


Appendix D

Local Approvals and Report Submittal to Municipalities



Appendix D

Local Approvals and Report Submittal to Municipalities



Department of Planning & Community & Economic Development

Planning Division

Heather Stouder, Director

Madison Municipal Building, Suite 017
215 Martin Luther King Jr. Boulevard
Madison, Wisconsin 53703
Phone: (608) 266-4635
www.cityofmadison.com

****BY E-MAIL ONLY****

November 15, 2023

John Welch & Allison Rath sack
Dane County Dept. of Waste and Renewables
1919 Alliant Energy Center Way
Madison, Wisconsin 53703

RE: Consideration of a conditional use in the Industrial-General (IG) District for a landfill to allow Dane County to construct a sanitary landfill at 4402 Brandt Road/ CTH AB (LNDUSE-2023-00077; ID 80222)

Dear John and Allison;

On November 13, 2023, the Plan Commission found the standards met and **approved** your conditional use request to construct a landfill at 4402 Brandt Road. Prior to issuance of building permits for your project, the conditions of approval in the following sections shall be satisfied:

Please contact Brenda Stanley of the City Engineering Division at (608) 261-9127 if you have any questions regarding the following thirteen (13) items:

1. Obtain a Street Terrace permit for the proposed work (installation of the driveway apron, landscaping, etc.).
2. Provide proof of septic system abandonment from Public Health–Madison and Dane County as a condition of plan approval.
3. Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to City Engineering Division sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder ((608) 261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff.
4. Revise the site plans to show the location, depth, type, and size of existing and proposed private utilities (gas, electric, phone, steam, chilled water, etc.) in the project area or the adjacent right of way.
5. An Erosion Control Permit is required for this project.
6. A Storm Water Management Report and Storm Water Management Permit is required for this project.

7. This site appears to disturb over one (1) acre of land and requires a permit from the Wisconsin Department of Natural Resources (WDNR) for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR-216 and NR-151 however a separate permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their NOI or WRAPP permit process. Contact Eric Rortvedt at 273-5612 of the WDNR to discuss this requirement. The applicant is notified that the City of Madison is an approved agent of the Department of Safety and Professional Services (DSPS) and no separate submittal to this agency or Capital Area Regional Planning Commission (CARPC) is required for this project to proceed.
8. Include calculations in the stormwater management report that show how a 500-year storm event, as identified in MGO Chapter 37, would be handled by the proposed site design. These calculations are required to show that the proposed building does not flood during this design storm event using the site grades proposed.
9. This project will disturb 20,000 square feet or more of land area and require an Erosion Control Plan. Please submit an 11- x 17-inch copy of an erosion control plan (pdf electronic copy preferred) to Megan Eberhardt (west) at meberhardt@cityofmadison.com, or Daniel Olivares (east) at daolivares@cityofmadison.com, for approval.
10. Demonstrate compliance with MGO Section 37.07 and 37.08 regarding permissible soil loss rates. Include Universal Soil Loss Equation (USLE) computations for the construction period with the erosion control plan. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year.
11. Complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website as required by MGO Chapter 37.
12. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to submit a Storm Water Management Permit application, associated permit fee, Stormwater Management Plan, and Storm Water Management Report to City Engineering. The Stormwater Management Permit application can be found on City Engineering's website. The Storm Water Management Plan & Report shall include compliance with the following:

Submit prior to plan sign-off, a stormwater management report stamped by a P.E. registered in the State of Wisconsin.

Provide electronic copies of any stormwater management modeling or data files including SLAMM, RECARGA, TR-55, HYDROCAD, Sediment loading calculations, or any other electronic modeling or data files. If calculations are done by hand or are not available electronically, the hand copies or printed output shall be scanned to a PDF file and provided to City Engineering. (POLICY and MGO 37.09(2))

Detain the 2-, 5-, 10-, 100-, and 200-year storm events, matching post-development rates to pre-development rates and using the design storms identified in MGO Chapter 37.

Provide infiltration of 90% of the pre-development infiltration volume.

