

Clinton County
Department of Waste Management
Designated Implementation Agency



November 3, 1999

Mr. Steve Essling
Waste Management
P.O. Box 336
Hastings, MI 49058

RE: Response to comments presented at October 5, 1999 public hearing on Clinton County proposed solid waste management plan update

Dear Mr. Essling:

In behalf of the Solid Waste Planning Committee I would like to thank you for attending the public hearing on Clinton County's draft Solid Waste Management Plan Update. You stated opposition to the Ordinance included in the Plan Update and also suggested that Clinton County consider the mechanism provided for in P.A. 138 as a funding mechanism for county programs.

The question of authority to enact an ordinance has been raised numerous times, being considered during the last Plan Update development and when we first compiled this Plan Update. Our decision to use this mechanism is based on interpretation of Michigan Law (46.11; MSA 5.331) which says that for any affairs over which the County is legislated jurisdiction, it may utilize certain mechanisms to regulate - including ordinances - so long as they do not contravene laws of the state or interfere with local affairs. Part 115 bestows jurisdiction and responsibility for numerous solid waste management issues to the County. Further, once the Plan is approved, the State expects that solid waste management activities and responsibilities of the Plan will be carried out by the County. Thus, we believe, the County has significant jurisdiction over solid waste management issues and an ordinance is an appropriate mechanism for use in regulating issues which are contained in an approved Solid Waste Management Plan.

Your suggestion that P.A. 138 be considered as a funding mechanism is contained, as an alternative, in the Plan (6.9, pg 89). However, the problem with P.A. 138 is that it ignores the commercial and industrial world in its assessment enablings. This would be unfair to homeowners. We will, of course, keep your suggestion, but believe that a user fee is the most appropriate and fair mechanism for meeting Clinton County solid waste management plan implementation needs.

Again, thank you for taking the time to attend the public hearing and share your thoughts.

Sincerely,



Jim Mason

cc: Mr. Jim Johnson, MDEQ
Clinton County Solid Waste Management Plan Appendix C



Clinton County
Department of Waste Management
Designated Implementation Agency



November 3, 1999

Mr. Jeffrey L. Woolstrum
Honigman Miller, Schwartz and Cohn
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226

RE: Response to Clinton County Solid Waste Management Plan Public Comments

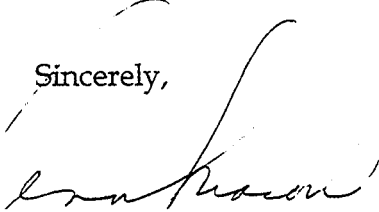
Dear Mr. Woolstrum:

We are in receipt of your October 6, 1999 letter requesting that a letter and accompanying document from Ms. Laurie Kendall dated June 17, 1999 be included in the administrative record of public comments on the Plan. We will be pleased to honor this request. You have also requested a written response to issues raised in that communication.

The issues raised in Ms. Kendall's communication were considered by the Solid Waste Planning Committee at the time of receipt. We note that these same issues have also been raised by the Michigan Waste Industries Association with other counties, the Michigan Department of Environmental Quality, and subsequently, the Attorney General's office. An unofficial opinion issued by the Attorney General's office to Mr. Jim Sygo, Chief of the Waste Management Division on May 25, 1999 responds to the issues. Since we concur with the discussion contained in that Memorandum and the issues raised relative to Clinton County's Solid Waste Management Plan mirror those submitted to the Attorney General's office, we refer you to that document for response. The Attorney General Office Memorandum will be included with this letter, your letter, and Ms. Kendall's correspondence as part of the administrative record of the Solid Waste Management Plan Update contained in Appendix C. Thank you for your comments.

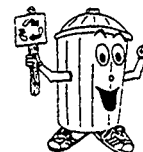
Please contact me if you have any questions.

Sincerely,



Ann Mason

Ms. Laurie Kendall, Michigan Waste Industries Association
Mr. Jim Sygo, Chief, Waste Management Division, MDEQ
Clinton County Solid Waste Management Plan



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October 6, 1999

Mr. Richard Hawks
Clinton County
100 East Cass
St Johns, Michigan 48879

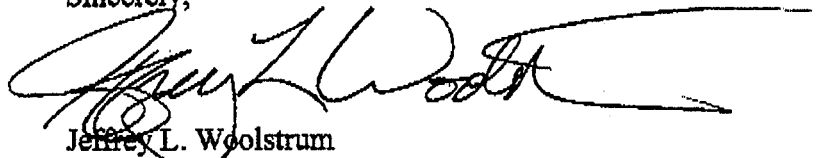
RE: Clinton County Solid Waste Management Plan Update

Dear Mr. Hawks:

We are attorneys representing the Michigan Waste Industries Association ("MWIA"). MWIA is a Michigan nonprofit corporation representing approximately 50 individual Michigan-based solid waste companies, some of which operate within Clinton County. This letter confirms that MWIA's Comments on Clinton County's draft solid waste management plan (the "Plan"), which was enclosed with Laurie Kendall's June 17, 1999 letter to Mr. James Lancaster, is included in the administrative record of public comments on the Plan. MWIA's Comments address its concerns with certain provisions that are contained in the Plan that exceed Clinton County's authority. Another copy of these Comments will be sent to you under separate cover for your files. MWIA requests that Clinton County either: (1) revise the Plan to eliminate the offending provisions discussed in the Comments; or (2) provide a written response to MWIA's concerns in the Plan's appendix, as required by Rule 711(g) of the Part 115 Rules, which sets forth the basis for retaining such provisions in the Plan. Feel free to call me with any questions regarding MWIA's Comments. ✓

Please call me if you have any questions.

Sincerely,



Jeffrey L. Woolstrum

cc: Mr. Jim Sygo, Chief Waste Management Division, MDEQ

DET_B195516.1

Michigan Waste Industries Association

P.O. BOX 16093 • LANSING, MICHIGAN 48901 • PHONE 517-484-6561

June 17, 1999

Mr. James Lancaster, Chairman
Solid Waste Planning Committee
Clinton County
100 E. Cass St.
St. Johns, Michigan 48897

*Submitted
to Jerry
Blumen
6-22-99*

Dear Mr. Lancaster:

The Michigan Waste Industries Association (MWIA) has been monitoring the development of revised County Solid Waste Management Plans. MWIA has contacted the Michigan Department of Environmental Quality concerning numerous areas where the industry feels counties have stepped outside the scope of their statutory authority. Those discussions have resulted in an informal opinion from the Attorney General's office, which indicates that many of the concerns of industry may fall outside the scope of the regulatory authority of the DEQ and are therefore legal issues between industry and county government.

The Clinton County Plan contains a number of the aforementioned areas of concern. The June 29, 1999 agenda provides an opportunity for industry to state their positions pertaining to several of those issues.

Attached please find industry's position on the following issues: 1) County Authority (operational standards), 2) Annual Caps, 3) Severability, 4) Public Health, 5) Vertical Expansion, 6) User Fee, 7) Amendment of the Plan, and 8) Redundancies.

