



Greg Isakson, P.E.
Public Works Director/County Engineer
Goodhue County Public Works Department

2140 Pioneer Road
Red Wing, MN 55066
Office (651) 385-3025

TO: Honorable County Commissioners
Scott Arneson, County Administrator

FROM: Greg Isakson, Public Works Director

RE: 17 May 22 County Board Meeting
**Approve the Transfer of the Goodhue County (a.k.a. Bench St.) Landfill
to the MPCA**

Date: 11 May 22

Summary

It is requested the County Board approve the final documents to facilitate the Minnesota Pollution Control Agency (MPCA) to issue a 'Notice of Compliance' for the Goodhue County Landfill, (a.k.a. the Bench St. Landfill or the Red Wing Municipal Landfill) that will allow the transfer the ownership and future responsibilities for the landfill from Goodhue County to the MPCA.

Background

Goodhue County has been working with the City of Red Wing and the Minnesota Pollution Control Agency (MPCA) for several years to obtain a Notice of Compliance for the Landfill and transfer the ownership and future responsibilities of the Goodhue County Landfill from Goodhue County to the MPCA.

As the final step in this long process, it is requested that the County Board authorize the County Board Chair and the County Administrator to sign:

- A. The attached 'LANDFILL CLEANUP AGREEMENT BETWEEN GOODHUE COUNTY, CITY OF RED WING, AND THE COMMISSIONER OF THE MINNESOTA POLLUTION CONTROL AGENCY PURSUANT TO MINN. STAT. 115B.39-115B.445.
- B. The attached Monitoring Easement.
- C. The attached Waiver of Claims.

It is Further Requested that the County Board authorize the Finance Director to send \$2,457,280.65 to the MPCA to cover post closure financial assurance.

Assuming the Board approves the above documents and authorizes the Finance Director to send the post closure financial assurance to the MPCA, a 'closing date' will be then be set up and County

representative, (potentially Red Wing representatives) and MPCA representatives will meet and sign these documents.

Alternatives

- Approve the above-mentioned agreement, easement, waiver and post closure financial assurance payment.
- Ask MPCA to consider a revision of any of the above.
- Take no action, and keep the landfill and all the future responsibilities of owning a closed landfill.

Recommendations

It is Staff's recommendation that the County Board authorize transfer of the landfill to the MPCA by approving the above-mentioned agreement, easement, waiver, and post closure financial assurance payment.

LANDFILL CLEANUP AGREEMENT
BETWEEN
GOODHUE COUNTY,
CITY OF RED WING,
AND
THE COMMISSIONER OF
THE MINNESOTA POLLUTION CONTROL AGENCY
PURSUANT TO MINN. STAT. §§ 115B.39-115B.445

PREAMBLE

The Commissioner of the Minnesota Pollution Control Agency (“Commissioner”) has the power and duty to administer and enforce the provisions of the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.445 (the “Act”), including the authority to enter into binding agreements necessary to achieve compliance with the requirements of the Act.

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

The Goodhue County Landfill, a.k.a. the Bench Street Landfill or the Red Wing Municipal Landfill, (hereinafter “the Landfill”) is a qualified facility within the meaning of Minn. Stat. § 115B.39, subd. 2(o)(2)(ii) and is not subject to a cleanup order as that term is defined in the Act.

The Commissioner has determined that closure requirements at the Landfill, as required by Minn. Stat. § 115B.40, subd. 4(a)(1), have been met.

NOW, THEREFORE, it is hereby agreed as follows:

A. Parties to the Agreement.

The parties to this Landfill Cleanup Agreement (“Agreement”) are:

- (1) Goodhue County (hereinafter “the County”);
- (2) the City of Red Wing (hereinafter “the City”); and
- (3) the Commissioner;

(collectively the “Parties”).

B. Purpose of the Agreement.

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

C. Definitions.

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

D. Factual Background.

The Minnesota Pollution Control Agency (“MPCA”) issued Solid Waste Facility Permit SW-174 to the City on September 28, 1976 (the “Permit”), to construct and operate a mixed municipal solid waste (“MMSW”) land disposal facility. A modification to the permit was approved by the MPCA on September 15, 1989, to allow the City to construct a lined MMSW

combustor ash disposal cell at the facility for the disposal of ash from the City's incinerator (the City had been disposing combustor ash in the unlined landfill since 1982). Ownership of the facility was transferred from the City to the County on March 12, 1990. Since then, both the City and the County have been co-permittees under the permit, which was reissued on November 2, 1994, August 25, 2003, and April 13, 2012.

The MMSW disposal area was developed in two simultaneous phases: 1) a general refuse area referred to as the bypass area, and 2) an area used primarily for construction debris – referred to as the demolition waste disposal area. However, because the material disposed in the demolition waste disposal area did not conform to the definition of “demolition debris” as defined in Minn. R. 7035.0300, subp. 30, it was regulated as a MMSW disposal area. The lined combustor ash disposal area was constructed in two phases – Phase I in 1990 and Phase II in 1995.

In 1998, the MCPA entered into a Stipulation Agreement with the permittees due to operational items including, but not limited to, operating a waste transfer station without a permit and disposal of unacceptable wastes.

The demolition waste disposal area ceased operation in 1995 and the MMSW disposal area closed in 1997. Construction activities associated with the closure of both areas were completed in 1997. In 2003, the MPCA issued the co-permittees an Administrative Penalty Order for operational issues including, but not limited to, stormwater management and cover improvements in the MMSW combustor ash disposal area. In 2012, the MPCA granted the City a variance to accept screening fines from its Materials Recovery Facility. The MMSW combustor ash disposal area remained in operation until December 28, 2018, when it ceased accepting combustor ash in order to comply with Minn. Stat. §115B.39, Subd. 2(o)(2)(ii). Closure of the MMSW combustor ash disposal cell was completed in late 2020. The County is the current owner of the property associated with SW-174.

The County property (hereinafter the “County Property”), where the MMSW and combustor ash cells are located (PID Nos. 556450240 and 556450251), is depicted on **Attachment A**, and is legally described as follows:

The West Half of the Northwest Quarter of Section 36, Township 113 North, Range 15 West, in Goodhue County, Minnesota, lying west of Bench Street (County Road No. 1), as defined in Goodhue County Highway Right of Way Plat Number 1 and Goodhue County Highway Right of Way Plat No. 127, on file in the Goodhue County Recorder’s Office, EXCEPT the North 724.13 feet thereof.

The City acquired property west of the combustor ash cell as buffer on April 28, 2005. The buffer property (hereinafter the “City Property”) (PID No. 558990030), as depicted on **Attachment A**, is legally described as follows:

Outlot A of Med Tech Park Subdivision 5th Addition according to the plat on file in the office of the County Recorder for Goodhue County, Minnesota.

The County Property and the City Property are hereinafter jointly referred to as the “Landfill”.

