaintiff sought to recover for his thyroid cancer, caused by x-ray treatments administered in the late 1940s. In determining that the hospital was strictly liable, the court held that the administration of x-rays by the defendant constituted the sale of a product. The court rejected the argument that the provision of the x-rays was incidental to the service of providing medical care, stating that the hospital was within the distribution chain that could be tapped under strict liability.

While the courts have found that a single building does not constitute a product, Lowrie v City of Evanston, 365 N.E.2d 923 (1977), the products liability doctrine has been extended to builders-vendors of mass produced single family detached homes, Schipper v Levitt & Sons, 207 Atl.2d 314 (1965), and condominiums, Del Mar Beach Club Owners Association v Imperial Contracting Company, 176 Cal.Rptr. 886 (1981).

Although it appears that design professionals should not be liable in strict liability pursuant to products liability theory, the courts have extended the definition of "product" in certain well defined situations. There will no doubt be a continuing effort to extend products liability coverage to professional service situations, including landfill design and construction.

c. Statutorily Imposed Strict Liability

A number of federal environmental laws, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (also known as Superfund), impose a strict liability standard upon those responsible for releases of hazardous substances. Section 107(a) of the Superfund law identifies owners, operators, transporters, and generators as parties who may be liable for cleanup costs. Additionally, where the federal government has spent money from the Hazardous Substance Response Trust Fund established in the Superfund law, Section 112(c)(3) of the Act provides that an action on behalf of the fund to recover monies expended from the Fund "may be commenced against any . . . other person who is liable . . . to the Fund for damages or costs for which compensation was paid." (42 U.S.C. Sec. 9612(c)(3)). Therefore, although landfill designers are not specifically covered within the Act's designation of potentially liable parties, repayment may be sought from landfill designers pursuant to the catchall subrogation provisions contained in the hazardous substance response trust fund provisions. No case has yet arisen in which repayment was sought from a landfill designer, but the possibility exists.

4. Punitive Damages

Where a defendant has shown "wanton, willful, or reckless disregard of the plaintiff's rights," the court may award punitive damages in addition to other damage recovery in the case. Jeffers v Nysse 98 Wis.2d 543 297 N.W.2d 495 (1980). Punitive damages are awarded for the purpose of punishing the defendant and for the purpose of deterring similar type conduct in the future. For example, the right to punitive damages has been upheld in a case alleging willful concealment of auto design hazards from the public, Wangen v Ford Motor Company 97 Wis.2d 260, 294 N.W.2d 437 (1980), and in a case alleging fraudulent misrepresentations were made concerning the energy efficiency of a house. Jeffers v Nysse (supra).

In a landfill problem case, a designer could be liable for punitive damages if the designer was found to have performed

outrageous acts, such as fraudulently misleading a client into believing a landfill could safely hold hazardous materials when the landfill was not designed for that purpose. Punitive damages might also be awarded in a case in which, for economic or other reasons, a landfill was built with inferior materials, knowing that a pollution problem would eventually result. Because they are a form of punishment, courts do not award punitive damages lightly. However, punitive damages are a possibility in situations in which landfill design and/or construction is performed sloppily, either intentionally or negligently.

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Legal Liability of Regulators for Landfill Problems

A. Varying standards of governmental immunity

Historically, government officials have been immune from liability for torts performed while conducting official duties. However, the modern trend in most states is to waive, to some degree, the tort immunity previously enjoyed by political subdivisions. Today, the vast majority of states allow some recovery against governmental officials, if only in auto accident cases. Others treat governmental officials the same as private persons or corporations. See Municipal Tort Liability for Erroneous Issuance of Building Permits: a National Survey, 58 Washington Law Review 537 (1983).

B. Liability for Regulator Negligence

Generally, most states protect governmental officials in their performance of discretionary functions. The most recognized exception to the rule of immunity is for damages resulting from the negligent performance of a purely ministerial duty. Lister v Board of Regents, 72 Wis.2d 282, 240 N.W.2d 610 (1976). According to Lister, "a public officer's duty is ministerial only when it is absolute, certain, and imperative, involving merely the performance of a specific task when the law imposes, prescribes and defines the time, mode and occasion for its performance with such certainty that nothing remains for judgment or discretion."

While the ministerial/discretionary distinction sounds simple, in practice its application has been hazy. For example, the general rule followed in Wisconsin, as set forth in the recent case Larsen v Wisconsin Power and Light Company, 120 Wis.2d 508, 355 N.W.2d 557 (1984), states "two general principles are deducible: (1) a public

officer who has a clear duty to undertake a specific task must do so with reasonable care; and (2) if an official in the exercises of official duties knows of a specific danger, that official must use reasonable care to protect the public from the danger. (Larsen 120 Wis.2d at 517).

Environmental regulators are not immune from liability. In Schunk v Michigan 97 Mich.App. 626, 296 N.W.2d 129 (1980), the court found that allegations that the state knew or should have known that the chemical PBB created a serious and immediate hazard, and that the state willfully and intentionally failed to act against employers to prevent employee exposures to PBB, were sufficient to circumvent the defense of governmental immunity. In other words, the court found that governmental employees ~~were~~ could be liable for damages if their acts were intentional.

In a more recent case Miotke v City of Spokane and the State Department of Ecology, 678 P 2d 803 (Washington 1984), plaintiff owners of waterfront property sued the City of Spokane for discharging raw sewage into the river and the State Department of Ecology for authorizing the discharge. In upholding the finding that the discharge created a nuisance, the Supreme Court of Washington found that the Department of Ecology's act of authorizing the bypass without requiring a new waste discharge permit amounted to a violation of the Water Pollution Control Act and gave rise to a private cause of action for the plaintiff owners of waterfront property. The court rejected the state's defense that its act of allowing the discharge was the best environmental compromise available at the time the decision was made and was actually in the best interests of bringing the city into compliance. In essence, the court found that the State Department of Ecology had acted outside of its authority and would therefore be liable for damages resulting from its acts.

Knowledge of these cases and the expanding scope of governmental liability should cause regulators of landfills to exercise increased care to insure that the state of the art, as well as applicable state law, is being met. What could originally be termed regulatory reasonableness in leniently reviewing plans or inspecting small landfills could become breach of duty and ultimate liability if that small landfill begins polluting and causes damage. Technical reasons for regulatory decisions should be clearly stated in the agency file to provide protection in the event of a dispute.

SUMMARY

Landfill designers and regulators should exercise increased care to protect themselves from potential liability associated with landfill failures. Attention to contractual language and pervasive written documentation to support all decisions should be standard practice. While it is difficult to insulate oneself from being sued, care can decrease the probability of adverse judgments.

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A CRITIQUE OF WISCONSIN'S LANDFILL SITING LAW

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Abstract

Wisconsin's landfill siting law (sec 144.43-144.47, stats) has been praised as a model for other states to follow. The law prevents local governments from prohibiting construction of landfills but requires a landfill siter and affected local governments to negotiate an agreement covering areas of concern. The law also provides for a technical review of the feasibility of a proposed landfill by state regulatory authorities. Since the act has resulted in landfills being sited in Wisconsin at a time when landfill siting is often difficult or even impossible in other states, it is often proposed as a model for other states to follow in developing solid waste management legislation.

However, those praising the law's effectiveness are the landfill siters and regulators whose jobs are made easier by the law's inequitable treatment of affected parties. The law gives landfill siters significant advantages over those affected by or opposing a proposed landfill. Likewise, the law's procedures allow the regulatory agency responsible for reviewing the environmental acceptability of a proposed landfill to avoid addressing such issues as land use and operator reliability. The law places those local governments and interested citizens who raise questions concerning a proposed landfill at an unfair disadvantage.

This paper will discuss Wisconsin's landfill siting law from the point of view of an affected municipality or interested citizen. The way in which the law unfairly discriminates against those questioning a proposed landfill will be discussed. Proposed methods for improving the law will be described. The paper will show that the current law does not insure that the most economical and environmentally sound landfills are being sited. On the contrary, the law allows marginal or poor sites to be approved, ultimately increasing the cost of waste disposal and increasing the level of frustration and degree of opposition by those who raise legitimate issues in the landfill siting process.

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Introduction

In order to site a solid waste disposal facility in Wisconsin, a landfill siter must follow a two-phase process. First, the siter must prove to the state Department of Natural Resources (DNR) that the proposed landfill will comply with DNR requirements. The technical review process (sec 144.44, stats) requires the submittal of a feasibility report, which must address the geologic and hydrogeologic characteristics of the proposed site and provide other information including an analysis showing that the landfill is currently needed, as well as other general environmental information. A contested case or trial type hearing is available at this stage of the process to local governments or groups of individuals questioning the proposed landfill on technical grounds. The DNR's decision regarding feasibility is subject to review by the courts.

Once feasibility approval is obtained, a landfill siter must submit a plan of operation. The plan of operation includes a detailed analysis of the site design, as well as other information regarding daily operation, closure and long-term care, and financial responsibility. There is no statutory right to a hearing concerning the plan of operation.

After receiving plan of operation approval, the siter may construct the landfill in compliance with the approved plan. The siter is then issued an operating license and may begin accepting waste. The site must be operated in compliance with the approved plan of operation.

All other siting issues are intended to be addressed in the other phase of siting, known as the negotiation/arbitration phase (sec 144.445, stats). In this phase, the siter must negotiate with all affected municipalities to resolve or mitigate all expected economic, social, environmental, and other impacts associated with the proposed landfill. An affected municipality is defined as a local government in which the proposed site will be located or one whose boundaries are within 1200 feet of the proposed site.

The landfill siter and the affected municipalities, known collectively as the local committee, are expected to develop a contract addressing all issues of interest. If the negotiations break down, a mediator may be called in or the parties may seek arbitration. In arbitration, one final offer is chosen without modification over the other. If a siter defaults by not negotiating in good faith, the siter cannot construct the facility. If the local committee defaults, the siter may pursue siting without having to negotiate a contract.

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The Awkward Position of an Affected Municipality in the Siting Process

When a landfill is proposed within the borders of a local government, usually a town, the local government is placed in a no-win situation. If a local government accepts assurances that the site will be properly designed and operated and does not enter the review process, and the site ultimately causes an environmental problem, it is the local government and its citizens which will bear the brunt of the impacts. It is the local air quality and groundwater quality that will be impacted, perhaps irreparably. Moreover, if the local government has not intervened and something goes wrong, local officials may be subject to legal attacks for not protecting the citizens.

On the other hand, if the local government decides it has a duty to vigorously review the proposed landfill's technical feasibility and to negotiate a contract which will protect its citizens, the local government must be willing to commit significant time and money over a period of a number of years to a process with an uncertain outcome. At the time the landfill is first proposed and the local government must decide whether to participate, the local government is usually ignorant or at least unsophisticated concerning landfill technology and the siting process, both of which are familiar to the landfill siter and the DNR. Finding knowledgable legal and technical representation and getting up to speed is difficult and costly.

In general, the local government is placed in a very unfamiliar position. Its traditional tools of regulation, the zoning powers, cannot be used to regulate or prohibit even a patently poor landfill. Landfill regulations, known as local approvals, are elements of negotiation. A proposed landfill thrusts a local government into uncharted territory, putting the local government and its citizens at risk no matter how the local government reacts.

Problems with the Technical Review Process

The object of any state's landfill siting laws should be to site the most economical and environmentally safe landfills. Unfortunately, Wisconsin's siting law does not require that either of these criteria be met. Wisconsin's law only requires a proposed site meet the DNR's minimum standards. There is no requirement that a landfill be either the best or most economical available.

In fact, Wisconsin's siting law allows a landfill to be proposed anywhere. Anyone owning a piece of land can propose to construct a landfill on it. The DNR's technical inquiry is limited to whether an acceptable engineered

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landfill can be developed on the property. Even such important considerations as the landfill siter's past operating history are not taken into account in the technical review process.

This limited inquiry ultimately increases the frustration levels of affected municipalities and drives up landfill costs. The state of the art in landfill design today allows almost any piece of property to be turned into a landfill by importing enough clay or using a synthetic landfill liner. Often, marginal or unsuitable sites can be made to meet state siting criteria if the siter is willing to spend the money to meet DNR's requirements. As a result, disposal costs are higher than they need be and the environment is probably no more, and probably is less, protected than optimal.

The feasibility report/plan of operation technical review process is also ineffective and results in wasted resources. For today's modern landfill, the most crucial stage in determining whether a landfill will be acceptable is the design stage, not the site feasibility stage. Moreover, other important issues to local governments, including operation, closure and long-term care, and financial responsibility are all addressed in the plan of operation. However, the local government's only real chance to address technical issues is in the feasibility stage, at which a contested case hearing right exists. The result is that local governments are forced to raise all issues of concern at the feasibility stage, even though many of these issues will not be technically addressed until the plan of operation stage. If the DNR disallows nonfeasibility related issues, local governments become frustrated and rightfully claim that the process is unfair. On the other hand, if the DNR allows plan of operation stage issues to be raised in the feasibility stage, the landfill siter will be forced to spend the resources to address these issues at both stages. Obviously, the current feasibility/plan of operation review process does not satisfactorily meet the needs of the parties for effective but economical regulatory review of a proposed landfill.

Problems with the Negotiation/Arbitration Process

The right to negotiate concerning local impacts of landfill siting and operation was given to local governments in return for taking away the local government's right to utilize zoning or other powers to prohibit a landfill from being constructed within the local government's borders. No local ordinance, no matter how reasonable, can be used to prohibit a proposed landfill. For some communities, which have spent years developing comprehensive zoning plans, which often include areas

designated for waste disposal, proposing a landfill within an area designated exclusively agricultural or exclusively residential can cause deep-seated opposition to the landfill from the start. In its attempt to prevent local governments from prohibiting landfills for no reason, the legislature has gone too far in allowing landfills to be sited anywhere for any reason.

Additionally, in taking away a local government's power over landfill siting and in substituting the negotiation/arbitration process in its place, the legislature placed local committees at a distinct bargaining disadvantage in the process. First, the law does not require that a negotiated agreement be finalized for a landfill siter to begin operation. All the landfill operator needs is a license from the DNR and he or she can begin accepting waste. Thus, there is no real incentive for a landfill operator to negotiate in good faith as long as the technical review process is moving along. The local committee has no leverage with which to force a landfill siter to negotiate responsibly.

Second, the law forces responsible local governments to expend substantial money on technical and legal representation without any guarantee that the money will be reimbursed as part of the agreement. The law allows for a repayment of some local committee costs up to $2500, an unreasonably low figure, and only as part of a final agreement. While a landfill siter may agree to reimburse a local committee for its full cost as part of the negotiated agreement, the siter may also threaten to withdraw its siting proposal after the local committee has incurred significant expense. The prospect of not being reimbursed often forces many local committees to cave in and sign an agreement which may not meet all of the local committee's needs.

Third, the law severely penalizes the local committee for defaulting, but not the landfill siter. Where a local committee defaults, the siter may pursue siting without any negotiated agreement at all. On the other hand, if a proposed landfill siter defaults or withdraws a proposal, even after a local committee has spend tens of thousands of dollars, the landfill siter need not reimburse anyone for the costs incurred. If the landfill siter has merely withdrawn the site but has not defaulted, the siter can begin the review process anew without penalty. If the siter has defaulted, the siter may not construct a landfill at that location. However, there is no prohibition on the siter transferring ownership of the property to another siter, who can then renew the process.

The law also holds that while most issues are negotiable, only a select number of issues are arbitrable.

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Arbitrable issues include compensation for economic impacts, reimbursement of local committee costs, screening and fencing of the facility, operational concerns, traffic flows, post-closure uses of the facility, recycling or waste reduction programs, and the applicability or nonapplicability of pre-existing local approvals. Important concerns to local governments, including land use issues, local oversight, improved environmental protection, types of wastes accepted or rejected, contingency emergency planning, and other issues may not be arbitrable. The distinction between terms that are negotiable and terms that are arbitrable can be used to frustrate the local committee in its attempts to negotiate an agreement which protects the local citizenry. Some siters have refused to negotiate any issue which is not on the list of arbitrable items.

The powerlessness which many local governments feel in the landfill siting process often translates into fervent opposition. Since local governments are not given a meaningful voice in a potentially risky situation which has been thrust upon them through no action of their own, they are forced to either choose to use what powers they have, usually delaying tactics or political pressure, or else give in early on and accept whatever the siter is offering. Neither of these alternatives leads to effective and efficient and safe landfill siting. On the contrary, continuing the current unfair procedures can only lead to increased opposition in the future as the level of frustration of local governments grows and methods of opposition become more sophisticated.

Proposals for Improving the Siting Process

In order to cure these deficiencies, the Wisconsin Landfill Siting Law should be amended to require the best site be chosen and to allow for meaningful input and fair bargaining by local governments. First, the technical review process should require a proposed facility show that it has followed a county-wide or regional solid waste management plan throughout the site search process. This requirement would take into account currently existing land use controls and would force a landfill siter to search for the best site in the area, not just an available site.

Second, the current feasibility report/plan of operation technical review process should be consolidated. After an initial hearing to determine whether the landfill is needed, there should be only one technical review phase for all aspects of site geology and hydrogeology, design, operation, closure and long-term care, and financial responsibility. A contested case hearing should be included with this phase to allow interested parties to raise all relevant technical concerns. This procedure

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would save both time and resources of all interested parties.

Third, the negotiation/arbitration phase should be revised to allow all issues to be negotiated and arbitrated. Splitting hairs over negotiability versus arbitrability wastes time and resources and causes unnecessary friction. Each party should be required to negotiate in good faith and, where a negotiated agreement cannot be achieved, each party's total final offer should be considered in arbitration.

Default provisions of the statute should be altered to penalize a landfill siter for beginning a project and then withdrawing or defaulting. At a minimum, the costs to the local committee of the siting process should be paid by the siter. Moreover, without a negotiated agreement, a siter should not be legally allowed to accept any waste at a licensed facility. These proposals would force a siter to negotiate in good faith and at a reasonable pace.

Most importantly, a local government facing a proposed landfill should be given the necessary resources up front to allow the local government to properly represent itself and its citizens in the process. As part of a landfill application, a minimum of $30,000 should be awarded to a local committee to allow it to procure the necessary technical and legal representation for both the technical review and negotiation/arbitration stages. This award would be nonrefundable and would be without strings. Since a modern state-of-the-art landfill normally costs in the millions of dollars, an up front payment of $30,000 is not a significant hardship to an entity proposing a landfill. Because the local government is being asked to accept a facility which may cause environmental and economic harm to the community, the community should be able to at least make a reasonable investigation of the issues surrounding the facility and also to negotiate on an equal footing with the landfill siter. These proposals would serve to improve the siting process and eliminate some of the frustration and uncertainty experienced by local governments under the current regulatory structure.

Conditional Uses. Additional residential units for farm help who earn a substantial portion of their livelihood from the farm operation. Commercial raising of fish. Feedlot for more than 150 livestock units. Poultry farm housing more than 10,000 birds (Sec. 11.05(d)). Fur farm. Public and semi-public uses (Sec. 11.05(b)) except those uses listed in Sec. 11.05(b)1. Private agri-related airstrips.

Duplex residential structures to be occupied by persons who earn a substantial portion of their livelihood from the farm operation; home occupations-conditional; uses identified as Conditional Uses in the A-2 District. As a condition of approving a conditional use for Agri-Business uses, the Committee must find that the proposed use has a necessity to be at the proposed location in light of alternative locations available for such uses and that it will not conflict with agricultural uses in the vicinity. Recreational and waste management uses must be governmental owned to be allowed by Conditional Use in the district. An Agri-Business use proposed to be established on a farm parcel as an accessory or subordinate use to the dominant farm use can occupy only existing buildings and can involve only stock-in-trade produced for sale on the premises and can involve only employees who reside on the premises. (12-21-82, Ord. No. 11.)

Waste storage, treatment or disposal includes:

(1) Sites or facilities where solid wastes or hazardous wastes are stored, treated or subject to disposal as defined in Ch. 144, Wisconsin Statutes;

(2) Auto junk yards.

(3) Waste recycling facilities, commercial or governmental.

Existing waste storage, treatment or disposal operations shall be required to apply for and be issued conditional use permits within one year of the date of this Ordinance. The permit shall describe and authorize the existing level and type of operation only. Permits to describe and authorize existing operations shall be issued administratively without public hearing. Expansions or alterations will require new permits.

It shall be a condition of approving a conditional use permit for a new or expansion or alteration activity that the operation is accepting wastes generated predominantly in the County or from agricultural-agri-business areas of adjoining counties.

Standards for deciding applications for conditional use permits for waste storage, treatment or disposal uses:

(1) Whether a waste facility or usage is an appropriate land use, considering land use plans, site factors, neighboring uses and environmental considerations; and

(2) Safety and security, in relation to dangers of fire, explosion, leakage, hazards through unauthorized entry onto the site, etc.; and

(3) Pollution of land, air, water, noise, dust, vibration, blowing of refuse, smell, etc.; and

(4) Damage or excess wear and tear to roads, bridges, etc.; and

(5) Traffic hazards; and

(6) Economic injuries; present or potential; through precluding reasonable uses of nearby lands; and re-use plans/potentials after the waste facility ceases operations.

The County must be satisfied that the operation will not unreasonably burden private or public interests because of the above factors.

Minimum Lot Area. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81) Thirty-five (35) acres.

Exception: Parcels of less than thirty-five (35) acres which existed prior to January 15, 1975, shall comply with Section 11.09(e), Substandard Lots. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81)

Exception: Parcels of less than thirty-five (35) acres which are the result of a Zoning District amendment to the official Zoning Map of Jefferson County, shall comply with Section 11.09(e), Substandard Lots. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81)

Minimum Width. Two hundred (200) feet.

Minimum Depth. Two hundred (200) feet.

Minimum Yards. Front - Section 11.07(d)(2). Rear - 75 feet. Side - (9-9-81, Res. No. 81-87) 20 feet each, providing that agricultural structures do not exceed in height twice their distance from the nearest lot line.

Maximum Building Height. Three (3) stories or thirty-five (35) feet.

6. AGRICULTURAL A-2 (title - 2-14-84). Agriculturally Related Manufacturing, Warehousing and Marketing District.

Purpose. The purpose of this district is to provide for the proper location and regulation of manufacturing, storage warehousing and related marketing or industrial activities that are related to the agricultural industry.

Uses listed for the A-2 District involve fixed locations, year-round or seasonal. A listed use that is mobile, moving from farm to farm, is not regulated. A site may have a Conditional Use without a primary use being established. (Ord. No. 11, 12-21-82.)

Principal Uses. Residences. (12-21-82, Ord. No. 11)

Accessory Uses. (12-21-82, Ord. No. 11)

a. Residential (R-2) uses for Residence in this district.
b. Local utilities.

23

RESOLUTION NO. 99-

WHEREAS, Jefferson County recognizes the benefits of a program to control the disposal and storage of potentially hazardous agricultural waste and will carry out all activities described in the State Department of Agriculture, Trade, and Consumer Protection (DATCP) grant application, and

WHEREAS, the County's Clean Sweep Program offers education and assistance in identification, handling, and disposal of agricultural hazardous waste through distribution of information, presentations to citizens, and a designated day for collection and disposal of agricultural hazardous waste, and

WHEREAS, the household and agricultural Clean Sweeps conducted annually from 1992-1998 were well received by participants, and

WHEREAS, the Agricultural Clean Sweep Program has been extremely successful in removing suspended, banned, damaged, and otherwise unwanted pesticides, farm chemicals, and pesticide containers from more than 5,800 Wisconsin farms with over 740,000 pounds collected since 1990, and

WHEREAS, the County Board declares its intent to conduct its fourth Agricultural Clean Sweep Program subject to public response and funding, and

WHEREAS, Jefferson County will maintain records documenting all expenditures made during the Clean Sweep Program, will allow an audit of the program and its financial records, and

WHEREAS, Jefferson County will submit a report to the State describing Clean Sweep activities, achievements and problems, comparing the actual program with proposed activities and objectives, including samples of brochures, data on participation, waste quantities collected, documentation of costs, and a section on recommendations,

NOW, THEREFORE, BE IT RESOLVED that the Jefferson County Board of Supervisors authorizes the Solid Waste Committee to proceed with its intention to conduct an Agricultural Clean Sweep and to submit an application for a DATCP Agricultural Hazardous Waste Grant for this Clean Sweep Program in Jefferson County in 1999.

