

Appendix N

Local Approvals and Report Submittal to Municipalities



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor,
Madison, WI 53707-7875
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
Executive Director

November 4, 2020

CERTIFIED MAIL

Town of Cottage Grove Clerk
4058 County Road N
Cottage Grove, WI 52527

City of Madison
Attn: Rob Philips
City Engineering Division
210 Martin Luther King Jr. Blvd. Room 115
Madison, WI 53703

Re: Dane County Department of Waste and Renewables
Dane County Landfill #2 (rodefeld)
WFSB # 233

Dear Clerks:

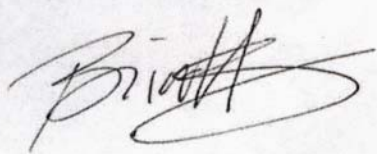
On August 26, 2020 the Waste Facility Siting Board received a copy of a written request for local approval, along with a copy of the certified return receipts, sent by Dane County Department of Waste and Renewables, to the Town of Blooming Grove, Town of Cottage Grove, City of Madison, Dane County, Wisconsin Department of Natural Resources and the Bureau of Waste Management, regarding the expansion of its current solid waste landfill facility located in Dane County. The requests were received by the Town of Blooming Grove, Town of Cottage Grove, City of Madison and Dane County Clerk on September 9, 2020, and the Wisconsin Department of Natural Resources on September 14, 2020.

The law allows an affected municipality to participate in the negotiation process if the governing body adopts a siting resolution and appoints members to the local committee within 60 days after the municipality receives written requests by the applicant. Wis. Stat. § 289.33(6)(a)

In this case, the Town of Cottage Grove and City of Madison have timely adopted and filed siting resolutions with the Waste Facility Siting Board stating their intent to negotiate and, if necessary, arbitrate with Dane County Department of Waste and Renewables concerning its facility. In addition, the City of Madison has appointed Dan Brown, Urvashi Martin, Ald. Michael Tierney, James Voss and Rob Philips to their local committee and the Town of Cottage Grove has appointed Kris Hampton to their local committee. Each of these individuals has timely completed and filed a statement of economic interest.

As a result, pursuant to law, negotiations may begin. If you have questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Hayes", with a stylized flourish at the end.

Brian Hayes
Executive Director

Cc: John Welch, Director



State of Wisconsin
Waste Facility Siting Board
4822 Madison Yards Way, 5th Floor,
Madison, WI 53707-7875
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
Executive Director

September 1, 2020

CERTIFIED MAIL

Town of Blooming Grove
1880 S. Stoughton Road
Madison, WI 53716

City of Madison Clerks – Room 103
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

Wisconsin Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg, WI 53711

Town of Cottage Grove
4058 County Road N.
Cottage Grove, WI 53527

Dane County Clerks – Room 106A
210 Martin Luther King Jr. Blvd
Madison, WI 53703

Bureau of Waste Management
101 S. Webster St.
P.O. Box 7921
Madison, WI 53707

Re: Dane County Department of Waste & Renewables, Dane County Landfill No. 2 (Rodefild)
WFSB # 233

Dear Clerks:

On August 27, 2020 the Waste Facility Siting Board received a copy of a written request for a local approval, along with copies of certified return receipts, sent by Dane County to the Town of Blooming Grove, Town of Cottage Grove, E D Locke Public Library, Monona Public Library, Madison Public Libraries, City of Madison Clerks, Dane County Clerks, Wisconsin Department of Natural Resources, and the Bureau of Waste Management regarding the expansion of its current solid waste landfill facility located within the municipalities.

If a municipality wishes to participate in the negotiation-arbitration process, it must adopt a siting resolution and appoint members to the local committee within **sixty days of receiving the written request from the applicant**. Wis. Stats. § 289.33(6)(a). A copy of the siting resolution and the names of the members who are appointed to the committee must be sent to the Waste Facility Siting Board within **seven days of the adoption of the siting resolution**. Each member appointed to a local committee must file a statement of economic interest with the board within **fifteen days of appointment**. A Statement of Economic Interest form can be found on our website at <https://doa.wi.gov/Pages/home.aspx>

Sincerely,

Brian Hayes
Executive Director

cc: John Welch



Office of the Mayor

Satya Rhodes-Conway, Mayor
City-County Building, Room 403
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703
Phone: (608) 266-4611 | Fax: (608) 267-8671
mayor@cityofmadison.com
cityofmadison.com

BY E-MAIL ONLY—NO HARD COPY TO FOLLOW

July 27, 2020

Brian Hayes, Executive Director
Waste Facility Siting Board
4822 Madison Yards Way, 5th Floor North
Madison, WI 53705-5400
DHAMail@wisconsin.gov

Re: Dane County's Vertical Expansion of the Rodefild Landfill

Director Hayes,

Attached please find a copy of the City of Madison's siting resolution adopted on July 21, 2020 by the Common Council, pursuant to the requirements of Wis. Stat. Sec. 289.33(6)(a), authorizing the City's participation in the negotiation and arbitration process regarding Dane County's application to expand its current landfill operations at the Rodefild Landfill facility located at 7102 U.S. Highways 12&18 in the City of Madison.

As provided for by this resolution, I am hereby appointing the following four (4) members as the City of Madison's representatives to the local committee:

Dan Brown
Executive Manager
Ho-Chunk Gaming Madison
4002 Evan Acres Rd.
Madison, WI 53718
Dan.Brown@ho-chunk.com

Urvashi Martin
City of Madison, Planning Division
215 Martin Luther King Jr., Blvd., Suite 017
Madison, WI 53703
umartin@cityofmadison.com

Ald. Michael Tierney
4534 Secret Garden Dr.
McFarland, WI 53558
district16@cityofmadison.com

July 27, 2020

Page 2

James Voss
703 Clardell Drive
Sun Prairie, WI 53590
jvoss@uwalumni.com

Each of these appointees have been informed of the need to file a statement of economic interests with the Waste Facility Siting Board within fifteen (15) days of this appointment.

Please direct further correspondence relating to the local committee to:

Rob Philips, City Engineer
City Engineering Division
210 Martin Luther King Jr. Blvd., Room 115
Madison, WI 53703

This letter is being provided to the Board by email based upon the Department of Administration's directive (<https://doa.wi.gov/Pages/LicensesHearings/DHAContact.aspx>).

Sincerely,

A handwritten signature in black ink, appearing to read 'SRConway', written in a cursive style.

Satya Rhodes-Conway
Mayor

Encl.