Reduce TSS by 80% (control the 5-micron particle) off of newly developed areas compared to no controls.

The applicant shall demonstrate that water can leave the site and reach the public right of way without impacting structures during a 100-year event storm. This analysis shall include reviewing overflow elevations and unintended storage occurring on site when the storm system has reached capacity.

13. Submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the City Engineering Division. E-mail PDF file transmissions are preferred to: bstanley@cityofmadison.com (East) or ttroester@cityofmadison.com (West).

Note: Per the discussion at the November 13 Plan Commission, final approval and application of conditions 5-12, which relate to stormwater management, shall be determined in consultation with the City Engineer and City Attorney prior to final approval and issuance of permits given consideration of the 2022 development agreement between the City of Madison and Dane County regarding the landfill.

Please contact Julius Smith, of the City Engineering–Mapping Section at (608) 264-9276 if you have any questions regarding the following six (6) items:

14. The plan proposes to modify the storm water management facilities in the northeasterly corner of the site. The existing easement and modifications to the development agreement shall be completed prior to construction.
15. The proposed landfill improvements and sedimentation basin extend into the 18-hole lease area. The lease shall be revised / amended as necessary prior to construction.
16. There are parking Lot improvements proposed that are within the right of way of US Highways 12 and 18 near the central access proposed. A lease or disposal of lands from the Wisconsin Department of Transportation (WisDOT) or other appropriate agreement shall be provided prior to construction of that parking area.
17. The plan shall show the limits of the Access Control R/W project #3080-00-21 and Doc No 2870419 along Brandt Road to assure the proposed access does not cross the restricted area.
18. The resident drop off building crosses an underlying platted lot line. A land division will be required to dissolve underlying lot lines and create the new parcels proposed to comply with fire codes, City Ordinances and City Policies. The required land division shall be approved by the City, recorded with the Dane County Register of Deeds and new Tax Parcel information available prior to issuance of a building permit.
19. The proposed buildings will require an address. Submit a site plan and a complete building floorplan in PDF format to Lori Zenchenko (lzenchenko@cityofmadison.com) that includes a floor plan of each floor level on a separate sheet/page for the development of a complete interior addressing plan. Also, include a unit matrix for apartment buildings. The Addressing Plan for the entire project shall be finalized and approved by Engineering (with consultation and consent from the Fire Marshal if needed) **prior** to the verification submittal stage of this conditional use with Zoning. The final approved

stamped Addressing Plan shall be included in said Site Plan Verification application materials or a revised plan shall be provided for additional review and approval by Engineering.

Per MGO Section 34.505, a full copy of the approved addressing plan shall be kept at the building site at all times during construction until final inspection by the Madison Fire Department.

For any changes pertaining to the location, deletion or addition of a unit, or to the location of a unit entrance, (before, during, or after construction), a revised Address Plan shall be resubmitted to Lori Zenchenko to review addresses that may need to be changed and/or re-approved.

Please contact Sean Malloy of the Traffic Engineering Division at (608) 266-5987 if you have any questions regarding the following five (5) items:

20. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawing shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
21. The developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
22. The City Traffic Engineer may require public signing and marking related to the development; the developer shall be financially responsible for such signing and marking.
23. All parking facility design shall conform to the standards in MGO Section 10.08(6).
24. "Stop" signs shall be installed at a height of seven (7) feet from the bottom of the sign at all Class III driveway approaches, including existing driveways, behind the property line and noted on the plan. All directional/ regulatory signage and pavement markings on the site shall be shown and noted on the plan.

Please contact Jenny Kirchgatter, Assistant Zoning Administrator at (608) 266-4429 if you have questions about the following three (3) items:

25. Zoning staff anticipates future requests for Conditional Use approval, including for a waste transfer station and hazardous waste collection, storage or transfer, as plans for future phased uses and buildings are further developed.
26. Additional reviews following the procedure for alteration of the Conditional Use Section 28.183(8) will be required prior to future phased construction of accessory landfill infrastructure and buildings and site improvements associated with accessory or permitted uses.