These positions have been debated at length among industry members and represents MWIA's positions on all county plans that address these issues.

If you have any comments or questions, please feel free to contact me or any member of MWIA's Board of Directors.

Sincerely,

Laurie Kendall

Laurie Kendall, Vice President
MICHIGAN WASTE INDUSTRIES ASSOCIATION

Enclosures

Printed on Recycled Paper

**MICHIGAN WASTE INDUSTRIES ASSOCIATION
CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN POSITIONS
JUNE 29, 1999**

The discussion contained in this document is divided into two main sections. The first section discusses a county's limited authority to regulate matters in general, and the Legislature's narrow delegation of authority under Part 115 to include provisions in a solid waste management plan. In light of this narrow delegation of authority, the second section reviews those provisions that have appeared in the draft of the Clinton County Solid Waste Management Plan update.

**I. PERMISSIBLE CONTENTS OF COUNTY SOLID
WASTE MANAGEMENT PLANS**

Although Part 115 authorizes counties, among other government entities, to prepare solid waste management plans, counties do not have carte blanche to include any provision related to solid waste in their plans. To the contrary, counties must work within the narrow confines of the Legislature's delegation of authority under Part 115. Thus, when reviewing a plan submitted by a county for final approval, MDEQ must *not* ask, "does Part 115 *prohibit* this particular provision." Rather, MDEQ must ask whether a specific section of Part 115 or the Part 115 Rules *clearly authorizes* each provision included in a solid waste management plan including each provision incorporated by reference into the plan. If the answer to that question is not an unqualified "yes," MDEQ must deny approval of the plan.

**A. COUNTIES ONLY POSSESS DELEGATED
POWERS AND CANNOT REGULATE FOR
THE HEALTH AND SAFETY OF THEIR
RESIDENTS**

MWIA's comments on the contents of solid waste management plans are rooted in the fact that Michigan counties have delegated powers only and do not have any inherent power to regulate for purposes of the public's health, safety and general welfare. A "county has only such powers as have been granted to it by the Constitution or the state Legislature." *Alan v. Wayne Co.*, 388 Mich. 210, 245 (1972); *Berrien Co. Probate Judges v. Michigan Am. Fed'n of State, Co. & Mun. Employees Council 25*, 217 Mich. App. 205 (1996). Where counties have been clearly delegated such powers, the Michigan Constitution provides that the powers "shall be liberally construed in [the counties'] favor" and that "[p]owers granted to counties . . . shall include those fairly implied and not prohibited by this constitution." Const. 1963, art. VII, § 34. This constitutionally imposed rule of interpretation, however, is not an independent grant of authority. "As these provisions are not self-executing, the rights which they bestow and the duties which they impose may not be enforced without the aid of legislative enactment." *County Comm'r of Oakland Co. v. Oakland Co. Executive*, 98 Mich. App. 639, 646 (1980). Thus, counties have no inherent authority to include provisions in solid waste management plans without clear authorization by Legislature under Part 115.

The Office of the Attorney General ("AG") has consistently opined that counties are without authority to regulate matters that have not been clearly delegated by the Legislature. For example, the AG most recently opined that a non-charter county does not have authority to regulate the emissions from a municipal waste incinerator. OAG, 1998, No. 6,992 (Aug. 13, 1998). In that opinion, the AG first noted that townships, cities and villages *have* been granted authority by the Michigan Legislature to adopt ordinances for the purpose of protecting the public's health, safety and general welfare. Therefore, the AG opined that a township, city or village *may* adopt an air pollution control ordinance, provided that it is reasonably related to this purpose. For counties, however, the AG noted that, while chartered counties are expressly authorized by statute to adopt ordinances to abate air pollution, *the Legislature "has not seen fit to grant this power to noncharter counties."* *Id.*, slip op. p. 3 (emphasis added). The AG concluded that a "noncharter county is thus not authorized to adopt an air pollution ordinance." *Id.*; *see also*, OAG, 1969-1970, No. 4,696, p. 197 (Nov. 25, 1970) (county could not adopt air pollution control ordinance because no Michigan statute authorized a non-chartered county to abate air pollution and county ordinance would interfere with local affairs of villages and townships). This opinion is particularly significant with respect to solid waste management plans prepared under Part 115 because a municipal waste incinerator is a disposal area that must be consistent with such a plan. *See* M.C.L. § 324.11529(4).

Other AG opinions express a similar narrow view of a county's authority to regulate in the absence of clear enabling legislation. In OAG, 1989-1990, No. 6,665, p. 401 (Nov. 15, 1990), the AG opined that counties lacked the general authority to regulate the location of cigarette vending machines because such a county ordinance would interfere with the authority of the villages and townships to regulate such matters. In OAG, 1979-1980, No. 5,617, p. 526 (Dec. 28, 1979), the AG opined that a county could not adopt the Michigan Vehicle Code as an ordinance because "[t]he adoption of the motor vehicle code by a county would not be consistent with the legislative intention [to grant certain exclusive powers to the county road commission], would have the effect of contravening the general laws of the state, and of extending or increasing the powers or jurisdiction of a county board of commissioners." In OAG, 1977-1978, No. 5,341, p. 556 (July 31, 1978), the AG opined that a county had no authority to operate a spay and neuter clinic for dogs and cats because "[n]o provision of the [Michigan Dog Law] specifically or impliedly authorizes a county to establish and maintain a spay and neuter clinic and cats are not mentioned in either the title or body of the act." In OAG, 1977-1978, No. 5,304, p. 427 (April 27, 1978), the AG opined that a county board of commissioners could not establish a county police or security force because "the delegation of law enforcement responsibilities to any entity other than the sheriff would contravene general state laws [and] would tend to increase the powers, duties and jurisdiction of the county board of commissioners by transferring a measure of the sheriff's authority to an organization responsible to the board and not to the sheriff." Finally, in OAG, 1971-1972, No. 4,741, p. 82 (April 13, 1972), the AG opined that a county was without authority to adopt an ordinance banning the discharge of firearms in the county because there was "no express or implied power in the county which would support the adoption of [such] ordinance."

B. PART 115 ESTABLISHES THE SPECIFIC CONTENTS OF A SOLID WASTE MANAGEMENT PLAN AND COUNTIES CANNOT INCLUDE EXTRANEOUS PROVISIONS THAT WOULD EXPAND THEIR LIMITED DELEGATION OF AUTHORITY.