E. Transfer of Title to Property

1. Title to Environmental Response Action Equipment. The County and the City hereby transfer to the Commissioner, effective at Closing, all right, title and interest in all Environmental Response Action (as that term is defined in Minn. Stat. § 115B.39 subd. 2) equipment and structures at the Landfill or on any Monitoring Property referred to in Section H of this Agreement and the ownership of and the right to freely use, recover and sell, or contract for use, recovery and sale, any material disposed of at the Landfill, including landfill gas.

2. Title to Landfill. The City and County hereby agree to transfer the Landfill to the Commissioner, including ownership of and the right to freely use, recover, and sell, or contract for use, recovery and sale, any material disposed of at the Landfill, including landfill gas, subject to and in accordance with the terms and conditions set forth in this Agreement.

3. Closing. The act of settlement of the conveyance of title to the Landfill to the Commissioner, subject to the terms and conditions set forth in this Agreement, is referred to as the Closing. The Closing shall be conducted at a mutually agreeable time and place to occur no later than June 30, 2022 ("Closing Date"). The Parties may close at any time prior to the Closing Date, provided the Commissioner provides no less than ten (10) days' notice to County and City of its intent to close, all contingencies have been satisfied to the Commissioner's satisfaction, and neither the County nor the City are in default of this Agreement. The County and City agree to deliver possession of the Landfill to the Commissioner on the Closing Date. At Closing, the Parties shall execute and deliver the following:

- a. A warranty deed executed by the County conveying the County Property to the Commissioner free and clear of all encumbrances, except permitted encumbrances as determined by the Commissioner;
- b. A warranty deed executed by the City conveying the City Property to the Commissioner free and clear of all encumbrances, except permitted encumbrances as determined by the Commissioner; and
- c. All other documents reasonably necessary to transfer the Landfill to the Commissioner free and clear of all encumbrances except the permitted encumbrances.

4. Abstract. Within ten (10) days after this Agreement is fully executed by the Parties, the County and the City shall provide the Commissioner with currently updated patent forward abstracts of title for the County Property and City Property or, if the properties are registered under Minnesota Statutes §§ 508.01 et seq., current certificates of title for such properties. The cost of providing and updating each abstract or certificate shall be paid by the County and the City, respectively. The Commissioner shall have sixty (60) days after receipt of the updated abstract or certificate to examine the title and notify the County or City of any title objections or issues that need resolution (the "Objections"). Any Objections not raised in such time shall be deemed waived.

5. Title Corrections. The County and the City shall have one hundred twenty (120) days to remedy Objections after notice thereof. If the County or City fail to remedy an Objection within such time period, the Commissioner may terminate this Agreement. All Objections must be remedied to the Commissioner's satisfaction or waived before Closing occurs.

6. Condition of the Property. The County and the City shall not transfer, encumber, or grant any interest in the Landfill prior to conveyance to the Commissioner, and both shall keep the Landfill in its current condition.

7. Right of Entry and Inspection. The Commissioner and its employees, agents, and contractors shall have the right to enter upon the Landfill at reasonable times prior to Closing for surveying and for other purposes related to this Agreement.

8. Costs. The Parties agree to the following allocation of costs:

- a. The County and City shall be responsible for paying all real estate transactional closing costs, deed taxes, and recording costs. The County and City shall also be responsible for paying all real estate taxes due with respect to the Landfill as of the Closing Date and all special assessments levied or pending against the Landfill as of the Closing Date.
- b. Each party will pay its own attorney's and consultant fees.

F. Liens.

The Commissioner reserves the right to file liens under Minn. Stat. § 115B.412, subd. 5, for all eligible costs incurred by the Commissioner in accordance with the procedures referenced therein.

G. Insurance.

1. Copies of Insurance Policies. The County and the City shall provide the Commissioner with copies of all liability insurance policies that provided coverage for property

damage and were in force during the time when the Landfill was in operation or when a release or discharge of pollution potentially occurred at or from the Landfill. The County and the City shall provide all such insurance policies and other evidence of insurance coverage in its possession or which it can reasonably obtain, including certificates of insurance, broker placing slips, canceled checks, invoices, and correspondence showing payment for or acknowledgment of such coverage or related to such coverage, and names of others, including insurance agents and attorneys, who may have information on such insurance coverage. The County and the City shall cooperate and work with the Commissioner to identify insurance policies and coverage, including giving testimony under oath and execution of affidavits. Recognizing the length of time that has elapsed since the Landfill ceased accepting solid waste and that records may not be available, the Commissioner agrees that the obligations undertaken by the County and City under this paragraph shall be satisfied if the County and City make a good faith effort to provide the information including a good faith effort to locate the information, and that such good faith effort, assuming such information is not found, is documented in an email sent to the Commissioner or their representative. If the County or the City fail to fulfill their obligations under this paragraph by Closing, the Commissioner may terminate this Agreement or delay Closing until such obligations are fulfilled.

2. Preservation of Rights. Pending the assignment of rights pursuant to Part G.3., the County and the City shall take all reasonable actions necessary to assert and preserve the Commissioner's right to indemnity or defense under any insurance policies referenced in Part G.1. for claims for environmental response costs related to the Landfill. The Commissioner may direct the County and the City to take reasonable actions required under this paragraph and the County and the City shall take such actions in accordance with the Commissioner's directions. Such actions may include sending, in a timely manner, any required written notices to the insurance

companies notifying the companies of all claims for environmental response costs related to the Landfill. The County and the City shall send copies of all correspondence between them and the insurance companies pertaining to claims for environmental response costs at the Landfill to the MPCA Project Manager identified at the end of this paragraph. The County and the City shall keep the Commissioner informed of the status of any claims or causes of action under any insurance policies referenced above and shall obtain the Commissioner's prior written approval before settling any claims under such insurance policies for environmental response costs related to the Landfill. The County and the City shall assign to the State of Minnesota (the "State") all payments received under such approved settlements for environmental response costs incurred and to be incurred by the Commissioner. The payment shall be made by check to the State of Minnesota - Landfill Cleanup Account, and sent to:

Closed Landfill Program
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

3. Assignment of Rights.

a. When requested by the Commissioner, and subject to the conditions set forth in this Part G.3.(a), the County and the City shall assign to the Commissioner all rights, claims, and causes of action they each have under the insurance policies referenced in Part G.1. for payment of environmental response costs arising out of the operation of the Landfill or other business of the County and the City related to the Landfill. The Commissioner shall not request an assignment for any policy until the insurance company receives notice of the Commissioner's claim for environmental response costs. In the event that an insurance company agrees to defend and indemnify the policyholder for such claim pursuant to its policy by timely written notice to the policyholder, no assignment shall be made to the Commissioner of rights and claims under such policy. The Commissioner may, in the Commissioner's discretion, partially or fully release

the County and the City from completing their obligations to assign the policy rights under the insurance policies referenced in Part G.1. Any assignment shall be executed on a form approved by the Commissioner and may include such reasonable terms and conditions as the Commissioner may prescribe to effectuate the assignment. The County and the City shall execute the assignment within sixty (60) days of a written request by the Commissioner.

b. The County and the City shall reasonably cooperate with the Commissioner and its legal counsel in the furtherance of the claims and causes of action assigned in Part G.3. Such cooperation shall include providing all documents and other items pertinent to the claims raised and other matters of evidentiary value for trial and pre-trial discovery, giving testimony under oath, notifying former employees having information pertinent to the claims or causes of action assigned to the Commissioner and encouraging such employees to make themselves available to the Commissioner for trial and/or deposition and appropriate pre-trial discovery proceedings.