Resolution No. 96- 10

WHEREAS, Jefferson County recognizes the benefits of a program to control the disposal and storage of potentially hazardous household waste and will carry out all activities described in the state grant application, and

WHEREAS, the County's Clean Sweep Program offers education and assistance in identification, handling and disposal of household hazardous waste through distribution of information, presentations to citizens, and a designated day for collection and disposal of household hazardous waste, and

WHEREAS, the household Clean Sweeps conducted in 1992 and 1994 were well received by participants, and

WHEREAS, successful agricultural Clean Sweeps were also held in 1993 and 1995, and

WHEREAS, the County Board declares its intent to conduct its third household Clean Sweep Program subject to public response and funding, and

WHEREAS, Jefferson County will maintain records documenting all expenditures made during the Clean Sweep Program, will allow an audit of the program and its financial records, and will grant access to the proposed collection site for Department of Natural Resources inspection, and

WHEREAS, Jefferson County will submit a report to the State describing Clean Sweep activities, achievements and problems, comparing the actual program with proposed activities and objectives, including samples of brochures, data on participation, waste quantities collected, documentation of costs, and a section on recommendations,

NOW, THEREFORE, BE IT RESOLVED that the Jefferson County Board of Supervisors authorizes the Solid Waste Committee to submit an application for a Household Hazardous Waste Grant to administer a Clean Sweep Program in Jefferson County in September 1996.

STATE OF WISCONSIN)
) ss
COUNTY OF JEFFERSON)

I, Barbara A. Geyer, County Clerk of Jefferson County, Jefferson, Wisconsin, do hereby certify that the attached is a true and correct copy of Resolution No. 96-10, adopted at the April 16, 1996 session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 20 day of June, 1996.

Barbara A. Geyer
Barbara A. Geyer
Jefferson County Clerk

RESOLUTION NO. 96-23

WHEREAS, Jefferson County recognizes the benefits of a program to control the disposal and storage of potentially hazardous agricultural waste and will carry out all activities described in the State Department of Agriculture, Trade and Consumer Protection (DATCP) grant application, and

WHEREAS, the County's Clean Sweep Program offers education and assistance in identification, handling and disposal of agricultural hazardous waste through distribution of information, presentations to citizens, and a designated day for collection and disposal of agricultural hazardous waste, and

WHEREAS, the household and agricultural Clean Sweeps conducted annually from 1992-1995 were well received by participants, and a third household Clean Sweep is scheduled for September 1996, and

WHEREAS, the agricultural Clean Sweep Program has been extremely successful in removing suspended, banned, damaged, and otherwise unwanted pesticides, farm chemicals, and pesticide containers from Wisconsin farms with over 260,000 pounds collected since 1990, and

WHEREAS, the County Board declares its intent to conduct its third agricultural Clean Sweep Program subject to public response and funding, and

WHEREAS, Jefferson County will maintain records documenting all expenditures made during the Clean Sweep Program, will allow an audit of the program and its financial records, and

WHEREAS, Jefferson County will submit a report to the State describing Clean Sweep activities, achievements and problems, comparing the actual program with proposed activities and objectives, including samples of brochures, data on participation, waste quantities collected, documentation of costs, and a section on recommendations,

NOW, THEREFORE, BE IT RESOLVED that the Jefferson County Board of Supervisors authorizes the Solid Waste Committee to submit an application for a DATCP Agricultural Hazardous Waste Grant to administer a Clean Sweep Program in Jefferson County in 1997.

STATE OF WISCONSIN)
) ss
COUNTY OF JEFFERSON)

I, Barbara A. Geyer, County Clerk of Jefferson County, Jefferson, Wisconsin, do hereby certify that the attached is a true and correct copy of Resolution No. 96-23, adopted at the JUNE 11, 1996 session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 27 day of JUNE, 19 96.

Barbara A. Geyer
Jefferson County Clerk
Jefferson, Wisconsin

Section 3
MISSION STATEMENT

A mission* statement should clarify the organization's fundamental purpose. It should clearly state what the organization does. The planning team identified several potential purposes of the Solid Waste Committee and then approved a mission statement.

In order to understand the context of the Solid Waste Committee's mission the Committee also developed a few vision* statements to help describe a future end-state of a successful sold waste program in Jefferson County.

Purpose of Solid Waste Committee

- Promote recycling, composting, and hazardous waste removal
- Oversee landfills
- Provide education
- Operate clean sweep programs
- Plan/Address future solid waste needs

Mission / Purpose

The mission of the Jefferson County Solid Waste Committee is to address solid waste needs by operating hazardous waste removal programs, overseeing the County's interests in landfill siting processes, and promoting recycling and related waste reduction efforts.

Definitions:
Mission: A statement of what an organization does. A mission statement may often reference why it should be doing what it does.
Vision: A description of what an organization or community should look like in the future.

Initial Vision Statements

As a Committee:

- An effective plan to guide the County's solid waste activity
- An effective education program component
- Well-run and well-attended Clean Sweep programs
- A thorough review process for assuring the County's interests in landfill development

As a Community:

- Model landfills that fit into the landscape
- A reduced overall waste stream
- An informed, enlightened community on recycling and solid waste practices

Section 4
EXTERNAL AND INTERNAL ASSESSMENTS

This section assesses the internal strengths and weaknesses of Jefferson County's solid waste programming along with an identification of external opportunities and threats. This analysis provides valuable clues about possible strategic issue areas along with raw material for possible strategies to address important issues. Successful strategies build on strengths and take advantage of opportunities while overcoming or minimizing the effects of weaknesses and threats.

The assessments in this planning process consisted of two separate, but related, parts. The first part of the assessment included a report by University of Wisconsin-Extension Specialist Steve Brachman entitled, "Solid Waste Strategic Planning: Jefferson County." This report provided a very thorough review of local and statewide changes and trends related to solid waste management and planning. This presentation I included in its entirety.

The second part of the assessment methodology included a facilitated workshop. Negative forces affecting solid waste in Jefferson County (concerns, hindering forces, weaknesses and threats) were identified by a broad-based stakeholder group invited to participate in this workshop by the Solid Waste Committee. This listing is provided and items of particular significance are highlighted. The results are organized by theme areas or preliminary issue areas.

The following pages represent the powerpoint assessment prepared by Steve Brachman, from the U.W. Extension Solid and Hazardous Waste Education Center.

Household Hazardous Waste Management in Wisconsin

Steve Brachman
UW-Extension Solid and Hazardous Waste Education Center

Introduction

- History and overview of HHW Programs in Wisconsin
- Current Program Directions
- Decision points

History and overview of HHW Programs in Wisconsin

- No mandated program in Wisconsin
- 1984 = first Clean Sweep
- 1992 = Kenosha establishes first permanent program
- 1999 – 8 permanent programs, primarily in SE Wisconsin and Fox Valley

HHW options

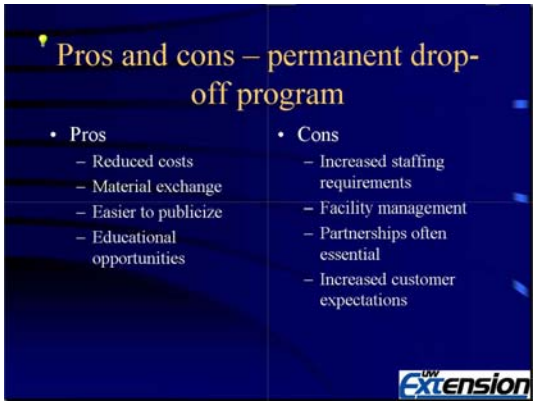
- Yearly Clean Sweep event
- Permanent drop-off program (at least monthly)
  - Marathon County
- Mobile collections
  - NW Regional Planning
- Combination
  - Milwaukee/Waukesha - MMSD

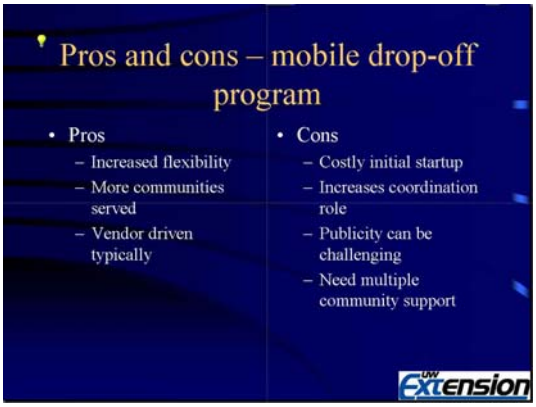
Options Analysis

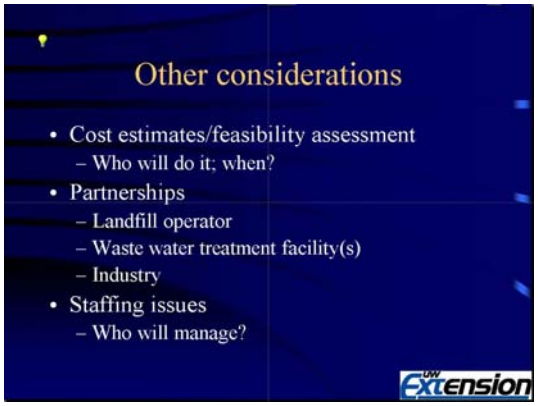
- Strengths and weaknesses of current program
- Pros and cons of alternatives
- Cost estimates/feasibility assessment
- Partnerships
- Staffing issues

Strengths and weaknesses of current program

- Strengths
- Weaknesses


Pros and cons – permanent drop-off program
• Pros
– Reduced costs
– Material exchange
– Easier to publicize
– Educational opportunities
• Cons
– Increased staffing requirements
– Facility management
– Partnerships often essential
– Increased customer expectations
Extension


Pros and cons – mobile drop-off program
• Pros
– Increased flexibility
– More communities served
– Vendor driven typically
• Cons
– Costly initial startup
– Increases coordination role
– Publicity can be challenging
– Need multiple community support
Extension


Other considerations
• Cost estimates/feasibility assessment
– Who will do it; when?
• Partnerships
– Landfill operator
– Waste water treatment facility(s)
– Industry
• Staffing issues
– Who will manage?
Extension

EXTERNAL AND INTERNAL ASSESSMENTS (cont.)

The following lists comprise the Strengths, Weaknesses, Opportunities and Threats (S.W.O. T.) Analysis developed by the Planning Team. The first set of factors represents the weaknesses or threats. This is followed by a listing of strengths or opportunities. The "prompting question" is also included.

What are some concerns, hindering forces, weaknesses, threats related to Solid Waste in Jefferson County?

A. Promotion/Education

- Lack of information on type of material (plastic) that can be recycled (problem with plastic bags, utensil handles)
- See a problem in the handling of white goods (refrigerators, appliances); not clear how this is being handled.
- Citizens may not be aware of sound disposal procedures
- Not enough public knowledge on dealing with waste oil (not uniformly collected in jugs at curbside)
- Concern about "unknown" residential medically, and other chemically hazardous related waste (needles, pool chemicals)
- Public still complacent on recycling and in the production of waste
- Concern about an irresponsible age group on littering and not recycling (16-24 years)
- Some lower recycling participation rates in apartments and multi-family units; a need for education and innovative solutions
- Education lags behind the emerging technology (challenge of keeping folks informed)
- Not as much emphasis on "reuse" (bottle bills, etc.)

B. Economic Incentives

- There are not incentives on the front end for dismantling multiple material items (i.e. packaging or manufacturing)
- Need to assess fee for convenience
- Concern about trends in overpackaging of items
- Concern about the costs of labor associated with recycling
- Concern about manufactured material being comprised of several materials, i.e. plastic and

Weaknesses and Threats (cont.)

- In the past, private operators used to take apart multiple material items (not seeing this as much)

Concern about waste generated in "fast-food" restaurants (many products are not recyclable #6, etc.)

❖ ❖ *Items identified as particularly significant*

cover recycling costs (upfront fee on new item purchase). Very few in place now.

- Concern about fluctuating market rates and no market for recycled products.

C. Special Wastes (Electronic)

- ❖ Concern about dealing with electronic goods (i.e. computers, tvs). How should these products be handled?
- ❖ Related to computer recycling/landfill, there is not a financial support strategy to deal with added costs of handling (need to consider upfront fee on new item purchase)

D. Hazardous Waste (Mercury, Batteries)

- ❖ Lack of public knowledge on dealing with mercury (Purpose 1)
- ❖ Lack of public knowledge on critical items that are serious hazardous waste:
  - Manometer (Mercury)
  - Thermostats/Thermometers
  - Transformers (old PCBs)
  - Household batteries (old had Mercury)
  - Fluorescent tubes (Mercury)

E. Organic Waste/Composting

- Concern about costs associated with making yard waste into a useable product (need tub grinding, screening, and other expensive procedures)
- Challenge with odors/rodents associated with home composting
- Concern by landfills about restrictions against using municipal composted yard waste as intermediate cover
- Municipalities have difficulty getting large compost equipment (difficult to lease when needed)

❖ *Items identified as particularly significant*

Weaknesses and Threats (cont.)

F. Enforcement/Compliance/Legislation

- Illegal disposal of construction waste (several cases in Jefferson County)
- Concern about open burning in the rural areas (petroleum products, tires, etc. are a real concern)
- Concern about the "enforcement" of recycling compliance with commercial and institutional establishments (especially restaurants, convenience stores)
- Concern about who's really responsible for commercial enforcement
- Challenge in that some of the public think local government is "too" strict on regulation
- Enforcement is difficult and confusing at the local level (especially with hazardous waste and small amounts)
- Some lower recycling participation rates in apartments and multi-family units; a need for education and innovative solutions

G. Other

- Landfills need good screening/aesthetic landscaping so as not to impact neighbors (Purpose 1)

❖ *Items identified as particularly significant*

What are some strengths, opportunities, positive forces, and hopes related to Solid Waste in Jefferson County?

A. Promotion/Education

- ❖ Opportunity to better educate and provide field trips for students on landfill design, configuration, and relationships to recycling, etc.
- ❑ Schools are doing a good job in educating youth on recycling, etc.
- ❑ The generation coming up after us are learning about good environmental practices, and this has great impact
- ❑ Opportunity to work with landlords of multi-family housing units to improve participation in recycling
- ❑ Opportunity to provide awards/scholarships for students interested in working in recycling, environmental careers. (Karen Fiedler has scholarship program in the region.)
- ❑ Opportunity for better cooperation and communication among the county's responsible units (i.e. annual forums, discussions, sharing)

B. Economic Incentives

- ❑ Some manufacturers/Commercial Enterprises are promoting recycling (i.e. Lands End and some electronic businesses)

C. Special Wastes (Electronic)

D. Hazardous Waste

- ❑ Clean Sweep Programs are very important to local units of government, and success needs to be built upon
- ❑ Opportunity to expand hazardous waste removal programs
- ❑ Opportunity for County to establish a permanent hazardous waste program

❖ *Items identified as particularly significant*

Strengths and Opportunities (cont.)

E. Organic Waste/Composting

- ❖ Opportunity to participate in home composting bin program between municipalities and the County
- ❖ Opportunity for Jefferson County to centrally own composting equipment (e.g. tub grinder), and partner with local government for sharing
- ❖ Opportunity to work with the DNR to relax intermediate cover regulations so that we have a win-win situation between municipalities/landfills
- ❑ Opportunity for special cells in landfills for particular wastes (bio-related)
- ❑ Potential development of landfills as bioreactors (speeding decomposition of landfills with sludge, food waste, compost)
- ❑ More homeowners should be encouraged to compost yard waste and home garbage (build on trend of homeowners already doing this). Opportunity for promotion
- ❑ Opportunity for County Highway Department to be involved in coordinating a program like this
- ❑ Opportunity to pursue the bioreactor initiatives for landfills

F. Enforcement/Compliance/Legislation

- ❑ There is political support at State, County, local level in Wisconsin compared to other states

❖ *Items identified as particularly significant*

Section 5
STRATEGIC ISSUES AND OUTPUTS

This section incorporates the efforts from earlier steps, and identifies the strategic issues facing the solid waste function in Jefferson County. Six potential issues were identified, and subsequently the relative importance of each issue was determined. Two issues were determined to be clearly strategic or of fundamental importance. They are:

1. What can we do to enhance the education and promotion component of Solid Waste activities?

2. How do we enhance our existing hazardous waste removal programs?

This section also includes the key outputs necessary to manage and operate the solid waste system in Jefferson County. The items contained in this section include:

- Zoning Process Guidelines for Landfill Siting – These guidelines help interpret several of the "mandates" identified in Section 2 (See Exhibits 1-8).

- Guide for Assessing Aesthetics – These materials include a report from Professor Wayne Tlusty entitled, "Aesthetics and the Deer Track Park Landfill Expansion."

- Landfill Technical Guide – This represents a landfill monitoring guide, and the "Executive Summary" of this report is included.

- Guide for Operating Hazardous Waste Removal Programs – A two-page summary of these reference materials is included.

Listed below are the six preliminary issue areas to be addressed in the plan.

A. <u>Promotion/Education</u>
What can we do to enhance the education and promotion component of Solid Waste activities?

B. <u>Economic Incentives</u>
How can economic incentives be incorporated into business practices to financially support recycling and Solid Waste reduction efforts?

C. <u>Special Wastes (Electronic)</u>
How do we deal with emerging waste challenges including the large increase in outdated computer/electronic equipment?

D. Hazardous Waste
How do we enhance our existing hazardous waste removal programs?

E. Organic Waste/Composting
What can we do to address existing and new ways to help composting efforts?

F. Enforcement/Compliance/Legislation
What are ways to assure better compliance with Solid Waste-related regulation?

Observations about the Review of Potential Strategic Issues

Based on the decision-matrix exercise, which included a thorough analysis of implications, issues A and D were ranked the highest. These two issues are considered strategic issues. Therefore, they will be fully developed in the strategy formulation to follow.

Chart 2
WORKSHEET FOR ASSESSING HOW STRATEGIC THE ISSUES ARE

	CRITERIA						
	I	II	III	IV	V	Total Score	Rank
ISSUES							
A. Enhanced Promotion/Education	5	5	3	4	5	22	#1
B. Economic Incentives	3	4.5	4	1.5	1.5	14.5	#5
C. Special Wastes	5	4.5	3	1	3	16.5	#3
D. Enhanced Hazardous Waste Programs	5	5	3	3	3	19	#2
E. Organic Waste/Composting	3	4	2	3	2.5	14.5	#4
F. Enforcement/Compliance/Legislation	1	5	1	1	1	9	#6

Criteria
I. Responsiveness to Mission/SWOT
II. Impact on Key Stakeholders/Customers
III. Affect of Not Addressing the Issue
IV. Likelihood of County Doing Something
V. Overall Feeling

Rating Values
1. Barely meets criterion
3. Moderately meets criterion
5. Fully meets criterion

Section 5
STRATEGIC ISSUES AND OUTPUTS

Outputs and Additional References:

- Jefferson County Zoning Process Guidelines for Landfill Siting

- Guide for Assessing Aesthetics
  - Aesthestics and the Deer Track Park Landfill Expansion by Professor Wayne Tlusty, UW-Extension
  - Memorandum and Attachments from Carl Jaeger
  - Memorandum and Attachments from Steve Grabow

- Landfill Technical Guide

JEFFERSON COUNTY ZONING PROCESS GUIDELINES for Landfill Siting
AS PER CH289 OF THE WIS. STATUTES

The following are interpretations by Jefferson County Zoning and supported by Corporation Counsel for the local approval process as it relates to siting a solid waste disposal facility.

This guide is to clarify Jefferson County Zoning responsibilities as it relates to zoning ordinance elements regarding any proposed landfill development. Ch289.21 of the Wis. Statutes provides the process to proceed with siting of "solid or hazardous waste facilities" by use of a negotiation and if necessary an arbitration process described in detail in 289.33(9) & (10). The legislative findings and intent described in detail in 289.33 State Statute outline the intent of the legislature in developing a method for review and approval, other than what might be prescribed in the Jefferson County Zoning Ordinance.

However, the legislative findings and intent describe the importance of local approvals and prescribes in 289.22(3) that the facility must attempt to obtain these approvals. The local approvals are determined as either applicable or not during the negotiations as per 289.33(5); for inclusion into a negotiated or arbitrated siting resolution, thereby statutorily circumventing the zoning process.

It is the determination of the Jefferson County Zoning department that any application for rezoning and subsequent conditional use to create a new or expanded landfill will not be processed through the normal procedures outlined in the Jefferson County Zoning Ordinance. It is our interpretation that chapter 289 of the State Statute has in effect preempted the normal zoning process. The siting of a solid and hazardous waste facility has been considered of "state wide concern" as per 289.33(5) and the legislative intent identifies in state statutes 289.33(2)(b) that *"The legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and if need be arbitrated with the applicant in a fair manner and reduced to a written document that is legally binding".* In addition, 289.33(2)(c) Wis. State Statute indicates an adequate mechanism exists under state law to assure the establishment of environmentally sound and economically viable solid waste disposal facilities and hazardous waste facilities.

As a consequence, the zoning department would respond to any request for local approvals by outlining the ordinance provisions that should then be considered during the negotiation process, as prescribed in 289.33(f).

I have enclosed applicable sections of the Jefferson County Zoning Ordinance that may apply. Specifically 11.04(f)(5) under the conditional use provisions found on page 19 and 20 of the zoning ordinance for siting of a landfill and in 11.05(g) on page 31 and 32 of the zoning ordinance. Since a landfill is likely not considered incidental to an A-1 zoning district, these provisions would be applied in the A-2 zone, under the conditional use provisions, 11.04(f) 6.w. In the specific case of the Deer Track Park negotiated agreement, we also utilized the mineral extraction provisions since they proposed a clay extraction for landfill cover. These provisions are found in 11.05(c), page 29 of the conditional use provisions of the zoning ordinance.

In the negotiated agreement for Deer Track Park one of the provisions actually rezoned the property to an appropriate zoning district as a function of the agreement. We have since determined after discussion with corporation counsel that this is a questionable action. Also it is unnecessary since specific elements of local concern can be itemized as part of the negotiated agreement, if determined as applicable and necessary as per statutory provisions.

July 2000

Jefferson County Zoning

j. Fabricated metal products.
k. Machinery.
l. Electrical and electronic equipment and supplies.
m. Transportation equipment.
n. Instrument manufacturing.
o. General manufacturing.
p. Retailing as an adjunct to a principal or conditional use allowed in this district.

Accessory Uses. Local utilities. (12-21-82, Ord. No. 11.)

Conditional Uses. (12-21-82, Ord. No. 11.)

a. Retailing that is freestanding -- that is, not adjunct to a manufacturing operation.
b. Meat products.
c. Mining, including exploration and testing preparatory to mining, milling, and processing of mined materials.
d. Paper mills.
e. Chemical and allied products.
f. Petroleum refinery and related industries.
g. Concrete products.
h. Primary metal industries.
i. Ordnance works.
j. Generation of electrical power.
k. Manufacturing and distribution of gas.
l. Dumps or landfills.
m. Salvage yards; junkyards.
n. Storage or processing of industrial wastes.

Minimum Lot Area. Sewered - 8,000 square feet, except Shoreland Area which shall be 10,000 square feet. Unsewered - Appendix A, plus any additional requirements of COMM 83.

Minimum Width. Eighty (80) feet.

Minimum Depth. Sewered - 80 feet. Unsewered - 150 feet.

Minimum Yards. Front - Section 11.07(d)2. Rear - 40 feet if adjacent to an R zone, 10 feet otherwise; Side - 40 feet if adjacent to an R zone, 10 feet otherwise.

Maximum Building Height. Three (3) stories or thirty-five (35) feet.

5. A-1 EXCLUSIVE AGRICULTURAL (title – 2-14-84, Ord. No. 83-20) (Amended 2-8-00, 99-28.)

Purpose. The long range goal for agricultural land use within Jefferson County is to preserve the most valuable of all resources, that of fertile land for agricultural pursuits, and to protect the land best suited for farming from premature urbanization. The agricultural district regulations are therefore designed to regulate the use of land and structures within the areas of the county where soil and topographic conditions are best adapted to agricultural pursuits. The agricultural lands best suited for farming and for protection against development are prime agricultural lands as defined in this ordinance and as reflected in the Agricultural Preservation and Land Use Plan. (Amended 2-8-00, Ord. No. 99-28.)

Principal Uses. Agriculture, horticulture, dairying, beekeeping, livestock raising, hatching of fowl, nursery, greenhouse, stable, truck farm, *forestry, **game farm and hunt club. Roadside stand for the sale of products grown or produced on the premises. Existing dwellings that predate the enactment of this ordinance and their replacements, as

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long as the replacement dwelling is placed within 100 feet of the existing dwelling, unless otherwise reviewed and approved by the Planning and Zoning Committee. Feedlot for 150 livestock units or less. Poultry farm housing 10,000 birds or less. On parcels with less than 35 acres of contiguous land, only one animal unit is allowed per acre, with a minimum of 2 acres required. (*9-8-81, Res. No. 81-87.) (**Amended 2-8-00, Ord. No. 99-28.)

