

Follow Up Materials
from July 18, 2018 LCCMR Meeting

Follow Up #	7/18 Minutes Item #	Agenda Item & Description	Response From
1	3 & 4	Approval of work plan for M.L. 2018, Chp. 214, Art. 6, Sec. 4, Subd. 6(1), "Anoka County-Waste Disposal Engineering (WDE) Closed Landfill," MPCA <ul style="list-style-type: none"> • Email with responses • Additional information provided but not included in packets: <ul style="list-style-type: none"> ○ 1970 Solid waste rules ○ EPA Notice of Administrative Order- 1991 ○ Landfill Clean Up Agreement- 1996 	Greta Gauthier, MPCA
2	3 & 5	Presentation and discussion –Freeway Landfill, Burnsville <ul style="list-style-type: none"> • Email with responses 	Annalee Garletz, MN DNR
3	6	Presentation on the Board of Water and Soil Resources (BWSR) Internal Controls and Compliance Audit dated June 5, 2018 from the Office of Legislative Auditor (OLA) <ul style="list-style-type: none"> • Letter 	John Jaschke, BWSR Gerald Van Amburg, BWSR
4	9	Discussion with Minnesota Management and Budget (MMB) on M.L. 2018, Chp. 214, Art. 6, Sec. 4 "Special Appropriation Trust Fund Bonds and Appropriations" <ul style="list-style-type: none"> • Email with responses • Debt service comparison between G.O. bonds and Appropriation bonds 	Jennifer Hassemer, Assistant Commissioner, MMB

From: Gauthier, Greta (MPCA) [mailto:greta.gauthier@state.mn.us]
Sent: Friday, July 27, 2018 12:22 PM
To: Becca Nash <becca.nash@lccmr.leg.mn>
Cc: Koudelka, Kirk (MPCA) <kirk.koudelka@state.mn.us>; Sather, Kathryn (MPCA) <kathryn.sather@state.mn.us>; Wallerstedt, Jamie (MPCA) <jamie.wallerstedt@state.mn.us>; Hanson, Pat (MPCA) <pat.hanson@state.mn.us>; Stellmach, David (MPCA) <david.stellmach@state.mn.us>; Donath, Alexis (MPCA) <alexis.donath@state.mn.us>
Subject: MPCA Landfill responses from July 19 LCCMR questions

Becca,

Below and attached is info in response to the Landfill-related questions asked at the July 19 LCCMR meeting but were not answered during our testimony that day.

[...]

Greta

- **WDE: Could the 3M incinerator accept the hazardous waste?**

The 3M incinerator accepts hazardous waste only from 3M facilities.

- **WDE: Who were the responsible parties for the hazardous waste?**

Below under “Appendix D” is a list of RPs that received the CERCLA 106 Order from EPA requiring them to take remedial design and remedial action activities at WDE Landfill while it was in the federal Superfund program. Further below is the “WDE PRP Group” that signed the Landfill Cleanup Agreement entering the site into the Closed Landfill Program (CLP). That agreement is also attached. There are some differences between the two lists and we don’t know the reasons for those differences.

APPENDIX D

LIST OF RESPONDENTS

1. FORD MOTOR COMPANY
2. FMC CORPORATION
3. HONEYWELL, INC.
4. LAND O' LAKES, INC. (MIDLAND COOPERATIVES)
5. MINCO PRODUCTS, INC.
6. 3M COMPANY
7. ONAN CORPORATION
8. THE CORNELIUS COMPANY
9. THERMO KING CORPORATION
10. UNYSIS
11. AMERICAN NATIONAL CAN (AMERICAN CAN & NATIONAL CAN)
12. BEMIS COMPANY
13. FOLEY MANUFACTURING (FOLEY BELSAW)
14. FEDERAL HOFFMAN, INC. (FEDERAL CARTRIDGE CORP.)
15. G & K SERVICES, INC.
16. H.B. FULLER COMPANY
17. THE GILLETTE CO.
18. WHITTAKER CORP.
19. SOO LINE RAILROAD CO.
20. THE MOGUL CORP.
21. MELRON, INC., RONALD ROTH, WASTE CONTROL, INC., AND WASTE DISPOSAL ENGINEERING (ROTH ENTITIES)
22. PAKO CORPORATION
23. NORTHWEST AIRLINES, INC.
24. ALCO STANDARD CORP. (SAXON PAPER) (BROWN AND BIGELOW)
25. ECONOMIC LABORATORIES, INC.
26. CONTROL DATA CORPORATION
27. LEONARD JOHNSON