Cc: Deputy Mayor Christie Baumel
City Engineer Rob Phillips
Assistant City Attorney Doran Viste
John Welch, Dane County Solid Waste
Dan Brown
Urvashi Martin
Michael Tierney
Jim Voss



City of Madison

City of Madison
Madison, WI 53703
www.cityofmadison.com

Master

File Number: 61119

File ID: 61119

File Type: Resolution

Status: Council New
Business

Version: 1

Reference:

Controlling Body: BOARD OF
PUBLIC WORKS

Lead Referral: BOARD OF PUBLIC
WORKS

Cost:

File Created Date : 06/23/2020

File Name: Authorizing the City to participate in negotiations and, if necessary, arbitration with Dane County regarding the County's Rodefild Landfill Vertical expansion application, creating the Rodefild Landfill Expansion City Negotiating Team Committee and autho

Final Action:

Title: Authorizing the City to participate in negotiations and, if necessary, arbitration with Dane County regarding the County's Rodefild Landfill Vertical expansion application, creating the Rodefild Landfill Expansion City Negotiating Team Committee and authorizing the Mayor to appoint members to the Rodefild Landfill expansion local committee and the Rodefild Landfill Expansion City Negotiating Team Committee.

Notes:

Code Sections:

CC Agenda Date: 07/14/2020

Indexes:

Agenda Number:

Sponsors: Satya V. Rhodes-Conway, Tag Evers, Keith Furman,
Syed Abbas and Michael J. Tierney

Effective Date:

Attachments:

Enactment Number:

Author: Rob Phillips, City Engineer

Hearing Date:

Entered by: hfleegel@cityofmadison.com

Published Date:

Approval History

Version	Date	Approver	Action

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Engineering Division	06/23/2020	Referred for Introduction				
	Action Text:	This Resolution was Referred for Introduction					
	Notes:	7/14 CC intro, 7/21 approval					

Text of Legislative File 61119

Fiscal Note

No Fiscal note required.

Title

Authorizing the City to participate in negotiations and, if necessary, arbitration with Dane County regarding the County's Rodefild Landfill Vertical expansion application, creating the Rodefild Landfill Expansion City Negotiating Team Committee and authorizing the Mayor to appoint members to the Rodefild Landfill expansion local committee and the Rodefild Landfill Expansion City Negotiating Team Committee.

Body

WHEREAS, State law gives municipalities affected by the expansion of existing landfill operations certain rights in the approval process; and,

WHEREAS, on June 1, 2020 the City of Madison received Dane County's written request for the specification by the City of all applicable City approvals needed regarding the County's plans to vertically expand the Rodefild Landfill located at 7102 U.S. Highways 12&18 in the City of Madison; and,

WHEREAS, under Wis. Stat. Sec. 289.33, prior to authorizing the expansion of an existing landfill, the State requires landfill operators and the affected municipalities to participate in negotiations, and possibly arbitration, regarding the proposal; and

WHEREAS, pursuant to Wis. Stat. Sec. 289.33(6), in order to participate in the statutory negotiation and arbitration processes regarding the County's landfill expansion plans, the City must, within sixty (60) days from receiving the written request for local approvals, adopt a siting resolution and appoint members to a local committee formed to negotiate regarding the expansion plans (the "Local Committee"); and,

WHEREAS, it is anticipated that there will be an appointee to the Local Committee from the Town of Cottage Grove; and,

WHEREAS, it is necessary to create a City committee, separate from the Local Committee, to meet and discuss the City's interests, negotiating and bargaining strategy to be pursued by City appointees to the Local Committee; and,

WHEREAS, if the City does not enact a siting resolution within sixty (60) days of receiving the written request (July 31, 2020), the City may not participate in any negotiations with Dane County regarding the expansion of operations at the Rodefild Landfill.

NOW THEREFORE BE IT RESOVLED, that, pursuant to Wis. Stat. Sec. 289.33(6), the Common Council hereby adopts this siting resolution authorizing the City to participate in negotiations and, if necessary, arbitration with Dane County regarding the County's plans to vertically expand operations at the Rodefild Landfill in the City of Madison; and,

BE IT FURTHER RESOLVED, that the Common Council hereby creates the Rodefild Landfill Expansion City Negotiating Team Committee as an ad-hoc committee consisting of four (4) members whose purpose is to formulate, with City staff, the City's negotiating and bargaining strategy to be pursued by City appointees to the Local Committee in discussions, negotiations, mediation, or arbitration with Dane County regarding the Rodefild Landfill expansion; and,

BE IT FURTHER RESOLVED, that the Rodefild Landfill Expansion City Negotiating Team Committee shall be dissolved upon the execution by the City of a negotiated agreement with Dane County regarding the Rodefild Landfill expansion; and,

BE IT FURTHER RESOLVED, that the Mayor shall appoint four (4) members to the Rodefild Landfill expansion local committee formed as a result of the City's enactment of this siting resolution, no more than two (2) of whom shall be elected officials or City employees ; and,

BE IT FURTHER RESOLVED, that the Mayor's four (4) appointees to the Local Committee shall be simultaneously appointed as the four (4) members of the Rodefild Landfill Expansion City Negotiating Team Committee; and,

BE IT FINALLY RESOLVED, that if the Mayor determines that the best interests of the City will be served by the appointment of a non-City resident who is particularly well qualified by reasons of education, background, and experience to represent the City on the Committees, an appointee may be a non-resident of the City.

From: [Viste, Doran](#)
To: [Welch, John](#)
Cc: [Gault, David](#); [Phillips, Robert](#); [Baumel, Christie](#); [Tucker, Matthew](#); [Parks, Timothy](#); [Romines, Charles](#); [Rathsack, Allison](#)
Subject: RE: Local Approvals Letter--City of Madison (Rodefled Vertical Expansion)
Date: Tuesday, July 14, 2020 1:45:14 PM

John,

Thanks for pointing out that language in the 2014 agreement. For the purposes of the proposed vertical expansion, the City is agreeable to removing the requirement, as stated in the City's June 15, 2020 local approval letter, that an erosion control plan will be required under Chapter 37, Madison General Ordinances.

Doran Viste
Assistant City Attorney
Office of the City Attorney
210 Martin Luther King, Jr. Blvd., Room 401
Madison, WI 53703-3345
Phone: (608) 266-4511
Fax: (608) 267-8715
e-mail: DViste@cityofmadison.com

The 2020 Census is here! As we practice social distancing, take the opportunity to complete the census now from the comfort of your own home. You can fill it out online at my2020census.gov, by [phone](#), or by [mail](#).