Accessory Uses. Essential services. Accessory home occupations and professional home office for existing or replacement dwellings. (4-16-85, Ord. No. 84-4.) (Amended 2-8-00, Ord. No. 99-28.)

Conditional Uses. Commercial raising of fish. Feedlot for more than 150 livestock units. Poultry farm housing more than 10,000 birds [Sec. 11.05(d)]. Fur farm. Public and semi-public uses [Sec. 11.05(b)] except those uses listed in Sec. 11.05(b)1. Private agri-related airstrips. (Amended 2-8-00, Ord. No. 99-28.)

Uses identified as conditional uses in the A-2 District with the exception of residences, golf courses, campgrounds, trap and skeet shoot, rifle ranges, motocross courses, race tracks, festival grounds and clubhouses for such operations. As a condition of approving a conditional use for Agri-Business uses, the Committee must find that the proposed use has a necessity to be at the proposed location in light of alternative locations available for such uses and that it will not conflict with agricultural uses in the vicinity. Recreational and waste management uses must be governmental owned to be allowed by Conditional Use in the District. An Agri-Business use proposed to be established on a farm parcel as an accessory or subordinate use to the dominant farm can occupy only existing buildings and can involve only stock-in-trade produced for sale on the premises and can involve only employees who reside on the premises. (12-21-82, Ord. No. 11.) (Amended 2-8-00, Ord. No. 99-28.)

Waste storage, treatment or disposal includes:

(1) Sites or facilities where solid wastes or hazardous wastes are stored, treated or subject to disposal as defined in Ch. 287 and 289, Wisconsin Statutes;

(2) Auto junk yards.

(3) Waste recycling facilities, commercial or governmental.

Existing waste storage, treatment or disposal operations shall be required to apply for and be issued conditional use permits within one year of the date of this Ordinance. The permit shall describe and authorize the existing level and type of operation only. Permits to describe and authorize existing operations shall be issued administratively without public hearing. Expansions or alterations will require new permits.

It shall be a condition of approving a conditional use permit for a new or expansion or alteration activity that the operation is accepting wastes generated predominantly in the County or from agricultural-agri-business areas of adjoining counties.

Standards for deciding applications for conditional use permits for waste storage, treatment or disposal uses:

(1) Whether a waste facility or usage is an appropriate land use, considering land use plans, site factors, neighboring uses and environmental considerations; and

(2) Safety and security, in relation to dangers of fire, explosion, leakage, hazards through unauthorized entry onto the site, etc.; and

(3) Pollution of land, air, water, noise, dust, vibration, blowing of refuse, smell, etc.; and

(4) Damage or excess wear and tear to roads, bridges, etc.; and

(5) Traffic hazards; and

(6) Economic injuries; present or potential; through precluding reasonable uses of nearby lands; and reuse plans/potentials after the waste facility ceases operations.

The County must be satisfied that the operation will not unreasonably burden private or public interests because of the above factors.

Minimum Lot Area. (Resolution No. 80-126 adopted 2-10-81, effective 3-10-81.) (Amended 2-8-00, Ord. No. 99-28.) Thirty-five (35) acres with the exception of a one (1) acre to three (3) acre lot for farm consolidation for an existing residence and associated accessory structures is permitted if the residence in question was constructed prior to the enactment of the January 15, 1975 Zoning Ordinance and the parcel remaining contains a minimum of thirty-five (35) contiguous acres. All provisions of the A-3 Agricultural/Rural Residential District are applicable to the farm consolidation parcel created. (Note: Lots created as a result of farm consolidation are exempt from payback provisions of the Wisconsin Farmland Preservation Program described in Wisconsin Statutes, Chapter 91, unless changed).

Exceptions: Parcels of less than thirty-five (35) acres which existed prior to January 15, 1975. (Amended 2-8-00, Ord. No. 99-28.)

Exceptions: Parcels of less than thirty-five (35) acres which are a result of a zoning district amendment to the official Zoning Map of Jefferson County. A-1 zoned lands transferred from a parcel of record after the adoption of these ordinance provisions shall not be used to create A-3 lots or in the calculation of the number of A-3 lots available. (Amended 2-8-00, Ord. No. 99-28.)

Minimum Width. Two hundred (200) feet.

Minimum Depth. Two hundred (200) feet.

Minimum Yards. Front - Section 11.07(d)2. Rear - 75 feet. Side (9-9-81, Res. No. 81-87.) - 20 feet each, providing that agricultural structures do not exceed in height twice their distance from the nearest lot line.

Maximum Building Height. Three (3) stories or thirty-five (35) feet.

6. A-2 AGRICULTURAL BUSINESS (title – 2-14-84, Ord. No. 83-20.) (Amended 2-8-00, Ord. No. 99-28.) Agriculturally Related Manufacturing, Warehousing and Marketing District.

Purpose. The purpose of this district is to provide for the proper location and regulation of manufacturing, storage warehousing and related marketing or industrial activities that are related to the agricultural industry. These uses may be considered in the Agricultural Preservation, Rural Hamlet, Urban Service and Environmental Corridor sections of the Jefferson County Agricultural Preservation and Land Use Plan. (Amended 2-8-00, Ord. No. 99-28.)

Uses listed for the A-2 District involve fixed locations, year-round or seasonal. A listed use that is mobile, moving from farm to farm, is not regulated. A site may have a Conditional Use without a primary use being established. (Ord. No. 11, 12-21-82.)

Principal Uses. All uses in this district shall be conditional uses. (2-8-00, Ord. No. 99-28.)

Accessory Uses. (12-21-82, Ord. No. 11.)

a. Residential (R-2) uses for Residence in this district.
b. Local utilities.

Conditional Uses. a. Residences will be occupied by a person who, or a family of which one adult member, earns a majority of his/her gross income from conducting the farm operations on the parcel or parcels in close proximity. Substantial evidence shall be provided to the Committee documenting the intended agricultural use. A-2

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Agricultural Business District rezonings for farm labor housing would count against the total number of A-3 lots available for the parent parcel. Multi-family housing for farm labor is considered as a conditional use under this provision. (2-8-00, Ord. No. 99-28.)

b. Contract sorting, grading and packaging services for fruits and vegetables.
c. Grist mill services.
d. Horticultural services.
e. Poultry hatchery services.
f. Canning of vegetables, fruits and specialty foods.
g. Production of cheese.
h. Production of condensed and evaporated milk.
i. Wet milling of corn (custom).
j. Preparation of feeds for animals and/or fowl. Conditional use approval is required if the operation occurs on a non-farm parcel or if it is conducted on a commercial/custom basis for export to farms other than the one on which it is located.
k. Production of flour and other grain mill products.
l. Blending and preparing of flour.
m. Fluid milk processing.
n. Production of frozen fruits, vegetables, other specialties.
o. Meat packing.
p. Poultry, fish and small game dressing and packing, providing that all operations are conducted within an enclosed building.
q. Livestock sales facilities.
r. Grain elevators and bulk storage of feed grains.
s. Fertilizer production, sales, storage, mixing and blending.
t. Sale of farm implements and related equipment.
u. Grain drying where capacity exceeds 200,000 bushels per year.
v. Trap and skeet shoot, rifle range, motocross course, race track and festival grounds, and clubhouse for such operation.
w. Waste storage, treatment and/or disposal.
x. Kennel, veterinarian facility, animal hospital.
y. Mineral extraction and processing.
z. Storage of non-farm equipment.
aa. Non-local utilities.
bb. Campgrounds
cc. Golf Courses.
dd. Public and semi-public uses.
ee. Home occupations. (4-16-85, Ord. No. 85-4.)
ff. Fur farm.

Minimum Lot Area. Minimum sufficient areas for the principal structures and accessory buildings. (Amended 2-8-00, Ord. No. 99-28)

Minimum Yards. Same as A-3 yard requirements, with the option for greater setbacks set by the Planning and Zoning Committee, dependent upon use. (2-8-00, Ord. No. 99-28.)

7. **A-3 AGRICULTURAL /RURAL RESIDENTIAL** (title – 2-8-00, Ord. No. 99-28.)

Purpose. The purpose of the A-3 Agricultural/Rural Residential District is to allow limited rural residential development on lands in predominantly agricultural areas that are not suited for agricultural production or, due to the proposed location, would have limited impact on agricultural production. Lots are limited in number, size and location to minimize the impacts associated with rural residential development. Residents of this district may experience conditions associated with farming that are not necessarily compatible with rural residential use. This district may be

4. Conditions, such as landscaping, architectural design, type of constructions, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Committee upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

5. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading traffic, highway access, and performance standards, shall be required of all conditional uses.

6. Violation. Any permitted conditional use which does not continue in conformity with the conditions of the permit shall be considered in violation of this Ordinance.

(b) Public and Semi-public Uses. The following public and semi-public uses shall be conditional uses and may be permitted as specified:

1. Airports, airstrips, landing field, and helicopter landing areas, providing that these facilities meet the regulations contained in Chapter 114 of the Wisconsin Statutes.

2. Governmental and cultural uses, such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums.

3. Utilities and all towers such as radio and television (except in R-1, R-2, W, S, N districts) with associated buildings, but not including studios, or telecommunication towers. Telecommunication towers and facilities shall be regulated as set forth in sec. 11.05(h). (4-20-99, Ord. No. 99-01.)

4. Public passenger transportation terminals such as heliports, bus and rail depots, provided that all principal structures and uses are not less than one hundred (100) feet from any residential lot line.

5. Public, private and parochial preschool, elementary and secondary schools, and churches, provided the lot area is not less than one acre and all principal structures and uses are not less than fifty (50) feet from any lot line.

6. Institutions. Colleges, universities, hospitals, sanitaria, religious, charitable, penal, and correctional institutions; cemeteries and crematoria; provided that all principal structures and uses are not less than fifty (50) feet from any lot line.

(c) Mineral Extraction and Processing. Mineral extraction and processing operations are conditional uses, and include mining, quarrying, borrow pits, crushing, washing, or other removal or processing of mineral resources, the erection of buildings and the installation of necessary machinery used in said extraction or processing, and the preparation of hot blacktop mix and ready-mixed concrete.

1. No such operation shall commence, no such operation shall be expanded onto land under separate ownership on the effective date of this Ordinance, and no operation which has been abandoned for a period of twelve (12) months or longer shall be renewed, except in compliance with the provisions of this section and after a conditional use permit has been obtained.

2. Application for the conditional use permit shall include an adequate description of the proposed operation; a list of equipment, machinery, and structures to be used; the source, quantity, and disposition of any water which will be used; a topographic map of the site showing existing contours with minimum vertical contour intervals of two (2) feet, trees and other ground cover, proposed and existing roads, and all buildings and property owners' names within five hundred (500) feet of the site boundaries; the depth of all existing and proposed excavations; and a restoration plan.

3. The restoration plan shall contain adequate provision that all final slopes within the site do not exceed a thirty-five (35) percent slope in a pit operation, or in a safe angle of repose in a quarrying operation. All final slopes shall be covered with topsoil, with seeding and erosion control practices as indicated in the Jefferson County Soil and

Water Conservation District Technical Manual. After completion of the operation, the area shall be cleared of all debris and left in a sanitary condition. The plan shall indicate the proposed future use of the site.

The applicant shall furnish the sureties which will enable the County to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon reasonable cost estimates, and the form and type of such sureties shall be approved by the County's legal counsel.

4. The conditional use permit shall be in effect for a specified period of time, but not less than one (1) year nor more than ten (10) years. It may be renewed upon application, at which time additional conditions or modifications may be imposed.

5. The Committee shall consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality, and shall also consider the practicality of the proposed restoration plan for the site.

6. Excavating and other operations and activities producing noise, smoke, or dust shall not take place within three hundred (300) feet of a residence, or within five hundred (500) feet of a school or institution.

7. No excavation shall take place within fifty (50) feet of a lot line.

8. Screening in accordance with 11.07(c) shall be required.

(d) Feedlots and Poultry Operations. Applications for feedlots and poultry operations which are conditional uses shall be evaluated by the Committee for compliance with the following objectives:

1. Location. The proposed operation should not conflict with existing land uses or planned future uses of the residences. The site should not be ecologically sensitive.

2. Water Contamination. The necessary structures or facilities should be provided to prevent wastes from entering surface and subsurface waters.

3. Waste Disposal. The necessary means should be available to adequately dispose of or to recycle a volume of wastes greater than that which is anticipated from the operation.

(e) Mobile Home Parks. All mobile home parks shall be conditional uses and shall conform to the following standards:

1. Minimum size - 20 acres.

2. Minimum lot size per mobile home - 5000 square feet.

3. Minimum lot width - 50 feet.

4. Minimum distance between mobile home and lot line - 10 feet; service road - 10 feet.

5. Water and sewer. Each mobile home lot shall be connected to either public or private water supply and sewage disposal systems, in accordance with ADM 65, Wisconsin Administrative Code, approved by the appropriate State agency.

6. Solid Waste. Each mobile home lot shall have adequate garbage and refuse disposal service.

7. Recreation area. At least five (5) percent of the total area of each park shall be designated as a recreation area with play equipment furnished and maintained by the park owner.

8. Roads and Parking. All roadways, parking areas, and walkways shall be hard-surfaced. Roadways shall be a minimum of 66 feet in width and adequately lighted. There shall be one (1) off-street parking space for each mobile home and additional parking spaces for automobiles within the park, totaling not less than two (2) parking spaces for each mobile home lot.

9. No mobile home sales office or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and one office are permitted.

10. Pad. Each mobile home shall be placed upon a washed rock or hard-surfaced pad or foundation with six (6) tie-down anchors.

11. All mobile homes shall meet the construction standards of the Mobile Home Manufacturing Assn., and all state, federal and local codes.

(f) Campgrounds. All campgrounds shall be conditional uses, and shall conform to the following standards:

1. The minimum size of any campground shall be forty (40) acres in gross area.

2. The maximum number of travel trailers or campsites shall be twenty (20) per acre as computed from the gross area of the park or campgrounds, and in no case shall the square feet of each site be less than 2000 square feet.

3. Before beginning operation of any camp, fifty (50) percent of the sites and one hundred (100) percent of the facilities shall be completed.

4. In addition to the setback from the right of way of any state, county, or town road, all campgrounds shall have a boundary zone of forty (40) feet between any campsite and any side or rear lot line.

5. The minimum width of roads within campgrounds shall be two (2) rods or thirty-three (33) feet.

6. All access roads to and from the campgrounds shall be well-lighted and hard-surfaced with asphalt or better materials.

7. Every campground shall conform to all applicable state laws and HFS178, Wisconsin Administrative Code, as amended from time to time.

8. All wiring within a camp must conform to state electrical codes.

9. Designated spots on each site will be marked or constructed for outside cooking or the building of campfires, and no fires will be allowed outside of these designated areas.

10. The perimeter of the camping area or perimeter of the parcel must be fenced.

(g) Solid Waste Disposal Operations; Junk or Salvage Yards. A solid waste disposal operation is the site, facility, operating practices, and maintenance thereof for the utilization, processing, storage, or final disposal of solid waste including, but not limited to, land disposal, incineration, reduction, shredding, compression, junking, or salvage of any materials, or the sale of any such materials. Storage of three (3) or more unlicensed vehicles on the same premises shall be prima facie evidence of operation of a salvage yard.

1. License Required. It shall be unlawful for any person, firm, or corporation to establish, maintain, conduct, or operate a solid waste disposal operation without first obtaining an annual license from the Committee.

2. Application shall be in writing to the Zoning Administrator and shall include:

a. Location and description of the premises to be licensed.

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b. Nature of the operation to be conducted.

c. Type of solid waste material to be disposed of, and the detailed method of disposal of the material.

d. Construction details of any buildings to be used in connection with the operation.

e. Description of all land uses within 1000 feet of the premises.

f. Name and address of the owner and of all persons who will directly participate in the management of the site.

g. Any additional information deemed necessary by the Zoning Administrator for full evaluation of the proposed operation.

3. Procedure. The review and approval procedure in 11.05(a) shall apply for the initial issuance of a license. All licenses shall expire on July 31, and may be renewed by the Committee upon satisfactory evidence that the license and the operation remain in compliance with this section.

4. Requirements. All solid waste disposal operations shall in all respects comply with the solid waste disposal standards of the Department of Natural Resources (DNR), and the standards of any other state agency having control over the type of operation involved.

5. Location. No solid waste disposal operation shall be located within 500 feet of any residence other than the owner of the premises or any residential, business, community, or waterfront district; 300 feet from a lake, river or stream unless otherwise out of view of the public; or 150 feet from any highway right of way.

6. Screening requirements of 11.07(c) shall apply.

7. Revocation. Upon the complaint of the Zoning Administrator or one or more interested persons, the Committee may, after notice and public hearing, revoke a license issued hereunder for violation of this ordinance or the solid waste disposal standards referred to herein.

(h) Wireless Telecommunications Facilities. (4-20-99, Ord. No. 99-01.) (title, 2-8-00, Ord. No. 99-28.)

(1) Purpose and Intent. The purpose and intent of this section is to provide a uniform and comprehensive set of standards for the development and installation of wireless telecommunication and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Jefferson County as set forth within the goals, objectives and policies of the Jefferson County Zoning Ordinance, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunications facilities.

It is intended that the County shall apply these regulations to accomplish the following:

a. Minimize adverse visual effects of telecommunication tower, antenna and related facilities through design and siting standards.

b. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of Jefferson County's police, fire and emergency response network.

c. Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the legitimate interests of Jefferson County citizens.

AESTHETICS AND THE DEER TRACK PARK LANDFILL EXPANSION

Jefferson County

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December 1993

Introduction and Purpose

A critique was requested of a submittal by WARZYN Engineering--memos dated October 29, 1993 and directed to Mr. Neal Loeb--which they developed to provide committee members with an understanding of how the existing landscape would visually change, with the proposed expansion of the Deer Track Park Landfill. The purpose of this report is to provide a brief aesthetic perspective, some policy condition, review the consultants proposal and provide some recommendations to guide decision-making.

The site was visited on November 9th. The various points noted by the consultants were visited and their written and plan comments were reviewed in the field. The areas of primary concern were I-94 and Switzke Road. In addition, a partial photo inventory was developed for the area. The 35 mm slides are provide available through the County Extension office and examples of the countryside character, aesthetic opportunities and "test" some of the consultants proposals. The comments included in this review are limited to that portion of the proposed expansion which relates to aesthetics and the possible impacts to traveler's of the public roads.

The Question of Aesthetics and Regulations[1]

The bases for aesthetics having standing in decisions related to land use has evolved from the constitution, legislation and court decisions. Aesthetics is but one reason to regulate for the protection of public health, safety and welfare of citizens. Protecting the aesthetic qualities of the landscape is a recognized part of restricting the use that a landowner can make of the property.

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[1]Portions of this section of the report were excerpted from, The Legal Landscape: Guidelines for Regulating Environmental and Esthetic Quality, Chapt. 1 "The Nature and Sources of Law." R. Smardon and J. Kapp. Van Nostrand Reinhold. 1993.

Until about the mid-1930's, aesthetics was considered an inappropriate basis for regulating land use, in part, because aesthetics was viewed as more of a luxury rather than a necessity. The protection of only the "harmful" activities were viewed as protecting the public interest. Also, during this period it was widely held that aesthetics was similar to beauty and therefore overly arbitrary for purposes of regulation, i.e. "beauty was in the eye of the beholder." However, for many years aesthetics was given some weight in land-use decision, but only when considered with what was considered the more harmful aspects of public protection such as traffic safety, maintaining property values or public health.

In the 1960's the courts began to recognize that aesthetics was capable of standing alone as a bases of land-use regulation. This came about because of the 1954 U.S. Supreme Court decision:

> "The concept of the public welfare is broad and inclusive.... The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled." (emphasis added)
> (*Berman v. Parker.* 348 U.S. 26, at 33)

The passage of the National Environmental Policy Act (NEPA) of 1969 serves as our basic national charter for the protection of the environment. Aesthetics was one of the significant resources included for environmental management. Congress directed that as part of this law, a systematic interdisciplinary approach would be used to insure the use of the environmental design arts and that methods would be developed to insure that what had formerly been considered unquantified amenity values, would be quantified, or addressed, in a manner which insured appropriate consideration for aesthetics in decision-making; along with economic and technical considerations.

This policy is significant in that over the past twenty years it created a considerable body of research and applied techniques to address the question of landscape aesthetics at all levels of decision making. Most importantly, NEPA created the need to establish a process in which shared values in aesthetic matters could be determined, for matters of public interest. What this basically means is that for reasons of federal public decision-making it is unacceptable to claim that aesthetics is just too "slippery" to deal with and therefore can be ignored. While it is recognized that individual differences in taste may exist, there are also recognized methods to determine what citizens commonly hold as visually satisfying or visually inappropriate.

As one might expect, there are several approaches to evaluating developments which need to address aesthetic concerns. A more limited approach is to require some level of visual mitigation, such as screening. This approach is primarily used to mitigate nuisances - or to keep the "proverbial pig" out of the parlor! However, aesthetics can also be approached from the standpoint of preservation, in which a landscape, or development, is expected to be more-or-less visually maintained over time. Another approach is to evaluate proposals to determine how much the proposed changes contribute in a positive sense towards scenery enhancement. This can be applied for community or countryside scenic character; but is generally related to designated or recognized scenic areas. More recent approaches include the desire to blend development with the natural, or existing landscape character, in seeking some level of aesthetic environmental harmony.

Each of these approaches brings quite different aesthetic results. For landfill siting it would seem desirable to combine the expectations of aesthetic environmental harmony with visual mitigation . The DNR codes appear to be firmly with the approach related to visual mitigation. However, the county, through the local

approval process could also consider aesthetics from the environmental harmony standpoint.

> "In general, the site owner will offer design, financial and operational incentives to the municipality in exchange for a negotiated agreement to gain waiver or approval of local permits. Virtually any issue is negotiable except any conditions which would make the owner's responsibilities under the DNR approved feasibility report less stringent...Commonly negotiated concessions...nuisance control...aesthetic screening and fencing." (emphasis added)
>
> Wisconsin Landfill Siting Process
> DNR - August 1991

Aesthetic Related Responsibilities Under DNR Code

The following DNR codes would seem to apply directly, or indirectly, to aesthetic considerations and solid waste disposal facilities. While the final responsibility for determining these minimum performance standards rests with the DNR, the local approval authority may elect to exceed these standards.

NR 504 LANDFILL LOCATION, PERFORMANCE AND DESIGN CRITERIA

504.1 Purpose ...nuisance free and environmentally acceptable...(also in NR 506, 510, 512, 514, and 516).

504.4 Landfill location and performance standards (where landfills are not permitted)

504.04 (3)

a) Within 1,000 feet of any navigable lake, pond or flowage not including facility drainage or sedimentation control structures.

b) Within 300 feet of any navigable river or stream

d) Within 1,000 of the nearest edge of the right-of-way of any state trunk highway, interstate or federal aid primary highway or the boundary of any public park, unless the facility is screened by natural objects, plantings, fences or other appropriate means so that it

is not visible from the highway or park. (emphasis added)

504.05 Minimum design criteria

504.04 (10) (a) A method of controlling any dust or windblown debris shall be included in the facility design. Unless otherwise approved by the department, the design shall include a temporary or permanent berm at least 10 feet in height constructed around the active area of a landfill phase. A fence at least 5 feet in height shall be constructed on top of the berm to control any blowing debris. Waste shall not be deposited above the top elevation of the berm. The factors which will be considered by the department when evaluating alternative provisions for controlling dust and windblown debris includes the remoteness of the facility, natural screening and windbreaks and waste types. (emphasis added)

504.07 Final cover system design

504.07(1) (a) ...stabilizing the final surface through design of compatible slopes and establishment of vegetation...

(5) Cover layer. A minimum of 1.5 to 2.5 foot thick soil cover layer shall be designed above the clay capping layer...

(6) Topsoil. A minimum of 6 inches...

(7) Revegetation. The seed type...depending on the type and quantify of topsoil and compatibility with both native vegetation and final use. (emphasis added)

NR 506 LANDFILL OPERATIONAL CRITERIA

506.07 (1) (n) The facility shall be surrounded with rapidly growing trees, shrubbery, fencing, berms or other appropriate means to screen it from the surrounding area and to provide a wind break. (emphasis added)

506.08 (4) Establishment of vegetation...seed type...selected depending on the type and quality of topsoil and compatibility with both native vegetation and the final use. (emphasis added)

(5) The following activities are prohibited at closed solid waste disposal facilities unless specifically approved by the department in writing:

a) Use of the facility for agricultural purposes.
b) Establishment or construction of any buildings.
c) Excavation of the final cover or any waste materials.

