

APPENDIX A - CORRESPONDENCE



119 South Main Street | PO Box 128 | Cottage Grove, Wisconsin 53527-0128
 Ph: 608.839.1998 | Fax: 608.839.1995

www.nrc-inc.net

MEETING MINUTES

SUBJECT: Wetland Boundary Review / Navigability Review – Emerald Park Landfill, Veolia ES	DATE/TIME: Monday, November 12, 2007 / 9:00 am
PROJECT: Emerald Park Landfill Expansion	LOCATION: Emerald Park Landfill, Muskego, WI
ATTENDEES: Ms. Pamela Schense, WDNR; Mr. Jay Warzinski, Veolia ES, Mr. James Dunham, Veolia ES, Mr. Brian Karczewski, Natural Resources Consulting, Inc., Mr. Douglas Genthe, RMT, Inc., Mr. Mark Torresani, RMT, Inc.	

Meeting was held with Ms. Pamela Schense to field review:

- 1) The wetland boundaries within and adjacent to the proposed expansion footprint; and
 - 2) The farm ditches within and adjacent to the proposed expansion footprint.
- 1) Pam Schense indicated that she did receive our opinion paper regarding navigability of the farm ditches within the expansion footprint. She said that she was not aware of the Department dealing with or addressing the applicability of a drainage district with relation to the navigability exemption for farm ditches. This discussion will continue internally within the WDNR.
 - 2) General concurrence regarding the wetland boundaries was obtained. Small changes to the north side of wetland W-4 need to be made. I will visit the site on Monday, November 19th to make the necessary changes. Jim will have a survey crew follow up and locate the new flags. It does not appear that this change, considered minor in extent, will impact the proposed expansion.
 - 3) Questions regarding a previously delineated area, wetland W-5, were addressed in the field. Pam agreed that there did not appear to be any indicators of wetland in the area. However, she would like a farm service agency crop slide review completed to show that the area was consistently farmed. If so, she will consider the area upland.
 - 4) Pam agreed with arguments presented in the field that Pond P-6 is not wetland. This area is now considered non-navigable and non-wetland and does not require further evaluation during the practical alternatives analysis process under NR 103.
 - 5) Questions were raised about the field, currently in forage production, located south of the east-west reach of D-2 and west of the north-south reach of D-2. This area has been delineated by Jerry Kelly as wetland in 1996 and in 2005. Pam agreed that the area does not appear to have the characteristics of wetland. She asked if the area could remain fallow in the Spring of 2008 and if we could revisit the issue at that time.
 - 6) Questions were raised about another potential upland area within the heart of wetland 9 located to the south of the area addressed in point 5 and west of the north-south reach of D-2. This area appears to have upland characteristics which Pam agreed with in the field. However, limited information is available to clearly prove an upland condition since it is farmed and the soils are hydric. Pam is willing to consider its removal from wetland status. She will get back to me and let me know if this is possible from the Department's position.

- 7) If the argument regarding the area being part of a drainage district is not accepted by the WDNR, Pam agreed to previously marked locations of navigability for D-4, and our opinion of where navigability starts for D-2 (approximately 240 feet south of the 90 degree bend in D-2). This location needs to be surveyed and presented to Pam on a map for agreement. This should be done after any discussions regarding the drainage district issue play out.



FIGURE 1. EMERALD PARK WETLANDS OVERVIEW
 Veolia - Emerald Park



Location
 Section 36, T5N, R20E
 City of Muskego, Waukesha County, WI

Project Information
 NRC Project Number : 007-0264-01
 Modified December 11, 2008

0 250 500 Feet

Legend	
	Approximate Project Boundary
	Field Delineated Wetland
	Navigable Waterway

NRC
 Natural Resources Consulting, Inc.
 209 Commerce Parkway
 P.O. Box 128
 Cottage Grove, WI 53527-0128
 phone: 608-839-1998
 fax: 608-839-1995
 www.nrcdifference.com

24

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711



June 6, 2011

File Ref: FID #268244130

Mr. Jay Warzinski
Veolia ES Emerald Park Landfill, LLC
W124 S10629 South 124th Street
Muskego, WI 53150

Subject: Emerald Park Landfill, Muskego

Dear Mr. Warzinski:

Over the past two months, you and other representatives from Veolia have met with key department personnel to discuss an appropriate procedural approach for an application to expand the capacity and footprint of the Emerald Park Landfill. This would be beyond the limits provided for in the department's October 22, 2010, feasibility determination, which set a maximum expansion capacity of 8,144,700 cubic yards. Veolia has expressed the belief that the normal landfill siting process outlined in ch. 289, Stats, does not fit the unusual circumstances of an Emerald Park expansion. You have stated as a couple of reasons, that the proposed expansion would lie entirely within the footprint and capacity of the originally proposed 16.3 million cubic yard expansion, and because the local negotiated agreement was based on the originally proposed 16.3 million cubic yard expansion. Veolia has indicated that the department has already evaluated the 16.3 million cubic yard proposal. Therefore, in your view, the more appropriate way to proceed with an expansion proposal that falls within that capacity would be as a modification to the feasibility determination, rather than a new feasibility process.

Department staff, administrators and legal counsel have discussed this matter at length. We are concerned that handling a proposed capacity expansion as a feasibility modification, skipping some of the siting process requirements of ch. 289, Stats, could expose the department and Veolia to legal action that could prevail on procedural grounds. Given the provisions under ss. 289.22 to 289.33, Stats, we are particularly uncertain how we could avoid giving affected municipalities their due notice and process rights. The ch. 289 statutory landfill siting process, first established in 1981, has served Wisconsin's communities and citizens well. That said, if you are aware how we might procedurally obviate the need for this notice, and if you believe that doing so would not impair the rights of the affected municipalities in this instance, we are interested in learning your ideas on the matter.

If the local approval component of the siting process, outlined in ss. 289.22 and 289.23, Stats, is invoked, as we believe it should be to avoid any legal questions, we acknowledge this would delay your submittal of a feasibility report until after the 120-day period for the specification of local approvals. However, the 120-day period would provide time for Veolia and the department to discuss, clarify and sort through any changes to the constraints that limited the previous expansion to 8.14 million cubic yards. This includes the development and review of an NR 103 Practicable Alternatives Analysis (PAA) for any wetlands affected by the new proposal, and discussions of the site life analysis needed to meet the requirements of s. 289.29(1)(d), Stats. In the interests of ensuring a complete and reviewable submittal, we particularly want to discuss the PAA in advance and in conjunction with our Watershed Management staff to clearly define the range of alternatives to be analyzed.

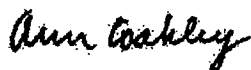
We also acknowledge that the unusual circumstances of your proposed expansion may offer opportunities to expedite the review timeline. With the 120-day local approval time, we will also agree to the following:

- Consider the December 22, 2005, Initial Site Report to satisfy the initial site report requirement of s. 289.21, Stats., since land uses, regional geology and other elements of the proposed expansion have presumably not changed from what was presented in that report.
- Consider the geotechnical work previously performed at the site adequate for departmental review of a proposed expansion that falls within the boundaries previously proposed.
- Require a cover letter referencing the previous feasibility report submittal and require only updated information be submitted such as the PAA and the site life analysis.
- Accelerate review timelines for feasibility completeness (30 days or less from submittal) and a feasibility determination (30 days or less from the end of the public comment period) since department staff have recently reviewed a substantially similar proposal within the past 12 months.

As a practical matter, if we incorporate these process streamlining measures which are appropriate to this proposal, we believe the department's review timeframe will be similar to what would occur under a feasibility modification approach.

We would be happy to meet with you at your convenience to discuss this matter further. Please do not hesitate to call (608-261-8449) or email (Ann.Coakley@wisconsin.gov) with any questions you may have, or to schedule a meeting.

Sincerely,



Ann M. Coakley, Director
Bureau of Waste and Materials Management

cc: John Hammen - SER
Frank Schultz - SER
Pat Stevens - AD/8
Sue Bangert - AM/7
Dan Graff - LS/8
Joe Lourigan - Sturtevant
Ann Bekta - Janesville

DATE: 09/23/2014

FILE REF: 3500

TO: Emerald Park/Advanced Disposal File

FROM: Kathi Kramasz, WMS *KK*

SUBJECT: 2014 Navigability Determination for EPL Expansion Proposal

On September 3, 2014, I visited this site with Joe Lourigan, Marie Kopka, and Tyler Field from Cornerstone Environmental Group. The purpose of the site visit was to:

- Review the wetland boundaries in the field
- Begin the wetland functional assessment
- Determine the extent of navigability of the waterways in the northern wetland complex

Based on our site visit Marie Kopka prepared several comments about additional information needed to complete the wetland delineation before a concurrence letter can be finalized.