The contents of a solid waste management plan are limited to the provisions that are authorized in Part 115 and the Part 115 Rules, which are summarized below. A solid waste management plan must "encompass all municipalities within the county" and "take into consideration solid waste management plans in contiguous counties and existing local approved solid waste management plans as they relate to the county's needs." M.C.L. § 324.11533(2). A solid waste management plan must contain an evaluation of the "best available information" regarding recyclable materials within the planning area, including an evaluation of how the planning entity is meeting the state's waste reduction and recycling goals, and, based on that analysis, either provide for recycling and composting of such materials or establish that recycling and composting are not necessary or feasible or is only necessary or feasible to a limited extent. M.C.L. § 324.11539(1)(a), (b) and (d). If the solid waste management plan proposes a recycling or composting program, the plan must contain details of the major features of that program, including ordinances or other measures that will ensure collection of the material; however, as discussed below, Part 115 does not operate as enabling legislation for such ordinances. M.C.L. § 324.11539(1)(c). A solid waste management plan must "identify specific sites for solid waste disposal areas for a 5-year period after approval of a plan or plan update," and either identify specific sites for disposal areas for the remaining portion of the ten-year planning period, or include a process to annually certify the remaining solid waste disposal capacity available to the plan area and an interim siting mechanism¹ that becomes operative when the annual certification indicates that the available capacity is less than 66 months. M.C.L. § 324.11538(2). The solid waste management plan must "explicitly authorize" another county, state, or country to export solid waste into the county. M.C.L. § 324.11538(6).² In addition, "[w]ith regard to intercounty service within Michigan, the service must also be explicitly authorized in the exporting county's solid waste management plan." *Id.*

¹"An interim siting mechanism shall include both a process and a set of minimum siting criteria, both of which are not subject to interpretation or discretionary acts by the planning entity, and which if met by an applicant submitting a disposal area proposal, will guarantee a finding of consistency with the plan." M.C.L. § 324.11538(3).

²See also, M.C.L. § 324.11513; Mich. Admin. Code r. 299.4711(e)(iii)(C). In *Fort Gratiot Sanitary Landfill, Inc. v. Department of Natural Resources*, 504 U.S. 353 (1992), the United States Supreme Court invalidated Part 115's flow control provisions to the extent they regulated the interstate flow of solid waste because such regulation violated the Commerce Clause of the United States Constitution.

In addition to the plan content requirements expressly contained in Part 115, section 11538(1) authorizes MDEQ to promulgate rules "for the development, form, and submission of initial solid waste management plans." M.C.L. § 324.11538(1). Part 115 directs MDEQ to provide for the following in its administrative rules regarding solid waste management plans:

(a) The establishment of goals and objectives for prevention of adverse effects on the public health and on the environment resulting from improper solid waste collection, processing, or disposal including protection of surface and groundwater quality, air quality, and the land.

(b) An evaluation of waste problems by type and volume, including residential and commercial solid waste, hazardous waste, industrial sludges, pretreatment residues, municipal sewage sludge, air pollution control residue, and other wastes from industrial or municipal sources.

(c) An evaluation and selection of technically and economically feasible solid waste management options, which may include sanitary landfill, resource recovery systems, resource conservation, or a combination of options.

(d) An inventory and description of all existing facilities where solid waste is being treated, processed, or disposed of, including a summary of the deficiencies, if any, of the facilities in meeting current solid waste management needs.

(e) The encouragement and documentation as part of the plan, of all opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector.

(f) That the plan contain enforceable mechanisms for implementing the plan, including identification of the municipalities within the county responsible for the enforcement. This subdivision does not preclude the private sector's participation in providing solid waste management services consistent with the county plan.

(g) Current and projected population densities of each county and identification of population centers and centers of solid waste generation, including industrial wastes.

(h) That the plan area has, and will have during the plan period, access to a sufficient amount of available and suitable land, accessible to transportation media, to accommodate the

development and operation of solid waste disposal areas, or resource recovery facilities provided for in the plan.

(i) That the solid waste disposal areas or resource recovery facilities provided for in the plan are capable of being developed and operated in compliance with state law and rules of the department pertaining to protection of the public health and the environment, considering the available land in the plan area, and the technical feasibility of, and economic costs associated with, the facilities.

(j) A timetable or schedule for implementing the county solid waste management plan.

M.C.L. § 324.11538(1)(a)-(j). MDEQ has promulgated such rules in Part 7 of the Part 115 Rules. Mich. Admin. Code r. 299.4701 *et seq.*

Rule 711 of the Part 115 Rules sets forth the general structure and the required contents of a county solid waste management plan. "To comply with the requirements of [Part 115,] . . . county solid waste management plans shall be in compliance with the following general format": (i) executive summary;³ (ii) introduction;⁴ (iii) data base;⁵ (iv) solid waste management system alternatives; (v) plan selection; (vi) management component; and (vii) documentation of public participation in the preparation of the plan.⁶ Mich. Admin. Code r. 299.4711(a)-(d). Under this general format, the operative

³The executive summary must include an overview of the plan, the conclusions reached in the plan and the selected solid waste disposal alternatives, Mich. Admin. Code r. 299.4711(a).

⁴The introduction must establish the plan's goals and objectives for protecting the public health and the environment by properly collecting, transporting, processing, or disposing of solid waste, and by reducing the volume of the solid waste stream through resource recovery, including source reduction and source separation. Mich. Admin. Code r. 299.4711(b).

⁵The data base must include: (i) an inventory and description of the existing facilities serving the county's solid waste disposal needs; (ii) an evaluation of existing problems related to solid waste collection, management, processing, treatment, transportation, and disposal, by type and volume of solid waste; (iii) the current and projected population densities, centers of population, and centers of waste generation for five- and twenty-year periods; and (iv) the current and projected land development patterns and environmental conditions as related to solid waste management systems for five and twenty-year periods. Mich. Admin. Code r. 299.4711(c)(i)-(iv).

⁶The public participation in the preparation of the solid waste management plan must be documented by including in an appendix to the plan a record of attendance at the public hearing and the planning agency's responses to citizens' concerns and questions.

portions of a solid waste management plan are contained in the solid waste management system alternatives, plan selection, and management component elements of the plan. The required contents of these three elements are discussed below.

First, each solid waste management system alternative developed in the plan must address the existing problems identified in the plan's data base related to solid waste collection, management, processing, treatment, transportation, and disposal and must address the following components: (i) resource conservation and recovery, including source reduction, source separation, energy savings, and markets for reusable materials; (ii) solid waste volume reduction; (iii) solid waste collection and transportation; (iv) sanitary landfills; (v) ultimate uses for disposal areas following final closure; and (vi) institutional arrangements, such as agreements or other organizational arrangements or structures, that will provide for the necessary solid waste collection, transportation, processing and disposal systems. Mich. Admin. Code r. 299.4711(d)(i)(A)-(H). In addition, the plan must evaluate public health, economic,⁷ environmental, siting, and energy impacts associated with each alternative. Mich. Admin. Code r. 299.4711(d)(ii).