NR 510 INITIAL SITE REPORTS FOR LANDFILLS

510.06 (3) Documentation of Present Land Uses

NR 512 FEASIBILITY REPORTS FOR LANDFILLS

512.19 Environmental Review

(3) Existing Environment

(4) Environmental Consequences

a) ...including visual impacts...(emphasis added)

d) The social and economic impacts to local residents and cultural groups and the community and industries served by the facility.

f) Probably adverse impacts that cannot be avoided including...adverse aesthetic impacts for people in and around the facility. (emphasis added)

NR 516 LANDFILL CONSTRUCTION DOCUMENTATION

516.06 (2) (c) A series of properly labeled 35 millimeter color pints documenting all major aspects of facility construction.

I-94 Viewshed Corridor and Highway Travelers

The following vehicle and viewer data was obtained from the DOT to determine the potential number of viewers who will travel the I-94 corridor.

I-94 (east of the Johnson Creek exit; includes both east and west traffic)

1992	26,040	vehicle trips/day
	1.6	ave. persons/vehicle
	41,660	viewers
2000	30,400	vehicle trips/day
(projected)	1.6	ave. persons/vehicle
	48,640	estimated potential viewers
2010	35,500	vehicle trips/day
(projected)	1.6	ave. persons/vehicle
	56,800	estimated potential viewers

These figures should not be taken in absolute terms as the total number of viewers of the proposed Deer Track Park Landfill Site. Some viewers will be traveling at night or during periods of low visibility. Nor does it imply that all viewers will elect to view the site, even if provided the viewing opportunity. However, the research seems clear that viewers focus on those aspects of the landscape which are considered to be of unique scenic value, or contain high levels of landscape attractiveness. Viewers are also drawn to those areas which are considered to be unattractive landscapes (or visual misfits) because of adverse visual impacts to the landscape.

Relative to the traveler's entire trip, a brief duration of adverse visual impacts is held by most viewers in far greater proportion than the proportionate length/duration of the adverse view. What this generally means is that: a) viewers tend not to "look the other way," and b) that a 1% length or duration of adverse visual impact exceeds the overall travel experience by much more than 1%. Therefore, the magnitude can not be measured in distance or seconds of travel time.

It should also not be assumed that all viewers will necessarily find the aesthetics of a visible landfill site visually objectionable. But it does seem reasonable to assume that the vast majority of the viewers will find a poorly designed landfill site aesthetically inappropriate. Especially in the foreground of a major travelway. However, where more precise levels of public acceptance of various aesthetic proposals are needed, it will require the application of appropriate aesthetic research methods.

In summary, the information in this section is provided to reinforce the need for high levels of aesthetic consideration in evaluating proposed landfill site modifications and uses which will be viewed from I-94. By all accounts, a high volume of viewing public currently exists and the numbers can be expected to significantly increase over the duration of the development.

Review Comments Related to Aesthetics and WARZYN Memorandums

Memo by D. Kolberg (October 29, 1993)

"... the aesthetics of the proposed expanded site in addition to the environmental concerns..." (emphasis added)

comment Aesthetic concerns are indeed part of the environmental concerns. Only when the entire "bundle" of environmental concerns are approached and solved collectively, will the problems be solved environmentally, socially and cost effectively.

Page 9

"... plans we have developed to meet its concerns for preservation of the countryside." (emphasis added)

comment The proposals submitted will not preserve the countryside. At best, current proposals offer very low levels of visual mitigation in some viewing areas. The notion of both preserving the countryside and at the same time developing a proposal of the magnitude of Deer Track Park does not seem realistic. This is not to suggest the use is inappropriate. The appropriate level of aesthetics, however, would appear to be visual mitigation and establishing an acceptable level of aesthetic environmental harmony.

"... primary methods...to maintain aesthetics...phasing to screen...reclaiming...fast growing trees and shrubbery...cut down direct sight lines...grasses and other plantings that appear native to the countryside" (emphasis added)

comment Again, these are primarily mitigation techniques which are fairly standard approaches, if applied with sufficient rigor to meet clearly established performance criteria. Also, it isn't clear what is meant by "appear native." Why not select native trees, shrubs, grasses and forbs?

Memo by L. LaMar and Dan Koloberg (October 29, 1993)

"... we have developed a planting plan to provide partial screening and visual enhancement..." (emphasis added)

comment The concept of partial screening only applies to viewed landfills in excess of 1000 ft. of certain public roads (see NR 504.04(3)(d). Also, it is rather questionable whether the WARZYN proposal, if implemented, will provide "visual

enhancement"--this implies that the proposed landfill site would be a visual improvement over the current aesthetic condition. In addition, planting plans are expected to indicate precise locations of plants, by species and size. A list of plants and a generalized location is not a planting plan.

" Planting in these latter two areas is intended to begin prior to landfill expansion to allow five to seven years prior to commencement of construction, thus giving the plants time to establish themselves and achieve a reasonable amount of growth towards their mature sizes. " (emphasis added).

comment The trees and shrubs should be planted as soon as possible. Obviously, the more mature the plant is, the greater the crown growth potential. If plants are indeed going to screen the site, some level of performance needs to be clearly established to determine how effective plantings have to be in order to grant final permit approval. Performance could include 100 percent screening, or anything less. Also, most plants which are specified are deciduous. Therefore reviewers should understand that quite different visual performance levels exist between the leaf-on and leaf-off seasons. To some this may seem minor, but the differences can be quite pronounced.

Sightline Areas "A" and "B" Proposal

The data provided for these areas, through the WARZYN memos, were overly sketchy and lacked sufficient detail to make specific aesthetic review comments. The plant phasing areas indicated on Drawing A3 do not appear to be consistent with graphics in "Expansion Assessment Report"--5/28/93. The areas needing screening and the areas of existing vegetation appear to be in different locations. Graphic A3 doesn't

provide the needed information on where the proposed landfill extension will actually be located. Using the cross-sectional data for sightline "A", it suggests that the "bottom slope of the landfill might be as close as 325± ft from the middle of the westbound lane. The top of slope could be as close as 700± ft; when taken perpendicular to I-94 at an estimated r.o.w. point. If this information is correct, it will require the performance criteria of NR 504.04 (3)(d)...screened...not to be visible from the highway. Even if the 1000 ft rule is not required--the proposal for Phase III of 6 deciduous trees, 35 small trees and 9 evergreen trees (planted 5-7 years before commencement of construction) and covering a linear distance of 1200 ft. can not be expected to screen much of the proposed landfill.

There are other questions which also need to be answered--such as how will the drumlin and mature woodlot be affected by the proposal? The current borrow area has several ponds, if appropriately planted, this area could provide positive visual interest.

Recommendation: The committee should withhold aesthetic approval until they receive precise information related to--

- existing aesthetic character (both on the proposed site and the surrounding landscape)
- the proposed landfill location and landform alterations
- distance from the I-94 r.o.w. for the top-of-slope and toe-of-slope altered landforms
- a planting plan (in addition to a planting list)
  --plant locations and distances between plants
  --plant crowns at the time of planting
  --plant crowns at the time of initial landfill operation
  --differences (if any) between leaf-off and leaf-on conditions
  --the planting plan concept, i.e. plantation (even-spacing), massing, naturalistic design, etc.

--evaluation sketches which are accurate (the consultant should be required to provide "performance sketches," which become part of the record of agreement between the applicant and the county.)

Sightline "C" Proposal

This area is included as part of the Phase I planting which includes 6 small trees and 39 shrubs for a conceptual planting distance of about 500 ft. along the western r.o.w. of Switzke Road. The cross-section suggests the eastern portion of the proposed landfill will not be affected by the DNR 1000 ft rule, as measured from Switzke Road.

Recommendation: There are several opportunities to further reduce the view of the landfill site, without totally screening the site. About 200 ft from the road is a "break" in the slope. This is the area where field crops end and pioneering plants have started to grow on the steep slope. There are several large oak trees at the far northern end. This "break" would be an ideal place to plant trees and shrubs. The plantings should be at the top-of-the-break, to be most effective. A second opportunity is the Switzke Road r.o.w., which is where the Northeast Area Phase I planting is proposed. The plantings would be more affective if the roadside maintenance policy was altered to encourage and allow dense shrub growth. Currently, the policy appears to be complete r.o.w. mowing to the edge of the crop lands. Overall, additional trees and shrubs should be planted in the steep slope and road r.o.w.

Switzke Road and Branch Road Intersection

The intersection of Switzke Road and Branch Road (the old access road to the landfill) apparently will remain and dead end. The planting proposal is for 19 trees and 27 shrubs along a conceptual planting distance of 700 ft on each side of Branch Road.

Recommendation: It would seem that the visual mitigation could be better served by extending the planting north/south on Switzke Road and not on Branch Road. This section of Branch Road has some established plants from "volunteers' growing in the area. Also, this intersection is the point where the powerline is no longer in the adjacent r.o.w.--hence, tall tree plantings would be acceptable. Also additional plants should be considered, along with a natural r.o.w. management policy for all of Switzke Road.

Sightline "D" Proposal

The proposed planting is indicated which starts at the r.o.w. of I-94 and continues along the western edge of Switzke Road. A conceptual planting distance of about 600 ft. is indicated, with 18 trees and 2 shrubs proposed. The cross-section indicates that the proposed top-of-landfill-slope is about 2,300 ± ft from the road. The toe-of-slope for the proposed landfill is 1600± ft.

Recommendation: Three considerations should be reviewed for increasing the potential to reduce landfill visual impacts. First, the water course which appears to follow the section lines of 8 and 9 has large trees along some areas of the bank. This would be an ideal place to plant more native fast growing trees--such as cottonwoods, silver maple or willow. While the area is some distance from the road, this type of planting could prove effective in reducing the landfill impacts with middleground plantings. In addition, there might be residual wildlife and watershed benefits to this recommendation.

Second, to be most beneficial, the roadside plantings will need to start as near to the overpass as possible, be located as close to the guardrail as possible and always be as high on the slope as possible. The planting concept should try and emulate the existing tree conditions along the east edge of the road. The third recommendation is for additional plants to more effectively accomplish the objective.

General Comments Related to the Landfill Site and Aesthetics

- All consultant proposals need precise aesthetic information to allow the committee to make informed decisions. Currently the proposals are overly sketchy and need proposal rigor similar to engineering requirements.
- The permit approval should be conditioned on meeting established aesthetic performance criteria before the landfill is allowed to operate.
- Accept visual mitigation (with partial screening) for Switzke Road, but explore the visual opportunities presented in this report.
- The committee should take a position concerning planting and landform design. Is it acceptable to the committee to have a highly structured landscape of "engineered berms," with even slopes and heights? Is it acceptable for plantings to resemble a "pine plantation"? Or, should the berm and plantings blend with the landscape and follow more naturalistic design concepts. The "strong" forms--both plantings and berms--will draw more visual attention, but also look out of character with the surrounding landscape.
- The committee should require all "sketches" to be accurate elevations and or perspectives, with consultant accountability for screening and/or design performance. If necessary, the committee should consider the need for computer simulation studies of the views from I-94.
- The committee should explore the potential of establishing a prairie cover of grasses, forbs and possibly some small trees as part of the final cover of the landfill. In addition to using native grasses and forbs, it will probably require more than the minimum 1.5 - 2.5 ft. soil cover layer (see DNR 504.07(5). Some preliminary research has been conducted by the Department of Landscape Architecture on prairie plantings and landfill sites.

- The committee should decide if the most desired overall aesthetic approach, from the county's interest, is to meet the minimum visual

mitigation through screening--which is what the DNR can be expected to pursue through 405.04(3)(d)--or whether it would not be more appropriate to have visual mitigation and some level of environmental aesthetic which provides for a blending of the aesthetic characteristics of the site--both during and after the site closes--with the forms, colors and textures established in the surrounding Jefferson County countryside? Emulating currently existing drumlin landform(s), with associated native prairie plantings and edge species plantings, could provide more of an environmental aesthetic of blending than the strongly engineered forms as proposed. Given the limitations of future land use (see NR 506.08(5)) it would appear that the area will primarily have wildlife values with some associated passive recreation and/or viewing. While this is a private holding, it nevertheless will remain a visually dominant cultural pattern for many years. The committee needs to anticipate the appropriate aesthetic context for the distant future.

In summary, this is an interesting site which provides both opportunities and limitations for landfill siting. The need for this type of use isn't questioned, but the ultimate aesthetic configuration needs to be fully addressed by the appropriate county interests.

County of Jefferson

Jefferson, Wisconsin 53549

March 31, 1998

Mr. Gene Mitchell
Southern Regional Office
Wisconsin Department of Natural Resources
3911 Fish Hatchery Road
Madison, WI 53711

Subject: Deer Track Park Landfill Proposed Expansion - Aesthetics/Landscape Plan

Dear Mr. Mitchell:

This memorandum provides comments of the Jefferson County Solid Waste Committee on the aesthetic and landscape issues associated with the proposed expansion of the Deer Track Park Landfill. Over the past year we have reviewed the Feasibility Study and its amendments. The Solid Waste Committee has been briefed on the technical aspects of the proposed expansion, on numerous occasions, by USA Waste and their consultants.

The Solid Waste Committee has been concerned about the aesthetic perspectives of the proposed Deer Track Park Landfill expansion since 1993, and has been provided educational support by the University of Wisconsin-Extension. The Solid Waste Committee has supported efforts which would result in a landfill which, "emulates currently existing drumlin landform(s), with associated native prairie plantings and edge species plantings... and berms and plantings which blend with the landscape and follow more naturalistic design concepts" (see attached December 22, 1993 report from the University of Wisconsin-Extension on "Aesthetics and the Deer Track Park Landfill Expansion"). Subsequently, the Solid Waste Committee consistently recommended this general design program in Siting Agreements.

USA Waste has been very responsive to the Solid Waste Committee in efforts to incorporate aesthetic considerations into the proposed landfill design. After a review of simulation images of the proposed landfill, the Solid Waste Committee expressed some concerns. As a result, USA Waste involved Bruce Woods, a landscape architect with Foth and Van Dyke, to address these concerns. (See attached December 19, 1997 Meeting Notes on the Screening of Deer Track Park.) In response to these concerns Mr. Woods presented a revised preliminary landscape plan (See attached Conceptual Landscape Plan) along with other aesthetic/landscape suggestions to the Solid Waste Committee on February 2, 1998.

In follow-up discussions with Mr. Woods, we understand some of the following landscape and aesthetic design elements to also be part of the conceptual landscape plan:

- South Edge Berm along I-94 Right of Way (Sight Sections S1-S7 on Figure 8-1, attached)
  - New berm will be modified so that it does not impact the existing vegetation/woodlands
  - New berm will not disturb the existing eastern berm (i.e. it will be incorporated into the north edge of the existing berm)
  - New berm construction timing will be accelerated to enable an early start to revegetation
  - In general, the new berms will be designed to blend better with existing vegetation and existing land forms

- South Edge Vegetation/Woodlands
  - Impact on the existing woodland will be minimized (Sight Section S-2 to S-3)
  - The existing woodland will be replicated along the entire southern edge
  - This woodland/forest density will provide positive screening
  - The dense screening on the western edge of the proposed berm will be tied into the proposed wetland restoration plantings (Sight Section S-6)

- Planting Density Transition
  - The woodland/forested densities along the southern edge will taper to a more savanna type density as the plantings move up the landfill

- Timing of Plantings
  - The southern edge, forest density plantings will be initiated in an early phase

- End Use/Recreation Planning
  - Citizens will be involved to assist the consultant (who has been retained to initiate this planning)

- Test Plots/Demonstration of Tree Planting on the Landfill
  - Four test plots will be initiated on the existing landfill

The Solid Waste Committee is pleased to see these recent modifications and, again, is appreciative of USA Waste's willingness to involve a professional landscape architect in this effort.

A key component of the revised conceptual landscape plan is the concept of planting woody vegetation (trees) on the landfill. The Solid Waste Committee appreciates Mr. Woods' innovative research on this concept, and the Committee is also appreciative of the DNR's willingness to consider this approach which could go a long way toward making the landform more natural in appearance.

The Solid Waste Committee suggests that the DNR's landscape architects and forestry specialists seriously consider the conceptual landscape plan and the follow-up aesthetic design elements proposed by Bruce Woods from Foth and Van Dyke. The Solid Waste Committee would request that the DNR act as quickly as possible in their final determinations on the Deer Track Park Feasibility Study since the Committee would like to see the landfill mining element of the proposal happen during the winter of 1998/99. The Solid Waste Committee would support USA Waste's request for exemption to S.NR504.04(3)(d) to enable construction of the landfill within 1,000 feet of the I-94 right-of-way. The Solid Waste Committee would, however, like an opportunity to comment on the final "Plan of Operation" which should correspond to the refined aesthetic landscape consideration referred to previously. Again, thank you for the opportunity to provide our comments on this important initiative.

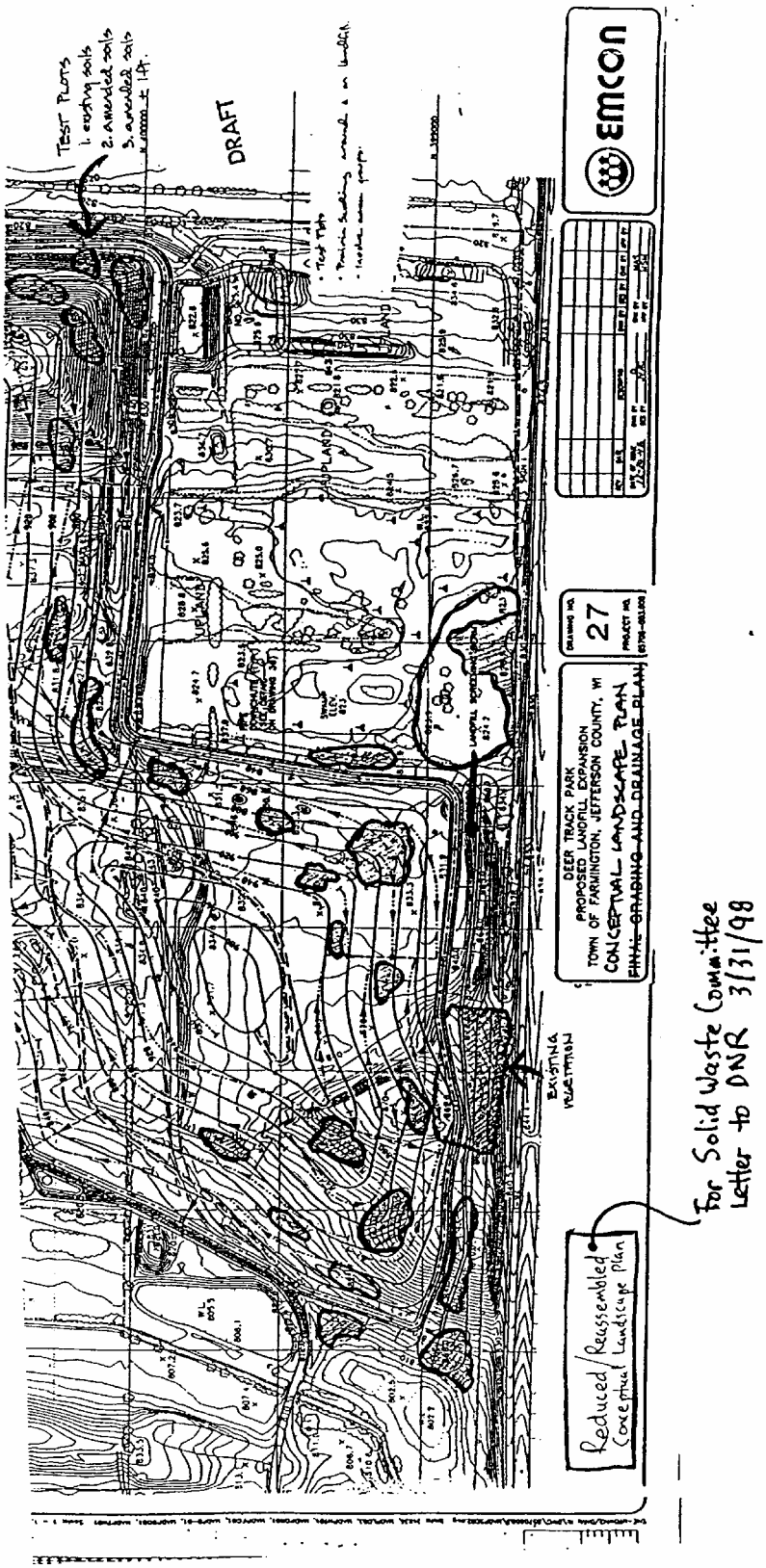
Please contact us if you have any questions on these comments.

Sincerely,

Carl Jaeger

Carl Jaeger
Chair, Solid Waste Committee

cc: Willard Hausen, Jefferson County Administrator
Hank Koch, USA Waste
Norm DeBries, Wisconsin Department of Transportation
Don Reese, Town of Farmington
Steve Grabow, University of Wisconsin-Extension, Jefferson County Office


DRAFT
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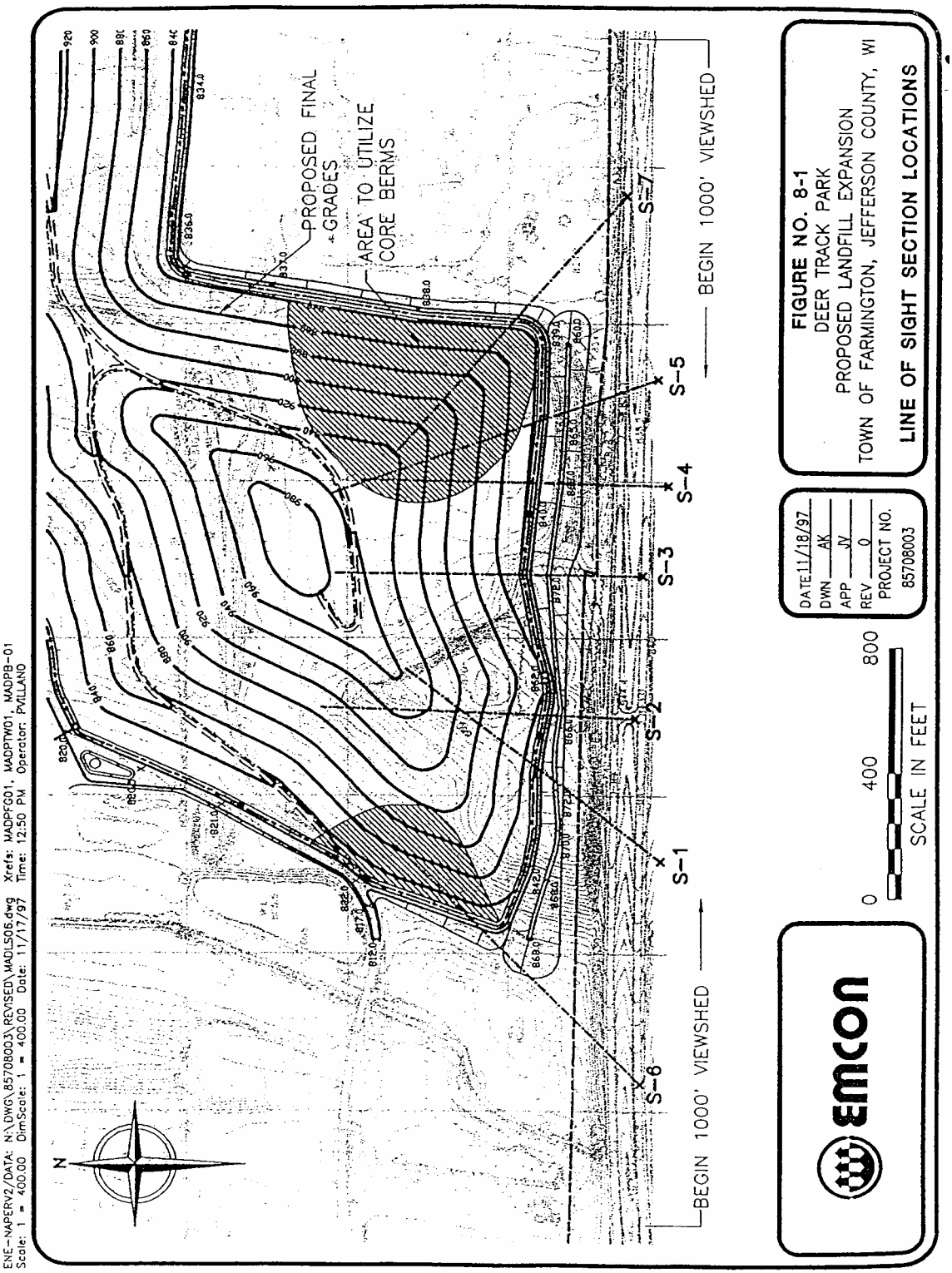
DEER TRACK PARK
PROPOSED LANDFILL EXPANSION
TOWN OF FARMINGTON, JEFFERSON COUNTY, WI
CONCEPTUAL LANDSCAPE PLAN
27
Reduced/Reassembled Conceptual Landscape Plan
For Solid Waste Committee
Letter to DNR 3/31/98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PROPOSED FINAL GRADES
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BEGIN 1000' VIEWSHED
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REV 0
PROJECT NO. 85708003
FIGURE NO. 8-1
DEER TRACK PARK
PROPOSED LANDFILL EXPANSION
TOWN OF FARMINGTON, JEFFERSON COUNTY, WI
LINE OF SIGHT SECTION LOCATIONS

Cooperative Extension • University of Wisconsin-Extension

UW-Extension
Jefferson County Office
Courthouse, Room 209
320 South Main Street
Jefferson, WI 53549-1799
(414) 674-7295

Date: December 22, 1993

To: Carl Jaeger, Chair, Jefferson County Solid Waste Committee

From: Steve Grabow Steve Grabow
University of Wisconsin-Extension Community Resource Development Agent

Re: Aesthetics and the Deer Track Park Landfill Expansion

During your review of the proposed expansion of the Deer Track Park landfill, you requested assistance in assessing the aesthetic implications of the proposal. Subsequently, Wayne Tlusty, from the University of Wisconsin-Extension and U.W. Department of Landscape Architecture, agreed to provide a report on his observations, as a professor of landscape architecture, about the aesthetic aspects of the proposed expansion. The observations and recommendations are based on one site visit, a review of preliminary schematic drawings contained in a consultants report, and some associated research which included contacts with the Wisconsin Department of Natural Resources and Department of Transportation.