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

1. Cooperation. The County and the City shall reasonably cooperate with the Commissioner and with employees, agents, and contractors of the MPCA and the Commissioner when the Commissioner takes any Environmental Response Action that the Commissioner deems necessary at the Landfill. The County and the City shall not take any action that interferes with such Environmental Response Action, including any actions that disturb or impede the cover, monitoring system, or a gas venting or recovery system that could be installed at the Landfill.

The County and the City agree not to place, or allow others to place, any materials, personal property, equipment or any other items either on or in the Landfill without the prior written consent of the Commissioner.

2. Access to Property. The County and the City hereby grant to the State of Minnesota, acting by the Commissioner and to employees, agents, and contractors of the MPCA, access to the Landfill for the purpose of taking Environmental Response Actions and related actions as the Commissioner deems necessary to carry out the Commissioner's responsibilities under this Agreement and the Commissioner's duties and authorities under the Act, including, but not limited to: accessing the existing Environmental Response Action equipment and structures; installing structures and equipment; installing, operating, sampling, maintaining, repairing, or replacing groundwater monitoring wells, gas monitoring wells, landfill gas extraction system, landfill cover system, or other Environmental Response Action equipment; removing, replacing, or grading of soils; conducting soil borings; collecting surface water samples; mowing grass and managing weeds; and clearing brush or trees, creating roads or trails, or taking other actions as necessary to allow vehicular access on all areas of the Landfill.

The Commissioner shall obtain all necessary permits for installation and maintenance of ground water monitoring wells and, upon completion of the Environmental Response Action including all required monitoring, shall seal the monitoring wells in accordance with State law. The County and the City shall allow such access conditioned only upon presentation of proper identification. The Commissioner may install fences or other equipment or structures by which the Commissioner may control access to the Landfill by persons not authorized under this Agreement.

At the time of signing of this Agreement, the County and the City shall each sign an easement in the form of **Attachment B** to this Agreement granting to the State of Minnesota, acting by the Commissioner, employees, agents and contractors, an easement over certain County-owned and City-owned property, respectively, outside of the Landfill for monitoring purposes (the "Monitoring Property"), including the right of ingress and egress to the Monitoring Property, in

accordance with the rights granted to the Commissioner under this Section H. The County and the City shall file the easements with the county recorder or registrar of titles where the Monitoring Property is located. When the Commissioner determines that an easement is no longer necessary to carry out the Commissioner's duties or authorities under the Act or to protect public health or welfare or the environment, the Commissioner shall file a release of the easement with the county recorder or registrar of titles of the county where the Monitoring Property is located.

3. Access to Records. The County and the City shall deliver all records relating to the operation of the Landfill that are in their possession, including, but not limited to, customer lists, disposal records and hauling records, to the Commissioner. If the County or the City fail to fulfill their obligations under this paragraph by Closing, the Commissioner may terminate this Agreement or delay Closing until such obligations are fulfilled. The City hereby represents that most of the paper records possessed by the City were destroyed by fire and are no longer available.

4. Provision of Information. The County and the City shall provide the Commissioner with a list of all known solid waste haulers who delivered waste to the Landfill. This list shall include the following information for each hauler: a start date and an end date during which the hauler made deliveries to the Landfill, the hauler's proportional contribution to the annual tonnage delivered to the Landfill, the hauler's mailing address, and a contact person at the hauler's organization. The County and the City shall reasonably cooperate and work with the Commissioner to locate and provide this information. Recognizing the length of time that has elapsed since the Landfill ceased accepting solid waste and that records may not be available, the Commissioner agrees that the obligations undertaken by the County and the City under this paragraph H.4. shall be satisfied if the County and the City make a good faith effort to provide the information including a good faith effort to locate the information, and that such good faith effort,

assuming such information is not found, is documented in an email sent to the Commissioner or their representative. If the County or the City fail to fulfill their obligations under this paragraph by Closing, the Commissioner may terminate this Agreement or delay Closing until such obligations are fulfilled. The City hereby represents that the City's records of haulers were destroyed by fire and are no longer available.

5. Assignment of Claims, Warranties and Licenses Related to Remedy Construction, Installation, and Equipment. The County and the City hereby assign to the Commissioner any and all rights arising out of contracts for the design, construction, installation, or purchase of Environmental Response Actions or Environmental Response Action components for the Landfill, including rights with respect to deficient or defective design, construction, or installation; rights under warranties; and licenses to use any equipment or processes.

6. Lawsuits. The County and the City warrant that there are no pending lawsuits related to the Landfill or to other property referenced in this Agreement as of the date of execution of this Agreement. The County and the City have a continuing obligation to promptly inform the Commissioner of pending lawsuits related to all property referenced in this Agreement during the term of this Agreement. If the County and the City fail to provide full, accurate, and complete disclosure of the existence of pending lawsuits, the Commissioner may, at the Commissioner's discretion, cancel this Agreement upon 30 days' written notice to the County and the City.

7. Post-Closure Care. The County and the City shall continue to perform post-closure care at the Landfill, in accordance with permit SW-174, until the issuance of the Notice of Compliance unless otherwise directed by the Commissioner.

8. Bond-Financed Property. The Commissioner may spend state general obligation bond funds to implement Environmental Response Actions associated with the Landfill.

The sale of all or any portion of the Landfill or any other property owned by the County for which such bond money has been or will be expended must comply with the requirements of Minn. Stat. § 16A.695, and any amendments thereto, and any orders or rules of the Minnesota Commissioner of Management and Budget issued or adopted pursuant to that statute.

I. Claims Against the Commissioner Waived.

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

J. Transfer of Financial Assurance Funds.

In accordance with Minn. Stat. § 115B.40, subd. 5, by Closing, the County shall provide evidence that it has transferred to the Commissioner of Revenue for deposit in the Remediation Fund an amount of cash that is equal to the sum of their approved current contingency action cost estimate and any funds required for proof of financial responsibility under Minn. Stat. § 116.07, subd. 4h, that remain after facility closure and any postclosure and custodial care and Environmental Response Action undertaken by the owner or operator at the facility.