27. Submit the landscape plan and landscape worksheet stamped by the registered landscape architect. Per Section 28.142(3) Landscape Plan and Design Standards, landscape plans for zoning lots greater than ten thousand (10,000) square feet in size must be prepared by a registered landscape architect.

Please contact Bill Sullivan of the Madison Fire Department at (608) 261-9658 if you have any questions regarding the following item:

28. The proposed future Clean Sweep Facility and the Drive-Through Resident waste drop-off buildings are shown crossing property lines which will be difficult to construct in compliance with the IBC. Fire walls with no opens would be required along the length of the property line. Verify other building/property line set backs at the Education and Admin Center.

Specific questions regarding the comments or conditions contained in this letter should be directed to the commenting agency.

Note: Future approval to construct the buildings shown on the project plans will require approval of an alteration to this conditional use and approval by the City's Urban Design Commission. Please contact Jessica Vaughn, Urban Design Commission Secretary, at (608) 267-8740 if you have questions about the UDC review process.

A letter containing the conditions of approval for the related Certified Survey Map for the project will be sent separately.

Please now follow the procedures listed below for obtaining permits for your project:

1. The applicant shall resubmit a PDF copy of the plan set and any other supporting materials that are necessary, as specified in this letter to sprapplications@cityofmadison.com. (Note: A 20MB email limit applies and multiple transmittals may be required.). A check for the site plan review fee shall be mailed to the City of Madison Building Inspection Division; PO Box 2984; Madison, WI 53701-2984.
2. City Agencies who submitted conditions of approval will review your revised plans to verify that their conditions, along with any applicable requirements, have been satisfied. When the revised plans are submitted, the applicant will be emailed a hyperlink to a website to follow, in real time, which agencies have reviewed the revised documents, and signed off or need additional information.
3. This letter shall be signed by the applicant and property owner (if not the applicant) to acknowledge the conditions of approval and returned to the Zoning Administrator when requesting building permit approval. [Signature block on last page]
4. No alteration of this proposal shall be permitted unless approved by the Plan Commission, provided, however, the Zoning Administrator may issue permits for minor alterations. No alteration of a conditional use shall be permitted unless approved by the Plan Commission provided, however, the Zoning Administrator following consideration by the alderperson of the district, may approve minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the Plan Commission and the

conditional use standards. This approval shall become null and void two (2) years after the date of the Plan Commission unless the use is commenced, construction is under way, or a valid building permit is issued and construction commenced within 6 months of the issuance of said building permit. Where the plans have not been altered from the Plan Commission's approval, and the conditional use has expired, the Director of Planning and Community and Economic Development may, after consultation with the Alderperson of the District, approve an extension for up to one (1) year from the expiration date. The Plan Commission shall retain jurisdiction over this matter for the purpose of resolving complaints against the approved conditional use permit.

If you have any questions regarding obtaining your building permits, please contact the Zoning Administrator at (608) 266-4551. If you have any questions or if you may be of any further assistance, please do not hesitate to contact my office at (608) 261-9632 or tparks@cityofmadison.com.

Sincerely,

Timothy M Parks

Timothy M. Parks
Planner

cc: Brenda Stanley, City Engineering Division
Greg Fries, City Engineering Division
Julius Smith, City Engineering Division
Sean Malloy, Traffic Engineering Division
Jenny Kirchgatter, Asst. Zoning Administrator
Bill Sullivan, Madison Fire Department

I hereby acknowledge that I understand and will comply with the above conditions of approval for this project.