The purpose of the report is to provide an aesthetic perspective about the proposed landfill expansion and to provide recommendations for guiding decision making on this issue. As you also requested, Mr. Tlusty will be available to present his report, along with a slide presentation at a meeting of the Solid Waste Committee which has been set for Monday, January 10, 1994 at 6:30 p.m. in room 208 of the Courthouse.

Listed below is a distribution list of those to whom the report will be distributed. Additional reports will be available at the meeting. Please call if you have any questions.

County Board Chair
County Solid Waste Committee members
County Planning and Zoning Committee members
County Agriculture and Extension Education Committee members
County Administrator
County Zoning Administrator
Town Chair, Town of Farmington
Town Chair, Town of Koshkonong
Neal Loeb
Jan Rickerman

University of Wisconsin, United States Department of Agriculture and Wisconsin Counties Cooperating.
UW-Extension provides equal opportunities in employment and programming, including Title IX requirements.

AESTHETICS AND DEER TRACK PARK LANDFILL EXPANSION

RECOMMENDATIONS FROM:
Wayne Tlusty's Report

Sightline A and B (Views from I-94):

The Committee should receive precise information on:

*Existing aesthetic character.

*The proposed landfill location and landform alterations.

*Distance from I-94 r.o.w. to the top of slope and toe of slope for the altered landforms.

*A real "planting plan" (in addition to just a planting list) should be provided. Sketches and graphics should be developed that are accurate and helpful in determining what the proposed plantings and landforms will look like.

Sightline C (Views from Switzke Road):

Enhancements to Warzyn's recommendations include:

*Add plantings to the tree line 200' off the road.

*Modify road maintenance policy to encourage dense shrub growth along the road right of way.

*Extend plantings south of Branch Road, and also allow natural, right of way shrub growth.

Sightline D (Views from Switzke/I-94 area):

Several suggestions include:

*Plant fast growing trees along N/S watercourse.

*Plant-in the gaps between sightline D & B along I-94.

*Establish a dense plant condition on the slope and near the guardrail (in the vicinity of the intersection) to emulate the dense planting to the east of Switzke Road.

General Recommendations:

See next two pages which are excerpted from the report.

Also-- *A map showing the "sightlines" is attached!*

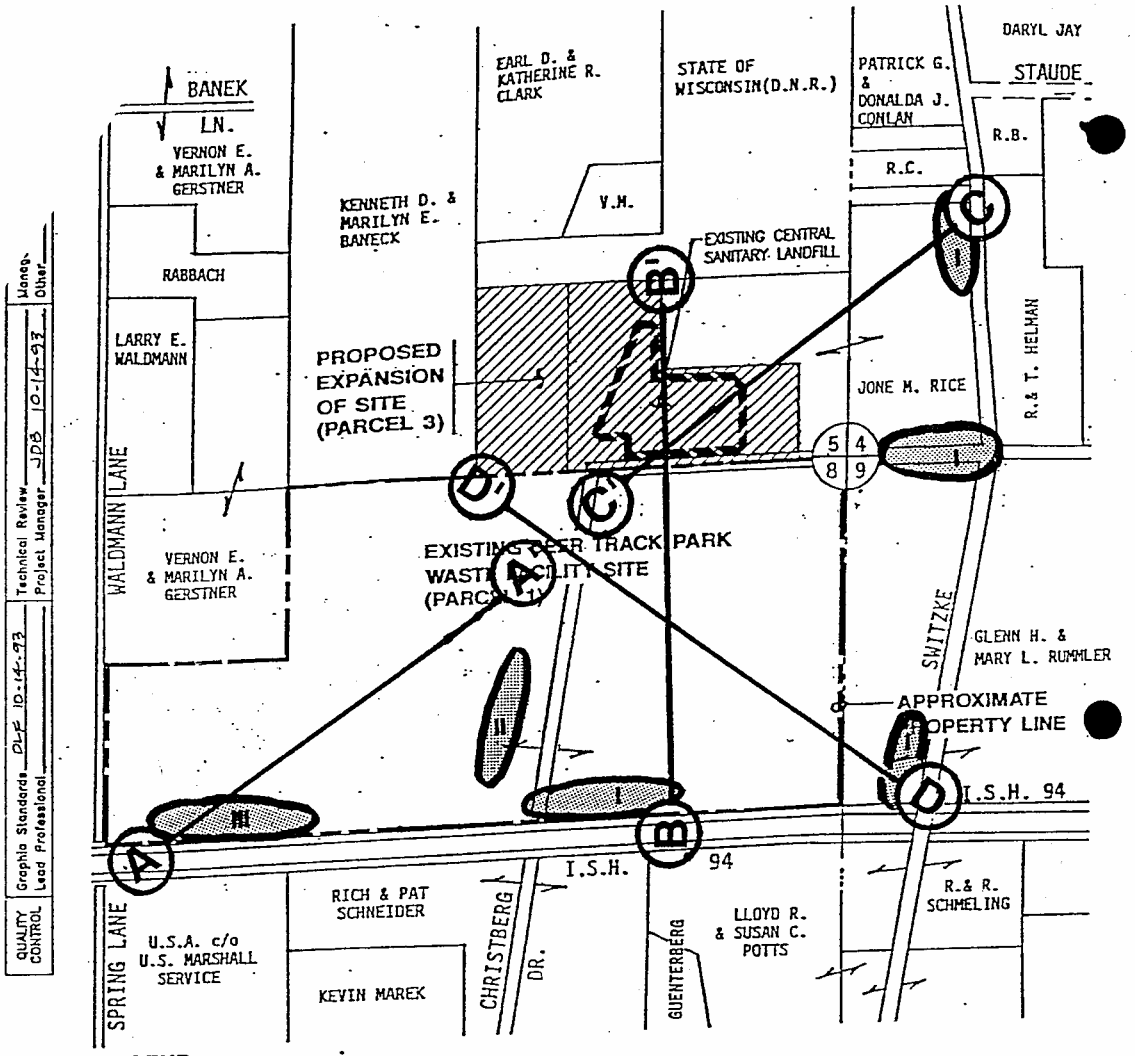
Steve Grabow, 3/30/95

General Comments Related to the Landfill Site and Aesthetics

- All consultant proposals need precise aesthetic information to allow the committee to make informed decisions. Currently the proposals are overly sketchy and need proposal rigor similar to engineering requirements.
- The permit approval should be conditioned on meeting established aesthetic performance criteria before the landfill is allowed to operate.
- Accept visual mitigation (with partial screening) for Switzke Road, but explore the visual opportunities presented in this report.
- The committee should take a position concerning planting and landform design. Is it acceptable to the committee to have a highly structured landscape of "engineered berms," with even slopes and heights? Plantings which resemble a "pine plantation"? Or, should the berm and plantings blend with the landscape and follow more naturalistic design concepts. The "strong" forms--both plantings and berms--will draw more visual attention, but also look out of character with the surrounding landscape.
- The committee should require all "sketches" to be accurate elevations and or perspectives, with consultant accountability, for screening and/or design performance. If necessary, the committee should consider the need for computer simulation studies of the views from I-94.
- The committee should explore the potential of establishing a prairie cover of grasses, forbs and possibly some small trees as part of the final cover of the landfill. In addition to using native grasses and forbs, it will probably require more than the minimum 1.5 - 2.5 ft. soil cover layer (see DNR 504.07(5). Some preliminary research has been conducted by the Department of Landscape Architecture on prairie plantings on landfill sites.

- The committee should decide if the most desired overall aesthetic approach, from the county's interest, is to meet the minimum visual mitigation through screening--which is what the DNR can be expected to pursue through 405.04(3)(d)--or whether it would not be more appropriate to have visual mitigation and some level of environmental aesthetic which provides for a blending of the aesthetic characteristics of the site--both during and after the site closes--with the forms, colors and textures established in the existing Jefferson County countryside? Emulating currently a drumlin landform(s) with associated native prairie plantings and edge species plantings could provide more of an environmental aesthetic of blending than strongly engineered forms. Given the limitations of future land use (see NR 506.08(5)) it would appear that the area will primarily have wildlife values with some associated passive recreation and/or viewing. While this is a private holding it be remain a dominant cultural pattern for many years--the committee needs to anticipate the appropriate aesthetic context for the distant future.

In summary, this is an interesting site which provides both opportunities and limitations for landfill siting. The need for this type of use isn't questioned, but the ultimate aesthetic configuration needs to be fully addressed by the appropriate county interests. If I can be of further assistance, please do not hesitate to call.


BANEK LN.
VERNON E. & MARILYN A. GERSTNER
RABBACH
LARRY E. WALDMANN
WALDMANN LANE
VERNON E. & MARILYN A. GERSTNER
KENNETH D. & MARILYN E. BANECK
EARL D. & KATHERINE R. CLARK
V.H.
STATE OF WISCONSIN(D.N.R.)
EXISTING CENTRAL SANITARY LANDFILL
PROPOSED EXPANSION OF SITE (PARCEL 3)
EXISTING DEER TRACK PARK WASTE FACILITY SITE (PARCEL 1)
PATRICK G. & DONALDA J. CONLAN
R.C.
DARYL JAY
STAUDE
R.B.
R.& T. HELMAN
JONE M. RICE
SWITZKE
GLENN H. & MARY L. RUMMLER
APPROXIMATE PROPERTY LINE
I.S.H. 94
I.S.H. 94
R.& R. SCHMELING
LLOYD R. & SUSAN C. POTTS
GUENTERBERG
CHRISTBERG DR.
RICH & PAT SCHNEIDER
KEVIN MAREK
SPRING LANE
U.S.A. c/o U.S. MARSHALL SERVICE
LEGEND
SIGHTLINE SECTION
PHASED PLANTING AREA
north
0 1000 2000
APPROXIMATE SCALE IN FEET
NOTES
1. THE LAND OWNERSHIP INFORMATION WAS DEVELOPED FROM THE JEFFERSON COUNTY PLAT BOOK, PUBLISHED BY ROCKFORD MAP PUBLISHERS INC., DATED 1990, WITH ADDITIONAL INFORMATION PROVIDED BY JAN RICKERMAN.
Developed By: VJR,DJW
Drawn By: LCL,DLF
Approved By: Daniel F. Kolbe
Date: 10/14/93
Reference:
Revisions: ADDED SIGHTLINE SECTIONS & PHASED PLANTING AREAS 10-29-93
PROPOSED SITE EXPANSION
DEER TRACK PARK
TOWN OF FARMINGTON
JEFFERSON CO., WISCONSIN
Drawing Number
10016101
WARZYN
Exhibit F (2 of 12)

LANDFILL TECHNICAL GUIDE OUTLINE

In considering the development of the Landfill Technical Guide, U.W. Extension put together this "scope of work" proposal. This formed the basis for a subsequent "Request for Proposal" document.

Background

Currently, Jefferson County does an annual visual inspection of the County's two landfills. The Operator is required to do monitoring and provide an annual report to the County.

What tasks need to be done and who should do it?

1. Establish baseline checklist = Examine key data that is being collected as part of the host agreement and operation permit, including DNR reports, inspections and record on tipping
2. Right to examine site – quarterly visual inspection to insure BMP's
    - Odors well managed
    - Storm water management
    - Litter
    - Content
    - Traffic
    - Other items identified in host agreement
    - Aesthetic appearance on a daily basis
3. Establish a DNR meeting on their reporting mechanisms – groundwater monitoring data or other problems – how do we interpret it?
    - What is on their typical inspection list?
    - Have reports put in laymen's terms
    - County Summary

– By DNR
– By our advisor

4. Aesthetic assessment – is it being implemented?
    - Quality of site planning
    - Implementation – is it being landscaped properly?
5. Capacity monitoring and expansion plans
    - A predictive thing
6. Special waste management
7. How do you negotiate additional services? (could be outside the scope)
8. Are there additional concerns that the Towns would like included?

Deliverables

Develop survey format as checklist with rating assessment
ID dual roles – County staff responsibilities vs. consulting engineer

Source: Phil O'Leary, Steve Brachman, Steve Grabow (3/27/00)

This landfill technical guide has been prepared for the Jefferson County Solid Waste staff person as a means of providing background information related to landfill operation in the State of Wisconsin in general and particularly in Jefferson County.

Section 2 of the guide provides a brief description of the reports required for obtaining and operating a landfill in the State of Wisconsin. The Deer Track Park Landfill is used as a framework for the permit process discussion. The recommended actions are to:

- Annually read the Deer Track Park Annual Report
- Use the checklist in Appendix B.

Section 3 of the guide provides a discussion of the technical reports the Jefferson County Solid Waste staff person should pay particular attention to and read as reference or review annually. The recommended actions are to:

- Read the Deer Track Park Plan of Operations Report.
- Read the Annual Report.

Section 4 of the guide provides a discussion of aesthetic considerations regarding the Deer Track Park Landfill. It briefly describes the local agreements in place regarding the screening and aesthetic consideration of the Deer Track Park Landfill. The recommended actions are to:

- Request periodic reviews of the status of screening, planting and landscaping activities.
- Review the March 31, 1998 and October 27, 1999 memos.

Section 5 provides an overview of landfill capacity determination. It describes a method for monitoring the landfill capacity of Deer Track Park and other Southeastern Wisconsin Landfill for the purpose of determining landfill use trends. The recommended actions are to:

- Obtain the WDNR Landfill Capacity Report.
- Use the report to track landfill usage in the region.

Section 6 provides information about closed landfills in Jefferson County. Specific information is included on the closed Valley Meadow facility. Recommended actions are to:

- Read the Valley Meadow Annual Environmental Monitoring Report.
- Request periodic environmental status update from the owner of Valley Meadows.

Appendix B presents a checklist for use by the Jefferson County Solid Waste Staff person. The checklist identifies the tasks the Jefferson County Solid Waste Committee has identified as important to Jefferson County. The checklist represents an annual cycle of tasks. The Jefferson County Solid Waste staff person should perform to keep the Solid Waste Committee informed on landfill issues in the county.

Section 6
STRATEGY FORMULATION

This section looks briefly at some of the expectations and performance measures associated with the development of operational guides associated with carrying out existing responsibilities (referred to as Purpose 1). Most of this section is devoted to analyzing and detailing the strategies associated with the enhancement or expansion of the County's role in solid waste (referred to as Purpose 2).

A strategy is defined as the pattern of practical initiatives, actions, policies and programs necessary to address the fundamentally important issues. In this section, the two strategic issues that will be addressed include:

1. What can we do to enhance the education and promotion component of Solid Waste activities?

2. How do we enhance our existing hazardous waste removal programs?

Expectations/Measures for the Development of Operational Guides

Listed below are the key expectations and measures identified by the Committee:

- Keep relatively simple and short (when possible)
- Make them easy to use by Staff and the Committee
- Produce in a professional format
- Format so that they can be routinely applied and used by Staff and Committee
- Represent a clear resource for our key stakeholders (Towns, State DNR, etc.)

Strategy Formulation for the Two Priority Strategic Issues

In order to address the two priority issues on enhancing education and enhancing hazardous waste removal programs, some additional analysis was required. In particular, this section will document the analysis associated with enhancing hazardous waste removal programs.

Analysis – Background on Hazardous Waste Removal Programs
(an Outline of Educational Support Comments by Steve Brachman, UW-Extension)

In order to better understand alternative hazardous waste removal programs, Steve Brachman summarized the various types of programs in operation throughout Wisconsin. These are listed below.

- One-day events are well accepted.

- Larger population areas are looking for a better way to deal with hazardous waste beyond just one-day events.

- Consider safer ways to deal with hazardous waste beyond "events" (avoiding rain conditions, traffic challenges)

- Permanent Programs (12 around the State):
  - Address consumer demand
  - Definition: Take waste more than once per year
  - Typically set up permanent facility (a shed or designated building)
  - Winter: Once a month open
    Summer: Every Saturday open

- Mobile Programs (N.W. Regional Planning Commission)
  - Travel among communities
  - Contractor has special semi-truck or a van and it parks at a specific site for two weeks

- Combination Programs (Milwaukee)
  - Permanent Building/e.g. at a contractor's site
  - Mobile community program

- POTW Model (Publicly owned treat work facility) – Kenosha, Milwaukee, Dane
  - With sewage treatment operation (chemists on staff)
  - With Health Departments

- Landfill Model (Kenosha County, Brown County, Winnebago County, Outagamie County, Oneida County)
  - Work with an existing landfill

- Clarification on Permanent Site
  - The site is permanent but it is only open for collection at certain time

The Solid Waste Committee used this educational background to further analyze the possibility of a permanent site program for hazardous waste collection in Jefferson County. The results of this analysis are shown on the following table.

Analysis: Considerations about a Permanent Site Program for
Hazardous Waste Collection

Barriers	Positives/Opportunities
❑ Potential high costs ❑ Public concern (NIMBY) ❑ Challenge in siting and finding a location ❑ Unknowns about doing this at a landfill, i.e. Does it open up site negotiations? ❑ Could be a challenge for staffing ❑ Challenge of determining who takes the lead in getting the program going ❑ Need to be aware of State guidelines for these programs ❑ Need a very safe building and secure site ❑ Concerns about possible County liability (liability on swapping materials)	❑ Set-up at a landfill is conducive to this program ❑ Fort Atkinson POTW already has chemists available ❑ Could eliminate the annual events ❑ Can still use grant money from the State (all grant money is from DATCP – pass through to DNR) ❑ Much more user friendly to customers (at spring cleaning time) ❑ Opportunities for bulking and swapping (because there's not the time pressure) ❑ Could potentially reduce landfill owner risks by more people dealing with hazardous waste properly ❑ Process has been relatively smooth in getting these programs going ❑ Public health and safety benefits: people don't need to store hazardous waste while waiting for annual event

Possible Criteria for Considering the Importance of Strategies

Prior to developing specific strategy ideas on both enhancing educational programs and improving hazardous waste removal programs, the Solid Waste Committee developed a set of criteria to help them prioritize suggested strategies. These criteria are listed below.

- *Long-Term and Major Environmental Impact/Permanence of what we do (i.e. Will last a while)
- *Staff and Committee Capability (Existing)/Doability
- *Cost Effectiveness/Budget
- Flexibility and ability to "ease into"/Doability
- Timing Considerations
- Stakeholder Impacts (Key Stakeholders and Many Customers)

* *Particularly Important Criteria*

Recommended Strategies

The Solid Waste Committee applied a general priority rating on the relative importance of the suggested strategy elements for the two new issue areas. However, the Committee determined that all ideas should be a "menu of possible future actions," and no ideas should be eliminated at this time. The following section details the suggested strategies for each priority strategic issue.

Issue: What can we do to enhance the educational and promotional components of Solid Waste activities?

*** 1. **Develop an "Internet" and electronic media capacity and presence**
   a. Develop "Internet" resource on Solid Waste (County Web Page with linkages to UWEX, etc.)
   b. Provide an "Idea Box" for citizens to have input on Solid Waste (in conjunction with web page)
   c. Feature Solid Waste matters on local public access television

*** 2. **Support solid waste efforts through special funding initiatives with key partners.**
   a. Purchase recycling containers for County Fair Park, County parks ($35,000 in 2000)
   b. Consider other continuing opportunities

*** 3. **Develop an Education Center and Special Programming** (Long-Term Item)
   a. Develop a Solid Waste Education Center
   b. Encourage Jefferson County kids to apply for "scholarship" program administered by the South East Wisconsin Waste Reduction Coalition
   c. Arrange and pay for a "magic show" event on recycling for school-age children
   d. Develop a "Poster Contest" for school-age children
   e. Consider ways to help schools in their recycling education programs. For example: Send packets of good information to school districts or apprise them of available information, including internet resources; Advertise Deer Track Landfill Tours; Let schools know about good speakers on recycling/solid waste

* 4. **Develop a "Library" and "Resource" collection**
   a. Develop a "Library of Materials/Info/Videos" on Solid Waste
   b. Update materials that are accurate on Solid Waste
   c. Aggregate existing materials on Recycling and Solid Waste
   d. Provide a "Resource Package" of materials for distribution to Libraries
   e. Contact DNR Recycling Educator for possible resources
   f. Develop a mobile display for community events

* 5. **Develop a variety of newsletter/news release mechanisms**

a. Consider a periodic County newsletter on Solid Waste (highlight business success stories)
b. Assess and possibly expand the distribution of the SHWEC Newsletter
c. Use "Green Pages" for promotion during Earth Day celebration

6. Develop a Periodic "Forum" and Speakers' Bureau Concept
   a. Consider developing a periodic "Forum" in the County on Solid Waste (with the Responsible Units)
   b. Develop a "Speakers' Bureau" program on Solid Waste (i.e. Jay Schwoch, John's representative, etc.)
   c. Identify potential speakers/presenters on Solid Waste

7. Other
   a. Develop an "Annual Plan of Work" to determine annual efforts

Key on Priority:
*** Very Important
** Moderately Important
* Important

Issue: How do we enhance our Hazardous Waste Removal Programs?
(Revised 8/10/00)

*** 1. Develop ways to improve the effectiveness of existing Clean Sweep programs.
   a. Consider more frequent Clean Sweep events?
   b. Consider various Agricultural, Household and VSQG Clean Sweep combinations
   c. Alternate Clean Sweep sites to reduce travel
   d. Consider satellite sites for Clean Sweeps...consider partnering with Dodge or Walworth County
   e. Consider mobile program in addition to Clean Sweeps
   f. Develop a more extensive marketing and publicity program for existing Clean Sweep
      - Consider more publicity to get more participants
      - Could market special waste like computer monitors
      - Do direct mailing to all County residents
   g. Develop a targeted education program on what <u>is</u> and what <u>isn't</u> a hazardous waste

** 2. Explore and make inquiries about permanent or mobile hazardous waste removal programs

a. Make initial contacts to help gauge interest from potential partnership in a permanent or mobile program.
    - Contact municipalities about their interest in partnering on a permanent site
    - Contact our local haulers/landfill managers about their role and interest in permanent site program
    - Contact landfill manager
        - Don Reese to make a preliminary inquiry about Deer Track's reception of this notion
        - If received positively, committee and staff to further detail this strategy
b. Prepare some general background studies about permanent and mobile programs
    - Review and summarize POTW Model from City of Kenosha (Steve Brachman's Report)
    - Investigate the types of facilities needed and available for a permanent site program
    - Investigate the potential for a permanent program at municipal waste treatment facilities/plants
    - Determine advantage/disadvantages of landfill site vs. other vendor site (such as transfer station)
    - Determine legal aspect of permanent program regarding affect on siting agreement
    - Determine County liability from accidents associated with a permanent site
c. Assemble an overall feasibility report for a permanent or mobile program
    - Conduct a "feasibility study" for a permanent program
d. Consider other ways to advance the idea of a permanent/mobile/drop-off hazardous waste removal programs:
    - Have a workshop/forum to explain hazardous waste removal program and opportunities for new approaches
    - Establish a steering committee to investigate new approaches

3. **Attempt to secure additional funding to pay for increasingly successful program participation and volumes.** (Long-Term Item)
    a. Contact various sources for possible donations such as: haulers, Chambers of Commerce, utilities (WEPCO), major industries, local treatment plants
    b. Encourage the State to increase grants for Clean Sweep
    c. Encourage the State to consider surcharges on hazardous waste products

Optional Patterns for Future Clean Sweeps

In assessing optional patterns for conducting clean sweep events, the committee looked at these three options. This exercise was part of Section 6, Strategy 1b.