ATTACHMENT A

THE WDE PRP GROUP MEMBERS

Brantjen & Kluge
Ceridian (f/k/a Control Data Corporation)
Consolidated Container Corporation (f/d/b/a Dworsky Barrel)
Ecolab, Inc. (f/k/a Economic Laboratories, Inc.)
Federal Cartridge Corporation
Foley Belsaw Company (f/d/b/a Foley Manufacturing)
Ford Motor Company
The Gillette Company
The Glidden Company
G & K Services, Inc.
H.B. Fuller Company
Honeywell, Inc
IMI Cornelius Inc. (f/d/b/a The Cornelius Company)
Land O'Lakes, Inc. (successor in interest to Midland Cooperatives, Inc.)
Minco Products, Inc.
The Mogul Corporation
MRC Holdings, Inc. (successor to American Can Company)
3M Company (Minnesota Mining and Manufacturing Company)
Northwest Airlines, Inc.
Onan Corporation
Soo Line Railroad Company
Thermo King Corporation, a wholly owned subsidiary of
Westinghouse Electric Corporation
Union Brass & Metal Manufacturing Co.
Unisource Worldwide (f/d/b/a Paper Corporation of America)
United Defense, L.P. (f/d/b/a FMC)
Unisys Corporation
Whirlpool Corporation
Whittaker Corporation

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- **WDE: What is our statutory authority for cleaning up hazardous waste under the closed landfill program?**

MPCA solid waste rules from 1970 (attached) explicitly allowed disposal of hazardous wastes at sanitary landfills. The 1970 permit application says "Toxic and hazardous wastes will be accepted and disposed of at this site. **Such an operation is in keeping with SW 6 (2) s of the Minnesota Pollution Control Agency Regulations** for a sanitary landfill." The Closed Landfill Program allows entry of eligible permitted MSW landfills and does not prohibit eligibility of landfills that accepted hazardous waste. Below is excerpt, SW 6 (2) s, from attached 1970 rules that established a protocol for disposal of toxic and hazardous wastes at sanitary landfills:

(s) Toxic and hazardous wastes shall be disposed of in a sanitary landfill site in accordance with the following procedures, or as otherwise designated by the Agency.

(1) A separate area shall be designated for the disposal of these materials. A permanent sign shall be posted in the area, indicating its designated use and precautions which shall be taken during disposal.

(2) Disposal shall take place at least ten feet above the groundwater level; or at least ten feet above limestone, quartzite, or granite-type bedrock; and sandstone. The toxic and hazardous disposal areas to be used shall be sealed prior to disposal.

(3) When possible, all toxic and hazardous wastes shall be neutralized or otherwise made harmless prior to disposal.

(4) Upon disposal of toxic and hazardous wastes, containers and any materials washed from the vehicles transporting the materials, shall be immediately covered with at least 18 inches of earth.

(5) The site location for toxic and hazardous wastes disposal shall be field identified and registered with the county register of deeds.

(6) A record shall be kept of the quantity and type of toxic and hazardous material accepted and disposed of. Such records shall be reported to the Agency monthly.

(7) In the discretion of the Agency, special conditions may be attached to the disposal of toxic and hazardous wastes.

- Freeway Landfill: When will DNR prohibit pumping at the Kramer Quarry?

I have referred this question to Bob Meier and Annalee Garletz at DNR.