From: Welch, John <Welch@countyofdane.com>
Sent: Wednesday, July 8, 2020 11:35 PM
To: Viste, Doran <DViste@cityofmadison.com>
Cc: Gault, David <Gault@countyofdane.com>; Phillips, Robert <RPhillips@cityofmadison.com>; Baumel, Christie <CBaumel@cityofmadison.com>; Tucker, Matthew <MTucker@cityofmadison.com>; Parks, Timothy <TParks@cityofmadison.com>; Romines, Charles <CRomines@cityofmadison.com>; Rathsack, Allison <rathsack.allison@countyofdane.com>
Subject: RE: Local Approvals Letter--City of Madison (Rodefled Vertical Expansion)

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Hi Doran,

Thanks for getting us the local approvals letter so quickly. As we have discussed previously, Dane County agrees with the City's initial assessment of the scope of the proposed expansion, and we do not anticipate anything that would require additional approvals. We do have one item from the City's letter that we would like to get clarification on. Please see the attached correspondence and respond accordingly.

Respectfully,
John Welch, P.E.
Director
Department of Waste & Renewables
cell: 608-516-4154

From: Viste, Doran <DViste@cityofmadison.com>
Sent: Monday, June 15, 2020 1:44 PM
To: Welch, John <Welch@countyofdane.com>
Cc: Gault, David <Gault@countyofdane.com>; Phillips, Robert <RPhillips@cityofmadison.com>;
Baumel, Christie <CBaumel@cityofmadison.com>; Tucker, Matthew
<MTucker@cityofmadison.com>; Parks, Timothy <TParks@cityofmadison.com>; Romines, Charles
<CRomines@cityofmadison.com>
Subject: Local Approvals Letter--City of Madison (Rodefild Vertical Expansion)

CAUTION: External Email - Beware of unknown links and attachments. Contact
Helpdesk at 266-4440 if unsure

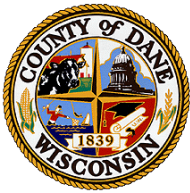
John,

Attached please find the City's local approvals letter regarding the Rodefild vertical expansion.

As I've separately indicated, the City is likely to be adopting a siting resolution in July in order to participate, with the Town of Cottage Grove, in the local negotiating committee process.

Doran Viste
Assistant City Attorney
Office of the City Attorney
210 Martin Luther King, Jr. Blvd., Room 401
Madison, WI 53703-3345
Phone: (608) 266-4511
Fax: (608) 267-8715
e-mail: DViste@cityofmadison.com

The 2020 Census is here! As we practice social distancing, take the opportunity to complete the census now from the comfort of your own home. You can fill it out online at my2020census.gov, by [phone](#), or by [mail](#).



DANE COUNTY DEPARTMENT OF WASTE & RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

July 8, 2020

Doran Viste
Assistant City Attorney
City of Madison
City-County Building, Room 401
210 Martin Luther King Jr. Blvd
Madison, WI 53

Re: Rodefild Landfill Vertical Expansion – City of Madison Approvals

Mr. Viste,

Dane County received and reviewed the City of Madison's response regarding the initial notification for the proposed vertical expansion per Wis. Stat. § 289.22(1m), dated June 15, 2020.

Upon review, Dane County noticed one of the local approval conditions was to prepare and submit an erosion control plan under Chapter 37, Madison General Ordinances. Within the existing contract between Dane County and the City of Madison titled "Rodefild Landfill Expansion and Solid Waste Agreement", effective from January 1, 2014 until December 31, 2023, Section 11 (b) states:

Erosion Control and Stormwater Management. Erosion control and stormwater management permits for the landfill shall fall under the jurisdiction of the Dane County Land & Water Resources Department. The County shall not be required to obtain any approvals or permits from the City for erosion control or stormwater at the Landfill.

Therefore, Dane County believes the requirement for an erosion control plan should be removed from the local approval process. Dane County requests that the City of Madison either confirm or deny our findings.

If you have questions, please contact me at (608) 516-4154 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Rodefild Landfill Expansion and Solid Waste Agreement

CC: Allison Rathsack, Dane County
Christie Baumel, Deputy Mayor
Tim Parks, City Planning Division
Rob Phillips, City Engineer
Charlie Romines, City Streets Superintendent
Matt Tucker, City Zoning Administrator

11875

RODEFELD LANDFILL EXPANSION AND SOLID WASTE AGREEMENT

Between the County of Dane and the City of Madison

THIS AGREEMENT, entered into by and between the County of Dane, a quasi-municipal corporation in the State of Wisconsin (hereinafter referred to as "County"), and the City of Madison, a municipal corporation of the State of Wisconsin (hereinafter referred to as "City"), is effective as of the date by which both parties have signed hereunder and according to the terms and conditions set forth herein.

WITNESSETH:

WHEREAS, on August 15, 1973 the County and the City (hereinafter referred to collectively as the "Parties") entered into a waste stream agreement (the "1973 Waste Stream Agreement") in which the City agreed to close its solid waste disposal facilities and use County disposal facilities; and,

WHEREAS, on January 16, 1984 the Parties entered into a land sale agreement, which agreement was recorded with the Dane County Register of Deeds on February 6, 1986 as doc. No. 1920750 (the "1984 Land Sale Agreement"), that allowed the County to construct and operate a solid waste facility located at 7102 U.S. Hwy 12 & 18 in the City of Madison, Dane County, Wisconsin, known as Dane County Landfill Site No. 2, or the Rodefild Landfill (hereinafter referred to as "Landfill"); and,

WHEREAS, on December 20, 1993, the County, the City, the Town of Blooming Grove and the Town of Cottage Grove entered into a negotiated agreement pursuant to Wis. Stat. Sec. 144.445 (now Sec. 289.33) regarding the first expansion of the Landfill (the "1993 Negotiated Agreement"); and,

WHEREAS, on June 3, 1994, the Parties entered into a land sale and Landfill Expansion Real Estate Agreement, which agreement was recorded with the Dane County Register of Deeds on June 6, 1994 as doc. No. 2607108 (the "1994 Land Sale Agreement"), that allowed the County to expand the Landfill; and,

WHEREAS, the County has been providing solid waste disposal at the Landfill for nearly 30 years, and the 1994 expansion capacity has nearly been reached. The County now wishes to expand the Landfill to extend the life of the solid waste facility and has applied to Wisconsin Department of Natural Resources (WDNR) for an operation permit and construction permit to expand the Landfill; and,

WHEREAS, the County, the City, and the Town of Cottage Grove have separately conducted negotiations relating to the proposed second expansion of the Landfill pursuant to Wis. Stat. Sec. 289.33, and, subject to the approval by the County Board of Supervisors, the City Common Council and the Town of Cottage Grove Board, will be entering into a Negotiated Agreement Relating to the Second Rodefild Landfill Expansion (the "2014 Negotiated Agreement") concurrently with this Agreement; and,

WHEREAS, the City supports the proposed second expansion of the Landfill and is agreeable to selling City land to the County to facilitate this expansion; and,

WHEREAS, the Parties further desire to enter into a ten-year waste stream agreement to ensure the economic viability of the Landfill and provide the City with the most cost effective means of solid waste disposal during the next decade; and,

WHEREAS, Section 66.0301 Wisconsin Statutes, authorizes cities, villages, towns, counties, and other public agencies to enter into agreements for receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law.