Signature of Applicant

*Signature of Property Owner
(If Not Applicant)*

LNDUSE-2022-00077			
For Official Use Only, Re: Final Plan Routing			
<input checked="" type="checkbox"/>	Planning Div. (T. Parks)	<input checked="" type="checkbox"/>	Engineering Mapping Sec.
<input checked="" type="checkbox"/>	Zoning Administrator	<input type="checkbox"/>	Parks Division
<input checked="" type="checkbox"/>	City Engineering	<input type="checkbox"/>	Urban Design Commission
<input checked="" type="checkbox"/>	Traffic Engineering	<input type="checkbox"/>	Recycling Coordinator
<input checked="" type="checkbox"/>	Fire Department	<input type="checkbox"/>	Other:
<input type="checkbox"/>	Water Utility	<input type="checkbox"/>	Other:



Office of the City Attorney

Michael R. Haas, City Attorney

Patricia A. Lauten, Deputy City Attorney

ASSISTANT CITY ATTORNEYS

Benjamin C. Becker
Steven C. Brist
Jason D. Donker
Lara M. Mainella
Amber R. McReynolds
Marci A. Paulsen
Adriana M. Peguero

Matthew D. Robles
Avery J. Schulman
Kate M. Smith
Jaime L. Staffaroni
Doran E. Viste
Brittany A. Wilson
Jennifer Zilavy

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

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

PARALEGAL
Ryan M. Riley

BY E-MAIL ONLY—NO HARD COPY TO FOLLOW

July 19, 2023

Mr. John Welch
Director
Dane County Waste & Renewables
1919 Alliant Energy Center Way
Madison, WI 53713

Re: Dane County Landfill Site No. 3—City of Madison Applicable Approvals (Feasibility Report)

Dear Mr. Welch:

Pursuant to the directives of Wis. Stat. § 289.22(1m), on May 18, 2023 the City of Madison provided you with a letter detailing the local approvals required by the City of Madison for the development of the proposed Dane County Landfill Site No. 3.

It is my understanding that the County will be looking to submit a feasibility report to the Department of Natural Resources around January 1, 2024. Under Wis. Stat. § 289.23(2), the County cannot submit this report until the later of:

- (a) At least 120 days after the person submits applications for all applicable local approvals specified as required by the municipality under s. 289.22 (1m).
- (b) At least 120 days after the receipt by the applicant of a statement by the municipality that there are no applicable local approvals.

As of the date of this letter, there are no applicable local approvals needed by the County. Accordingly, there are no applications to be made at this time.

Sincerely,

Doran Viste
Assistant City Attorney
dviste@cityofmadison.com

cc David Gault, Dept. Corp. Counsel



Office of the City Attorney

Michael R. Haas, City Attorney

Patricia A. Lauten, Deputy City Attorney

ASSISTANT CITY ATTORNEYS

Benjamin C. Becker
Steven C. Brist
Jason D. Donker
Lara M. Mainella
Amber R. McReynolds
Marci A. Paulsen
Adriana M. Peguero

Matthew D. Robles
Avery J. Schulman
Kate M. Smith
Jaime L. Staffaroni
Doran E. Viste
Brittany A. Wilson
Jennifer Zilavy

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

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

PARALEGAL
Ryan M. Riley

BY E-MAIL ONLY—NO HARD COPY TO FOLLOW

May 18, 2023

Mr. John Welch
Director
Dane County Waste & Renewables
1919 Alliant Energy Center Way
Madison, WI 53713

Re: Dane County Landfill Site No. 3—City of Madison Approvals

Dear Mr. Welch:

On May 3, 2023, the City of Madison Clerk received Dane County's notification of its intention to commence the planning of a proposed landfill, Dane County Landfill Site No. 3, located within the City of Madison on the eastern portion of the Yahara Hills Golf Course.¹

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 landfill development plans.

As you know, the City has been in discussions with the County about this project for some time and the City and the County entered into several agreements in 2022 regarding the sale and development of the underlying land and the surrounding area, and other related issues. As we understand the plans, the County will be seeking to site and develop a new landfill on the eastern portion of the Yahara Hills Golf Course, on land now owned by the County. This will include development of buildings and infrastructure to support landfilling, solid waste and recycling operations. In addition, the landfill will be part of a larger sustainability campus to be developed by the County on the northeastern portion of the Yahara Hills Golf Course property.

¹ The land where the landfill will be sited was part of the City-owned Yahara Hills Golf Course property, and was sold to the County on February 27, 2023. The land remains subject to a golf course ground lease between the City and the County through 2042, which lease will see the number of playable holes reduced over time from 36-holes to 18-holes.