From: [Garletz, Annalee \(DNR\)](#)
To: [Gauthier, Greta \(MPCA\)](#); [Meier, Bob \(DNR\)](#)
Cc: [Becca Nash](#); [Donath, Alexis \(MPCA\)](#); [Koudelka, Kirk \(MPCA\)](#); [Tidemann, Jason \(DNR\)](#)
Subject: RE: LCCMR Freeway landfill question - pumping at Kraemer Quarry
Date: Tuesday, August 7, 2018 2:12:19 PM

Good afternoon,

I looked into your question with our Ecological and Water Resources Division staff and they provided the following response:

The concern about the landfill and quarry pumping has been around since the permits were issued. This concern, along with concern for the Blackdog calcareous fens in Burnsville, the Savage calcareous fen in Savage, trout streams, and post-mining public water supply options all lead the DNR to careful considerations of changes to pumping rates and levels in the quarry. Based on the quarry being able to mine to an elevation of 578', there are 15 – 20 years left of mining in the Kraemer pit.

Barring any water resource concern, such as negatively affecting a fen's hydrology, domestic well interference, etc., reducing quarry dewatering is not likely. Any modification of the dewatering permit would be done carefully and with good cause. There would surely be meetings with PCA and the surrounding communities for any substantial change. As the supplier of wholesale water to Eagan and Savage from the quarry, the City of Burnsville is also acutely interested in the fate of quarry dewatering.

As the end of active mining gets closer, there will need to be agency and local unit of government coordination with the permittee.

I hope that this was helpful. If you have any follow-up questions do not hesitate to get in touch.
Annalee

Annalee Garletz
Department of Natural Resources

From: Gauthier, Greta (MPCA)
Sent: Friday, July 27, 2018 12:25 PM
To: Meier, Bob (DNR) <bob.meier@state.mn.us>; Garletz, Annalee (DNR) <annalee.garletz@state.mn.us>
Cc: Becca Nash <becca.nash@lccmr.leg.mn>; Donath, Alexis (MPCA) <alexis.donath@state.mn.us>; Koudelka, Kirk (MPCA) <kirk.koudelka@state.mn.us>
Subject: LCCMR Freeway landfill question - pumping at Kraemer Quarry

Hi Bob and Annalee,

During LCCMR on July 19, during discussion of the Freeway Landfill, a question came up about water appropriation for a mining operation in Burnsville, Kraemer Quarry. The question was: How much

longer will DNR allow this quarry to pump groundwater?

Recall that quarry pumping is diverting groundwater flow away from Freeway landfill which is unlined and holds 5 million cubic yards of waste. Naturally, the Commission members wanted to know how much longer the quarry would be allowed to pump water.

I'm copying Becca Nash from LCCMR.

Thank you!

Greta

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Ms. Nancy Gibson, Chair
Representative Josh Heintzeman, Co-Chair
Senator Bill Ingebrigtsen, Co-Chair
Legislative-Citizen Commission on Minnesota Resources
100 Rev. Dr. Martin Luther King Jr. Blvd.
State Office Building, Room 65
Saint Paul, MN 55155

August 1, 2018

Dear Co-Chair Gibson, Representative Heintzeman, and Senator Ingebrigtsen,

On behalf of the Board of Water and Soil Resources, we thank you for the opportunity to appear before the Legislative-Citizen Commission on Minnesota Resources (LCCMR) on July 18, 2018, to overview the Office of the Legislative Auditor's (OLA) recent fiscal audit report of BWSR's Internal Controls.

We appreciate the OLA's time and attention during this audit process and we have begun to implement significant process improvements to our internal fiscal systems, which we will explain in further detail below. First, we'd like to share some board priorities for agency success as it relates to this audit:

Business Model: Our agency is charged with program development and fiscal oversight of state conservation and Legacy funds through Minnesota's locally-led conservation delivery system. This means that while our staff size is relatively small, we interact with over 250 local government organizations, and dozens of associations, interest groups and contractors, to implement our legislative directives.