NOW, THEREFORE, in consideration of the above recitals and mutual covenants of the parties, the receipt and sufficiency of which is acknowledged by each party for itself, the Parties do agree as follows:

1. Purpose. The purpose of this Rodefeld Landfill Expansion and Solid Waste Agreement ("Agreement") is to set forth the terms and conditions agreed to by the Parties regarding the City's solid waste stream, tipping fees, daily cover and other City materials, the sale and lease of City land adjacent to the Landfill, and other issues associated with the operation and proposed second expansion of the Landfill.
2. Term. The term of this Agreement shall be from January 1, 2014 through December 31, 2023.
3. Waste Stream. The City guarantees the County a solid waste stream at the Landfill as follows:
 - a. The City will bring all of its solid waste, as defined by Wis. Stat. Sec. 289.01(33), to be landfilled to the Landfill.
 - b. The City will be free to use solid waste diversion programs.
 - c. The City shall not be subject to any minimum tonnage guarantees.
4. Tipping Fees.
 - a. Base Fees. The County will charge the City the following tipping fees for disposal of solid waste:
 - 1) January 1, 2014 – June 30, 2014: \$43.50/ton (\$30.503/ton County charges).
 - 2) July 1, 2014 – December 31, 2014: \$46.50/ton (\$33.503/ton County charges).
 - 3) January 1, 2015 – December 31, 2015: \$48.50/ton (\$35.503/ton County charges).
 - 4) Commencing January 1, 2016: \$50.00/ton (\$37.003/ton County charge).

- b. Future Fee Increases. Commencing January 1, 2017 the County may increase the County portion of the tipping fee by no more than 3.5% over the prior year's County portion of the tipping fee. If an increase is implemented, the County shall notify the City no later than June 30th of the year prior to the effective date of the increase. The County will provide the City with financial information supporting the need for any increase under this subsection. Any proposed increase in tipping fees in excess of 3.5% shall require approval of the City.
- c. State Tipping Fees. The base fees in subsection a. include State imposed tipping fees of \$12.997/ton as of March, 2014. At anytime during the Agreement tipping fees may be increased or decreased to account for increases or decreases in State tipping fees, or additional solid waste fees imposed by the State or other regulatory authority.

5. Daily Cover, Other City Materials and Services.

- a. Primary Source of Cover. The County agrees that its primary source of daily cover and/or alternate daily cover (ADC) shall be the dredge spoils, street sweeping debris, contaminated soils and vector debris received from the City.
- b. Charge for Cover. The County shall charge the City \$13.10/ton for street sweepings debris, vector debris and contaminated soils suitable for use as daily cover and/or ADC, subject to the limitations set forth herein. Any material that is not suitable for use as daily cover and/or ADC will be charged the City's full tipping fee under Subsection 4.
- c. Contaminated Soils. If necessary, the City will work with WDNR to establish the suitability of any contaminated soils for use as ADC before use.
- d. Dredge Spoils.
 - 1) The County will accept dredge spoils from the City at no cost, up to a maximum of 100,000 tons over the term of the Agreement, and no more than 20,000 tons in any calendar year.
 - 2) If necessary, the City shall establish that these dredge spoils are non-hazardous and appropriate to be landspread or piled in mounds outside the area where landfill activities will take place. Any material that must be landfilled will be charged the City's full tipping fee under the Agreement.
 - 3) Representatives from Dane County Solid Waste Division and the City Engineering Division shall meet in October each year to discuss the anticipated quantity of dredge spoils for the upcoming year, to determine timing of material delivery to the Landfill, and to determine locations where these dredge spoils will be deposited upon Landfill property. The City bears all responsibility and expense to properly deposit these dredge spoils on the Landfill property consistent with WDNR requirements. The City is granted reasonable access rights for this purpose. The entire disposal process

involving these dredge spoils shall be coordinated with the County and shall not interfere in any manner with Landfill activities. If there is not sufficient space on the Landfill property for the dewatering process, the City must dewater the material prior to bringing it to the Landfill property.

- e. Wood Chips. The City will provide the Landfill with wood chips from the City's chipping operation, as needed, at no charge to the County.
 - f. Limitations. Notwithstanding any other language in the Agreement, the total quantity of dredge spoils, street sweeping debris, vector debris and contaminated soils that the County is required to accept under this Section is limited to that amount of materials actually needed on site for daily cover and/or ADC as determined by the Solid Waste Manager.
 - g. City Services. The City may agree to provide to the County, upon request (a) annual City Water Utility cleanout of leachate and sanitary sewer pipes at Landfill pursuant to NR 506.07(5)(c); and (b) televising of leachate and sanitary pipes at the Landfill by City Water Utility every 5 years, pursuant to NR 506.07(5)(e). The City may charge the County to recoup its expenses for these services.
6. Land Sale and Land Lease. In order to facilitate the expansion of the Landfill, the City will agree to sell and lease City-owned lands adjoining the Landfill to the County, on the terms and conditions set forth in the accepted March 17, 2014 offer to purchase, and as further set forth herein:
- a. Land Sale. The City will convey fee title to 54.94 acres of City owned land adjoining the Landfill to the County for two-hundred and thirteen thousand two-hundred and eighty dollars (\$213,280). The land to be sold consists of parcels A-1 and B-1 as described on the February 21, 2014 Plat of Survey prepared by AECOM, and attached hereto as Exhibit A.
 - b. Land Lease. The County will lease the City's remaining 9.588 acre parcel of land adjoining the Landfill to the County for one dollar (\$1) per year. The land to be sold consists of parcel C-1 as described on Exhibit A. The lease shall stipulate that the County will maintain the leased area (mowing, other turf maintenance, erosion control and tree maintenance). The City reserves the right to use and enjoy the leased area consistent with the lease terms, provided that such use and occupancy shall not interfere with the County's use of the property for ground water monitoring, soil stockpiles, or other landfill purposes. The City shall have the right to transfer the leased area to WisDOT or to use the leased area for transportation purposes in the event the leased area is needed by WisDOT for said purposes.
 - c. CTH AB Expansion. In the event that WisDOT requires expansion of County Highway AB in its current location, the Parties shall share equally the cost of any necessary land acquisition and relocation costs to accommodate the highway

expansion along County Highway AB on the east and west sides from USH 12 to the northern boundary of the Landfill property.