Second, the plan must select the preferred solid waste management system alternative developed and evaluated in the plan. The selection must be based on "[a]n evaluation and ranking of proposed alternative systems" using factors that include: (i) technical and economic feasibility; (ii) access to necessary land and transportation networks; (iii) effects on energy usage, including the impacts of energy shortages; (iv) environmental impacts; and (v) public acceptability. Mich. Admin. Code r. 299.4711(e)(i)(A)-(G). The basis for the selection must be set forth in the plan, including a summary of the evaluation and ranking system. Mich. Admin. Code r. 299.4711(e)(ii)(A). The plan must state the advantages and disadvantages of the selected alternative based on the following factors: (i) public health; (ii) economics; (iii) environmental effects; (iv) energy use; and (v) disposal area siting problems. Mich. Admin. Code r. 299.4711(e)(ii)(B)(1)-(5). The selected alternative must "be capable of being developed and operated in compliance with state laws and rules of the Department pertaining to the protection of the public health and environment," include a timetable for implementing the plan, and be "consistent with and utilize population, waste generation, and other [available] planning information." Mich. Admin. Code r. 299.4711(e)(ii)(C)-(E). With respect to disposal areas, the selected alternative must "identify specific sites for solid waste disposal areas" for a five-year period following MDEQ approval of the plan and, "[i]f specific sites cannot be identified for the remainder of the 20-year period, the selected alternative shall include specific criteria that guarantee the siting of necessary solid waste disposal areas for the 20-year period subsequent to plan approval." Mich. Admin. Code r. 299.4711(e)(iii)(A), (B). As of June 9, 1994, however, "a county that has a solid waste management plan that provides for siting of disposal areas to fulfill a 20-

Mich. Admin. Code r. 299.4711(g).

⁷The evaluation of the economic impacts must include an estimate of the capital, operational, and maintenance costs for each alternative system. Mich. Admin. Code r. 299.4711(d)(ii).

year capacity need through use of a siting mechanism, is only required to use its siting mechanisms to site capacity to meet a 10-year capacity need." M.C.L. § 324.11537a.

Third, the "management component" element of a solid waste management plan must "identif[y] management responsibilities and institutional arrangements necessary for the implementation of technical alternatives." Mich. Admin. Code r. 299.4711(f). The management component must contain the following: (i) "[a]n identification of the existing structure of persons, municipalities, counties, and state and federal agencies responsible for solid waste management, including planning, implementation, and enforcement"; (ii) an assessment of such persons' and governmental entities' technical, administrative, financial and legal capabilities to fulfill their responsibilities under the plan; (iii) "[a]n identification of gaps and problem areas in the existing management system which must be addressed to permit implementation of the plan"; and (iv) a "recommended management system for plan implementation."⁸ Mich. Admin. Code r. 299.4711(f)(i)-(iii).

Solid waste management plans that contain provisions that have not been clearly authorized under the specific sections of Part 115 and the Part 115 Rules discussed above are unlawful. A plan containing such unlawful provisions cannot be approved by MDEQ.

II. MWIA'S COMMENTS ON COUNTY PLAN PROVISIONS

With the foregoing limitations on the specific contents of a solid waste management plan in mind, MWIA contends that the following provisions that are either contained expressly in the Clinton County Solid Waste Management Plan Update, or that are contained elsewhere (e.g. ordinances, regulations or resolutions) but are incorporated by reference into the plan, clearly exceed a county's authority under Part 115. Further, because the Michigan Department of Environmental Quality ("MDEQ") can only approve or disapprove a county solid waste management plan without conditions, MWIA contends that MDEQ cannot approve the Clinton County plan because it contains these offending provisions.

⁸The recommended management system must: (i) identify specific persons and governmental entities that are responsible for implementing and enforcing the plan, including the legal, technical, and financial capability of such persons and entities to fulfill their responsibilities; (ii) contain a process for "ensuring the ongoing involvement of and consultation with the regional solid waste management planning agency," and for "ensuring coordination with other related plans and programs within the planning area, including, but not limited to, land use plans, water quality plans, and air quality plans"; (iii) identify "necessary training and educational programs, including public education"; (iv) contain a "strategy for plan implementation, including the acceptance of responsibilities from all entities assigned a role within the management system"; and (v) identify "funding sources for entities assigned responsibilities under the plan." Mich. Admin. Code r. 299.4711(f)(iii)(A)-(F).

1. County Authority (operational standards)

A solid waste management plan may not contain disposal area operating criteria. Nothing in Part 115 or the Part 115 Rule provisions discussed above authorizes a solid waste management plan to regulate the day-to-day operations of a disposal area. To the contrary, Part 115 provides MDEQ with exclusive authority to regulate disposal area operation. Further, Michigan Appellate Court decisions have unanimously interpreted Part 115 as preempting all local regulation of disposal area operation. *County of Saginaw v. Peoples Garbage Disposal, Inc.*, 232 Mich. App. 202 (1998); *Southeastern Oakland County Incineration Authority v. Avon Township*, 144 Mich. App. 39 (1985); *Weber v. Orion Twp. Bldg. Inspector*, 149 Mich. App. 660 (1986) ("all local regulations concerning the operation of a landfill are preempted"); *Dafter Township v. Reid*, 159 Mich. App. 149 (1987). Thus, disposal area operating criteria are not appropriate for a solid waste management plan.

2. Annual Caps

A solid waste management plan cannot restrict the volume of solid waste that may be accepted for disposal at a disposal area during any given time period. Such a restriction is not authorized by Part 115 and directly conflicts with Section 11516(5) of Part 115, which states that "[i]ssuance of an operating license by [MDEQ] *authorizes the licensee to accept waste for disposal*," without limitation. M.C.L. §§ 324.11533(1), 11516(5) (emphasis added). Such a volume cap would also constitute local regulation of disposal area operating criteria, which, as discussed above, is preempted by Part 115. *Southeastern Oakland County Incineration Authority v. Avon Township*, 144 Mich. App. 39 (1985); *Weber v. Orion Twp. Bldg. Inspector*, 149 Mich. App. 660 (1986) ("all local regulations concerning the operation of a landfill are preempted"); *Dafter Township v. Reid*, 159 Mich. App. 149 (1987). Moreover, such a restriction is an unconstitutional taking of property because it temporarily prevents the use of air space at the disposal area without compensating the owner or operator.

3. Severability

The provisions of a solid waste management plan are not severable. Part 115 does not authorize such piecemeal revisions to a solid waste management plan without following the specific plan amendment procedures set forth in Part 115 and the Part 115 Rules. *Michigan Waste Systems, Inc. v. Department of Natural Resources*, 157 Mich. App. 746 (1987). Rather, an amendment to a solid waste management plan to remove an unlawful provision must proceed through a specific five-step approval process. M.C.L. § 324.11535; Mich. Admin. Code r. 299.4708, 4709. To the extent any portion of a plan is declared unlawful or invalid and the county does not properly amend its plan to remove the offending provision, MDEQ must withdraw its approval of the entire plan and establish a schedule for the county to amend the plan in order to comply with Part 115.

M.C.L. § 324.11537(2). Therefore, counties and MDEQ should make every effort at this time to ensure that each plan fully complies with Part 115.