BWSR has always operated with a small staff to maximize resources available to local governments for implementation of conservation projects. We are well aware of, and wrestle with, the tension between too-little/too-much agency administration and oversight.

Risk Management: At the conclusion of our last internal controls compliance audit (2010), we prioritized new fiscal internal control activities on the highest risks funds. The advent of Legacy dollars refocused our staff's attention on those significant dollars that are granted to local governments outside of the state agency accounting systems. Over the last several years staff have built, evaluated, and refined processes to ensure compliance, accountability, and outcomes with a focus on the highest risk funds (those that are provided to others for external implementation).

For example, this included building a request for proposals process, application scoring and ranking by multiple staff and agencies (with senior management review and board decision); grant distribution and tracking throughout the process; reporting/closeout and development of a fiscal verification and reconciliation process.

Results: These highest risk funds compromise over 83% of the agency's biennial budget. The audit had no findings for this portion of the budget. This is a testament to the prioritization of building external processes and controls after our last audit. We appreciate the Office of the Legislative Auditor's acknowledgement that our grants and easements oversight is

performing well: *“We felt that controls over the grants were very good and we also thought that the controls over the easements were excellent, as well. We had no findings in those areas. So 83% of the financial activity we reviewed had outstanding compliance and very good controls.”* - Christopher Buse, Deputy Legislative Auditor, OLA during 06/28/18 Testimony at the Lessard-Sams Outdoor Heritage Council.

Building on the systems and rigor applied to our external funding, we will use that platform to apply the necessary precision to our internal processes to accomplish greater consistency and proper documentation of internal administrative expenditures. As part of our efforts to improve, twelve months ago the agency began phase one of a significant overhaul of its fiscal and administrative operations. We are already using the OLA’s findings to implement several process improvements, new controls, staffing, and procedures to ensure fiscal safeguards are in place. Examples include:

Staffing: We have undergone significant staffing changes in our financial and internal controls sections, including: a new Chief Financial Officer (Nov 2017), new accounting and contract personnel (April 2018), a new internal controls and compliance officer (July 2017), and we are in the process of hiring a new payroll position.

External Review: We contracted with another agency to review and recommend how BWSR should improve its fiscal processes and management (October 2017).

Processes: BWSR has made substantial headway in addressing administrative expenditure audit findings related to documentation and coding consistency. We have implemented several process improvements, such as: updated time activity reporting processes (August 2017), updated conflict of interest staff form (March 2018), and new business expense processes (June 2018). The OLA acknowledged these purposeful steps: *“I think one thing that was really good about the agency’s response to this is that the executive director of the agency, by the time the report was issued, he had already undertaken... ..steps to have members of the DNR come in and do an external assessment of their accounting practices and I thought that was really a positive move that was in line with our broad recommendations. He also hired a new controller for the agency from the Human Services Department that had experience dealing with complex accounting systems such as they have in the human services arena.”* - Christopher Buse, Deputy Legislative Auditor, OLA during 06/28/18 Testimony at the Lessard-Sams Outdoor Heritage Council.

The second phase of our internal fiscal systems overhaul is now underway, as our staff begins a thorough review of our policy and procedures to make sure they reflect statute requirements and professional best practices. As we embark on these revisions we are also investing in training and adding capacity to make sure we have the staff in place to assure there is sufficient documentation and planned redundancies to continue the forward progress we have made.

Conflict of Interest: We maintain that Board members follow a consistent and transparent conflict of interest procedure. During each public board meeting where a decision will be made, the BWSR Board Chair reads aloud the conflict of interest statement and directs Board members to disclose and document potential, perceived, or actual conflicts. Our process then calls for those forms to be collected and presented to the Board Chair and the Executive Director. Then for each corresponding vote, abstentions are announced. Our position remains that appointed Board members cannot be told whether or how to vote. *Furthermore, in every case where board members have disclosed actual conflicts they have abstained from voting.*

Processes: Our Board takes conflicts of interest very seriously. As a Board, we expect transparency of our members and our staff, and are committed to an ethical decision-making process. Protecting Minnesota’s soil and water resources is our mission, one that guides our board

and our staff in that process. If the Office of Grants Management or the OLA believes there are ways we can add clarity to that process we will make adjustments.