The City hereby represents that it expended all funds dedicated for closure of the combustor ash cell from the City's Financial Assurance Closure Fund for the Landfill. Per the letter dated April 12, 2022, from MPCA to the City, the Commissioner determined that the City's

expenses for closure of the combustor ash cell exceeded the balance in the City's Financial Assurance Closure Fund, and that the City was released from all closure requirements pursuant to Minn. R. 7035.2775.

K. Recording of the Agreement.

After the Parties have fully executed this Agreement, the County shall record the executed Agreement with the county recorder or registrar of titles of the county where the Landfill is located.

L. Issuance of Notice of Compliance.

After the Closing, the Commissioner agrees to issue to the County and the City a Notice of Compliance for the Landfill upon (1) satisfactory completion by the County and the City of the obligations under this Agreement, as determined by the Commissioner, and (2) receipt by the Commissioner of a signed Waiver of Claims from each of the County and the City under Minn. Stat. § 115B.40, subd. 7(a)(2) (the "Waiver"), in the form provided in **Attachment C**. The County and the City shall each sign a Waiver at the time of signing of this Agreement and deliver the signed original Waiver to the Commissioner. After issuance of the Notice of Compliance, the Commissioner shall proceed with Environmental Response Actions that the Commissioner deems necessary and refrain from cost recovery related to the Landfill, except as authorized by Minn. Stat. § 115B.40, subd. 7(b). The County and the City shall have a continuing obligation after issuance of the Notice of Compliance to fully comply with this Agreement, including the requirements of Sections G (Insurance), H (Cooperation with Environmental Response Actions, etc.), and I (Claims Against the Commissioner Waived).

M. Enforceability.

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

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

N. Liability and Governmental Immunities.

Each party agrees that it shall be responsible for its own acts and omissions and the result thereof, and those of its officers, employees and agents, in carrying out its obligations under this Agreement, and shall not be responsible for the acts or omissions of the other party, its officers, employees or agents. The liability of the Commissioner shall be governed by the provisions of the Minnesota Tort Claims Act, Minn. Stat. § 3.736, and other applicable law. Nothing contained in this Agreement shall constitute a waiver by the Commissioner of any governmental immunity afforded by law.

O. Amendments.

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

P. Successors and Assigns.

This Agreement is binding upon the County and the City and its heirs, successors and assigns, and upon the Commissioner and the Commissioner's successors and assigns and shall run with the land.

Q. Severability.

If any provision of this Agreement is held to be void, invalid, unenforceable, or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby, unless the Commissioner determines that the provisions rendered invalid are so necessary to the proper execution of the Agreement that it would be in the best interests of the State to rescind the Agreement. In that event, this Agreement may be canceled by the Commissioner upon 30 days written notice to the County and the City.

R. Effective Date.

This Agreement is effective upon the date that the last party signs this Agreement.

S. Notices.

Any notices required or permitted under this Agreement shall be delivered to the receiving party:

(1) in person; (2) by email; or (3) via the United States Postal Service to the following addresses:

If to the County:

Goodhue County Solid Waste Official
Goodhue County Public Works
2140 Pioneer Road
Red Wing, MN 55066

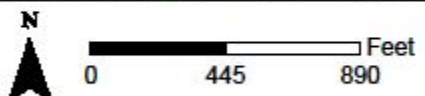
If to the City:

Deputy Director, Solid Waste Division
City of Red Wing
1873 Bench Street
Red Wing, MN 55066

If to the Commissioner:

Land Manager
Goodhue County Landfill
Closed Landfill Program
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Attachment A: Goodhue County Landfill



 Landfill property

Date Exported: 9/9/2021 4:41 PM

ATTACHMENT B

EASEMENT

Monitoring

THIS EASEMENT (“Easement”) is made this ____ day of _____, 2022, between _____, a political subdivision (the “_____”), and the STATE OF MINNESOTA, a sovereign body, by its Commissioner of the Minnesota Pollution Control Agency (“MPCA” or the “Commissioner”).

RECITALS

WITNESSETH:

A. The _____ entered into a Landfill Cleanup Agreement on _____, 2022, with the Commissioner (the “Agreement”) pursuant to the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.445 (the “Act”), related to the Goodhue County Landfill, SW-174 (the “Landfill”) and adjacent property used for solid waste disposal that did not occur under a permit from the agency which are located in Section 36, Township 113 North, Range 15 West, in Goodhue County, Minnesota; and

B. The Commissioner has the authority to acquire an interest in real property the Commissioner deems reasonably necessary for Environmental Response Actions (as that term is

defined in Minn. Stat. § 115B.39 subd. 2) under Minn. Stat. §§ 115B.412, subd. 3, and 115B.17, subd. 15; and

C. Under the Agreement, the _____ agreed to convey to the Commissioner an Easement to allow the Commissioner to conduct monitoring and take other Environmental Response Actions outside of the Landfill on real property owned by the _____ (the “Monitoring Property”), which is depicted on the attached **Exhibit A**; and

D. The Monitoring Property includes parcels owned by the _____ in fee title and is legally described as follows:

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, the rights and obligations contained in this Easement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Commissioner and the _____ agree as follows:

I. GRANT OF EASEMENT.

The _____ hereby grants and conveys to the Commissioner an easement over, under, and across the Monitoring Property for the purposes and under the terms and conditions as hereinafter described.

II. PURPOSE.

This Easement is granted for the following purposes: To permit the Commissioner, the MPCA, and employees, agents, and contractors of the Commissioner to enter or travel across the Monitoring Property and take Environmental Response Actions and related actions as the Commissioner deems necessary to carry out the Commissioner’s duties and authorities under the Agreement and under the Act, including, but not limited to:

- accessing the existing Environmental Response Action equipment and structures;
- installing, operating, sampling, maintaining, repairing, or replacing groundwater monitoring wells, gas monitoring wells, landfill gas extraction system, landfill cover system, or other Environmental Response Action equipment;
- conducting soil borings;

- collecting surface water samples;
- accessing properties adjacent to the Monitoring Property; and
- clearing brush or trees, creating roads or trails, or taking other actions as necessary to allow vehicular access on all areas of the Monitoring Property.

III. COVENANTS AND CONDITIONS.

1. **Interference with Environmental Response Actions.** The _____ shall not take or allow others to take any action that interferes with Environmental Response Actions of the Commissioner.

2. **Proper Identification.** The _____ shall allow access pursuant to this Easement only to agents of the Commissioner who present proper identification.

3. **Ownership of Environmental Response Action Equipment.** Pursuant to the Agreement, the Commissioner is the owner of all Environmental Response Action equipment and structures presently located on the Monitoring Property or installed by the Commissioner, including the Environmental Response Action equipment listed on **Exhibit B**. Such Environmental Response Action equipment and structures cannot be sold, mortgaged or otherwise disposed of without the prior written approval of the Commissioner. In addition, if said Environmental Response Action equipment or structures are financed in whole or in part by the use of state general obligation bonds, the sale of all or any portion of said equipment or structures shall comply with the requirements of Minn. Stat. § 16A.695. The Commissioner agrees to inform the _____ when the Commissioner installs additional Environmental Response Action equipment on, or removes Environmental Response Action equipment from, the Monitoring Property.