4. Public Health Department Activities.

Part 115 and the Part 115 Rules only grant enforcement powers to county health departments that have been certified by MDEQ. For example, Part 115 expressly provides that a health officer of a certified health department may inspect a licensed disposal area at any reasonable time and may issue a cease and desist order, establish a schedule of closure or remedial action, or enter into a consent agreement with an owner or operator of a disposal area that violates the provisions of Part 115 or the Part 115 Rules. M.C.L. § 324.11516(3); Mich. Admin. Code r. 299.4203. In addition, a health officer of a certified health department may inspect a solid waste transporting unit that is being used to transport solid waste along a public road or is being used for the overnight storage of solid waste and may order the unit out of service if it does not comply with the requirements of Part 115 or the Part 115 Rules. M.C.L. §§ 324.11525, .11528(3); Mich. Admin. Code r. 299.4205. None of these enforcement and inspection powers, however, has been delegated to a county that does *not* have a certified health department. Therefore, to the extent a county does not have a certified health department, any enforcement and inspection provisions contained in a solid waste management plan are unlawful.

It should also be noted that, although a solid waste management plan must include a "program and process" to assure that solid waste is properly collected and disposed of, Part 115's planning provisions are not enabling legislation for county ordinances. M.C.L. § 324.11533(1). The "program and process" included in a solid waste management plan is only "enforceable" to the extent the plan incorporates "enforceable mechanisms" that are specifically authorized under enabling statutes other than Part 115. M.C.L. § 324.11538(1)(f). Although the Legislature contemplated that "enforceable mechanisms" may include ordinances,⁹ Part 115 expressly states that it does not "validate or invalidate an ordinance adopted by a county" for purposes of assuring solid waste collection and disposal. M.C.L. § 324.11531(2). Thus, it is clear that the Legislature intended that Part 115 would not operate as enabling legislation for the adoption of such enforceable mechanisms. Such authority, if any, must be specifically delegated to counties in some other enabling legislation. Accordingly, to the extent a solid waste management plan incorporates a county ordinance that provides enforcement powers to a county, MDEQ may not approve such a plan until MDEQ has reviewed each provision of that ordinance and determined that it has been authorized by some enabling legislation and does not exceed a county's delegated authority under that legislation.

⁹Part 115 defines the term "enforceable mechanism" as "a legal method whereby the state, a county, a municipality, or a person is authorized to take legal action to guarantee compliance with an approved county solid waste management plan. Enforceable mechanisms include contracts, intergovernmental agreements, laws, ordinances, rules and regulations." M.C.L. § 324.11503(5).

5. Vertical Expansion

The Industry position has consistently been that an owner/operator should be able to develop a site to its fullest potential as long as it conforms to state statute and rule.

6. User Fee

Nothing in the Part 115 or Part 115 Rule provisions discussed above authorizes a county to *require* the payment or collection of fees as part of a solid waste management plan. At most, Rule 711(f)(iii)(F) authorizes the "management component" of a plan to "*recommend*" a "financial program that identifies funding sources." Mich. Admin. Code r. 299.4711(f)(iii)(F). The underlying authority for such a funding program, however, cannot arise from the plan itself and must be found in some other enabling legislation.

Although the Michigan Court of Appeals has recently held that that Section 11520(1) of Part 115 authorized Saginaw County to adopt an *ordinance* that imposes a surcharge on the disposal of solid waste within the county, the court did not hold that such an ordinance may be included in a solid waste management plan or that a solid waste management plan may operate as the underlying authority for such a fee. *County of Saginaw v. Peoples Garbage Disposal, Inc.*, 232 Mich. App. 202 (1998). Indeed, the ordinance at issue in *County of Saginaw* was merely mentioned in the plan as a possible source of revenue and was adopted *after* MDEQ had approved the Saginaw County Solid Waste Management Plan. This distinction is significant because a disposal area that operates "contrary" to an approved solid waste management plan may be subject to an enforcement action under Part 115, which may include a cease and desist order. M.C.L. § 324.11519(2). Clearly, nothing in Part 115 indicates that a disposal area could be ordered to cease operations merely because it failed to pay a fee imposed by a local ordinance.

Moreover, the holding in *County of Saginaw* is inapplicable to counties that do not have certified health departments under Part 115. Section 11520(1) of Part 115, which the court relied upon for its holding, provides:

Fees collected by a *health officer* under this part shall be deposited with the city or county treasurer, who shall keep the deposits in a special fund designated for use in implementing this part. If there is an ordinance or charter provision that prohibits a health officer from maintaining a special fund, the fees shall be deposited and used in accordance with the ordinance or charter provision. Fees collected by the department under this part shall be credited to the general fund of the state.


M.C.L. § 324.11520(1) (emphasis added). A *health officer* is expressly defined as in Part 115 as "a full-time administrative officer of a *certified* city, county or district department of health." M.C.L. § 324.11504(1) (emphasis added). A certified department of health must be "specifically delegated authority by [MDEQ] to perform designated activities

prescribed by [Part 115].” M.C.L. § 324.11502(5). Part 2 (Certification of Local Health Departments) of the Part 115 Rules sets forth the specific requirements that a county health department must meet in order to become certified. Mich. Admin. Code r. 299.4201 *et seq.* Part 115 contains absolutely no authority for the collection of fees by a county that does not have a certified health department.

Further, even if Part 115 did authorize the inclusion of a fee provision in the solid waste management plan of a county with a certified health department (which it does not), MDEQ is prohibited from approving such a plan if the fee is really a disguised tax that violates the Headlee Amendment to the Michigan Constitution, which prohibits local units of government from imposing new taxes without voter approval. Mich. Const. art. 9, § 31; *See Bolt v. City of Lansing*, 459 Mich. 152 (1998) (storm water fee invalidated under Headlee Amendment as disguised tax). MDEQ's act of approving a solid waste management plan is not merely a rubber stamp of a county's independent act. Rather, MDEQ's approval is the final step in establishing a statewide “cohesive scheme of uniform controls” over the disposal of solid waste. *Southeastern Oakland Co. Incinerator Auth. v. Avon Twp.*, 144 Mich. 39, 44 (1986). By approving a solid waste management plan, MDEQ incorporates that plan into the State solid waste management plan, M.C.L. § 324.11544(1), and, thereafter, a person may not “establish a disposal area” or “conduct, manage, maintain, or operate” a disposal area “contrary” to that approved plan. M.C.L. §§ 324.11509(1), .11512(2). Accordingly, MDEQ could not approve a solid waste management plan that imposes a fee on the disposal of solid waste *unless* MDEQ can demonstrate that the amount of any fee imposed will be reasonable related to the services provided to the persons paying the fee, and that the fee will not otherwise constitute a tax that requires voter approval.