Finally, on behalf of the Board, we want to reiterate our confidence in the work of the agency's staff, and our continued commitment to the important work the agency does and the value it provides to both local governments and to Minnesota's natural resources. The agency is focused on continuous improvement to build its organizational capacity via staffing and training to assure we are good stewards of taxpayer dollars purposed for improving and protecting our valuable soil and water resources.

Thank you for your interest in this topic and for this opportunity to respond. You can also get more details on any aspects of the items noted in the report from BWSR Assistant Director Angie Becker Kudelka. She can be reached at: angie.beckerkudelka@state.mn.us or 612-616-5112.

Sincerely,



Gerald Van Amburg
Chair, Board of Water and Soil Resources

Sincerely,



John Jaschke
Executive Director, Board of Water and Soil Resources

CC: Becca Nash, Director

DEBT SERVICE COMPARISON

(In Thousands)

	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>	<u>FY22</u>	<u>FY23</u>	<u>Total Debt Service</u>
\$100M GO Bonds Sold in 2018 (Net General Fund Transfer)	10,560	8,213	8,000	7,787	7,573	130,132
Biennial Cost	10,560		16,213		15,360	
\$100M GO Bonds Authorized in 2018, Cash Flow Projects (Net GF Transfer)	2,598	6,985	9,066	8,194	7,976	133,081
Biennial Cost	2,598		16,051		16,170	
\$100M Taxable AP Enviro Trust Fund Bonds Sold in 2018	3,000	8,200	8,200	8,200	8,200	167,000
Biennial Cost	3,000		16,400		16,400	
Biennial Difference (Tx Enviro AP vs GO Sold in 2018)	(7,560)		187		1,040	36,868
Biennial Difference (Tx Enviro AP vs GO Authorized in 2018)	402		349		230	33,919

From: Hassemer, Jennifer (MMB) [mailto:jennifer.hassemer@state.mn.us]
Sent: Thursday, July 19, 2018 5:20 PM
To: Becca Nash <becca.nash@lccmr.leg.mn>
Subject: RE: note to presenters for the 7/18 LCCMR meeting

Hi Becca,
I wanted to follow up on two items from yesterday's hearing.

First, attached is an email the second public testifier handed me after discussion of the appropriation bonds ended. He discussed certain accessibility issues, and in my brief conversation with him afterwards had asked for accessible versions of the presentations made yesterday. I didn't catch his full name, but understand others at the legislature may be familiar with who he is. His email is listed, however (mnrick@mniinter.net).

Second, in response to Rep. Wagenius's question about a comparison of GO and appropriation (AP) bond costs, attached is an analysis MMB prepared for legislative staff at the end of session. It compares appropriation bonds to both (1) \$100 million in GO bonds all sold in 2018 and (2) \$100 million in GO bonds authorized in 2018 and sold based on normal multiyear cash flows.

This information needs to be caveated, though, because it's not a good apples-to-apples comparison for the following reasons:

- GO bonds have an 18 month debt service transfer requirement, which leads to higher general fund costs in (1) the first year if looking at a \$100M bond sale in 2018 or (2) the first three years if doing a regular cash flow.
- GO bonds amortize rapidly under our capital investment guidelines – costs are much higher in the first 5-10 years than in years 10-20.
 - Relatedly, GO bonds are structured for level principal, which also contributes to higher costs in the early years.
- AP bonds are structured for level debt service through the life of the bonds.
- For these reasons, the attached worksheet also includes a column for total estimated debt service to show the total estimated cost differential. I say estimated because actual interest rates on these bond sales are not known and this analysis is based on forecasted interest rates from the February forecast. This information should be taken with a grain of salt.

Thanks,
Jen

Jennifer Hassemer
Assistant Commissioner | Debt Management Division
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mn.gov/mmb