Option 1*

2001	Year A	Ag
2002	Year B	H.H.
2003	Year C	Ag
2004	Year D	H.H.

*More intensive evaluation of needs in the fall to determine the following year's event(s).

Option 2

Year A	Ag and H.H.
Year B	Ag and H.H.

Option 3

Year A	Combined 2-Day Ag/H.H.

Steps in Considering a Permanent or Mobile Program

In determining the desirability of a permanent or mobile program, Jefferson County staff and U.W. Extension listed the following steps as a more detailed strategy for addressing Strategy 2.

- Components to consider for a Permanent/Mobile Program
- Snapshot of existing permanent/mobile programs
- Evaluate Pros and Cons
- Determine relationship to the negotiated Siting Agreement
- Determine preliminary feasibility considerations
- Determine details

Section 7
APPROVAL / ADOPTION

The Solid Waste Committee prepared and unanimously approved the following resolution that commits the Solid Waste Committee to this plan.

Whereas, the Jefferson County Solid Waste Committee has developed a draft Solid Waste Management Plan over the duration of eight (8) workshop sessions from December 1999 – April 2000; and

Whereas, the process has been supported by the University of Wisconsin-Extension, County Zoning Department staff, Corporation Counsel, and a variety of stakeholders and advisors knowledgeable about solid and hazardous waste management; and

Whereas, the Jefferson County Solid Waste Committee's draft Solid Waste Management Plan represents an important guide for managing and planning the solid and hazardous waste activities for Jefferson County; and

Whereas, the existing Jefferson County Solid Waste Committee has extensive experience in solid and hazardous waste matters and intends for this plan to assist future Jefferson County Solid Waste Committees; now therefore

Be It Resolved, that the Jefferson County Solid Waste Committee hereby approves the draft Solid Waste Management Plan dated April 5, 2000 and forwards this draft document to the new Jefferson County Solid Waste Committee for further refinement; and

Be It Further Resolved, that the retiring members of the Jefferson County Solid Waste Committee stand willing to assist in the finalization of the Jefferson County Solid Waste Management Plan dependent on the wishes of the new Solid Waste Committee, and upon authorization by representatives of the Jefferson County Board.

Section 8
Implementation

The Solid Waste Committee developed this activity chart to guide the implementation of activities recommended in this plan.

	Timeline				
Issue and Strategy	4/1/2000	10/1/2000 - 12/1/2000	5/1/2001	8/1/2001 – 12/1/2001	5/2/2002
Enhanced Education/ Promotion:					
Internet Development					
Periodic Forum					
Library/Resources					
Newsletters/Releases					
Education Center					
Enhanced Hazardous Waste Programs:					
Sustain Clean Sweeps					
Explore Permanent/ Mobile Programs					
Attempt Additional Funding					

Key

Priority Effort

Secondary Effort

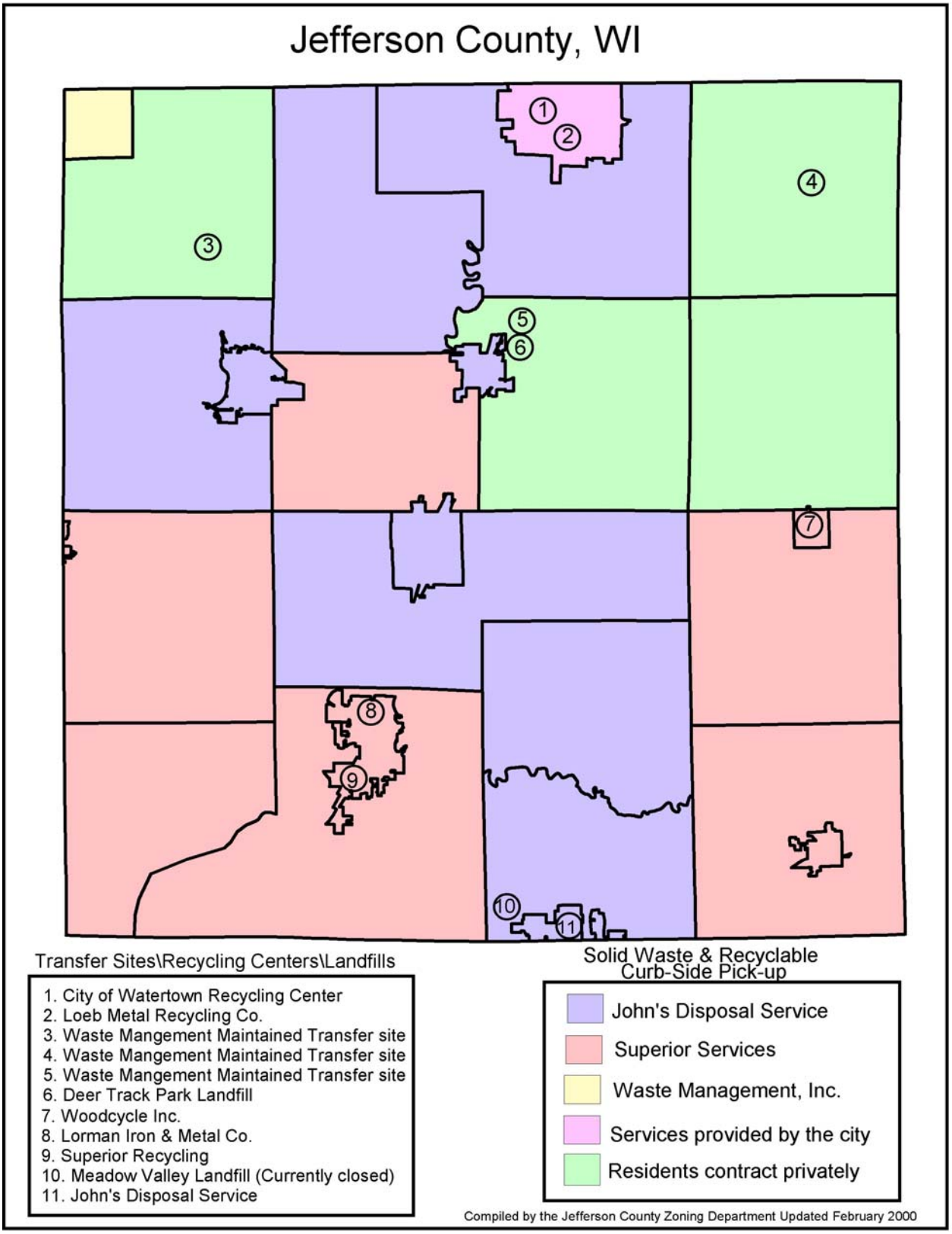
Event

OTHER RESOURCES

Contents:

- Jefferson County Solid Waste Locational Overview

- Jefferson County Plan Background Report (Excerpts):
  - Demographic and Housing Analysis
  - Environmental and Natural Resource Analysis


Jefferson County, WI
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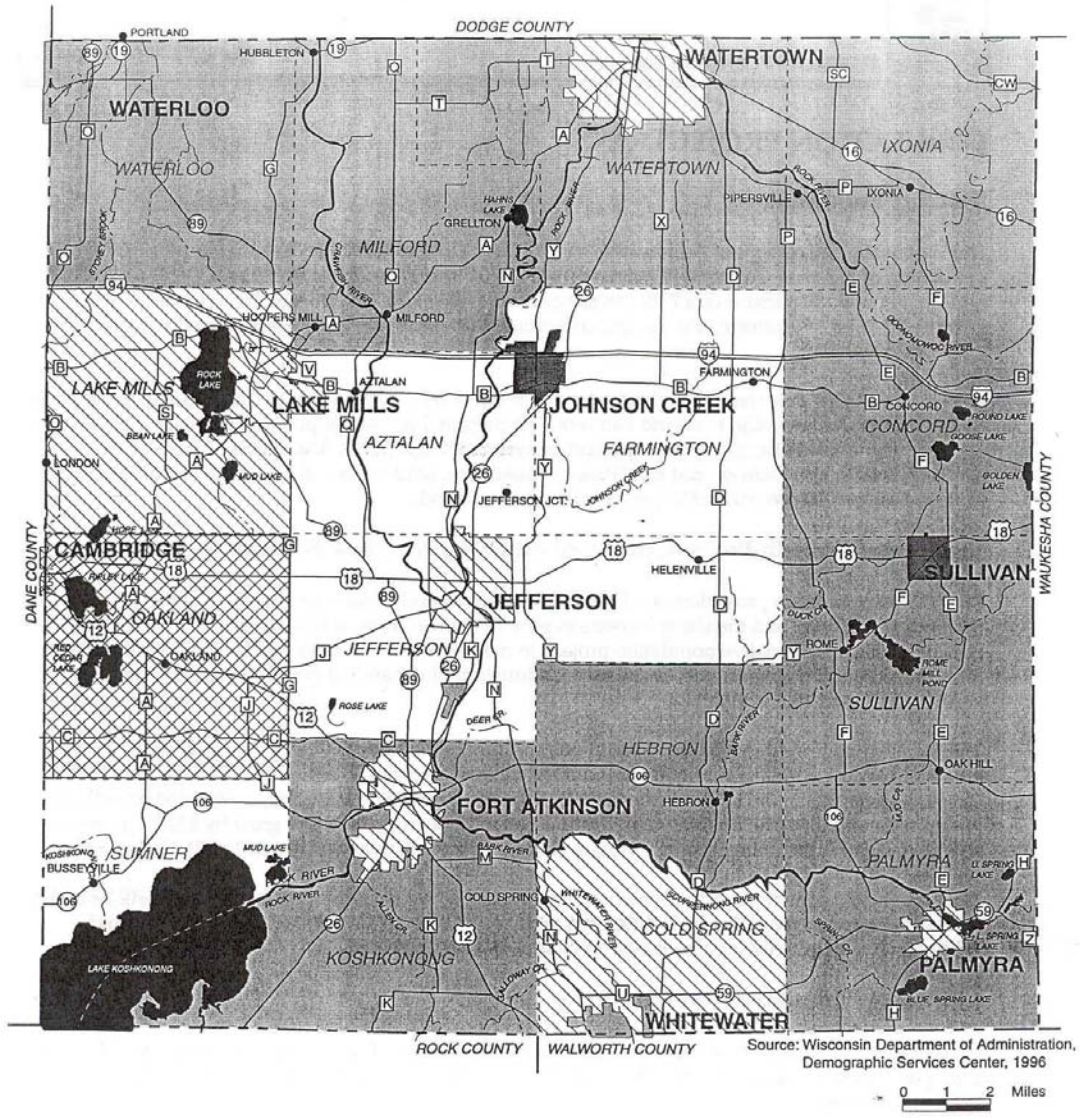
Transfer Sites\Recycling Centers\Landfills
1. City of Watertown Recycling Center
2. Loeb Metal Recycling Co.
3. Waste Mangement Maintained Transfer site
4. Waste Mangement Maintained Transfer site
5. Waste Mangement Maintained Transfer site
6. Deer Track Park Landfill
7. Woodcycle Inc.
8. Lorman Iron & Metal Co.
9. Superior Recycling
10. Meadow Valley Landfill (Currently closed)
11. John's Disposal Service
Solid Waste & Recyclable Curb-Side Pick-up
John's Disposal Service
Superior Services
Waste Management, Inc.
Services provided by the city
Residents contract privately
Compiled by the Jefferson County Zoning Department Updated February 2000

Table 1.1 Historic Population Growth

Municipality	1970 Census	1980 Census	1990 Census	1997 Estimate	Percent Change 1990-1997
T. Aztalan	1,306	1,752	1,476	1,504	1.90%
T. Cold Spring	1,018	684	683	738	8.05%
T. Concord	1,130	1,805	1,884	2,012	6.79%
T. Farmington	1,391	1,528	1,404	1,432	1.99%
T. Hebron	973	1,104	975	1,020	4.62%
T. Ixonia	2,324	2,905	2,789	2,908	4.27%
T. Jefferson	3,082	2,891	2,687	2,758	2.64%
T. Koshkonong	2,671	2,979	2,984	3,153	5.66%
T. Lake Mills	1,472	1,515	1,584	1,759	11.05%
T. Milford	1,129	1,066	1,007	1,050	4.27%
T. Oakland	1,984	2,240	2,526	2,860	13.22%
T. Palmyra	875	1,069	1,176	1,257	6.89%
T. Sullivan	1,159	1,646	1,924	2,065	7.33%
T. Sumner	954	973	822	824	0.24%
T. Waterloo	685	811	694	737	6.20%
T. Watertown	1,671	1,921	1,840	1,927	4.73%
TOTAL RURAL	23,824	26,889	26,455	28,004	5.86%
V. Cambridge	689	844	963	1,097	13.91%
Jefferson Co. (part)	17	59	80	83	3.75%
Dane Co. (part)	672	785	883	1,014	14.84%
V. Johnson Creek	790	1,136	1,259	1,563	24.15%
V. Palmyra	1,341	1,515	1,540	1,691	9.81%
V. Sullivan	467	434	449	578	28.73%
C. Fort Atkinson	9,164	9,785	10,213	10,974	7.45%
C. Jefferson	5,429	5,647	6,078	6,679	9.89%
C. Lake Mills	3,556	3,670	4,143	4,539	9.56%
C. Waterloo	2,253	2,393	2,712	2,888	6.49%
C. Watertown	15,683	18,113	19,142	20,835	8.84%
Jefferson Co. (part)	11,310	12,202	12,388	13,097	5.72%
Dodge Co. (part)	4,373	5,911	6,754	7,738	14.57%
C. Whitewater	12,038	11,520	12,636	13,374	5.84%
Jefferson Co. (part)	1,909	2,422	2,466	2,608	5.76%
Walworth Co. (part)	10,129	9,098	10,170	10,766	5.86%
TOTAL URBAN (Jefferson Co. Part)	36,236	39,263	41,328	44,700	8.16%
JEFFERSON COUNTY TOTAL	60,060	66,152	67,783	72,704	7.26%

Source: Demographic Services Center, Wisconsin Department of Administration.



JEFFERSON COUNTY

PERCENT POPULATION CHANGE 1990-1997

DISCOVERY GROUP

FIGURE 1.1

3

POPULATION PROJECTIONS

Baseline Projections

The Wisconsin Department of Administration (WDOA), Demographic Services Center projects that the population of Jefferson County will increase from 72,704 in 1997 to 78,484 in the year 2020. This represents a gain of 5,780 persons or a 7.95 percent increase (Table 1.2) The villages and cities are projected to grow by 3,962 or 8.86 percent and the unincorporated portion of the County is projected to increase by 1,818 or 6.49 percent.

The projections indicate that the highest rates of growth will be in the Town of Concord and the Villages of Cambridge (Jefferson Co. part) and Palmyra. The projected percent population change for these units of government will be near or over 20 percent between 1997 and 2020. The Towns of Lake Mills, Oakland, Ixonia, and Palmyra and the Cities of Watertown, Lake Mills and Fort Atkinson are projected to grow between 10 percent and 20 percent during this period.

Accelerated Growth Projections Based on 1990-1997 Growth Rates

The WDOA population projections are based on historical trends. Because of the age of the WDOA "baseline projections" and the sharp inerease in growth rates in some of the Jefferson County communities since 1990, an alternative population projection methodology was used that shows growth projections for each unit of government based on a continuation of the annual growth rates experienced between 1990 and 1997 (Table 1.3).

The "accelerated growth projections" based on a continuation of the 1990 to 1997 annual growth rates indicates that the population of Jefferson County will increase from 72,704 to 92,270 in the year 2020. This represents a gain of 20,767 persons or a 26.91 percent increase. Using the "accelerated growth projection" methodology, the population of the villages and cities is projected to grow by 14,527 persons or 30.54 percent and the unincorporated portion of the County will increase by 6,240 or 21.12 percent.

The "accelerated growth projection" methodology projects that the highest rates of growth will be in the Cities of Jefferson, Lake Mills, and Watertown and the Villages of Cambridge, Johnson Creek, and Sullivan. The fastest growing towns will be Lake Mills and Oakland.

Mid-Range Population Projections

A "mid-range population projection" for each community has also been computed (Table 1.4). The "mid-range population projections" are an average of the WDOA "baseline projections" with the "accelerated growth projections."

The "mid-range population projections" indicate that the population of Jefferson County will increase from 72,704 to 85,980 by the year 2020. This represents a gain of 13,276 persons or a 18.26 percent increase. Using the "mid-range projection" methodology, the population of the villages and cities is projected to grow by 9,246 persons or 20.68 percent and the unincorporated portion of the County will increase by 4,030 or 14.39 percent.

The "mid-range projection" methodology projects that the highest rates of growth will be in the Cities of Jefferson, Lake Mills, and Watertown and the Villages of Cambridge, Johnson Creek, and Sullivan. The fastest growing towns will be Lake Mills and Oakland (Figure 1.2).

Table 1.2 WDOA Population Projections

Municipality	1990 Census	1997 Estimate	2000 Projection	2005 Projection	2010 Projection	2015 Projection	2020 Projection	Percent Change (1997-2020)
T. Aztalan	1,476	1,504	1,470	1,462	1,456	1,434	1,448	-3.72%
T. Cold Spring	683	738	743	752	759	761	768	4.07%
T. Concord	1,884	2,012	2,125	2,228	2,310	2,390	2,413	19.93%
T. Farmington	1,404	1,432	1,429	1,429	1,430	1,416	1,430	-0.14%
T. Hebron	975	1,020	935	914	898	869	877	-14.02%
T. Ixonia	2,789	2,908	3,042	3,135	3,210	3,271	3,302	13.55%
T. Jefferson	2,687	2,758	2,816	2,837	2,853	2,846	2,873	4.17%
T. Koshkonong	2,984	3,153	3,104	3,140	3,169	3,173	3,203	1.59%
T. Lake Mills	1,584	1,759	1,798	1,874	1,935	1,992	2,011	14.33%
T. Milford	1,007	1,050	1,052	1,059	1,065	1,062	1,072	2.10%
T. Oakland	2,526	2,860	2,887	3,027	3,139	3,247	3,278	14.62%
T. Palmyra	1,176	1,257	1,303	1,354	1,394	1,430	1,444	14.88%
T. Sullivan	1,924	2,065	2,072	2,138	2,192	2,236	2,227	7.85%
T. Sumner	822	824	784	767	753	728	735	-10.80%
T. Waterloo	694	737	742	756	768	774	781	5.97%
T. Watertown	1,840	1,927	1,907	1,926	1,941	1,941	1,960	1.71%
TOTAL RURAL	26,455	28,004	28,209	28,798	29,272	29,570	29,822	6.49%
V. Cambridge	963	1,097	1,147	1,225	1,291	1,358	1,371	24.98%
Jefferson Co. (part)	80	83	95	101	106	111	112	34.94%
Dane Co. (part)	883	1,014	1,052	1,124	1,185	1,247	1,259	24.16%
V. Johnson Creek	1,259	1,563	1,392	1,449	1,494	1,536	1,551	-0.77%
V. Palmyra	1,540	1,691	1,856	1,975	2,070	2,168	2,189	29.45%
V. Sullivan	449	578	511	532	549	564	569	-1.56%
C. Fort Atkinson	10,213	10,974	11,161	11,491	11,756	11,971	12,085	10.12%
C. Jefferson	6,078	6,679	6,448	6,570	6,668	6,725	6,789	1.65%
C. Lake Mills	4,143	4,539	4,643	4,827	4,974	5,108	5,157	13.62%
C. Waterloo	2,712	2,888	2,919	2,995	3,056	3,101	3,131	8.41%
C. Watertown	19,142	20,835	21,271	21,990	22,567	23,097	23,317	11.91%
Jefferson Co. (part)	12,388	13,097	13,473	13,843	14,140	14,371	14,508	10.77%
Dodge Co. (part)	6,754	7,738	7,798	8,147	8,427	8,726	8,809	13.84%
C. Whitewater	12,636	13,374	13,642	13,907	14,110	14,228	14,364	7.40%
Jefferson Co. (part)	2,466	2,608	2,374	2,337	2,308	2,249	2,571	-1.42%
Walworth Co. (part)	10,170	10,766	11,268	11,570	11,802	11,979	12,093	12.33%
TOTAL URBAN (Jefferson Co. Part)	41,328	44,700	44,872	46,120	47,121	47,904	48,662	8.86%
JEFFERSON COUNTY TOTAL	67,783	72,704	73,081	74,918	76,393	77,474	78,484	7.95%

Source: Demographic Services Center, Wisconsin Department of Administration and Discovery Group

Table 1.3 Accelerated Growth Projections

Municipality	1990 Census	1997 Estimate	* Annual Growth Rate	2000 Projection	2005 Projection	2010 Projection	2015 Projection	2020 Projection	Percent Change (1997-2020)
T. Aztalan	1,476	1,504	0.0027	1,516	1,537	1,558	1,579	1,601	6.42%
T. Cold Spring	683	738	0.0115	764	809	856	907	960	30.09%
T. Concord	1,884	2,012	0.0097	2,071	2,174	2,281	2,394	2,513	24.88%
T. Farmington	1,404	1,432	0.0028	1,444	1,465	1,486	1,507	1,529	6.76%
T. Hebron	975	1,020	0.0066	1,040	1,075	1,111	1,148	1,186	16.32%
T. Ixonia	2,789	2,908	0.0061	2,962	3,053	3,147	3,244	3,344	15.00%
T. Jefferson	2,687	2,758	0.0038	2,789	2,842	2,896	2,952	3,008	9.05%
T. Koshkonong	2,984	3,153	0.0081	3,230	3,363	3,501	3,645	3,795	20.36%
T. Lake Mills	1,584	1,759	0.0158	1,844	1,994	2,156	2,332	2,522	43.36%
T. Milford	1,007	1,050	0.0061	1,069	1,102	1,136	1,171	1,208	15.01%
T. Oakland	2,526	2,860	0.0189	3,025	3,322	3,648	4,005	4,398	53.79%
T. Palmyra	1,176	1,257	0.0098	1,294	1,359	1,428	1,499	1,574	25.26%
T. Sullivan	1,924	2,065	0.0105	2,131	2,244	2,364	2,491	2,624	27.07%
T. Sumner	822	824	0.0003	825	826	828	829	831	0.80%
T. Waterloo	694	737	0.0089	757	791	826	864	903	22.47%
T. Watertown	1,840	1,927	0.0068	1,966	2,034	2,103	2,175	2,250	16.75%
TOTAL RURAL	26,455	28,004	0.0084	28,713	29,934	31,207	32,534	33,918	21.12%
V. Cambridge	963	1,097	0.0199	1,164	1,284	1,417	1,563	1,725	57.26%
Jefferson Co. (part)	80	83	0.0054	84	87	89	91	94	13.08%
Dane Co. (part)	883	1,014	0.0212	1,080	1,199	1,332	1,479	1,643	61.99%
V. Johnson Creek	1,259	1,563	0.0345	1,730	2,050	2,429	2,878	3,410	118.15%
V. Palmyra	1,540	1,691	0.0140	1,763	1,890	2,026	2,172	2,329	37.70%
V. Sullivan	449	578	0.0410	652	797	975	1,192	1,458	152.22%
C. Fort Atkinson	10,213	10,974	0.0106	11,328	11,944	12,593	13,278	14,000	27.57%
C. Jefferson	6,078	6,679	0.0141	6,966	7,472	8,015	8,597	9,222	38.07%
C. Lake Mills	4,143	4,539	0.0137	4,727	5,059	5,414	5,794	6,201	36.61%
C. Waterloo	2,712	2,888	0.0093	2,969	3,109	3,256	3,410	3,571	23.65%
C. Watertown	19,142	20,835	0.0126	21,635	23,037	24,529	26,118	27,811	33.48%
Jefferson Co. (part)	12,388	13,097	0.0082	13,421	13,979	14,559	15,164	15,795	20.60%
Dodge Co. (part)	6,754	7,738	0.0208	8,231	9,124	10,114	11,211	12,428	60.61%
C. Whitewater	12,636	13,374	0.0083	13,712	14,293	14,900	15,532	16,190	21.06%
Jefferson Co. (part)	2,466	2,608	0.0082	2,673	2,785	2,901	3,022	3,149	20.73%
Walworth Co. (part)	10,170	10,766	0.0084	11,039	11,509	11,998	12,509	13,042	21.14%
TOTAL URBAN (Jefferson Co. Part)	41,328	44,700	0.0117	46,281	49,042	51,968	55,068	58,353	30.54%
JEFFERSON COUNTY TOTAL	67,783	72,704	0.0104	74,994	78,976	83,175	87,602	92,270	26.91%