MWIA also believes that, because the decision in *County of Saginaw* has been appealed to the Michigan Supreme Court, MDEQ should use its discretion and refrain from approving county solid waste management plans that contain fee provisions until this issue has been fully resolved. In this regard, MWIA notes that the appeals court's analysis of Section 11520(1) is clearly erroneous because it failed to consider the history and development of Part 115. Section 11520(1) was originally enacted as Section 18 of 1978 PA 641. M.C.L. § 299.418 (repealed, now Section 11520(1) of Part 115). In 1978, the only fees expressly contemplated in Act 641 were nominal disposal area operating license and construction permit application fees, which ranged between \$100 and \$700. Further, the language of Section 18 of Act 641 was nearly identical to Section 3(3) of the Garbage and Rubbish Disposal Act of 1965, which imposed similar nominal application fees and imposed very few obligations on counties with respect to the solid waste disposal. M.C.L. § 325.293(3) (repealed by Act 641). The Legislature's intent with respect to Section 11520(1) was to allow certified county health departments to retain and use these application fees solely for the purpose of processing the applications. The Legislature clearly did not intend for Section 11520(1) to operate as enabling legislation for counties to impose fees on the disposal of solid waste in order to fund an extensive county solid waste or recycling program.¹⁰ Accordingly, the appeals court's interpretation of Part 115 will likely be overturned.

¹⁰ It is also noteworthy that, for the last three years, bills that would authorize




7. Amendment to the Plan

The Industry would support a fast track amendment process. However, MDEQ's position is that Part 115 does not provide for it and therefore plans may not include it.

8. Redundancies.

Part 115 is not enabling legislation for ordinances that are relied upon by a county for its plan's "enforceable mechanism." Therefore, a county cannot legitimize ultra virus provisions of a county ordinance simply by repeating those provisions in the county solid waste management plan.

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county-imposed fees have been proposed in the Michigan Legislature.

**MICHIGAN WASTE INDUSTRIES ASSOCIATION
GENERAL COMMENTS ON
COUNTY SOLID WASTE MANAGEMENT PLAN UPDATES**

Michigan Waste Industries Association ("MWIA") submits the following general comments on the contents of solid waste management plan updates that are currently being prepared by various counties under the authority of Part 115 of the Natural Resources and Environmental Protection Act ("Part 115") and the administrative rules promulgated thereunder (the "Part 115 Rules"). The discussion contained in this document is divided into two main sections. The first section discusses a county's limited authority to regulate matters in general, and the Legislature's narrow delegation of authority under Part 115 to include provisions in a solid waste management plan. In light of this narrow delegation of authority, the second section reviews eleven provisions that have appeared in one or more of the draft solid waste management plan updates. These eleven provisions generally relate to:

- disposal fees;
- disposal area operating criteria;
- mandated recycling;
- mandated data collection;
- preservation of more than 10 years of disposal capacity;
- disposal area volume caps;
- identification of specific disposal areas that may accept county waste;
- restrictions on special waste importation;
- enforcement activities by uncertified health departments;
- transporter licensing; and
- the severability of unlawful plan provisions without a formal plan amendment.

MWIA contends that these provisions exceed the limited authority that has been delegated to the counties under Part 115. Further, because the Michigan Department of Environmental Quality ("MDEQ") can only approve or disapprove a county solid waste management plan without conditions, MWIA contends that MDEQ cannot approve a plan that contains one or more of these offending provisions.

**I. PERMISSIBLE CONTENTS OF COUNTY
SOLID WASTE MANAGEMENT PLANS**

Although Part 115 authorizes counties, among other government entities, to prepare solid waste management plans, counties do not have carte blanche to include any provision related to solid waste in their plans. To the contrary, counties must work within the narrow confines of the Legislature's delegation of authority under Part 115. Thus, when reviewing a plan submitted by a county for final approval, MDEQ must *not* ask, "does Part 115 *prohibit* this particular provision." Rather, MDEQ must ask whether a specific section of Part 115 or the Part 115 Rules *clearly authorizes* each provision included in a solid waste management plan including each

provision incorporated by reference into the plan. If the answer to that question is not an unqualified "yes," MDEQ must deny approval of the plan.

**A. COUNTIES ONLY POSSESS
DELEGATED POWERS AND CANNOT
REGULATE FOR THE HEALTH AND
SAFETY OF THEIR RESIDENTS**

MWIA's comments on the contents of solid waste management plans are rooted in the fact that Michigan counties have delegated powers only and do not have any inherent power to regulate for purposes of the public's health, safety and general welfare. A "county has only such powers as have been granted to it by the Constitution or the state Legislature." *Alan v. Wayne Co.*, 388 Mich. 210, 245 (1972); *Berrien Co. Probate Judges v. Michigan Am. Fed'n of State, Co. & Mun. Employees Council* 25, 217 Mich. App. 205 (1996). Where counties have been clearly delegated such powers, the Michigan Constitution provides that the powers "shall be liberally construed in [the counties'] favor" and that "[p]owers granted to counties . . . shall include those fairly implied and not prohibited by this constitution." Const. 1963, art. VII, § 34. This constitutionally imposed rule of interpretation, however, is not an independent grant of authority. "As these provisions are not self-executing, the rights which they bestow and the duties which they impose may not be enforced without the aid of legislative enactment." *County Comm'r of Oakland Co. v. Oakland Co. Executive*, 98 Mich. App. 639, 646 (1980). Thus, counties have no inherent authority to include provisions in solid waste management plans without clear authorization by Legislature under Part 115.

The Office of the Attorney General ("AG") has consistently opined that counties are without authority to regulate matters that have not been clearly delegated by the Legislature. For example, the AG most recently opined that a non-charter county does not have authority to regulate the emissions from a municipal waste incinerator. OAG, 1998, No. 6,992 (Aug. 13, 1998). In that opinion, the AG first noted that townships, cities and villages *have* been granted authority by the Michigan Legislature to adopt ordinances for the purpose of protecting the public's health, safety and general welfare. Therefore, the AG opined that a township, city or village *may* adopt an air pollution control ordinance, provided that it is reasonably related to this purpose. For counties, however, the AG noted that, while chartered counties are expressly authorized by statute to adopt ordinances to abate air pollution, *the Legislature "has not seen fit to grant this power to noncharter counties."* *Id.*, slip op. p. 3 (emphasis added). The AG concluded that a "noncharter county is thus not authorized to adopt an air pollution ordinance." *Id.*; *see also*, OAG, 1969-1970, No. 4,696, p. 197 (Nov. 25, 1970) (county could not adopt air pollution control ordinance because no Michigan statute authorized a non-chartered county to abate air pollution and county ordinance would interfere with local affairs of villages and townships). This opinion is particularly significant with respect to solid waste management plans prepared under Part 115 because a municipal waste incinerator is a disposal area that must be consistent with such a plan. *See M.C.L. § 324.11529(4).*