Based upon this understanding, in addition to the contractual obligations between the City and the County that apply to the site under the 2022 agreements, we believe that the County will need to secure the following local approvals to proceed with the landfill development:

- The certified survey map (approved in October 2022) to create the lot for the landfill needs to be recorded prior to proceeding.
 - If the landfill site will be part of the sustainability campus, the County will be required to submit restrictive covenants for approval that establishes the purpose of the development; a design review board and design review process; allowable uses; and standards for development of the sustainable business park. The restrictive covenants shall be approved by the Director of the Department of Planning and Community and Economic Development or his/her designee in consultation with the City Attorney's Office prior to final approval and recording of the certified survey map.²
- Landfills are a conditional use in the IG (Industrial-General) zoning district. Approval of a conditional use for the landfill by the Plan Commission and satisfaction of any conditions of approval thereof, is required before construction of the landfill commences.
- A zoning certificate, which indicates that the proposed use of land, buildings or structures and any future proposed buildings or structures comply with all of the provisions of the City's zoning code, will be required under MGO Sec. 28.202.
- The County will need to enter into a Developers Agreement to construct any public facilities needed to serve the landfill site, and obtain necessary permits, including a Permit to Excavate in the Right of Way (with deposit), for work within the right-of-way. Permits to connect to City utilities would be part of either of those processes.
- While not a City of Madison approval, the County will need to obtain an industrial wastewater discharge permit from the Madison Metropolitan Sewerage District before the City can provide sanitary sewer services to the landfill.
- No stormwater management or erosion control permits will be required from the City for the landfill project. Those will be under the jurisdiction of the Dane County Land & Water Resources Department.³
- Any new buildings constructed to serve the landfill, being publicly owned buildings, shall require approval by the Urban Design Commission prior to issuance of permits for said buildings per MGO Sec. 33.24(4)(d).
- Building permits (including plumbing, electrical, and HVAC permits) will need to be issued for any new buildings to be constructed on the site, or for the demolition of any existing buildings on the site.
- The driveway approaches to the landfill and the on-site parking facilities will need to be approved by the Traffic Engineer under MGO Sec. 10.08.
- If any trees located in the right-of-way will need to be trimmed, pruned or removed for the project, approval of the City Forester is required under MGO Sec. 10.101.
- A sign permit may be required under MGO Chapter 31 for any signs installed as part of the landfill development.
- Fire Department approvals may be needed under MGO Chapter 34 and the International Fire Code.

As noted above, this list is based upon our assumptions regarding the County's intentions and the preliminary plans for the facility 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

² A draft of the Dane County Sustainable Business Park Declaration of Covenants, Conditions, and Restrictions has already been reviewed and approved by City staff. Formal approval would be a condition of CSM approval for the business park.

³ This is pursuant to Sec. 13.a of the Solid Waste Agreement for 2023-2032 between the City and the County.

May 18, 2023

Page 3

development 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,

A handwritten signature in black ink, appearing to read "Doran Viste", written over a horizontal line.

Doran Viste

Assistant City Attorney

dviste@cityofmadison.com

cc Katherine Bannon, City Zoning Administrator
Christie Baumel, Deputy Mayor
Charlie Romines, City Streets Superintendent
Heather Stouder, Director, City Planning Division
Matt Tucker, City Building Inspector
Jim Wolfe, City Engineer

Powers, Betsy

From: Powers, Betsy
Sent: Friday, January 19, 2024 5:22 PM
To: Powers, Betsy
Subject: RE: Local approvals for new landfill site

From: Rathsack, Allison <rathsack.allison@countyofdane.com>
Sent: Wednesday, May 17, 2023 5:24 PM
To: Powers, Betsy <BPowers@scsengineers.com>
Subject: FW: Local approvals for new landfill site

This email originated from outside of SCS Engineers. Do not click links or open attachments unless you recognize the sender and know the content is safe.

FYI, no local approvals required for the Town but they have entered into negotiations.