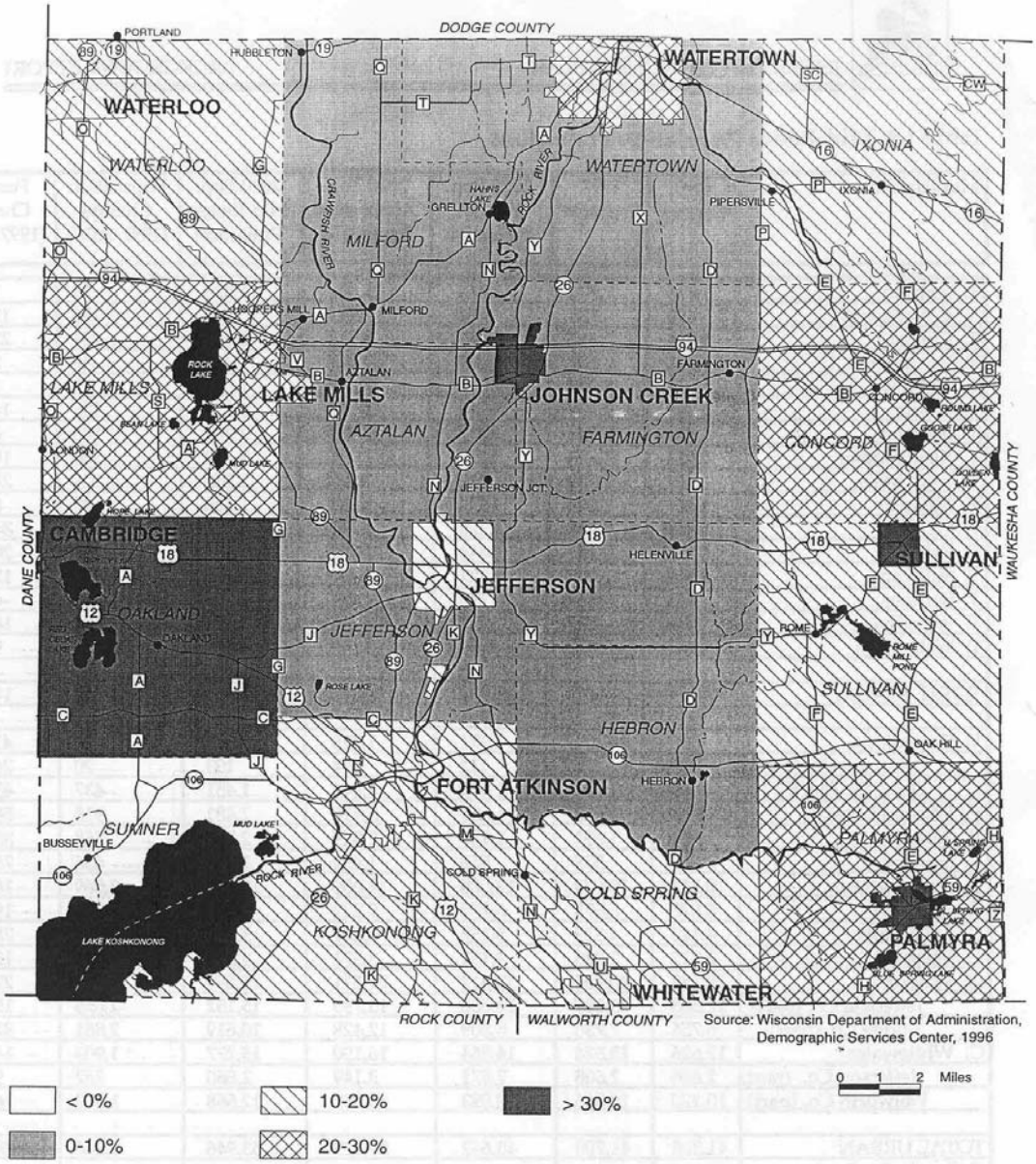
* The annual growth rate is based on 1990-1997 data

Source: Demographic Services Center, Wisconsin Department of Administration and Discovery Group

Table 1.4 Mid-Range Population Projections

Municipality	1990 Census	1997 Estimate	2020 Pop. WDOA Projection	2020 Pop. Accelerated Projection	2020 Pop. Mid-Range Projection	Population Change (1997-2020)	Percent Change (1997-2020)
T. Aztalan	1,476	1,504	1,448	1,601	1,525	21	1.36%
T. Cold Spring	683	738	768	960	864	126	17.07%
T. Concord	1,884	2,012	2,413	2,513	2,463	451	22.42%
T. Farmington	1,404	1,432	1,430	1,529	1,480	48	3.32%
T. Hebron	975	1,020	877	1,186	1,032	12	1.13%
T. Ixonia	2,789	2,908	3,302	3,344	3,323	415	14.27%
T. Jefferson	2,687	2,758	2,873	3,008	2,941	183	6.62%
T. Koshkonong	2,984	3,153	3,203	3,795	3,499	346	10.97%
T. Lake Mills	1,584	1,759	2,011	2,522	2,267	508	28.85%
T. Milford	1,007	1,050	1,072	1,208	1,140	90	8.57%
T. Oakland	2,526	2,860	3,278	4,398	3,838	978	34.20%
T. Palmyra	1,176	1,257	1,444	1,574	1,509	252	20.05%
T. Sullivan	1,924	2,065	2,227	2,624	2,426	361	17.46%
T. Sumner	822	824	735	831	783	-41	-4.98%
T. Waterloo	694	737	781	903	842	105	14.25%
T. Watertown	1,840	1,927	1,960	2,250	2,105	178	9.24%
TOTAL RURAL	26,455	28,004	29,822	34,246	32,034	4,030	14.39%
V. Cambridge	963	1,097	1,371	1,725	1,548	451	41.11%
Jefferson Co. (part)	80	83	112	94	103	20	24.10%
Dane Co. (part)	883	1,014	1,259	1,643	1,451	437	43.10%
V. Johnson Creek	1,259	1,563	1,551	3,410	2,481	918	58.70%
V. Palmyra	1,540	1,691	2,189	2,329	2,259	568	33.59%
V. Sullivan	449	578	569	1,458	1,014	436	75.35%
C. Fort Atkinson	10,213	10,974	12,085	14,000	13,043	2,069	18.85%
C. Jefferson	6,078	6,679	6,789	9,222	8,006	1,327	19.86%
C. Lake Mills	4,143	4,539	5,157	6,201	5,679	1,140	25.12%
C. Waterloo	2,712	2,888	3,131	3,571	3,351	463	16.03%
C. Watertown	19,142	20,835	23,317	27,811	25,564	4,729	22.70%
Jefferson Co. (part)	12,388	13,097	14,508	15,795	15,152	2,055	15.69%
Dodge Co. (part)	6,754	7,738	8,809	12,428	10,619	2,881	37.23%
C. Whitewater	12,636	13,374	14,364	16,190	15,277	1,903	14.23%
Jefferson Co. (part)	2,466	2,608	2,571	3,149	2,860	252	9.66%
Walworth Co. (part)	10,170	10,766	12,093	13,042	12,568	1,802	16.73%
TOTAL URBAN	41,328	44,700	48,662	59,229	53,946	9,246	20.68%
(Jefferson Co. Part)							
JEFFERSON COUNTY TOTAL	67,783	72,704	78,484	93,475	85,980	13,276	18.26%

Source: Demographic Services Center, Wisconsin Department of Administration and Discovery Group



JEFFERSON COUNTY

PROJECTED PERCENT POPULATION CHANGE 1997-2020
BASED ON MID-RANGE PROJECTIONS

DISCOVERY GROUP

FIGURE 1.2

8

AGE DISTRIBUTION

In 1990, the median age in Jefferson County was 32.8 years old (Source: U.S. Census 1990). In that year, 30.5 percent of the population was between the ages of 25 and 44, 25.8 percent of the population was under the age of 18, 11.9 percent was between the ages of 18 and 24, 18.8 percent was between the ages of 45 and 64, and 13 percent of was over 65 (Table 1.5). The 1990 Jefferson County median age and age distribution was comparable to State of Wisconsin figures (Table 1.5).

The 1980 median age in Jefferson County was 29.4 and 12 percent of the population was over the age of 65. Both of these figures rose slightly between 1980 and 1990.

The 1990 median age in Jefferson County was higher than the median age of 30.7 in Dane County and lower than the median age of 34.0 in Waukesha County.

Table 1.5 Age Distribution (1990)

Age	Jefferson County		Wisconsin	
	Number	Percent	Number	Percent
0-4	4,687	6.9	360,635	7.4
5-17	12,795	18.9	930,099	19.0
18-24	8,087	11.9	506,809	10.4
25-44	20,672	30.5	1,551,895	31.7
45-64	12,715	18.8	891,386	18.2
65+	8,827	13.0	650,945	13.3
Total	67,783	100	4,891,769	100

Source: U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1990.

RACE

In 1990, the total racial and ethnic minority population residing in Jefferson County was 1,138. This figure represents 1.7 percent of the County's population. Of the total racial and ethnic minority population residing in Jefferson County, 238 were Black, 204 were American Indian, Eskimo or Aleut, and 293 were Asian & Pacific Islander. The largest ethnic group were the 1,054 persons of Hispanic origin (Table 1.6).

The Bureau of the Census showed that the State of Wisconsin had a racial and ethnic minority population, which was 7.7 percent of the total population in 1990. This is significantly higher than the 1.7 percent in Jefferson County (Table 1.6).

Table 1.6 Racial and Ethnic Composition

Race	Jefferson County		Wisconsin	
	Number	Percent	Number	Percent
White	66,645	98.3	4,514,315	92.3
Black	238	0.4	244,305	5.0
American Indian, Eskimo, or Aleut	204	0.3	39,725	0.8
Asian & Pacific Islander	293	0.4	53,058	1.1
Other	403	0.6	40,366	0.8
Hispanic Origin	1,054	1.6	87,609	1.8

Source: U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1990.

1.B. EMPLOYMENT ANALYSIS

EMPLOYMENT BY INDUSTRY

In 1996, Jefferson County had 36.4 percent of workers in the manufacturing of durable and non-durable goods, 21.5 percent in services, 17.8 percent in retail trade, and 11.2 percent in public administration. Jefferson County also had 2.8 percent of workers in construction and mining and 4.2 percent in transportation, communications and public utilities (Table 1.7).

Jefferson County is a manufacturing county where permanent, full-time positions are the rule. Manufacturing represents the largest industry in the County. The manufacturing industry grew by 13.8 percent between 1991 and 1996.

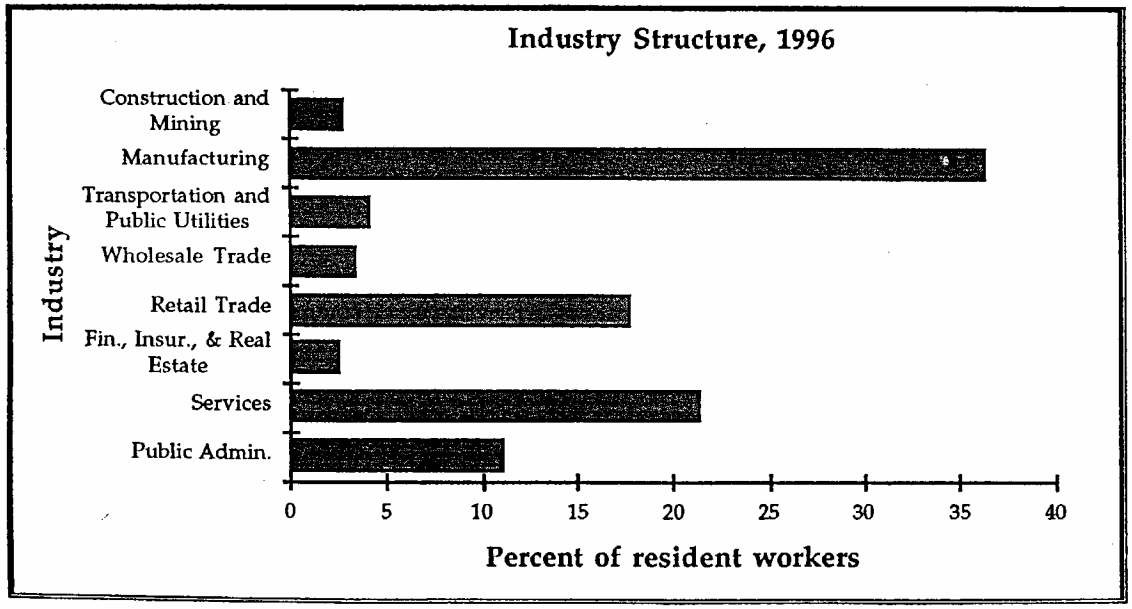
Service and retail trade employment represent the second and third largets industries in Jefferson County. The trade industry, including the wholesale trade, accounted for 21.3 percent of the total employemnt, however it had one of the slowest growth rates. The slow growth rates may be due to the fact that Jefferson County does not have large retail outlets and consumers are going outside the County to buy large ticket items. The servcies industry accounted for 21.5 percent of the total employement and had a 23.1 percent change in since 1991.

Table 1.7 Employment by Industry (1996)

Industry	Jefferson County			
	Number of Workers	Percent	Percent Change 1 Year	Percent Change 5 Year
Construction and Mining	970	2.8%	0.2%	18.3%
Manufacturing	12,700	36.4%	7.8%	13.8%
Trans., Communications & public utilities	1,470	4.2%	7.9%	19.1%
Wholesale trade	1,230	3.5%	-7.5%	-10.1%
Retail trade	6,200	17.8%	-2.1%	13.1%
Finance, insurance, & real estate	890	2.6%	6.1%	21.2%
Services	7,500	21.5%	1.8%	23.1%
Public administration	3,900	11.2%	5.4%	16.2%
Total	34,860	100%	3.5%	15.3%

Source: Jefferson County Workforce Profile, Department of Workforce Development, 1997

Figure 1.3 Industry Structure (1996)



LABOR FORCE ESTIMATES

Effective January 1998, the total labor force in Jefferson County was 41,415, of which 40,522 were employed and 1,463 were unemployed. The unemployment rate effective January 1998 was 3.5 percent. The unemployment rate in January 1997 was 3.6 percent.

1.C. HOUSING ANALYSIS

HOUSEHOLD CHARACTERISTICS

In 1990, there were 24,019 households in Jefferson County. Of the total households in the County, 61 percent were located in the cities and villages, while the remaining 39 percent were located in the towns. The 1990 data shows 64,026 persons in households. The data also shows 3,757 persons in group quarters. Of the total persons in group quarters, 84 percent were in the cities and 16 percent were in the Town of Jefferson (Table 1.8).

In 1990, there were an average of 2.67 persons per household in Jefferson County. The urban cities and villages had fewer persons per household than the rural towns.

In comparison, in 1970 there were a total of 17,800 households in Jefferson County. In 1980 this figure rose to 22,264 showing a 25 percent increase between 1970 and 1980. Between 1980 and 1990 there was only an 8 percent increase in households in Jefferson County.

Table 1.8 Household Characteristics (1990)

Municipality	Persons in Households	All Households	Persons per Household	Total Persons in Group Quarters
T. Aztalan	1,476	508	2.91	0
T. Cold Spring	683	235	2.91	0
T. Concord	1,896	661	2.87	0
T. Farmington	1,404	447	3.14	0
T. Hebron	975	338	2.88	0
T. Ixonia	2,789	912	3.00	0
T. Jefferson	2,060	717	2.87	613
T. Koshkonong	2,984	1,064	2.80	0
T. Lake Mills	1,584	555	2.85	0
T. Milford	1,007	350	2.88	0
T. Oakland	2,526	955	2.65	0
T. Palmyra	1,177	417	2.82	0
T. Sullivan	1,929	667	2.89	0
T. Sumner	822	324	2.54	0
T. Waterloo	694	245	2.83	0
T. Watertown	1,840	639	2.88	0
V. Cambridge	963	385	2.50	0
Jefferson Co. (part)	80	37	2.16	0
Dane Co. (part)	883	348	2.54	0
V. Johnson Creek	1,259	456	2.76	0
V. Palmyra	1,539	567	2.71	0
V. Sullivan	432	174	2.48	0
C. Fort Atkinson	10,119	3,987	2.54	108
C. Jefferson	5,953	2,393	2.49	125
C. Lake Mills	4,086	1,629	2.51	57
C. Waterloo	2,636	1,017	2.59	76
C. Watertown	17,808	6,827	2.61	1,334
Jefferson Co. (part)	11,336	4,430	2.56	1,052
Dodge Co. (part)	6,472	2,397	2.70	282
C. Whitewater	8,836	3,631	2.43	3,800
Jefferson Co. (part)	740	295	2.51	1,726
Walworth Co. (part)	8,096	3,336	2.43	2,074
JEFFERSON CO. TOTAL	64,026	24,019	2.67	3,757

Source: U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1990.

HOUSING TYPE

In 1990, there were 25,719 total housing units in Jefferson County. Of the total housing units, 70.5 percent were one unit detached, 22 percent were multifamily and 7.4 percent were mobile homes (Table 1.9).

Of the total housing units in 1990, 55.3 percent were located in the cities, 39.7 percent were in the towns, and 5 percent in the villages. The housing units are comprised of 78 percent single-family and 22 percent multifamily (Table 1.9).

In comparison, in 1970 there were 19,198 total housing units in Jefferson County. This figure rose to 24,030 in 1980, representing a 25 percent increase from 1970 to 1980.

In 1990, there were 940 seasonal housing units in Jefferson County (Table 1.10). This represents 3.65 percent of the total housing units in Jefferson County. The towns with the highest percentage of seasonal housing units were as follows: the Town of Koshkonong at 12.61 percent, the Town of Lake Mills at 11.92 percent, the Town of Oakland at 17.48 percent, the Town of Palmyra at 18.21 percent and the Town of Sumner at 37.34 percent.

Table 1.9 Housing Type (1990)

Municipality	All Housing Units	1 Unit Detached	Multi-Family	Mobile Home	Percent Multifamily	Percent Single-Family
T. Aztalan	529	455	36	38	6.81	93.19
T. Cold Spring	248	202	19	27	7.66	92.34
T. Concord	688	461	38	189	5.52	94.48
T. Farmington	473	425	20	28	4.23	95.77
T. Hebron	361	321	10	30	2.77	97.23
T. Ixonia	939	798	124	17	13.21	86.79
T. Jefferson	735	652	52	31	7.07	92.93
T. Koshkonong	1,269	1,109	92	68	7.25	92.75
T. Lake Mills	663	536	54	73	8.14	91.86
T. Milford	377	335	16	26	4.24	95.76
T. Oakland	1,207	900	65	242	5.39	94.61
T. Palmyra	549	450	58	41	10.56	89.44
T. Sullivan	706	495	50	161	7.08	92.92
T. Sumner	541	504	19	18	3.51	96.49
T. Waterloo	257	231	7	19	2.72	97.28
T. Watertown	672	593	31	48	4.61	95.39
V. Cambridge	389	263	116	10	29.82	70.18
Jefferson Co. (part)	37	18	19	0	51.35	48.65
Dane Co. (part)	352	245	97	10	27.56	72.44
V. Johnson Creek	473	224	119	130	25.16	74.84
V. Palmyra	600	406	172	22	28.67	71.33
V. Sullivan	177	106	65	6	36.72	63.28
C. Fort Atkinson	4,074	2,816	1,221	37	29.97	70.03
C. Jefferson	2,472	1,460	832	180	33.66	66.34
C. Lake Mills	1,735	1,132	452	151	26.05	73.95
C. Waterloo	1,048	694	255	99	24.33	75.67
C. Watertown	7,009	4,564	2,359	86	33.66	66.34
Jefferson Co. (part)	4,550	2,779	1,706	65	37.49	62.51
Dodge Co. (part)	2,459	1,785	653	21	26.56	73.44
C. Whitewater	3,831	1,453	2,117	261	55.26	44.74
Jefferson Co. (part)	339	34	137	168	40.41	59.59
Walworth Co. (part)	3,492	1,419	1,980	93	56.70	43.30
JEFFERSON CO. TOTAL	25,719	18,136	5,669	1,914	22.04	77.96

Source: U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1990.

Table 1.10 Seasonal Housing Units (1990)

Municipality	All Housing Units	Seasonal Units	Percent of Total Units
T. Aztalan	529	3	0.57
T. Cold Spring	248	5	2.02
T. Concord	688	4	0.58
T. Farmington	473	6	1.27
T. Hebron	361	13	3.60
T. Ixonia	939	1	0.11
T. Jefferson	735	2	0.27
T. Koshkonong	1,269	160	12.61
T. Lake Mills	663	79	11.92
T. Milford	377	14	3.71
T. Oakland	1,207	211	17.48
T. Palmyra	549	100	18.21
T. Sullivan	706	19	2.69
T. Sumner	541	202	37.34
T. Waterloo	257	3	1.17
T. Watertown	672	12	1.79
V. Cambridge	389	0	0.00
Jefferson Co. (part)	37	0	0.00
Dane Co. (part)	352	0	0.00
V. Johnson Creek	473	0	0.00
V. Palmyra	600	18	3.00
V. Sullivan	177	0	0.00
C. Fort Atkinson	4,074	9	0.22
C. Jefferson	2,472	10	0.40
C. Lake Mills	1,735	52	3.00
C. Waterloo	1,048	2	0.19
C. Watertown	7,009	14	0.20
Jefferson Co. (part)	4,550	8	0.18
Dodge Co. (part)	2,459	6	0.24
C. Whitewater	3,831	28	0.73
Jefferson Co. (part)	339	7	2.06
Walworth Co. (part)	3,492	21	0.60
JEFFERSON CO. TOTAL	25,719	940	3.65

Source: U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1990.

2. ENVIRONMENTAL AND NATURAL RESOURCE ANALYSIS

2.A. GENERAL

Jefferson County is in southeastern Wisconsin, midway between Milwaukee and Madison. The County contains 16 towns, 4 villages and 6 cities encompassing approximately 360,960 acres or 576 square miles.

Approximately 17,056 acres of the County are covered by water and 35,970 acres by woodland. There are also 252,000 acres of land in farms.

2.B. PHYSIOGRAPHY AND DRAINAGE

Jefferson County is located in the glaciated part of the state. Approximately 12,000 years ago glaciers were formed by the continental accumulation of snow and reached a maximum thickness of two miles. The ice sheet spread over Canada and into Wisconsin during this time and shaped the Jefferson County landscape. As the glacier advanced, it transported large amounts of rock debris called drift. As the ice melted, sand and gravel were deposited forming outwash plains. The topography and drainage patterns are determined by the glacial activity that once took place in the County.

The end moraines in Jefferson County were formed by the Green Bay glacier and the Delavan lobe of the Lake Michigan glacier. The end moraine that marks the farthest advance of the Green Bay glacier is in the southeast corner of the County. In this area, the Green Bay glacier and Delavan lobe met and formed the kettle moraine. Several subparallel recessional moraines of the Green Bay Glacier cross the County. The northernmost moraine lies along an arc from Waterloo to Lake Mills, through the City of Jefferson, and then northeast to the Jefferson-Waukesha County line.

The ground moraine in much of Jefferson County is from the Green Bay glacier. A ground moraine usually forms a gently undulating plain with moderate relief. The elongated hills of ground moraine, called drumlins, are aligned along the direction of the ice movement. Some of the drumlins in Jefferson County are double or even triple tailed with subordinate overlapping crests. All have low concave depressions between drumlins. These depressions are either glacial spillways, old lake basins or low till controlled benches. Many of these depressions contain wetlands.