We have also started the WRAM process and have determined that the wetlands will likely fall into the moderate-high category.

We also finalized the navigability determination. Navigability can change over time as the watershed changes, as storm events change, as site conditions change, etc. Based on site conditions documented during our visit and review of past aerials, etc., the waterway has been determined to be navigable from near the western corner of the wetland, to the east, and then all the way to the north. This is a difference from the past determination. This determination is based on the following:

- There was open water in the channel during our site visit.
- The channel was about 4' wide throughout most of the navigable reaches and had about 8" of water, with erosion marks, etc indicating higher water levels in the spring.
- There is a culvert that connects the w-e run and the s-n run.
- The 2007 aerial also shows open water in the channel for this entire reach
- The 2000 aerial shows this area as wetter than the other side channels and shows a clear ditch.
- At the point of navigability the waterway opens up into an actual channel. Upstream of that point it loses its defined bed and banks.

I have marked the extent of navigability on the attached 2010 aerial.

Waukesha County GIS Map

LAND INFORMATION SYSTEMS DIVISION



- Legend**
- FEMA Floodplain**
- 1% Chance Flood (Zone A Nc)
 - 1% Chance Flood Area (Zone Floodway)
- Shoreland Zoning Jurisdiction**
- Plats**
- Assessor Plat
 - CSM
 - Condo Plat
 - Subdivision Plat

*Waukesha County
2014*

The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

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Notes:

Printed: 9/23/2014



June 8, 2015

WIC-SE-2015-68-01463

Advanced Disposal Services Inc.
Mike Hackney
W124 S10629 S124th Street
Muskego, WI 51350

RE: Wetland Delineation Report for an approximately 62 acre project site located in the NE1/4 of the SW1/4 of Section 36, Township 5 North, Range 20 East, City of Muskego, Waukesha County

Dear Mr. Hackney:

We have received and reviewed the wetland delineation report prepared for the above mentioned site by Stantec Consulting Services, Inc. This letter will serve as confirmation that the wetland boundaries as shown on the wetland delineation map dated May 20, 2015 are acceptable. These wetland boundaries were confirmed during a site visit conducted on May 18, 2015. Any filling or grading within these areas will require DNR approvals. Our wetland confirmation is valid for five years unless altered site conditions warrant a new wetland delineation be conducted.

In order to comply with Chapter 23.321, State Statutes, please supply the department with an electronic file, in CAD or GIS format, of all wetland boundaries delineated within the project area. The electronic file should utilize a State Plane Projection, and be overlain onto recent aerial photography. If a different projection system is used, please indicate what system the data are projected to. Please send these data to Calvin Lawrence (608-266-0756, or calvin.lawrence@wisconsin.gov).

There are navigable waterways identified on and adjacent to the project site. DNR Chapter 30 permits will be needed if earthwork (filling, dredging, etc.) or structures (culverts, bridges, erosion control, etc.) are proposed in or adjacent to these waterways.

If you are planning development on the property, you are required to avoid take of endangered and threatened species, or obtain an incidental take authorization, to comply with the state's Endangered Species Law. To insure compliance with the law, you should submit an endangered resources review form (Form 1700-047), available at <http://dnr.wi.gov/topic/ERReview/Review.html>. The Endangered Resources Program will provide a review response letter identifying any endangered and threatened species and any conditions that must be followed to address potential incidental take.

In addition to contacting WDNR, be sure to contact your local zoning office and U.S. Army Corps of Engineers to determine if any local or federal permits may be required for your project.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customerurvey> to evaluate how I did.

If you have any questions, please contact me at (262) 574-2115 or email
Neil.Molstad@wisconsin.gov.