Ali Rathsack

From: Welch, John <Welch@countyofdane.com>
Sent: Wednesday, May 17, 2023 4:26 PM
To: Rathsack, Allison <rathsack.allison@countyofdane.com>
Subject: Fwd: Local approvals for new landfill site

John Welch
Director
Dane County Department of Waste & Renewables
608-516-4154

Begin forwarded message:

From: Kim Banigan <clerk@tn.cottagegrove.wi.gov>
Date: May 16, 2023 at 10:02:28 AM CDT
To: "Welch, John" <Welch@countyofdane.com>
Subject: Local approvals for new landfill site

Good Morning John,
Unfortunately I just found your notice dated April 28th, which we received May 4th, regarding the new landfill site. I am afraid we are past the 15 days of your notice, although not past the 15 days of receipt. This is to inform you that the Town of Cottage Grove has no local approvals for which applications are required for the site at 7101 U.S. Highway 12 & 18 in the City of Madison.

The Town does wish to be included in negotiations as an Affected Municipality and is moving forward with a siting resolution and appointment of a local committee scheduled for the June 5, 2023 Town Board Meeting.

Does this suffice or do you need it sent in hard copy to you and/or someone else?

Kim Banigan

Clerk-Treasurer, 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

<https://www.facebook.com/Towncgr/>

Office Hours: 8:00 a.m. to 12:30 p.m., M-F

Afternoons by appointment only



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.

April 28, 2023

Ms. Maribeth Witzel-Behl
City of Madison Clerk
210 Martin Luther King Jr. Blvd, Room 103
Madison, WI 53703

Dane County Department of Waste & Renewables is planning a proposed landfill, Dane County Landfill Site No. 3, located within the City of Madison on a portion of the Yahara Hills Golf Course at:

7101 U.S. Highway 12 & 18
Madison, WI 53718

As part of the landfill development process, Dane County is required to notify affected municipalities of our landfill development 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 proposed landfill.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this proposed landfill. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but is not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), within 15 days of this written request, you must specify all approvals 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 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 DHAMail@wisconsin.gov. If you have questions regarding Dane County's proposed landfill plans, please contact me at (608) 516-4154 or Welch@countydane.com.

Respectfully,

John Welch
Director, Dane County Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/2018)



**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.

April 28, 2023

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

Dane County Department of Waste & Renewables is planning a proposed landfill, Dane County Landfill Site No. 3, located within the City of Madison on a portion of the Yahara Hills Golf Course at:

7101 U.S. Highway 12 & 18
Madison, WI 53718

As part of the landfill development process, Dane County is required to notify affected municipalities of our landfill development 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 proposed landfill.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this proposed landfill. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but is not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), within 15 days of this written request, you must specify all approvals 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 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 DHAMail@wisconsin.gov. If you have questions regarding Dane County's proposed landfill plans, please contact me at (608) 516-4154 or Welch@countydane.com.

Respectfully,

John Welch
Director, Dane County Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/2018)



**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.

April 28, 2023

Mr. Scott McDonell
Dane County Clerk
210 Martin Luther King Jr. Blvd, Room 106A
Madison, WI 53703

Dane County Department of Waste & Renewables is planning a proposed landfill, Dane County Landfill Site No. 3, located within the City of Madison on a portion of the Yahara Hills Golf Course at:

7101 U.S. Highway 12 & 18
Madison, WI 53718

As part of the landfill development process, Dane County is required to notify affected municipalities of our landfill development 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 proposed landfill.

Dane County formally requests that you inform us in writing of any and all applicable local approvals required by your municipality for this proposed landfill. These requirements include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill. This may include, but is not limited to, zoning variances, planning approvals, building permits and other criteria. **Per Wisconsin Statute 289.22(1m), within 15 days of this written request, you must specify all approvals 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 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 DHAMail@wisconsin.gov. If you have questions regarding Dane County's proposed landfill plans, please contact me at (608) 516-4154 or Welch@countydane.com.

Respectfully,

John Welch
Director, Dane County Waste & Renewables

Enclosed: Standard Notice for the State of Wisconsin Waste Facility Siting Board (Rev. 01/25/2018)



**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