Other AG opinions express a similar narrow view of a county's authority to regulate in the absence of clear enabling legislation. In OAG, 1989-1990, No. 6,665, p. 401 (Nov. 15, 1990), the AG opined that counties lacked the general authority to regulate the location of cigarette vending machines because such a county ordinance would interfere with the authority of the villages and townships to regulate such matters. In OAG, 1979-1980, No. 5,617, p. 526 (Dec. 28, 1979), the AG opined that a county could not adopt the Michigan Vehicle Code as

an ordinance because "[t]he adoption of the motor vehicle code by a county would not be consistent with the legislative intention [to grant certain exclusive powers to the county road commission], would have the effect of contravening the general laws of the state, and of extending or increasing the powers or jurisdiction of a county board of commissioners." In OAG, 1977-1978, No. 5,341, p. 556 (July 31, 1978), the AG opined that a county had no authority to operate a spay and neuter clinic for dogs and cats because "[n]o provision of the [Michigan Dog Law] specifically or impliedly authorizes a county to establish and maintain a spay and neuter clinic and cats are not mentioned in either the title or body of the act." In OAG, 1977-1978, No. 5,304, p. 427 (April 27, 1978), the AG opined that a county board of commissioners could not establish a county police or security force because "the delegation of law enforcement responsibilities to any entity other than the sheriff would contravene general state laws [and] would tend to increase the powers, duties and jurisdiction of the county board of commissioners by transferring a measure of the sheriff's authority to an organization responsible to the board and not to the sheriff." Finally, in OAG, 1971-1972, No. 4,741, p. 82 (April 13, 1972), the AG opined that a county was without authority to adopt an ordinance banning the discharge of firearms in the county because there was "no express or implied power in the county which would support the adoption of [such] an ordinance."

**B. PART 115 ESTABLISHES THE
SPECIFIC CONTENTS OF A SOLID
WASTE MANAGEMENT PLAN AND
COUNTIES CANNOT INCLUDE
EXTRANEOUS PROVISIONS THAT
WOULD EXPAND THEIR LIMITED
DELEGATION OF AUTHORITY.**

The contents of a solid waste management plan are limited to the provisions that are authorized in Part 115 and the Part 115 Rules, which are summarized below. A solid waste management plan must "encompass all municipalities within the county" and "take into consideration solid waste management plans in contiguous counties and existing local approved solid waste management plans as they relate to the county's needs." M.C.L. § 324.11533(2). A solid waste management plan must contain an evaluation of the "best available information" regarding recyclable materials within the planning area, including an evaluation of how the planning entity is meeting the state's waste reduction and recycling goals, and, based on that analysis, either provide for recycling and composting of such materials or establish that recycling and composting are not necessary or feasible or is only necessary or feasible to a limited extent. M.C.L. § 324.11539(1)(a), (b) and (d). If the solid waste management plan proposes a recycling or composting program, the plan must contain details of the major features of that program, including ordinances or other measures that will ensure collection of the material; however, as discussed below, Part 115 does not operate as enabling legislation for such ordinances. M.C.L. § 324.11539(1)(c). A solid waste management plan must "identify specific sites for solid waste disposal areas for a 5-year period after approval of a plan or plan update," and either identify specific sites for disposal areas for the remaining portion of the ten-year planning period, or include a process to annually certify the remaining solid waste disposal capacity available to the plan area and an interim siting mechanism¹ that becomes operative when the annual certification

¹"An interim siting mechanism shall include both a process and a set of minimum siting criteria, both of which are not subject to interpretation or discretionary acts by the planning entity,

icates that the available capacity is less than 66 months. M.C.L. § 324.11538(2). The solid waste management plan must "explicitly authorize" another county, state, or country to export solid waste into the county. M.C.L. § 324.11538(6).² In addition, "[w]ith regard to intercounty service within Michigan, the service must also be explicitly authorized in the exporting county's solid waste management plan." *Id.*

In addition to the plan content requirements expressly contained in Part 115, Section 11538(1) authorizes MDEQ to promulgate rules "for the development, form, and submission of initial solid waste management plans." M.C.L. § 324.11538(1). Part 115 directs MDEQ to provide for the following in its administrative rules regarding solid waste management plans:

- (a) The establishment of goals and objectives for prevention of adverse effects on the public health and on the environment resulting from improper solid waste collection, processing, or disposal including protection of surface and groundwater quality, air quality, and the land.
- (b) An evaluation of waste problems by type and volume, including residential and commercial solid waste, hazardous waste, industrial sludges, pretreatment residues, municipal sewage sludge, air pollution control residue, and other wastes from industrial or municipal sources.
- (c) An evaluation and selection of technically and economically feasible solid waste management options, which may include sanitary landfill, resource recovery systems, resource conservation, or a combination of options.
- (d) An inventory and description of all existing facilities where solid waste is being treated, processed, or disposed of, including a summary of the deficiencies, if any, of the facilities in meeting current solid waste management needs.
- (e) The encouragement and documentation as part of the plan, of all opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector.

and which if met by an applicant submitting a disposal area proposal, will guarantee a finding of consistency with the plan." M.C.L. § 324.11538(3).

²See also, M.C.L. § 324.11513; Mich. Admin. Code r. 299.4711(e)(iii)(C). In *Fort Gratiot Sanitary Landfill, Inc. v. Department of Natural Resources*, 504 U.S. 353 (1992), the United States Supreme Court invalidated Part 115's flow control provisions to the extent they regulated the interstate flow of solid waste because such regulation violated the Commerce Clause of the United States Constitution.

(f) That the plan contain enforceable mechanisms for implementing the plan, including identification of the municipalities within the county responsible for the enforcement. This subdivision does not preclude the private sector's participation in providing solid waste management services consistent with the county plan.

(g) Current and projected population densities of each county and identification of population centers and centers of solid waste generation, including industrial wastes.

(h) That the plan area has, and will have during the plan period, access to a sufficient amount of available and suitable land, accessible to transportation media, to accommodate the development and operation of solid waste disposal areas, or resource recovery facilities provided for in the plan.

(i) That the solid waste disposal areas or resource recovery facilities provided for in the plan are capable of being developed and operated in compliance with state law and rules of the department pertaining to protection of the public health and the environment, considering the available land in the plan area, and the technical feasibility of, and economic costs associated with, the facilities.

(j) A timetable or schedule for implementing the county solid waste management plan.

M.C.L. § 324.11538(1)(a)-(j). MDEQ has promulgated such rules in Part 7 of the Part 115 Rules. Mich. Admin. Code r. 299.4701 *et seq.*

Rule 711 of the Part 115 Rules sets forth the general structure and the required contents of a county solid waste management plan. "To comply with the requirements of [Part 115,] . . . county solid waste management plans shall be in compliance with the following general format": (i)-executive summary;³ (ii) introduction;⁴ (iii) data base;⁵ (iv) solid waste management system

³The executive summary must include an overview of the plan, the conclusions reached in the plan and the selected solid waste disposal alternatives. Mich. Admin. Code r. 299.4711(a).

⁴The introduction must establish the plan's goals and objectives for protecting the public health and the environment by properly collecting, transporting, processing, or disposing of solid waste, and by reducing the volume of the solid waste stream through resource recovery, including source reduction and source separation. Mich. Admin. Code r. 299.4711(b).

⁵The data base must include: (i) an inventory and description of the existing facilities serving the county's solid waste disposal needs; (ii) an evaluation of existing problems related to solid waste collection, management, processing, treatment, transportation, and disposal, by type and volume of solid waste; (iii) the current and projected population densities, centers of population, and centers of waste generation for five- and twenty-year periods; and (iv) the current and projected land

alternatives; (v) plan selection; (vi) management component; and (vii) documentation of public participation in the preparation of the plan.⁶ Mich. Admin. Code r. 299.4711(a)-(d). Under this general format, the operative portions of a solid waste management plan are contained in the solid waste management system alternatives, plan selection, and management component elements of the plan. The required contents of these three elements are discussed below.