4. **Conveyance of Easements.** The _____ shall not convey any other easement for any purpose on the Monitoring Property, including, but not limited to, road or utility easements, that would interfere with the rights granted under this Easement, without a prior written authorization from the Commissioner.

5. **Recording, Termination, and Amendments.** The _____ will record this Easement with the Goodhue County Recorder's Office and/or Registrar of Titles at its expense. This Easement may only be terminated, modified or amended by written instrument duly signed and fully acknowledged by both the _____ and the Commissioner, or their successors or assigns, and recorded in the Goodhue County Recorder's Office and/or the Registrar of Titles.

6. **Run with the Land.** This Easement and the covenants contained herein shall run with the land and shall be binding on all persons and entities who shall come into ownership or possession of the Monitoring Property as described herein.

7. **Representations and Warranties.** The _____ hereby represents and warrants to the Commissioner that, at the time of execution of this Easement:

- A. Every fee owner of the Monitoring Property has been disclosed to the Commissioner.
- B. The _____ holds fee simple title to the land within the Monitoring Property which is subject only to the interests and encumbrances identified in **Exhibit C** to this Easement.
- C. The _____ has authority to grant the rights and interests and carry out the obligations provided in this Easement.
- D. Nothing in this Easement materially violates, contravenes, or constitutes a default under any agreement, document or instrument that is binding upon the _____.
- E. Except as otherwise directed by the Commissioner, the _____ has obtained from each person holding an interest and encumbrance in the Monitoring Property identified in **Exhibit C**, a Subordination Agreement, or other agreement satisfactory to the Commissioner assuring that such person is bound by this Easement and that this Easement shall survive any foreclosure or other action to enforce the interest. Such an agreement may include a waiver of that person's right to consent to any amendment of this Easement. Executed agreements by such persons are included in **Exhibit C** to this Easement.

8. **Well Closure.** In the event that the Commissioner determines that a monitoring well or gas probe is no longer needed, the monitoring well or gas probe shall be sealed in accordance with the provisions of Minnesota Statutes, Chapter 103I, and all rules adopted by the Commissioner of Health. The Commissioner shall be responsible for all costs and activities associated with closure of the monitoring well or gas probe. Upon completion, the Commissioner shall provide the _____ with a copy of the Monitoring Well and Boring

Sealing Record which shall be filed with the Minnesota Department of Health. Upon sealing of the monitoring well or gas probe, the Commissioner shall restore the Property as close as possible to its condition immediately prior to the sealing activities.

9. **Liability.** The liability of the Commissioner shall be governed by the provisions of the Minnesota Tort Claims Act, Minn. Stat. § 3.736, and other applicable law.

10. **Damage to Property.** The Monitoring Well sampling will be performed by the MPCA in a manner which minimizes interference with the _____'s use of the Monitoring Property. If the MPCA's activities damage any portion of the Monitoring Property, the Commissioner shall cause the Monitoring Property to be restored as close to its condition immediately prior to the activities which damaged the Monitoring Property as is reasonably possible under the circumstances.

11. **Sampling Results.** MPCA shall provide copies of the results of all sampling conducted on the Monitoring Property to the _____ within a reasonable amount of time after test validations. The data collected from the monitoring wells on the Monitoring Property will be public information.

[The remainder of this page is intentionally left blank]

CERTIFICATE OF ACCEPTANCE

I, Hans Neve, Manager of the Closed Landfill & Technical Services Section and Delegate of the Commissioner of the Minnesota Pollution Control Agency (“Commissioner”), pursuant to the authority vested in me by law, do hereby, on behalf of the State of Minnesota and the Commissioner, accept the Easement to which this Certificate of Acceptance is attached, having determined that acceptance is reasonably necessary for environmental response actions at or related to the following qualified facility: Goodhue County Landfill, SW-174, and is in the best interest of the State of Minnesota under the provisions of Minn. Stat. §115B.412, subd. 3 (incorporating the provisions of Minn. Stat. §115B.17, subd. 15), of the Minnesota Landfill Cleanup Program, Minn. Stat. §§115B.39-115B.445.

Dated at _____, Minnesota, this _____ day of _____, 2022.

By _____(signature)

Hans Neve, Manager, Closed Landfill &
Technical Services Section
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

THIS INSTRUMENT WAS DRAFTED BY:

Shawn Ruotsinoja
Closed Landfill Program
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
(651) 757-2683

Exhibit A

Map

Exhibit B

Response Action Equipment

Exhibit C

Subordination Agreements

ATTACHMENT C

WAIVER OF CLAIMS

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

WHEREAS, _____, a political subdivision, (the “Waiving Party”) entered into a Landfill Cleanup Agreement with the Commissioner of the Minnesota Pollution Control Agency (the “Commissioner”) under the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.445 (“the Act”), relating to the Goodhue County Landfill SW-174 (“the Landfill”), which agreement became effective on _____; and

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

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

WHEREAS, the Act defines the response action obligations for qualified landfills of owners and operators, persons subject to a cleanup order, and other persons associated with the landfills, as well as the extent to which the Commissioner may seek to assert liability for the cost of environmental response action against such persons, including any such liability under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., (“CERCLA”); and

WHEREAS, by a separate agreement between the Commissioner and the United States Environmental Protection Agency (“U.S. EPA”) entered pursuant to CERCLA and the Act (the “EPA Agreement”), U.S. EPA and the Commissioner have agreed on the terms and conditions

by which the Commissioner will assume responsibility under the Act for all further response actions at the Landfill under CERCLA, and by which the U.S. EPA agrees to close its outstanding cost recovery case under CERCLA for the Landfill rather than seeking payment of such costs from responsible persons, and that owners and operators, persons subject to a cleanup order, and other persons associated with qualified landfills which have received notices of compliance under the Act are among the persons who are protected from future U.S. EPA cost recovery and response action requirements under the EPA Agreement; and

WHEREAS, upon the execution of this Waiver and upon issuance of a notice of compliance for the Landfill, any and all liability which could be asserted by the Commissioner against the Waiving Party under CERCLA for the Landfill is waived, except for any claims which the Commissioner may assert under Minn. Stat. § 115B.40, subd. 7(b)(2), and the Waiving Party is entitled to contribution protection to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for response costs and response actions with respect to the Landfill.