Sincerely,



Neil Molstad
Wetland Identification Specialist

cc: Marie Kopka, Project Manager, U.S. Army Corps of Engineers
Jeff Muenkel, City of Muskego
Eric Parker, Stantec
Melissa Curran, Stantec
Jon Guntow, Stantec
Tyler Field, Cornerstone Environmental
Kathi Kramasz, DNR Water Management Specialist
Joe Lourigan, DNR
Doug Coenen, Advanced Disposal
Jay Warzinski, Advanced Disposal

Enclosures:

General Site Location Map
Stantec Field Delineated Wetland Boundary Map 5-20-2015



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Legend
 Project Boundary
 Proposed Solid Waste Boundary

Notes
 1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
 2. Data Sources Include: Stantec and USGS
 3. Background: USGS 7.5 Topographic Quadrangles

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

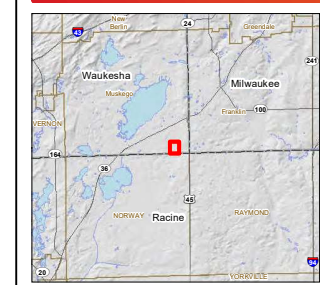
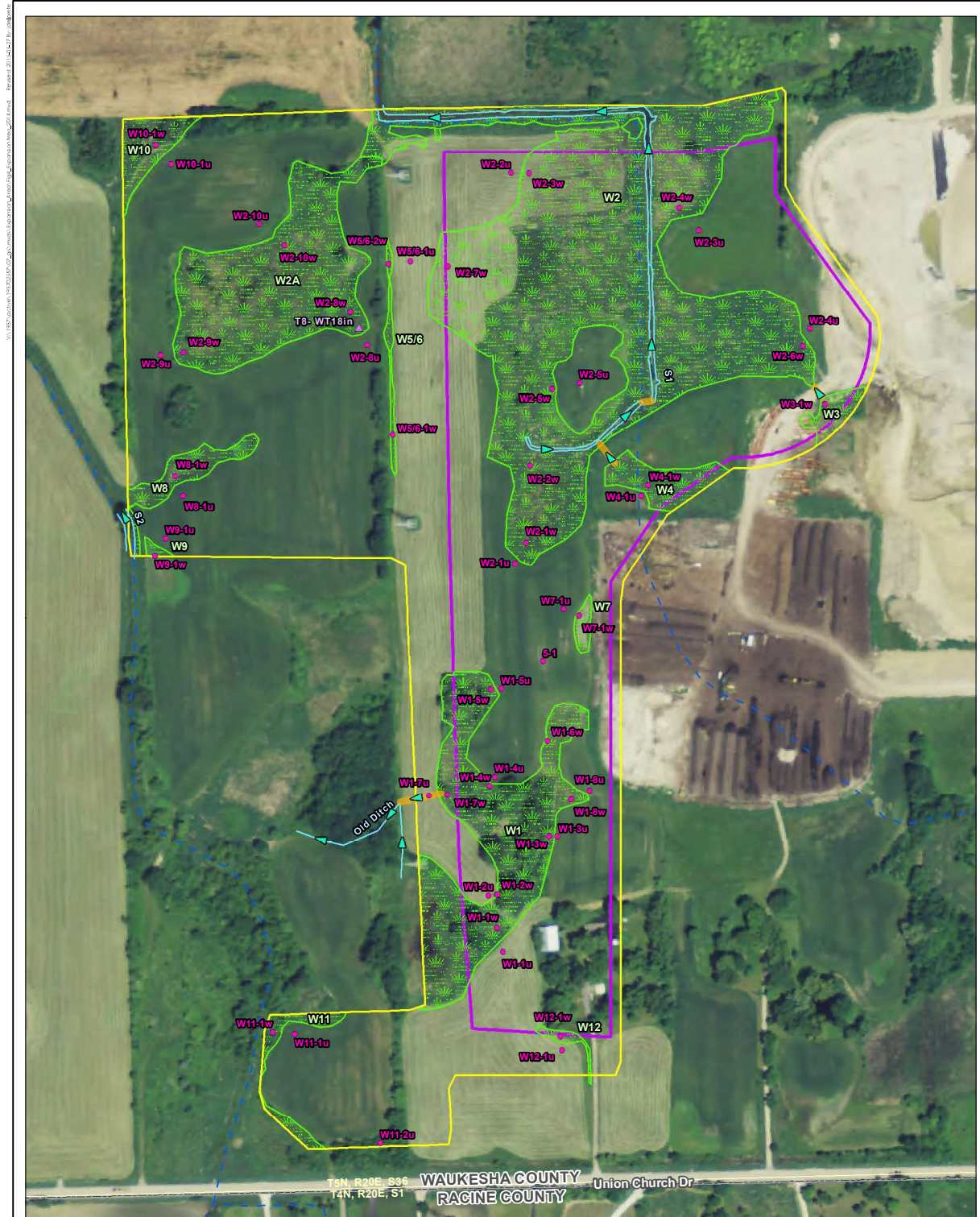
Figure No. **1**
 Title **Project Location and Topography**

