



July 13, 2021

Peter Tester, Temporary Commissioner  
Minnesota Pollution Control Agency  
520 Lafayette Road N.  
St. Paul, MN 55155

**RE: Certificate of Need Applications – Landfill Expansion**

Dear Mr. Tester,

The MPCA recently released its preliminary determination on four Certificate of Need applications for expansion of landfills within the metro area. Preliminarily, the MPCA plans to allocate the estimated waste over the next seven years to each of the four landfill applicants based primarily on existing market share. Waste estimated to be gathered by haulers affiliated with or owned by a landfill owner is allocated to that landfill. Waste estimated to be gathered by unaffiliated haulers is allocated evenly among the four applicants. Under this approach, future waste flows where current waste flows. Landfills owned by big, established companies with the resources to purchase additional haulers grow even larger.

Comparing the four applicant landfills, the Burnsville Sanitary Landfill is the only landfill located in an area flagged by the state for environmental justice concerns. The Burnsville Sanitary Landfill also has the most sensitive environmental location of the four applicant landfills given that it is adjacent to a major river, adjacent to a National Wildlife Refuge, near the water supplies of large cities and within the City of Burnsville Drinking Water Protection Environmental Overlay Zone, in a floodplain, in an area that requires wetland removal, and in a high profile location near hundreds of homes. Because of this sensitive environmental location, the MPCA is proposing to spend over \$100 million to limit groundwater contamination at the nearby Freeway Landfill and Freeway Dump sites also in Burnsville.

Despite the environmental concerns and despite the environmental justice concerns, the MPCA proposes to allocate 1,692,893 tons of additional waste (over 30% of the metro area's estimated seven year demand) to the Burnsville Sanitary Landfill. We believe the allocation system used for the preliminary determination is flawed. Allocation should not be based on current market share. Instead, final allocation should be based on environmental sensitivity, environmental justice and local input.

Specifically, Bloomington requests that the MPCA modify its final allocation methodology. Allocation based on market share needs to be replaced with allocation based on environmental sensitivity, environmental justice and local input. We offer the following comments:

1. **Environmental Sensitivity.** Base waste allocation on:
  - a. Adjacency to major rivers;
  - b. Adjacency to wildlife refuges;
  - c. Adjacency to drinking water supplies;
  - d. Proximity to floodplains;
  - e. Proximity to and impact on wetlands; and
  - f. Proximity to residential uses.
2. **Environmental Justice.** More fairly distribute environmental burdens by limiting the placement of waste in census tracts with lower incomes and higher percentages of BIPOC residents.
3. **Local Input.** Perform robust outreach and gather input from nearby residents, surrounding cities, and adjacent counties. Use public input to help guide the allocation of waste.
4. **Limit Waste Generation.** Use the Certificate of Need allocation process to aggressively pursue commitments from landfill owners (who are also waste haulers) to implement programs to avoid the placement of recyclables and organics in landfills.
5. **Allocate Waste to Additional Landfills.** The preliminary methodology allocates waste estimated to be generated within the seven county metro core to landfills within the seven county area. Yet households within the seven county area are often geographically closer to landfills outside the seven county area than to landfills within the seven county area. For example, north metro communities are much closer to landfills in Sherburne County than to the landfills to which the preliminary methodology allocates their waste. As a way to reduce hauling distance and environmental impact, the final CON methodology should open CON applications to landfills in any county adjacent to the seven county area or equally proximate to landfills within the seven county area.

We understand using a new methodology for the final allocation will require more time to complete. However, that time is very well spent. Minnesota will be well served by a system that seeks to limit waste generation, better considers landfill proximity, and allocates waste based on environmental sensitivity, environmental justice, and local input rather than existing market share. Thank you in advance for considering our input as you prepare the final determination on the Certificate of Need applications.

Sincerely,



Tim Busse  
Mayor

copy via e-mail:      Bloomington City Council Members  
                                 Bloomington Legislative Delegation  
                                 Debbie Goettel, Hennepin County Commissioner  
                                 Sarena Selbo, Manager, Minnesota Valley National Wildlife Refuge  
                                 Peder Sandhei, Minnesota Pollution Control Agency