- d. Kettle Field. The lands making up Parcel A-1 are currently managed by the City Parks Division and include, along the northern portion of the lands, an area known as Kettle Field. Kettle Field is currently used by the Madison Area Radio Controlled Society (MARCS) for the operation of radio controlled flying devices. The County has accommodated this use on these lands since the 1984 land sale agreement between the Parties, and, through agreements with the City and the 1993 Negotiated Agreement, has allowed MARCS members to use the Landfill property to access Kettle Field for nearly thirty years. Accordingly, upon the sale of Parcel A-1 to the County, the County agrees to accommodate the continued use by MARCS of Kettle Field through the end of 2014, subject to any safety concerns that the County may have regarding the use of this land during expansion activity at the landfill.
7. County Solid Waste Revenue. The County agrees that County personnel costs for Corporation Counsel and the Highway Commissioner positions that are partially funded by solid waste revenue will not exceed 2014 amounts, plus any increases necessary to cover the continued costs of those positions. The County agrees to not transfer any other revenues from solid waste funds to support any programs or expenditures that are not related to the solid waste program. This provision in no way limits the use of revenues from the sale of end-products created from the Landfill gas.
8. Records Disclosure. The County will agree to annually provide the City with a summary of revenues and tonnage of waste received by the Landfill. This data shall be specific to each solid waste operation, or just limited to the tonnage and revenue from gate or tipping fees at the Landfill itself.
9. Future Closure, Sale or Transfer of Landfill Operations. The County retains the right to cease landfill operations at the Landfill if it is no longer economically feasible. The County will give the City no less than 12 months notice if it decides to cease operations. If, during the term of this Agreement, the County decides to sell the Landfill, the City shall have a right-of-first-refusal regarding any offers to purchase. If the Landfill is sold to a third party, this Agreement shall be binding upon the third party unless waived by the City.
10. Operational Concerns. In addition to those matters set forth in the 2014 Negotiated Agreement, the County shall be responsible for the cost of public improvements, including highway construction and road building, Landfill operational activities, ongoing maintenance requirements and Landfill monitoring responsibilities, established to be directly related to the Landfill.
11. Local Approvals.
 - a. Rezoning. This Agreement and the Landfill expansion is contingent upon City rezoning approval for the entire existing and newly acquired Landfill properties.

The Parties hereby affirm that they will make good faith efforts to complete the rezoning process as soon as possible, and no later than June 15, 2014. To facilitate prompt consideration of the County's rezoning and SIP applications for the property being sold by City to County, prior to the land sale the City agrees to co-sign the rezoning and SIP petitions as the current land owner upon the County's request.

- b. Erosion Control and Stormwater Management. Erosion control and stormwater management permits for the Landfill shall fall under the jurisdiction of the Dane County Land & Water Resources Department. The County shall not be required to obtain any approvals or permits from the City for erosion control or stormwater at the Landfill.
- c. City Approval Process. Any approvals required from the City to expand the Landfill or perform any work at the Landfill shall not be unreasonably withheld.

12. Other Agreements.

- a. This Agreement is being entered into concurrently with the 2014 Negotiated Agreement, along with the documents necessary to effectuate the land sale and land lease as described in Section 6 above.
- b. Except as set forth in Subsection c., this Agreement specifically supersedes those rights, responsibilities and obligations of the Parties detailed in the 1973 Waste Stream Agreement, the 1984 Land Sale Agreement, the 1993 Negotiated Agreement and the 1994 Land Sale Agreement.
- c. The following provision of the 1984 Land Sale Agreement is not superseded by this Agreement, and shall remain binding upon the Parties based upon the language in the original agreement:
 - 1) Section 13: The City's right of first refusal over the "hope park" lands to the north of the landfill.

13. Contingencies. The Parties' obligations under this Agreement are contingent upon the approval of the 2014 Negotiated Agreement, the land sale and land lease as described in Section 6 above, rezoning approval as described in Section 11.a. above and the issuance of a Landfill expansion construction permit by the WDNR.

14. Amendment. This Agreement may be amended only by the written agreement of both of the Parties hereto.

15. Entire Agreement. Except for the 2014 Negotiated Agreement and the accepted March 17, 2014 offer to purchase, this Agreement represents the entire integrated agreement between the Parties with regards to the Landfill expansion and Landfill operation, and, except as otherwise noted, supersedes all prior negotiations, representations or agreements, either written or oral dealing with the Landfill expansion and the Landfill operation.

16. Non-discrimination. In the performance of the obligations under this Agreement, the Parties agree to abide by their own respective affirmative action plans and in doing so agree not to discriminate, in violation of any state or federal law, against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The parties further agree not to discriminate, in violation of any state or federal law, against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
17. Enforcement. This Agreement shall be governed by the laws of the State of Wisconsin. Any act by either party in violation of this Agreement shall be remedied by the courts of the State of Wisconsin. This Agreement is intended to provide both Parties with the right and standing to seek any available legal or equitable remedy to enforce or seek damages for the breach of this Agreement.
18. Waiver. Any waiver by any party to a breach of any term or condition of this Agreement shall not be considered a waiver of any subsequent breach by the party of the same term or any other term or condition of this Agreement.
19. Binding Effect. The Parties have entered into this Agreement under the authority of Wis. Stat. Sec. 66.0301. The Parties agree that this Agreement shall be binding upon both parties, as well as their respective successors and assigns, except as otherwise noted in Section 9 above.
20. No Third Party Beneficiary. This Agreement is intended to be solely between the County and the City. Nothing in this Agreement accords any third party any legal or equitable rights whatsoever which may be enforced by any nonparty to this Agreement.
21. Construction. The Parties acknowledge that this Agreement is the product of negotiations between the Parties and that, prior to the execution hereof, each Party has had full and adequate opportunity to have this Agreement reviewed by, and to obtain the advice of, its own legal counsel with respect hereto. Nothing in this Agreement shall be construed more strictly for or against either party because that party's attorney drafted this Agreement or any part hereof. No terms or conditions contained in this Agreement shall be construed to create a situation where performance becomes impossible, nor shall any provision herein be construed to create a conflict with any duty or obligation that the County may have under any existing or future statute, rule or regulation of the United States of America, the State of Wisconsin, or any federal or state agency having jurisdiction over the design and operation of the Landfill.
22. Titles. The titles to sections, subsections and paragraphs used in this Agreement are for informational purposes only, except where it may be necessary to an understanding of the content of the Agreement.