Client/Project **ADS - Emerald Park Landfill Western Expansion**

Project Location: S34, T5N, E20E, C. of Muskego, Waukesha Co., WI
 Prepared by AS on 2014-10-15
 Technical Review by EF on 2015-03-09
 Independent Review by EF on 2015-03-09

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- Legend**
- Project Boundary
 - Proposed Solid Waste Boundary
 - Sample Point
 - Soil Bore
 - Culvert
 - ~ Field Delineated Waterway
 - ▶ Flow Direction
 - Field Surveyed Wetland
 - ~ DNR 24k Hydrography
 - ~ Perennial Stream
 - ~ Intermittent Stream
 - ~ Waterbody

Notes

1. Coordinate System: NAD 1983 StatePlane Wisconsin South FIPS 4803 Feet
2. Data Sources Include: Stantec, WDNR, and WDOT
3. Orthophotography: 2013 NAP

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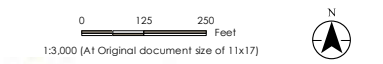
Figure No.
4

Title
Field Delineated Wetland Data

Client/Project
ADS - Emerald Park Landfill
Western Expansion

Project Location
S36, T5N, R20E,
C. of Muklego,
Waukesha Co., WI

193702557
Prepared by AB on 2015-05-20
Technical Review by BT on 2015-05-20
Independent Review by EF on 2015-05-20





REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL MN 55101-1678

June 22, 2015

Operations
Regulatory (2009-04421-MHK)

Mr. Mike Hackney
Advanced Disposal Services, Inc.
W124 S10629 S124th Street
Muskego, Wisconsin 53150

Dear Mr. Hackney:

This letter is in response to the request submitted on your behalf by Stantec Consulting Services requesting Corps of Engineers (Corps) concurrence with the delineation of aquatic resources completed on the 62-acre property identified as the Emerald Park Landfill's Western Expansion site in the City of Muskego. The project site is located in Sec. 36, T. 5N., R. 20E., Waukesha County, Wisconsin.

We visited the site on May 18, 2015 and reviewed the Wetland & Waterway Delineation Report dated March 9, 2015 and the submittal information submitted on June 1, 2015, and determined that the limits of the aquatic resources have been accurately identified in accordance with current agency guidance including the *Corps of Engineers Wetland Delineation Manual* (1987 Manual) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region. This concurrence is only valid for the review area shown on the attached Figure 4. The boundaries shown on the attached Figure 4 dated May 20, 2015 accurately reflect the limits of the aquatic resources in the review area.


This concurrence may generally be relied upon for five years from the date of this letter. However, we reserve the right to review and revise our concurrence in response to changing site conditions, information that was not considered during our initial review, or off-site activities that could indirectly alter the extent of wetlands and other resources on-site. Our concurrence may be renewed at the end of this period provided you submit a written request and our staff are able to verify that the determination is still valid.

This review did **not** include a jurisdictional determination as to whether the wetlands or other aquatic resources identified at the site would be subject to Corps of Engineers jurisdiction under the Clean Water Act (CWA). Pursuant to Section 404 of the CWA, a Department of the Army permit is required for the discharge of dredged and fill material into a water of the United States. If you would like the Corps to make a determination regarding the status of the wetlands and aquatic resources identified on this property you may request an approved or preliminary jurisdictional determination by submitting a written request to: Marie Kopka, U.S. Army Corps of Engineers, 20711 Watertown Road, Suite F, Waukesha, Wisconsin 53186.