A large outwash plain stretches from the south of Lake Ripley to just north of Lake Mills. Water trapped by the Kettle Moraine to the east and the terminal moraine to the south and east formed large areas of shallow lakes that had rapidly fluctuating water levels. These lakes have long since drained away and have left behind large areas of relatively low and gently undulating benchlands.

The large glacial lake basin west of the Kettle Moraine has slopes that are nearly level to sloping except where high till ridges or drumlins are present. Most of the lake-laid soils have restricted surface or internal drainage.

Due to the ice damming and the drift plugging natural water sources, the large and small streams meander throughout the County. Where meltwaters were unable to deepen channels sufficiently, marshes and shallow lakes have remained. This is evidenced by the high percentage of wetlands in the County.

TOPOGRAPHY

The Jefferson County landscape is level to rolling and hilly. The highest point in the county is 1,062 feet above mean sea level and can be found in the Kettle Moraine State Forest. The lowest point is the water surface of Lake Koshkonong, which is 776 feet above mean sea level.

The landforms that create this diverse landscape are basically glacial drift features. These features are the result of the depositional and shaping action of the glaciers. They include drumlins, end moraines, kettle moraine, glacial lake basin, and eskers. Since each of these features are unique with respect to the Jefferson County landscape, it is important to describe each of them.

Drumlins

Drumlins are oval hills, sometimes called whalebacks, that have tapered extensions to the leeward of iceflow. Their long axes point northward in the direction of the glacial ice movement. They can reach lengths of up to three miles and widths of one-quarter mile, but are generally a few hundred feet in width and only one-half mile long. They can be 20 to 150 feet above the surrounding topography. Drumlins occur 'en echelon' or as 'basket of eggs' groups. Drumlins are the dominant feature of the County's landscape and they give a definite north-south "grain" to the topography. The northern third of Jefferson County has one of the three classic drumlin fields in the United States (Figure 2.1).

End Moraines

End moraines take the form of a rolling upland that stretch across the central and southern portions of the County in three separate belt-like patterns. The end moraines give the landscape an east-west "grain." The hills around Lake Mills, Oak Hill, and those to the south and west of Jefferson are examples of end moraines.

Kettle Moraine

Kettle moraine is the extremely undulatory topography that was formed between the lobes of two continental ice sheets. The southeast corner of the County is an area known as the "Kettle Moraine". This landscape south and east of the Village of Palmyra is characterized by sharp hills and landlocked pocket valleys.

Glacial Lake Basins

Glacial lake basins are areas where lakes were created by the melting of the continental ice sheets. The water has drained away leaving large areas that are low and flat. A large glacial lake basin includes most of the Towns of Palmyra, Cold Spring, Hebron, and Sullivan. The largest valley in the County, that through which the Bark and Scuppernong Rivers now run, is a glacial lake basin. Generally, the larger low lying land in the County were once occupied by glacial lakes.

Eskers

Eskers are low, narrow ridges of sand and gravel deposited in streams, which once flowed in or under the glacial ice sheet. Eskers can be found in the northeastern part of the County from Concord to the City of Watertown. These picturesque ridges can also be found in the Town of Waterloo.

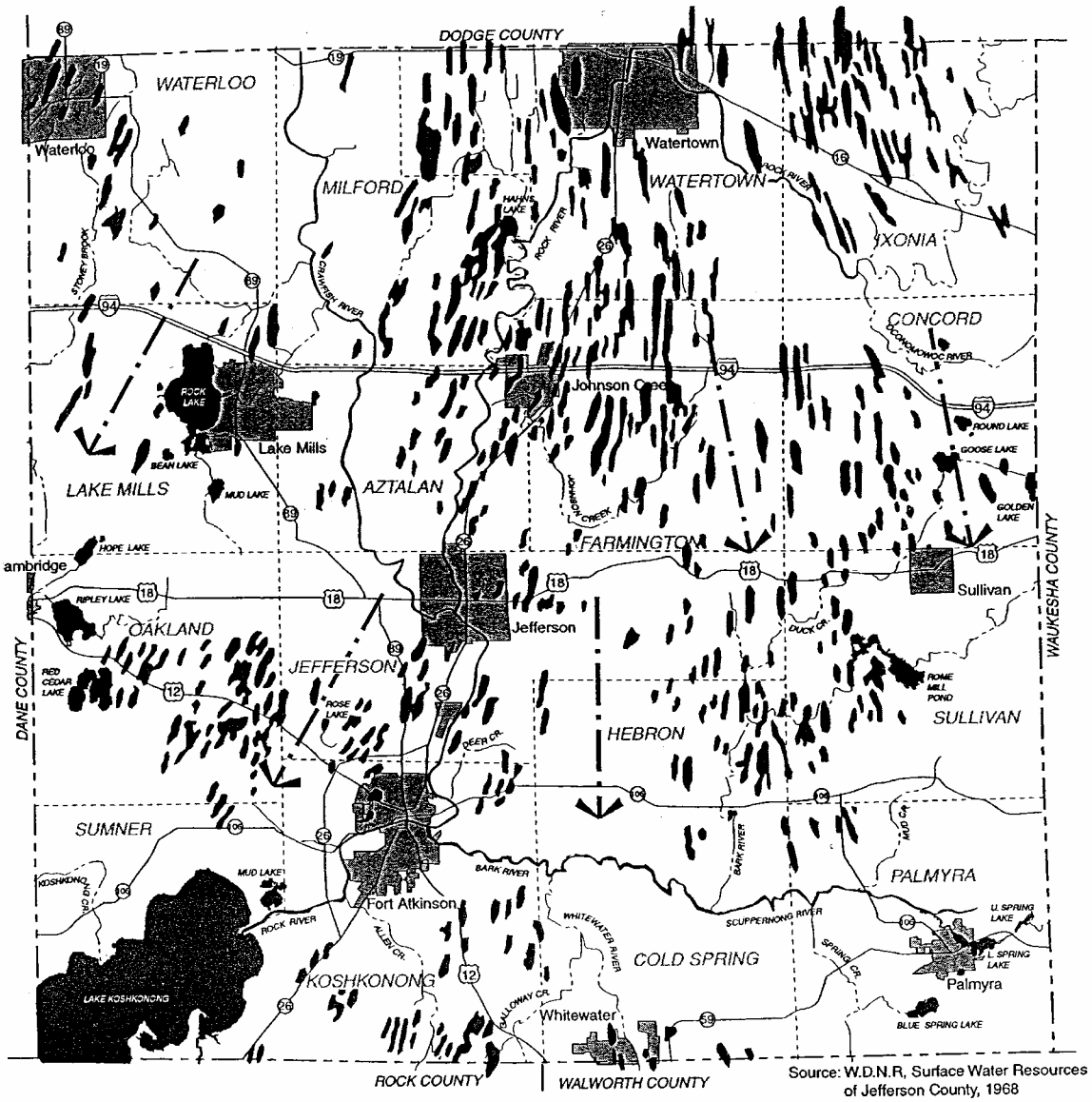

DODGE COUNTY
WATERLOO
Waterloo
MILFORD
Watertown
WATERTOWN
IXONIA
CONCORD
ROCK LAKE
Lake Mills
LAKE MILLS
AZTALAN
Johnson Creek
FARMINGTON
Sullivan
Jefferson
OAKLAND
JEFFERSON
HEBRON
SULLIVAN
SUMNER
PALMYRA
Fort Atkinson
KOSHKONONG
COLD SPRING
Palmyra
Whitewater
LAKE KOSHKONONG
DANE COUNTY
WAUKESHA COUNTY
ROCK COUNTY
WALWORTH COUNTY
Source: W.D.N.R, Surface Water Resources of Jefferson County, 1968
0 1 2 Miles
GLACIAL DRUMLINS
DIRECTION OF ICE CREEP
JEFFERSON COUNTY
DRUMLINS
N
DISCOVERY GROUP

FIGURE 2.1

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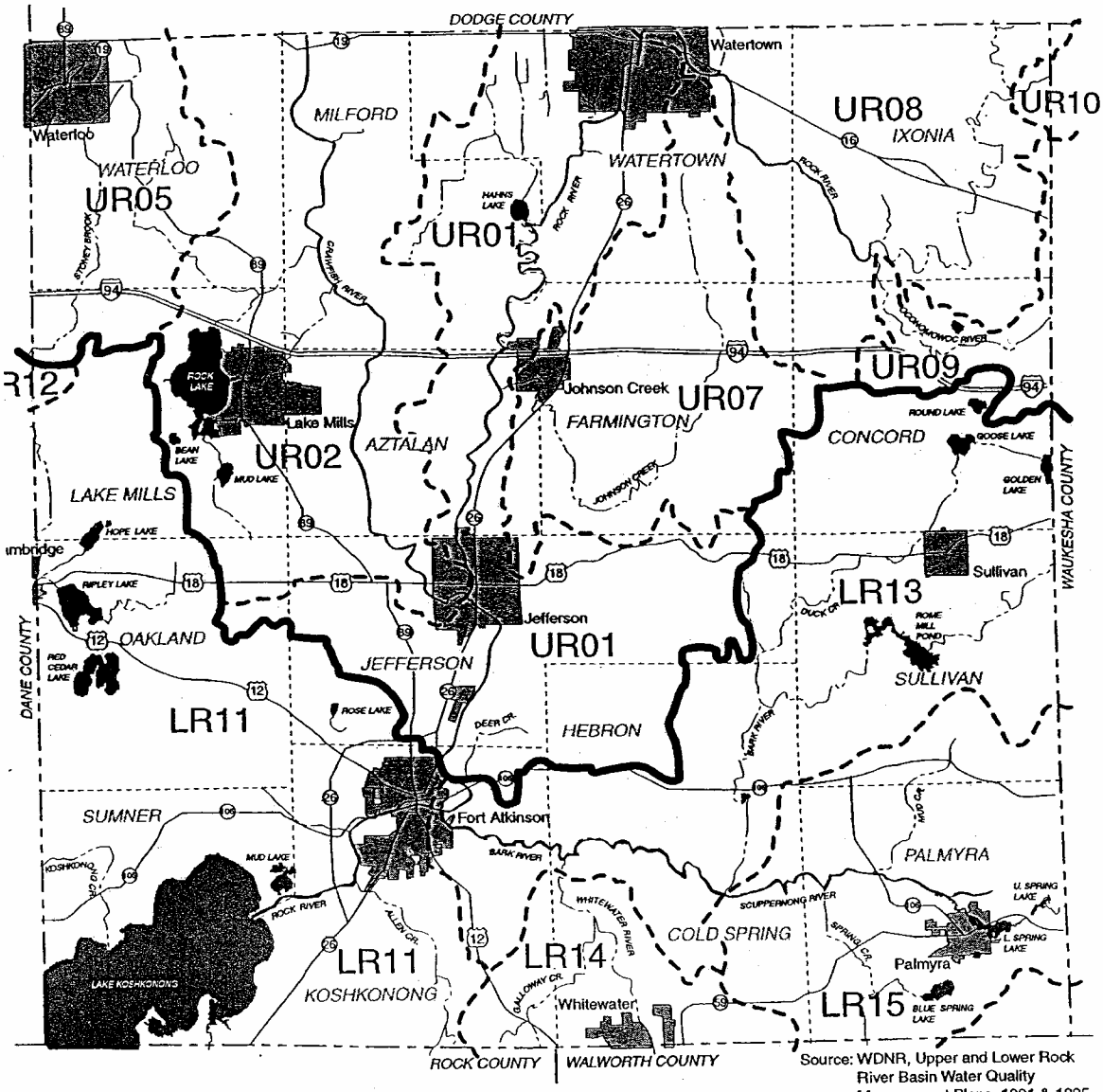

Source: WDNR, Upper and Lower Rock River Basin Water Quality Management Plans, 1991 & 1995

WATERSHEDS

UR01 = MIDDLE ROCK RIVER
UR02 = LOWER CRAWFISH RIVER
UR05 = MAUNESHA RIVER
UR07 = JOHNSON CREEK
UR08 = SINISSIPPI LAKE
UR09 = OCONOMOWOC RIVER
UR10 = ASHIPPUN RIVER
LR11 = LOWER KOSHKONONG CREEK
LR12 = UPPER KOSHKONONG CREEK
LR13 = BARK RIVER
LR14 = WHITEWATER CREEK
LR15 = SCUPPERNONG RIVER

0 1 2 Miles

JEFFERSON COUNTY

DRAINAGE BASINS and WATERSHEDS

N

DISCOVERY GROUP

FIGURE 2.2

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Appendix

Contents:

- Approach for Solid Waste Management Plan: Preferred Steps

Appendix
APPROACH FOR THE SOLID WASTE MANAGEMENT PLAN: PREFERRED STEPS (PLAN FOR THE PLAN)

Diagnosis/Purpose of Effort

Based on prior meetings; a diagnosis by SHWEC; diagnoses by staff, local UWEX Community Development Agent in conjunction with SHWEC – the determination is offered that the approach needed combines two approaches:

- Operations and Supervision (Management Plan)
- Planning and Design (Strategic Plan)

The first purpose is to:

1. Guide the County Solid Waste Committee in carrying out its primary responsibilities as they currently exist for:
   a. Oversight of the County's landfills
   b. Operation of Hazardous Waste Removal Program (Ag and Household Clean Sweep)
   c. Promotion of recycling and composting

2. Explore the modification or expansion of the County's role in solid waste.

Preferred Steps

Combination of 1) Management Plan
2) Strategic Plan

Form and Timing of Reports

1. Management Plan – Steps 1-4 for combined process
2. Strategic Plan – Steps 1-5 for combined process
   A. Management Plan – Steps 5-8 to follow
   B. Strategic Plan – Steps 6-10 to follow

   (Specific Follow-Up Strategies Unknown. May generate studies/plan e.g. Permanent Hazardous Waste Site)

Role/Functions of Solid Waste Committee

Role/Function of Planning Team/Other Resources/Consultants

Workshops	1) Management Plan 1-4	TBD	1) Management Plan	Steps 5-8
	2) Strategic Plan 1-5		2) Strategic Plan	Follow-Up

Commitment of Resources – Tag to each step

Assemble and Approve

Detail the Planning Effort

Activity chart for proposed project element, people involved, time frame, costs.

**Changes by the Solid Waste Committee on December 21, 1999 are shown in Italics.*

Prepared by Steve Grabow
Revised January 17, 2000

Approach for Solid Waste Management Plan:
Preferred Steps

I. Plan for the Plan	<u>What – Determine Purpose(s)</u> Commit to Process Steps Plan format and Timing of Reports Role of Committee Role/Function of Planning Team Role of Advisory Group Project Manager Steve Grabow Role	<u>Who/How</u> Bob Mueller to compile: <u>Plan Format</u> - Loose Leaf Binder (Initially) for In-House Effort - Documenting 7 meetings Options for Follow-up: • Consultant/Editor - Follow-Up with Gaps/Reactions to Draft Plan - Edited/Annotated Report by Knowledgeable Technical Firm • Consultant or UW-Madison - Design Monitoring of Landfill Scope of Work • Nucleus of Planning Team • Solid Waste Committee • Steve Grabow, Bruce Haukom, Bob Mueller • Steve Brachman and Wayne Pferdehirt from UW-Extension Solid and Hazardous Waste Education Center • See "*Who To Involve As Advisors*" – Appendix • Bob Mueller • Initial Facilitator of Plan for Planning • Will Document "Plan for Plan" • Will facilitate agreed upon sessions • Will Not Be "Clerk"	<u>Timing</u> Dates for In-House Effort to be determined. Depends on Option for Proceeding

	Identify Resources Deliverable Product Identification Proposed Approach (Plan for Planning) Details of Planning Effort (Plan for Planning) *Measures of Effectiveness:* • *Develop a useful manual* • *Develop summary guides*		

Note: Based on prior diagnoses, two initial purposes have been preliminarily identified:

1. Guide the County Solid Waste Committee in carrying out its primary responsibilities as they currently exist for:
    a. Oversight of the County's landfills
    b. Operation of Hazardous Waste Removal Programs (Agricultural and Household Clean Sweeps)
    c. Promotion of recycling and composting
    d. *Clarify existing role of Solid Waste Committee members, Zoning Committee, and Zoning Department in Landfill Siting issues (example – work with the County Board Chair and County Administrator in assigning Solid Waste Committee members to Siting Committee)*
2. Explore the modification or expansion of the County's role in solid waste

Given these two preliminary purposes an outline of possible procedural steps to guide the scope of work is offered. This outline combines a planning approach and the management/operations approach.

	What	Who/How	Timing
II. Review Mandates	**Purpose 1a:** Review Wisconsin laws on siting landfills (#2 from SHWEC)	• Phil Ristow may have – Zoning • SHWEC Fact Sheet – Steve Brachman • Patti Cronin Summary - Zoning	Jan. 18
	County Zoning Ordinance (#3 from SHWEC)	• Zoning to document what exists • SHWEC to prepare	Jan. 18
	Informal/*Other: Review local government responsibilities for implementing the Wisconsin Recycling Law (consider "responsible unit" implications)* Output: Reference and Summarize. *Output should be simple and brief and should include both a brief oral presentation and a bulleted list of points for documentation.*		Jan. 18
	Purpose 1b: Formal/Informal on Hazardous Waste Programs Output: Reference *Motivation* and Summarize	• Document at meeting (motivation) and bring in Resolutions from prior AG/HH Clean Sweeps) – Steve Grabow to bring in	Jan. 18
	Purpose 1c. and 2: Formal/Informal Output: Reference *Motivation* and Summarize *Document any community expectations or County rules for Purpose 2.*	Document expectations at meeting • Reference County Rules in County Budget – Carl Jaeger to bring in	Jan. 18
Stakeholder Analysis	**For all purposes:** Output: Facilitated Session and Report	• Steve Grabow to facilitate with Planning Team	Jan. 18
III. Mission/Purpose/ Values	**Clarify Solid Waste Committee Mission** Output: Facilitated Session and Report	• Steve Grabow to facilitate with Planning Team	Jan. 18

Issue Identification	<u>What</u> **Purpose 2** Facilitated Session and Report Priority rating on any modifications or new issues to address	<u>Who</u> Steve Grabow to Facilitate with Advisory Group	<u>Timing</u> Feb. 1
IV. Assessments/ S.W.O.T.	<u>What</u> • **Purpose 1** Changes and Trends Reports (Landfills, Hazardous Waste, Recycling Promotion – from #1 SHWEC) Output: Report/ presentations • **Purpose 2 – S.W.O.T.** Use from SHWEC #1 and #3 as Prompts * County role on disposal, transfer, recycling * Waste reduction * Composting * Contracting * Relationships with other Units of Government Output: Facilitated Session and Report	<u>Who/How</u> • Documentation of 1998 Data on Statewide Trends (Landfill Volumes, Disposal rends, Recycling Tonnages); County and Municipality Report – by Steve Brachman • S.W.O.T. with Broad Advisory Group – Invite letter by Bob Mueller (out by 1/11/00) – Steve Grabow to facilitate (Meeting 4 also includes orientation/ overview by Steve Grabow and Carl Jaeger)	On Feb. 1 On Feb. 1

	What	Who/How	Timing
V. A. Outputs/ Reporting Systems	• Possible Outputs for Purpose 1		
	Site and Ordinance Review Procedures (Landfill Expansions)	• From Phil Ristow and Zoning; (Adapt from Mandates)	Draft for Meeting 7 (Date Unknown)
	Guide for Landfill Monitoring (Routine, Aesthetic, Technical – Subtitle D Requirements)	• Bob Mueller make initial call: Contact Landfill Reps., DNR Rep., Phil O'Leary at UW-Madison (to help design the scope) or consultant to help	
	Guide for Assessing Aesthetics	• Use Wayne Tlusty Report – Insert into Plan Document	For Meeting 7
	Guide for Operating Clean Sweeps	• By Bob Mueller with Steve Grabow resources; Document this Ag Clean Sweep; Steve Brachman to pull Elaine Andrews' Packet	Draft for Meeting 7
	• Other Optional Outputs: Guide for Promotion/ Education on Recycling Periodic Forums on Solid Waste Topics County/Local Task Force on Solid Waste Topics Other • Select Desired Output		
V. A. Output	• *Discussion by Committee on*		

(continued)	*Desirable Output and Optional Ways of Handling* *Agreeing on the "Procedural Guides" to develop* *Identifying a checklist of needed "Procedural Guides" (a tool kit)* *Develop a Framework (generic) for "Procedural Guides"* *Agreeing on and developing priority "Procedural Guides" for a few, selected activity areas. (Confirm the major areas needing a "Procedural Guide")* *Including completed "Procedural Guides" in the Plan/ Management Document* *Notes:* • *For Landfill Expansion: Procedural Guide should identify things to seek in the Negotiated Agreement; and things to be aware of from a citizen's standpoint.* • *Possible Outputs* *Checklists of Important Monitoring Elements* *Identification of County expectations, measures, and evaluation system (See Step VI)* *Some of these extensive efforts may require consulting help*		

B. Issue Identification	<u>What</u> • Purpose 2 Facilitated Session and Report Priority rating on any modifications or new issues to address	<u>Who</u> Steve Grabow to Facilitate with Advisory Group	<u>Timing</u> On Feb. 1
VI. Performance Expectations	Purpose 1 Establish performance expectations, measures, and evaluation systems for each desired output in section V. Outputs.		
Strategy Formulation	Purpose 2 Establish strategies for key issues and initial actions Output: Facilitated Session and Report	Steve Grabow to Facilitate with Planning Team	Feb. 22
VII. Adoption	Assemble and Approve Proceedings for Steps I-VI Design Approve Proposed Approach (Plan for Planning) *Approve Plan* *Option to approve by Solid Waste Committee* *Option to approve selected plan elements by County Board and other government units* *Option to have full plan approved by County Board to reaffirm the Committee's current and future responsibilities*	Planning Team and Solid Waste Committee	
VIII. A. Implement Details of Planning Effort (Plan for Planning) VIII. Implement Details (continued)	Develop Activity Chart of: Proposed Project Element People Involved Time frame Costs Prepare Final Scope of Work/Deliverables <u>What</u> Prepare RFP if necessary for	Planning Team Planning Team <u>Who</u> Bob Mueller and Steve	

	Consultants/Outside Resources Identify Project Manager	Grabow	
B. Develop Plan	Complete Plan/Guidelines	Zoning and UW-Extension	

WHO TO INVOLVE AS ADVISORS TO PLANNING TEAM

Purpose:

- Advice and counsel to Planning Team
- Orientation and Step IV – Possibly Also Step VII (React to Draft)

Who	Which Step(s)
Don Reese, Town of Farmington	*Orientation on process and their role Step IV, VII (React to Recommended Plan)
Jim Hartwig, Village of Johnson Creek/County Board	Step IV
Paul Swart, Town of Koshkonong	Step IV
Jim Hintz/Brian Fields, Watertown Recycling	Step IV
Jay Schwoch, Deer Track Park	Step IV
Ed Scaro, Valley Meadows	Step IV
John's Recycling	Step IV
Phil Ristow, Corporation Counsel	Step IV
Joe Nehmer, Emergency Management/Parks Director	Step IV
Joe Brusca, DNR Solid Waste	Step IV
Roger Springman, Wisconsin DATCP	Step IV
Representative David Ward	Step IV

INITIAL SEQUENCING OPTION: Solid Waste Management Plan

Meetings 1 & 2	Meeting 3	Meeting 4	Meeting 5	Meeting 6	Meeting 7
Step 1 • Purpose • Steps (refine) • Committee Role • Others' Role • Identify Resources • Identify Deliverables Mandates • Assign Research	Step 1 – continued • Assemble/ Approve Approach • Develop Activity Chart for Plan Effort Details Step II Mandates • Report on/ Summarize • Facilitate Stakeholders Analysis Step III Mission • Clarify/ Approve Step IV Assessments • Assign Trends Report Step 1 - continued • Consider and assign RFP for Purpose 1 (if consultants needed)	Step IV Assessments • Reports for Purpose 1 • Facilitate S.W.O.T. for Purpose 2	Step 1 - continued • Finalize RFP (if needed) Step V Issues • Facilitate Issues for Purpose 2	Step VI Strategy Formulation • Facilitator for Purpose 2 • Design a Response for Strategies/ Initial Actions using elements in "Plan for Planning" • Integrate follow-up actions into the Activity Chart • Add to Scope of Work • Revise RFP/or Contract if consulting is needed • Assign the assembly of a Status Report	• Review Status of Planning Effort to Date • Determine if portions of the plan can be approved for policy or direction • Reassess work elements