23. Severability. In the event that any portion of this Agreement is invalidated or held unenforceable by a court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
24. Force Majeure. Neither party to this Agreement shall be liable for failure to perform any duty or obligation that said party may have under this Agreement where such failure has been occasioned by any act of god, fire, strike, inevitable accident, war, court order or binding determination of a governmental agency.

11875

IN WITNESS WHEREOF, the County and the City, by their respective authorized agents, have caused this Agreement to be executed, effective as of the date by which all parties hereto have affixed their respective signatures.

FOR THE COUNTY OF DANE

Joe Parisi
Joe Parisi, County Executive

4-13-14
Date

Scott McDonnell
Scott McDonnell, County Clerk

4-16-14
Date

Execution of this Agreement by the County is authorized by Res 2900, 13-14, adopted by the Board of Supervisors of Dane County on 4-15-2014.

FOR THE CITY OF MADISON

Paul R. Soglin
Paul R. Soglin, Mayor

4-11-14
Date

Maribeth Witzel-Behl FOR
Maribeth Witzel-Behl, City Clerk

4-9-14
Date

Countersigned:

David P. Schmiedicke
David P. Schmiedicke, Finance Director

4-11-14
Date

Eric Voum
Eric Voum, Risk Manager

4/10/14
Date

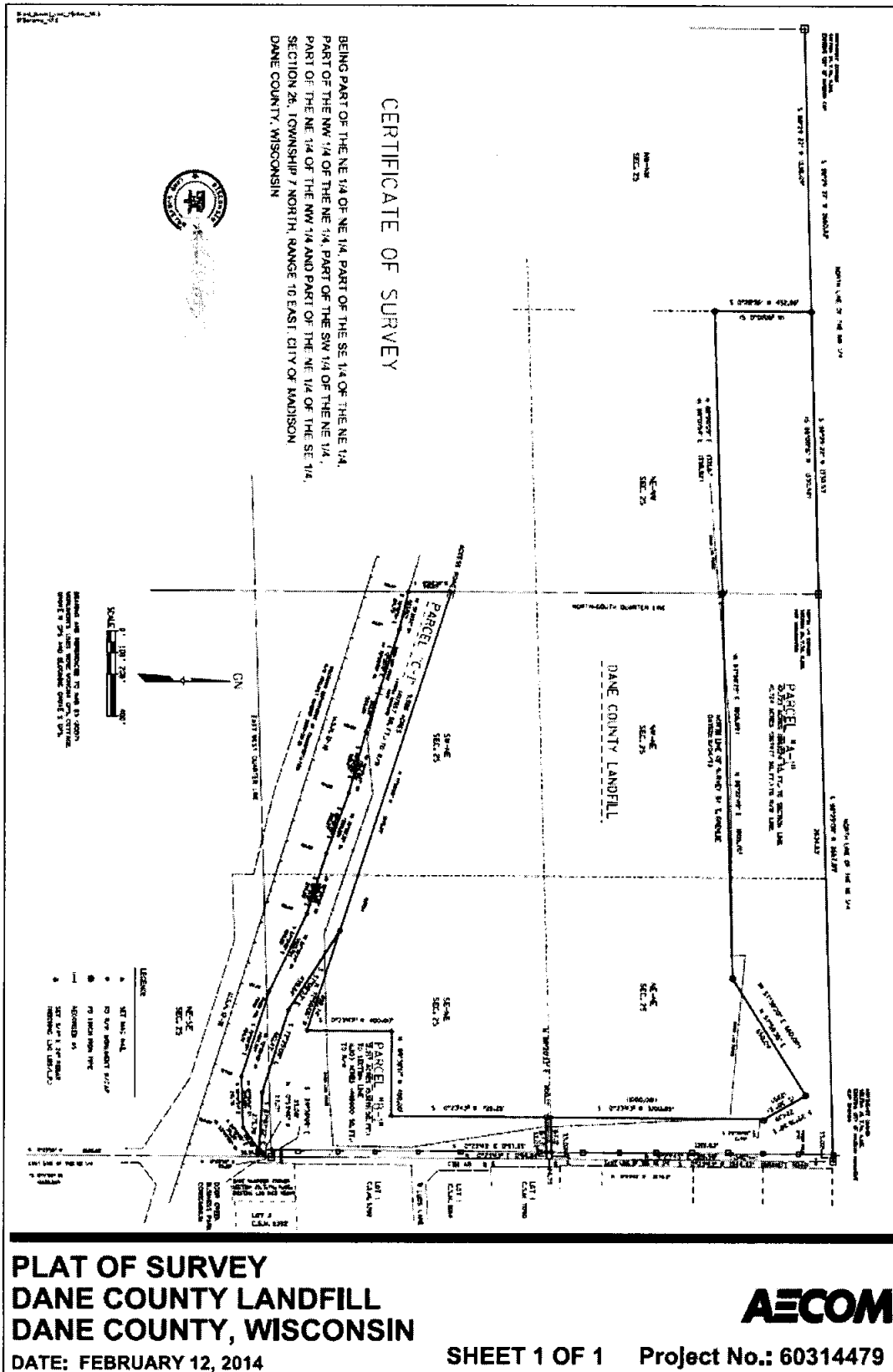
Approved as to form:

Michael P. May
Michael P. May, City Attorney

4-11-14
Date

Execution of this Agreement by the City is authorized by Resolution Enactment No. RES-14-00247, ID No. 33260, adopted by the Common Council of the City of Madison on April 8, 2014.

EXHIBIT A Plat of Survey by AECOM



**TOWN OF COTTAGE GROVE
TOWN BOARD RESOLUTION NO. 2020-06-15**

**RESOLUTION CONFIRMING TOWN'S INTENT TO
PARTICIPATE IN NEGOTIATION AND ARBITRATION PROCESS FOR THE
EXPANSION OF THE DANE COUNTY SOLID WASTE FACILITY
LOCATED AT 7102 U.S. HIGHWAYS 12&18 IN THE CITY OF MADISON**

WHEREAS, the Town of Cottage Grove has been notified by the Dane County Department of Waste and Renewables that it is proposing an expansion of its solid waste facility located at 7102 U.S. Highways 12&18 in the City of Madison and the proposed expansion will be located within 1500 feet of the Town's boundary. Said notification was dated May 29, 2020 and was received by the Town of Cottage Grove on June 1, 2020;

WHEREAS, on June 10, 2020, the Town of Cottage Grove timely notified the Dane County Department of Waste and Renewables that there are no applicable local approvals as required pursuant to Wis. Stat. § 289.22(1m);