Please note that the discharge of dredged or fill material into waters of the United States without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from a state or local agency does not obviate the requirement for obtaining a Department of the Army permit.

Thank you for your cooperation with the U.S. Army Corps of Engineers regulatory program. If you have any questions, please contact me at (651) 290-5733 or Marie.H.Kopka@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "Marie H. Kopka". The signature is fluid and cursive, with a large initial "M" and "K".

Marie H. Kopka
Senior Project Manager, Regulatory Branch

Enclosures

Electronic copy furnished:

Eric Parker, Jon Guntow, and Melissa Curran, Stantec

Tyler Field, Cornerstone Environmental

Joe Lourigan, Neil Molstad, Kathi Kramasz, and Geri Radermacher, Wisconsin DNR



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Legend
 [Blue Outline] Project Boundary
 [Purple Outline] Proposed Solid Waste Boundary

Figure No. 1
Title
Project Location and Topography

Client/Project
 ADS - Emerald Park Landfill
 Western Expansion

Project Location
 S4, 15N, E20E
 T. of Muskego,
 Waukesha Co., WI

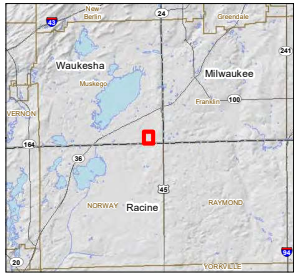
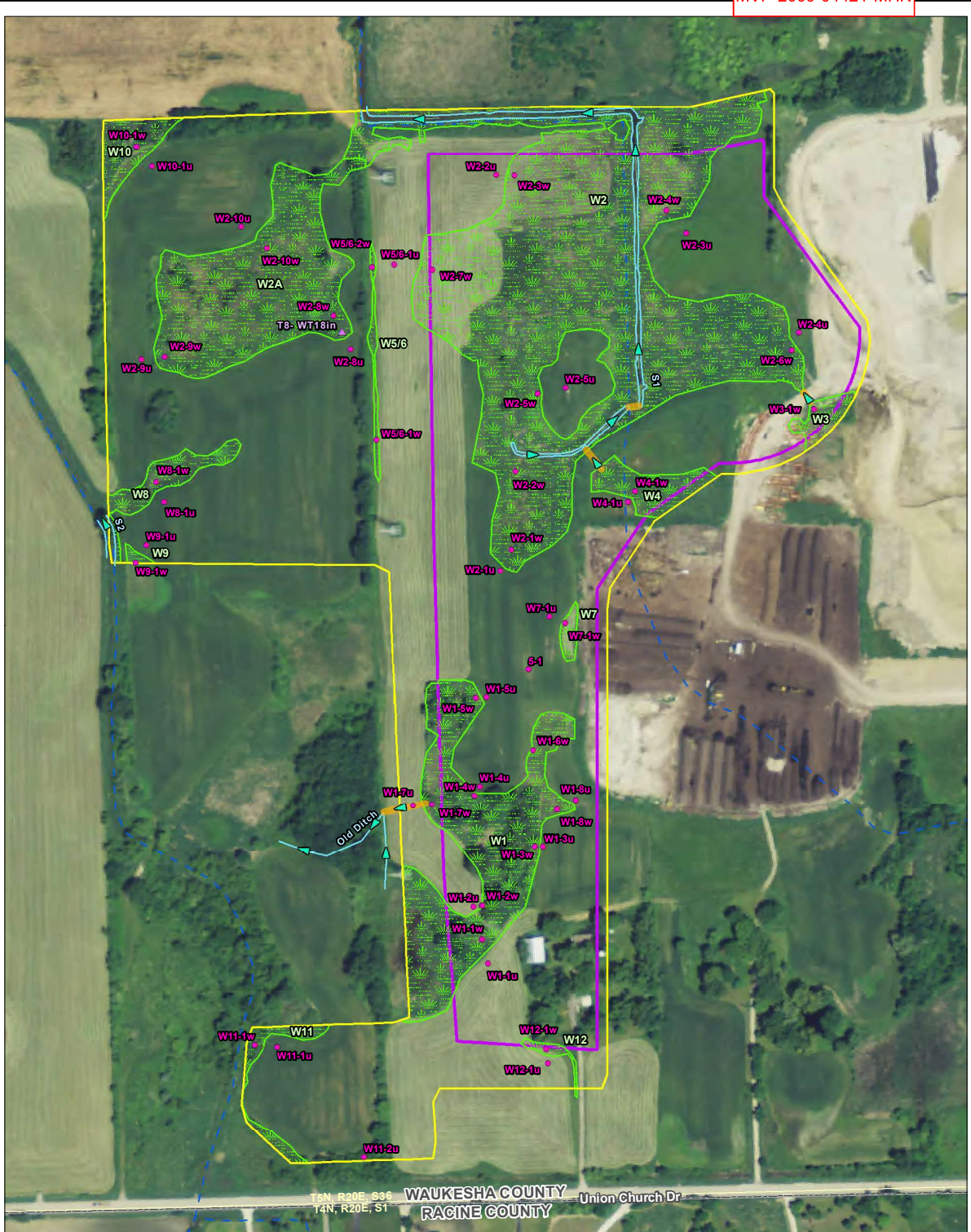
Prepared by AS on 2014-10-15
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Notes
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- Legend**
- Project Boundary
 - Proposed Solid Waste Boundary
 - Sample Point
 - Soil Bore
 - Culvert
 - ~ Field Delineated Waterway
 - ▶ Flow Direction
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Figure No.
4