NOW, THEREFORE, in accordance with the requirements of Minn. Stat. § 115B.40, subd. 7(a)(2) and in fulfillment of and in consideration for the provisions of the Landfill Cleanup Agreement, the Waiving Party hereby waives all claims that the Waiving Party may have against any other person for recovery of any environmental response costs related to the Landfill that were incurred prior to the date that the Commissioner issues a notice of compliance for the Landfill. This Waiver (the “Waiver”) applies to all such claims regardless of how they may be asserted, including commencement of a lawsuit, assertion of a counterclaim, cross claim, or third-party claim, demand for payment, offer of settlement, commencement of an administrative action, or other means of asserting a claim under state or federal statute or common law. The Waiving Party expressly retains all defenses that the Waiving Party may have to environmental response cost claims made against it. For the purpose of this Waiver, the term “claims” does not include the enforcement of any right to payment under a contract, including an insurance contract, or to any claim for reimbursement of environmental response costs under Minn. Stat. § 115B.43. This Waiver does not affect any right the Waiving Party may have to seek relief against the Commissioner under the Landfill Cleanup Agreement for the Landfill or with respect to the Commissioner’s duties and responsibilities under the Act. This Waiver is subject to the provisions of Minn. Stat. § 115B.40, subd. 8.

It is the intent of the Waiving Party that this Waiver benefit any person against whom the Waiving Party may purport to assert a claim which has been waived herein for recovery of any environmental response costs related to the Landfill that were incurred prior to the date that the Commissioner issues a notice of compliance for the Landfill.

This Waiver is binding upon the Waiving Party and its heirs, successors, and assigns. This Waiver is effective on the date when the Commissioner issues a notice of compliance for the Landfill under Minn. Stat. § 115B.40, subd. 7.

BY THE SIGNATURE BELOW, THE UNDERSIGNED REPRESENTS THAT *HE/SHE/IT* HAS THE AUTHORITY TO BIND THE PARTY THEY REPRESENT, THEIR AGENTS, SUCCESSORS AND ASSIGNS.

By

Title

Date

(Note: If Waiving Party is a political subdivision, a resolution of governing body of that political subdivision authorizing it to execute this Waiver must be attached unless the political subdivision has adopted a resolution authorizing it to enter the Landfill Cleanup Agreement for the Landfill and the political subdivision has executed that Landfill Cleanup Agreement.)

EASEMENT

Monitoring

THIS EASEMENT (“Easement”) is made this ____ day of _____, 2022, between the County of Goodhue, Minnesota, a political subdivision (the “County”), and the STATE OF MINNESOTA, a sovereign body, by its Commissioner of the Minnesota Pollution Control Agency (“MPCA” or the “Commissioner”).

RECITALS

WITNESSETH:

A. The County entered into a Landfill Cleanup Agreement on _____, 2022, with the Commissioner (the “Agreement”) pursuant to the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.445 (the “Act”), related to the Goodhue County Landfill, SW-174 (the “Landfill”) and adjacent property used for solid waste disposal that did not occur under a permit from the agency which are located in Section 36, Township 113 North, Range 15 West, in Goodhue County, Minnesota; and

B. The Commissioner has the authority to acquire an interest in real property the Commissioner deems reasonably necessary for Environmental Response Actions (as that term is defined in Minn. Stat. § 115B.39 subd. 2) under Minn. Stat. §§ 115B.412, subd. 3, and 115B.17, subd. 15; and

C. Under the Agreement, the County agreed to convey to the Commissioner an Easement to allow the Commissioner to conduct monitoring and take other Environmental

Response Actions outside of the Landfill on real property owned by the County (the “County Monitoring Property”), which is depicted on the attached **Exhibit A**; and

D. The County Monitoring Property includes parcels owned by the County in fee title and is legally described as follows:

The West Half of the Northwest Quarter of Section 36, Township 113 North, Range 15 West, in Goodhue County, Minnesota, lying west of Bench Street (County Road No. 1), as defined in Goodhue County Highway Right of Way Plat Number 1 and Goodhue County Highway Right of Way Plat No. 127, on file in the Goodhue County Recorder's Office, EXCEPT the North 724.13 feet thereof.

Also including:

That part of the Southwest Quarter of the Northwest Quarter of Section 36, Township 113 North, Range 15 West, Goodhue County, Minnesota, being part of Parcel 9, GOODHUE COUNTY RIGHT OF WAY PLAT No. 127 on file and of record in the Goodhue County Recorder's office described as follows:

Commencing at the West Quarter corner of said Section 36, thence North 89 degrees 50 minutes 17 seconds East 1279.92 feet along the south line of said Southwest Quarter of the Northwest Quarter to the southeast corner of said Southwest Quarter of the Northwest Quarter; thence North 00 degrees 39 minutes 57 seconds West 526.70 feet along the east line of said Southwest Quarter of the Northwest Quarter; thence South 89 degrees 20 minutes 03 seconds West 234.82 feet to a point on the westerly right of way of said GOODHUE COUNTY RIGHT OF WAY PLAT No. 127 and the point of beginning; thence North 57 degrees 00 minutes 06 seconds East 52.60 feet; thence North 10 degrees 02 minutes 41 seconds East 111.12 feet; thence North 11 degrees 20 minutes 10 seconds East 248.69 feet; thence North 06 degrees 44 minutes 41 seconds East 167.12 feet; thence North 07 degrees 37 minutes 50 seconds West 210.07 feet to a point on said westerly right of way line of said Plat; thence southwesterly along said westerly right of way line, 764.18 feet along a non-tangential curve concave to the west with a central angle of 09 degrees 57 minutes 03 seconds, a radius of

4400.00 feet, a chord bearing of South 07 degrees 50 minutes 24 seconds West
and a chord distance of
763.22 feet to the point of beginning.
Containing 25,025.20 square feet, more or less.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, the rights and obligations contained in this Easement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Commissioner and the County agree as follows:

I. GRANT OF EASEMENT.

The County hereby grants and conveys to the Commissioner an easement over, under, and across the County Monitoring Property for the purposes and under the terms and conditions as hereinafter described.

II. PURPOSE.

This Easement is granted for the following purposes: To permit the Commissioner, the MPCA, and employees, agents, and contractors of the Commissioner to enter or travel across the County Monitoring Property and take Environmental Response Actions and related actions as the Commissioner deems necessary to carry out the Commissioner's duties and authorities under the Agreement and under the Act, including, but not limited to:

- accessing the existing Environmental Response Action equipment and structures;
- installing, operating, sampling, maintaining, repairing, or replacing groundwater monitoring wells, gas monitoring wells, or other Environmental Response Action equipment;
- conducting soil borings;
- collecting surface water samples;
- accessing properties adjacent to the County Monitoring Property; and
- clearing brush or trees, creating roads or trails, or taking other actions as necessary to allow vehicular access on all areas of the County Monitoring Property.

III. COVENANTS AND CONDITIONS.

1. **Interference with Environmental Response Actions.** The County shall not take or allow others to take any action that interferes with Environmental Response Actions of the Commissioner.

2. **Proper Identification.** The County shall allow access pursuant to this Easement only to employees, agents, and contractors of the Commissioner who present proper identification.