WHEREAS, pursuant to Wis. Stat. § 289.33, the Town of Cottage Grove is entitled to participate, as an "affected municipality," in the negotiation and arbitration process for the proposed expansion of this facility;

WHEREAS, the Town of Cottage Grove has participated, as an "affected municipality," in negotiations and arbitration for previous expansions of this solid waste facility, and is party to negotiated agreements dated October 19, 1993 and April 16, 2014;

WHEREAS, to promote public health, safety and welfare of the Town and its residents, it is in the best interests of the Town to participate in the negotiation and arbitration process for the proposed expansion of this facility; and,

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE TOWN BOARD OF SUPERVISORS OF THE TOWN OF COTTAGE GROVE, as follows:

1. The Town of Cottage Grove, Wisconsin, whose business address is 4058 County Highway N, Cottage Grove, WI 53527, intends to negotiate and, if necessary, arbitrate with the Dane County Department of Waste and Renewables, whose business address is 1919 Alliant Energy Center Way, Madison, WI, 53713, concerning the proposed expansion of its solid waste disposal facility, which is located in the City of Madison, at 7102 U.S. Highways 12&18.
2. Within seven (7) days of passage of this Resolution, the Town Clerk shall send a copy of this Resolution to the Wisconsin Waste Facility Siting Board, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400.
3. The Town Board does hereby appoint the following one member to the local committee that will negotiate and, if necessary, arbitrate with the Dane County Department of

Waste and Renewables concerning the proposed expansion. The Town Clerk shall, within seven (7) days of the appointment, send the name, address of the appointee to the Wisconsin Waste Facility Siting Board. Within fifteen (15) days of the appointment, the appointee shall file a statement of economic interests with the Wisconsin Waste Facility Siting Board. Following the name of the member is the address of said member:

Name: Kris Hampton
Address: 3310 County Road N
Cottage Grove, WI 53527

Adopted this 15th day of June, 2020.

TOWN OF COTTAGE GROVE, WISCONSIN

Kris Hampton
Kris Hampton, Town Chairperson

Approved by a vote of 5 for and 0 against, at a duly noticed meeting of the Town Board of the Town of Cottage Grove, Wisconsin.

ATTESTED TO this 15th day of June, 2020.

TOWN OF COTTAGE GROVE, WISCONSIN

Kim Banigan
Kim Banigan, Town Clerk

Published (posted) 6/16/20

AFFIDAVIT OF POSTING OF
TOWN OF COTTAGE GROVE RESOLUTION

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, Kim Banigan, Cottage Grove Town Clerk, being first duly sworn, on oath, state as follows:

On June 16, 2020 the following was duly posted on the Town of Cottage Grove's internet site and on the Cottage Grove Town Hall Bulletin board, all in accordance with TCG 25.01(4) and Wis. Stats., §60.80.

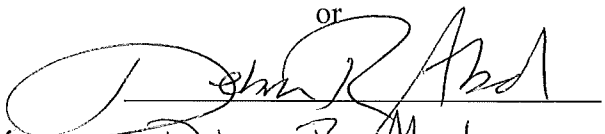
**TOWN BOARD RESOLUTION 2020-06-15
CONFIRMING TOWN'S INTENT TO PARTICIPATE IN
NEGOTIATION AND ARBITRATION PROCESS FOR THE
EXPANSION OF THE DANE COUNTY SOLID WASTE
FACILITY LOCATED AT 7102 U.S. HIGHWAYS 12&18 IN THE
CITY OF MADISON**



Kim Banigan, Town Clerk

Subscribed to and sworn before me
this 16th day of June, 2020.

Signature of Town Chair person

or


Delora R. Abel (print name)

Notary Public, State of Wisconsin

My Commission expires: March 7, 2023





Office of the City Attorney

Michael R. Haas, City Attorney

Patricia A. Lauten, Deputy City Attorney

ASSISTANT CITY ATTORNEYS

Roger A. Allen
Steven C. Brist
Be'Jan G. Edmonds
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Amber R. McReynolds
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Jennifer A. Zilavy

City-County Building, Room 401
210 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703-3345

(Telephone) 608-266-4511
(Fax) 608-267-8715
attorney@cityofmadison.com

LITIGATION ASSISTANT
Patricia V. Gehler

BY E-MAIL ONLY—NO HARD COPY TO FOLLOW

June 15, 2020

Mr. John Welch
Solid Waste Manager
Dane County Solid Waste
1919 Alliant Energy Center Way
Madison, WI 53713

Re: Rodefild Landfill Vertical Expansion—City of Madison Approvals

Dear Mr. Welch:

On June 1, 2020, the City of Madison Clerk received Dane County's notification of its intention to vertically expand the Rodefild Landfill.

Please consider this letter the City's response to your request for local approvals required by the City of Madison, pursuant to Wis. Stat. § 289.22(1m), based upon our current understanding of the vertical expansion plans. As we understand the current plans, the County will be seeking to expand the existing landfill vertically, roughly 86 feet, within the existing landfill footprint. There is not expected to be any new building or infrastructure construction on site, nor any direct impacts off site.

Based upon this understanding, we believe that the County will need to secure the following local approvals:

- The certified survey map to create one lot for Rodefild (incorporating the lands previously acquired from the City) that was approved in 2014 but not recorded will need to be re-approved and recorded prior to the expansion proceeding.
- A Planned Development Zoning District Amendment will be necessary to alter the approved PD for the current Rodefild site, to incorporate the expansion plans. This amendment will require Urban Design Commission and Plan Commission review, and Common Council approval.
- An erosion control plan will be required under Chapter 37, Madison General Ordinances.

As noted above, this list is based upon our assumptions regarding the County's intentions and the preliminary plans that the City is currently aware of. As the County's plans become more specific and as documents and specific plans are prepared for the proposed landfill expansion

June 15, 2020

Page 2

that can be reviewed by the City or if the County's plans are changed or modified such that other local approvals will be necessary, the City reserves the right to require such approvals. If you are currently aware of any plans that the City is unaware of which may reasonably be expected to invoke other local approvals, please let me know right away.

Sincerely,

Doran Viste

Doran Viste
Assistant City Attorney
dviste@cityofmadison.com

cc Christie Baumel, Deputy Mayor
 Tim Parks, City Planning Division
 Rob Phillips, City Engineer
 Charlie Romines, City Streets Superintendent
 Matt Tucker, City Zoning Administrator

Powers, Betsy

From: Welch, John <Welch@countyofdane.com>
Sent: Thursday, June 11, 2020 3:21 AM
To: 'Kim Banigan'
Cc: Rathsack, Allison
Subject: RE: Landfill expansion

Hi Kim,
Thanks for the email. This will suffice as the written notice referenced in my letter.