Title
Field Delineated Wetland Data

Client/Project
ADS - Emerald Park Landfill
Western Expansion

Project Location
S36, T5N, R20E,
C. of Muklego,
Waukesha Co., WI

193702557
Prepared by AB on 2015-05-20
Technical Review by BT on 2015-05-20
Independent Review by EP on 2015-05-20



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
N7725 Hwy 28
Horicon, WI 53032

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



January 14, 2022

Timothy Curry
119 West Gundlach
Columbia, IL 62236

WIC-SE-2021-68-04813

RE: Wetland Delineation Report Confirmation for "Emerald Park Landfill - Proposed Western Expansion" located in the City of Muskego, Waukesha County

Dear Mr. or Ms. Curry:

We have reviewed the wetland delineation report prepared for the above-mentioned site by Stantec. This letter serves as confirmation that the wetland boundaries as shown on the "10/22/2021" wetland delineation map are acceptable. This finding is based upon a September 29, 2021 field visit. Any filling or grading within these areas may require DNR approvals. Our wetland confirmation is valid for fifteen years. Be sure to send a copy of the report, as well as any approved revisions, to the U.S. Army Corps of Engineers.

In order to comply with Chapter 23.321, State Statutes, please supply the department with a polygon shapefile of the wetland boundaries delineated within the project area. Please do not include data such as parcel boundaries, project limits, wetland graphic representation symbols, etc. If internal upland polygons are found within a wetland polygon, then please label as UPLAND. The shapefile should utilize a State Plane Projection, and be overlain onto recent aerial photography. If a different projection system is used, please indicate what system the data are projected to. In the correspondence sent with the shapefile, please supply a brief description of each wetland's plant community (eg: wet meadow, floodplain forest, etc.).

There is a navigable stream identified on the property. DNR Chapter 30 permits will be needed if earthwork (filling, dredging, etc.) or structures (culverts, bridges, erosion control, etc.) are proposed in or adjacent to the waterway.

If you are planning development on the property, you are required to avoid take of endangered and threatened species, or obtain an incidental take authorization, to comply with the state's Endangered Species Law. To ensure compliance with the law, you should submit an endangered resources review form (Form 1700-047), available at <https://dnr.wi.gov/topic/ERReview/Review.html>. The Endangered Resources Program will provide a review response letter identifying any endangered and threatened species and any conditions that must be followed to address potential incidental take.

In addition to contacting WDNR, be sure to contact your local zoning office and U.S. Army Corps of Engineers to determine if any local or federal permits may be required for your project.

If you have any questions, please call me at (920) 296-6507 or email marty.dillenburg@wisconsin.gov.

Sincerely,

Marty Dillenburg
Wetland Identification Specialist

Copy to: Luke Specketer, Geologist, Tetra Tech
US Army Corps of Engineers
Chris Jors, Sr. Specialist-Biologist, SEWRPC
Scott Kroeger, Public Works and Development Director, City of Muskego