3. **Ownership of Environmental Response Action Equipment.** Pursuant to the Agreement, the Commissioner is the owner of all Environmental Response Action equipment and structures the presently located on the County Monitoring Property or installed by the Commissioner, including the Environmental Response Action equipment listed on **Exhibit B**. Such Environmental Response Action equipment and structures cannot be sold, mortgaged or otherwise disposed of without the prior written approval of the Commissioner. In addition, if said Environmental Response Action equipment or structures are financed in whole or in part by the use of state general obligation bonds, the sale of all or any portion of said equipment or structures shall comply with the requirements of Minn. Stat. § 16A.695. The Commissioner agrees to inform the County when the Commissioner installs additional Environmental Response Action equipment on, or removes Environmental Response Action equipment from, the County Monitoring Property.

4. **Conveyance of Easements.** The County shall not convey any other easement for any purpose on the County Monitoring Property, including, but not limited to, road or utility easements, that would interfere with the rights granted under this Easement, without a prior written authorization from the Commissioner.

5. **Recording, Termination, and Amendments.** The County will record this Easement with the Goodhue County Recorder's Office and/or Registrar of Titles at its expense. This Easement may only be terminated, modified or amended by written instrument duly signed and fully acknowledged by both the County and the Commissioner, or their successors or assigns, and recorded in the Goodhue County Recorder's Office and/or the Registrar of Titles.

6. **Run with the Land.** This Easement and the covenants contained herein shall run with the land and shall be binding on all persons and entities who shall come into ownership or possession of the County Monitoring Property as described herein.

7. **Representations and Warranties.** The County hereby represents and warrants to the Commissioner that, at the time of execution of this Easement:

- A. Every fee owner of the County Monitoring Property has been disclosed to the Commissioner.
- B. The County holds fee simple title to the land within the County Monitoring Property, which is subject only to the interests and encumbrances identified in **Exhibit C** to this Easement.
- C. The County has authority to grant the rights and interests and carry out the obligations provided in this Easement.
- D. Nothing in this Easement materially violates, contravenes, or constitutes a default under any agreement, document or instrument that is binding upon the County.
- E. Except as otherwise directed by the Commissioner, the County has obtained from each person holding an interest and encumbrance in the County Monitoring Property identified in **Exhibit C**, a Subordination Agreement, or other agreement satisfactory to the Commissioner assuring that such person is bound by this Easement and that this Easement shall survive any foreclosure or other action to enforce the interest. Such an agreement may include a waiver of that person's right to consent to any amendment of this Easement.

8. **Well Closure.** In the event that the Commissioner determines that a monitoring well or gas probe is no longer needed, the monitoring well or gas probe shall be sealed in accordance with the provisions of Minnesota Statutes, Chapter 103I, and all rules adopted by the Commissioner of Health. The Commissioner shall be responsible for all costs and activities associated with closure of the monitoring well or gas probe. Upon completion, the Commissioner shall provide the County with a copy of the Monitoring Well and Boring Sealing Record which shall be filed with the Minnesota Department of Health. Upon sealing of the monitoring well or gas probe, the Commissioner shall restore the Property as close as possible to its condition immediately prior to the sealing activities.

9. **Liability.** The liability of the Commissioner shall be governed by the provisions of the Minnesota Tort Claims Act, Minn. Stat. § 3.736, and other applicable law.

10. **Damage to Property.** The Monitoring Well sampling will be performed by the MPCA in a manner which minimizes interference with the County's use of the County Monitoring

Property. If the MPCA's activities damage any portion of the County Monitoring Property, the Commissioner shall cause the County Monitoring Property to be restored as close to its condition immediately prior to the activities which damaged the County Monitoring Property as is reasonably possible under the circumstances.

11. **Sampling Results.** MPCA shall provide copies of the results of all sampling conducted on the County Monitoring Property to the County within a reasonable amount of time after test validations. The data collected from the monitoring wells on the County Monitoring Property will be public information.

12. **Notification.** The Commissioner acknowledges that the County Monitoring Property is also the Right of Way of a County State Aid Highway which has certain requirements to protect the traveling public and to accommodate utilities and adjacent landowners' access to their property. When reasonably possible, the Commissioner shall notify the County at least a week prior to commencing any work in the County Monitoring Property. Prior to commencing such work, the Commissioner shall disclose to the County the locations of all obstructions, equipment or wells that will be located temporarily or permanently in the County Monitoring Property, and the County may recommend alternative locations. The Commissioner shall reasonably cooperate with the County to ensure the Commissioner's work meets statutory requirements, to protect the traveling public, and to coordinate with any other work in the Right of Way. The County shall reasonably cooperate with the Commissioner to reduce any conflicts with the Commissioner's monitoring, Environmental Response Actions or other necessary activities.

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For the MPCA:

MINNESOTA POLLUTION CONTROL AGENCY

By _____(signature)

Hans Neve, Manager, Closed Landfill &
Technical Services Section
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

ACKNOWLEDGMENT

STATE OF MINNESOTA)

) ss.

COUNTY OF RAMSEY)

This instrument was acknowledged before me on _____, 2022, by Hans Neve, Manager of the Closed Landfill & Technical Services Section and Delegate of the Commissioner of the Minnesota Pollution Control Agency (the Commissioner), on behalf of the Commissioner and the State of Minnesota.

Notary Public

CERTIFICATE OF ACCEPTANCE

I, Hans Neve, Manager of the Closed Landfill & Technical Services Section and Delegate of the Commissioner of the Minnesota Pollution Control Agency (“Commissioner”), pursuant to the authority vested in me by law, do hereby, on behalf of the State of Minnesota and the Commissioner, accept the Easement to which this Certificate of Acceptance is attached, having determined that acceptance is reasonably necessary for environmental response actions at or related to the following qualified facility: Goodhue County Landfill, SW-174, and is in the best interest of the State of Minnesota under the provisions of Minn. Stat. §115B.412, subd. 3 (incorporating the provisions of Minn. Stat. §115B.17, subd. 15), of the Minnesota Landfill Cleanup Program, Minn. Stat. §§115B.39-115B.445.

Dated at _____, Minnesota, this _____ day of _____, 2022.