Respectfully,
John Welch, P.E.
Director
Department of Waste & Renewables
cell: 608-516-4154

From: Kim Banigan <clerk@towncg.net>
Sent: Wednesday, June 10, 2020 11:45 AM
To: Welch, John <Welch@countyofdane.com>
Subject: Landfill expansion

CAUTION: External Email - Beware of unknown links and attachments. Contact Helpdesk at 266-4440 if unsure

Hi John,
The Town of Cottage Grove does intend to be included in negotiations, and the Town Board will consider a resolution to that effect on June 15th. I will forward it within 7 days of adoption.

As the expansion is not within the Town of Cottage Grove, there are no applicable local approvals required by the Town of Cottage Grove for the vertical landfill expansion. Please confirm that this suffices as written notice regarding local approvals as requested in your letter dated May 29, 2020.

Kim Banigan
Clerk, Town of Cottage Grove
4058 County Road N
Cottage Grove, WI 53527
Phone: 608-839-5021 ext 132
Fax: 608-839-4432
www.tn.cottagegrove.wi.gov
Office Hours: 8:00 a.m. to 12:30 p.m., M-F and weekday afternoons by appointment



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Madison Public Library
Pinney Library
516 Cottage Grove Rd
Madison, WI 53716

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Madison Public Library
Central Library
201 West Mifflin Street
Madison, WI 53703

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyoofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Monona Public Library
1000 Nichols Road
Madison, WI 53716

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

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Waste Facility Siting Board**

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Dale Shaver
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STANDARD NOTICE

**TIME LIMITS AND REQUIREMENTS FOR MUNICIPALITIES
TO PARTICIPATE IN THE NEGOTIATION AND ARBITRATION PROCESS
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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.

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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:

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

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

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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.

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Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Ed Locke Public Library
5920 Milwaukee Street
McFarland, WI 53558

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Respectfully,

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Director of Waste & Renewables

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Waste Facility Siting Board**

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Phone: (608) 266-7709
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Dale Shaver
Chairman

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Executive Director

STANDARD NOTICE

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TO PARTICIPATE IN THE NEGOTIATION AND ARBITRATION PROCESS
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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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Town of Cottage Grove Clerk
Kim Banigan
4058 County Road N
Cottage Grove, WI 53527

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefald), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countydane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Town of Blooming Grove Clerk
Mike Wolf
1880 South Stoughton Road
Madison, WI 53716

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyoofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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.

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

- (a) where any or all of the proposed waste site will be located, or
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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.

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There are three requirements.

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- (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.

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Third, each member appointed to the local committee must file with the Waste Facility Siting Board a Statement of Economic Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

City of Madison Clerk's Office (RM 103)
210 Martin Luther King Jr Blvd.
Madison, WI 53703

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefeld), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Dane County Clerk's Office (RM 106A)
210 Martin Luther King Jr Blvd.
Madison, WI 53703

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyoofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services and two town elected officials and one county elected official appointed by the governor for three year terms.

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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:

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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?

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Who initiates mediation?

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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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

State of Wisconsin Waste Facility Siting Board
Brian Hayes
4822 Madison Yards Way, 5th Floor North
Madison, WI 53705

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Wisconsin Department of Natural Resources
Cynthia Moore
3911 Fish Hatchery Road
Fitchburg, WI 53711

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefeld), located within the City of Madison at:

7102 U.S. Highway 12 & 18
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As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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?

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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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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:

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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.

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What issues can be negotiated?

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Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Wisconsin Department of Natural Resources
Ann Bekta
2514 Morse Street
Janesville, WI 53545

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Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

Also, if you wish to be included in the negotiations, please reference the attached standard notice document from the State of Wisconsin Waste Facility Siting Board for more information on the time limits and requirements for municipalities to participate in the negotiation and arbitration process for the siting of a solid waste facility under sec. 289.33 of the Wisconsin Statutes.

If you have questions regarding the negotiation or arbitration, please contact the Waste Facility Siting Board at (608) 266-7709 or dha.mail@wisconsin.gov. If you have questions regarding Dane County's vertical landfill expansion plans, please contact me at (608) 267-8815 or Welch@countyofdane.com.

Respectfully,

John Welch, P.E.
Director of Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/18)



**State of Wisconsin
Waste Facility Siting Board**

4822 Madison Yards Way, 5th Floor North
Madison WI 53705-5400
Phone: (608) 266-7709
Fax: (608) 264-9885
e-mail: dhamail@wisconsin.gov

Dale Shaver
Chairman

Brian Hayes
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 approvals 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, Transportation, Safety and Professional Services 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Wisconsin Department of Natural Resources
Carolyn Cooper
3911 Fish Hatchery Road
Fitchburg, WI 53711

Dane County, Department of Waste & Renewables is planning a vertical expansion of its existing landfill, Dane County Landfill Site No. 2 (Rodefild), located within the City of Madison at:

7102 U.S. Highway 12 & 18
Madison, WI 53718.

As part of the expansion process, Dane County is required to notify the affected municipalities of our expansion intentions, please consider this letter your formal notification under Wis. Stat. 289.22 (1m).

The purpose of the notification is to give affected municipalities the opportunity to inform Dane County of any required local approvals and to establish a negotiating committee to discuss the terms of the vertical landfill expansion.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this vertical landfill expansion. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but are not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), this request must be fulfilled within 15 days after the receipt of this written request for which applications are required or issue a statement that there are no applicable local approvals.**

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Director of Waste & Renewables

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STANDARD NOTICE

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- (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.

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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.

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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.

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

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Revised: 01/25/2018



DANE COUNTY DEPARTMENT OF WASTE AND RENEWABLES

County Executive
Joseph T. Parisi

1919 Alliant Energy Center Way ♦ Madison, Wisconsin 53713
Phone: (608) 266-4018 ♦ Fax: (608) 267-1533

Director
John Welch P.E.

May 29, 2020

Bureau of Waste Management
101 South Webster Street, PO Box 7921
Madison, WI 53707

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Chairman

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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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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 Interests within 15 days of appointment. A member who fails to file a Statement of Economic Interests 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.

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 a unilateral arbitration petition must be filed within 14 days.

What issues can be arbitrated?

Only eight issues can be arbitrated. These issues are:

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 \$20,0000, 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 non-applicability of any pre-existing 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, 4822 Madison Yards Way, 5th Floor North, Madison, Wisconsin 53705-5400, (608) 266-7709, FAX: (608) 264-9885.

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