By _____(signature)

Hans Neve, Manager, Closed Landfill &
Technical Services Section
Delegate of the Commissioner of the
Minnesota Pollution Control Agency

THIS INSTRUMENT WAS DRAFTED BY:

Shawn Ruotsinoja
Closed Landfill Program
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155
(651) 757-2683

Exhibit A

Map of County Monitoring Property

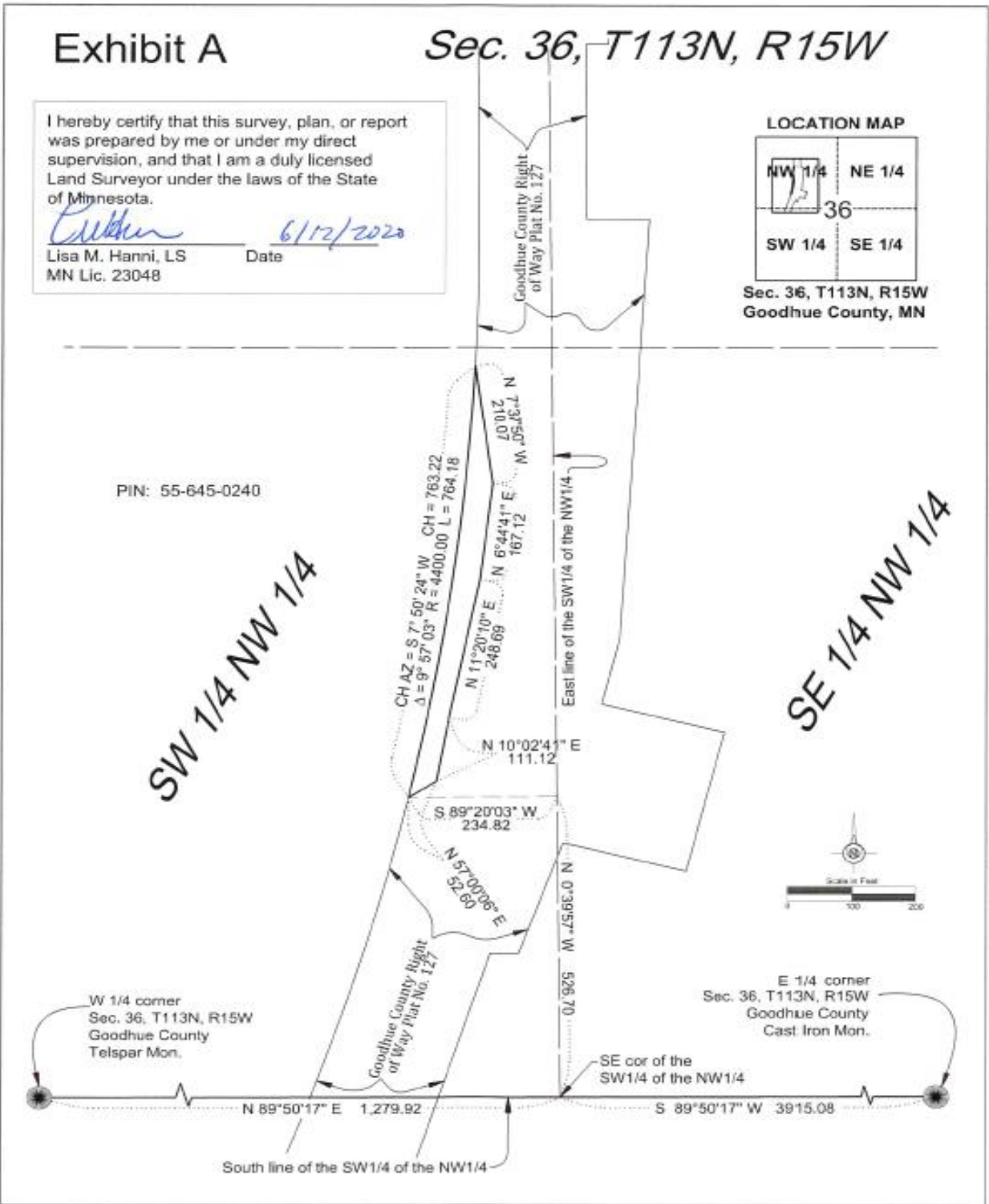


Exhibit B
Response Action Equipment

County Monitoring Property

Environmental Response action equipment associated with SW-174:

- Groundwater Monitoring Wells: MW-5A, MW-5B, MW-6A, MW-7C, MW-7D, MW-8A, MW-8B, MW-8C, MW-13, MW-13D, MW-14, MW-14D, MW-14E, MW-16D
- Gas Probes: GP-33, GP-34, GP-35, GP-36

Exhibit C
Interests and Encumbrances

WAIVER OF CLAIMS

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

WHEREAS, Goodhue County, a political subdivision, (the “Waiving Party”) entered into a Landfill Cleanup Agreement with the Commissioner of the Minnesota Pollution Control Agency (the “Commissioner”) under the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.445 (“the Act”), relating to the Goodhue County Landfill SW-174 (“the Landfill”), which agreement became effective on _____; and

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

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

WHEREAS, the Act defines the response action obligations for qualified landfills of owners and operators, persons subject to a cleanup order, and other persons associated with the landfills, as well as the extent to which the Commissioner may seek to assert liability for the cost of environmental response action against such persons, including any such liability under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., (“CERCLA”); and

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

WHEREAS, upon the execution of this Waiver and upon issuance of a notice of compliance for the Landfill, any and all liability which could be asserted by the Commissioner against the Waiving Party under CERCLA for the Landfill is waived, except for any claims which the Commissioner may assert under Minn. Stat. § 115B.40, subd. 7(b)(2), and the Waiving Party is entitled to contribution protection to the extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for response costs and response actions with respect to the Landfill.

NOW, THEREFORE, in accordance with the requirements of Minn. Stat. § 115B.40, subd. 7(a)(2) and in fulfillment of and in consideration for the provisions of the Landfill Cleanup Agreement, the Waiving Party hereby waives all claims that the Waiving Party may have against any other person for recovery of any environmental response costs related to the Landfill that were incurred prior to the date that the Commissioner issues a notice of compliance for the Landfill. This Waiver (the “Waiver”) applies to all such claims regardless of how they may be asserted, including commencement of a lawsuit, assertion of a counterclaim, cross claim, or third-party

claim, demand for payment, offer of settlement, commencement of an administrative action, or other means of asserting a claim under state or federal statute or common law. The Waiving Party expressly retains all defenses that the Waiving Party may have to environmental response cost claims made against it. For the purpose of this Waiver, the term “claims” does not include the enforcement of any right to payment under a contract, including an insurance contract, or to any claim for reimbursement of environmental response costs under Minn. Stat. § 115B.43. This Waiver does not affect any right the Waiving Party may have to seek relief against the Commissioner under the Landfill Cleanup Agreement for the Landfill or with respect to the Commissioner’s duties and responsibilities under the Act. This Waiver is subject to the provisions of Minn. Stat. § 115B.40, subd. 8.

It is the intent of the Waiving Party that this Waiver benefit any person against whom the Waiving Party may purport to assert a claim which has been waived herein for recovery of any environmental response costs related to the Landfill that were incurred prior to the date that the Commissioner issues a notice of compliance for the Landfill.

This Waiver is binding upon the Waiving Party and its heirs, successors, and assigns. This Waiver is effective on the date when the Commissioner issues a notice of compliance for the Landfill under Minn. Stat. § 115B.40, subd. 7.