First, each solid waste management system alternative developed in the plan must address the existing problems identified in the plan's data base related to solid waste collection, management, processing, treatment, transportation, and disposal and must address the following components: (i) resource conservation and recovery, including source reduction, source separation, energy savings, and markets for reusable materials; (ii) solid waste volume reduction; (iii) solid waste collection and transportation; (iv) sanitary landfills; (v) ultimate uses for disposal areas following final closure; and (vi) institutional arrangements, such as agreements or other organizational arrangements or structures, that will provide for the necessary solid waste collection, transportation, processing and disposal systems. Mich. Admin. Code r. 299.4711(d)(i)(A)-(H). In addition, the plan must evaluate public health, economic,⁷ environmental, siting, and energy impacts associated with each alternative. Mich. Admin. Code r. 299.4711(d)(ii).

Second, the plan must select the preferred solid waste management system alternative developed and evaluated in the plan. The selection must be based on "[a]n evaluation and ranking of proposed alternative systems" using factors that include: (i) technical and economic feasibility; (ii) access to necessary land and transportation networks; (iii) effects on energy use, including the impacts of energy shortages; (iv) environmental impacts; and (v) public acceptability. Mich. Admin. Code r. 299.4711(e)(i)(A)-(G). The basis for the selection must be set forth in the plan, including a summary of the evaluation and ranking system. Mich. Admin. Code r. 299.4711(e)(ii)(A). The plan must state the advantages and disadvantages of the selected alternative based on the following factors: (i) public health; (ii) economics; (iii) environmental effects; (iv) energy use; and (v) disposal area siting problems. Mich. Admin. Code r. 299.4711(e)(ii)(B)(1)-(5). The selected alternative must "be capable of being developed and operated in compliance with state laws and rules of the Department pertaining to the protection of the public health and environment," include a timetable for implementing the plan, and be "consistent with and utilize population, waste generation, and other [available] planning information." Mich. Admin. Code r. 299.4711(e)(ii)(C)-(E). With respect to disposal areas, the selected alternative must "identify specific sites for solid waste disposal areas" for a five-year

development patterns and environmental conditions as related to solid waste management systems for five and twenty-year periods. Mich. Admin. Code r. 299.4711(c)(i)-(iv).

⁶The public participation in the preparation of the solid waste management plan must be documented by including in an appendix to the plan a record of attendance at the public hearing and the planning agency's responses to citizens' concerns and questions. Mich. Admin. Code r. 299.4711(g).

⁷The evaluation of the economic impacts must include an estimate of the capital, operational, and maintenance costs for each alternative system. Mich. Admin. Code r. 299.4711(d)(ii).

period following MDEQ approval of the plan and, "[i]f specific sites cannot be identified for the remainder of the 20-year period, the selected alternative shall include specific criteria that guarantee the siting of necessary solid waste disposal areas for the 20-year period subsequent to plan approval." Mich. Admin. Code r. 299.4711(e)(iii)(A), (B). As of June 9, 1994, however, "a county that has a solid waste management plan that provides for siting of disposal areas to fulfill a 20-year capacity need through use of a siting mechanism, is only required to use its siting mechanisms to site capacity to meet a 10-year capacity need." M.C.L. § 324.11537a.

Third, the "management component" element of a solid waste management plan must "identif[y] management responsibilities and institutional arrangements necessary for the implementation of technical alternatives." Mich. Admin. Code r. 299.4711(f). The management component must contain the following: (i) "[a]n identification of the existing structure of persons, municipalities, counties, and state and federal agencies responsible for solid waste management, including planning, implementation, and enforcement"; (ii) an assessment of such persons' and governmental entities' technical, administrative, financial and legal capabilities to fulfill their responsibilities under the plan; (iii) "[a]n identification of gaps and problem areas in the existing management system which must be addressed to permit implementation of the plan"; and (iv) a "recommended management system for plan implementation."⁸ Mich. Admin. Code r. 299.4711(f)(i)-(iii).

Solid waste management plans that contain provisions that have not been clearly authorized under the specific sections of Part 115 and the Part 115 Rules discussed above are unlawful. A plan containing such unlawful provisions cannot be approved by MDEQ.

II. MWIA'S COMMENTS ON COUNTY PLAN PROVISIONS

With the foregoing limitations on the specific contents of a solid waste management plan in mind, MWIA contends that the following provisions that are either contained expressly in a solid waste management plan, or that are contained elsewhere (*e.g.* ordinances, regulations or resolutions) but are incorporated by reference into a solid waste management plan, clearly exceed a county's authority under Part 115:

⁸The recommended management system must: (i) identify specific persons and governmental entities that are responsible for implementing and enforcing the plan, including the legal, technical, and financial capability of such persons and entities to fulfill their responsibilities; (ii) contain a process for "ensuring the ongoing involvement of and consultation with the regional solid waste management planning agency," and for "ensuring coordination with other related plans and programs within the planning area, including, but not limited to, land use plans, water quality plans, and air quality plans"; (iii) identify "necessary training and educational programs, including public education"; (iv) contain a "strategy for plan implementation, including the acceptance of responsibilities from all entities assigned a role within the management system"; and (v) identify "funding sources for entities assigned responsibilities under the plan." Mich. Admin. Code r. 299.4711(f)(iii)(A)-(F).

DISPOSAL FEES

Nothing in the Part 115 or Part 115 Rule provisions discussed above authorizes a county to *require* the payment or collection of fees as part of a solid waste management plan. At most, Rule 711(f)(iii)(F) authorizes the “management component” of a plan to “*recommend*” a “financial program that identifies funding sources.” Mich. Admin. Code r. 299.4711(f)(iii)(F). The underlying authority for such a funding program, however, cannot arise from the plan itself and must be found in some other enabling legislation.

Although the Michigan Court of Appeals has recently held that that Section 11520(1) of Part 115 authorized Saginaw County to adopt an *ordinance* that imposes a surcharge on the disposal of solid waste within the county, the court did not hold that such an ordinance may be included in a solid waste management plan or that a solid waste management plan may operate as the underlying authority for such a fee. *County of Saginaw v. Peoples Garbage Disposal, Inc.*, 232 Mich. App. 202 (1998). Indeed, the ordinance at issue in *County of Saginaw* was merely mentioned in the plan as a possible source of revenue and was adopted *after* MDEQ had approved the Saginaw County Solid Waste Management Plan. This distinction is significant because a disposal area that operates “contrary” to an approved solid waste management plan may be subject to an enforcement action under Part 115, which may include a cease and desist order. M.C.L. § 324.11519(2). Clearly, nothing in Part 115 indicates that a disposal area could be ordered to cease operations merely because it failed to pay a fee imposed by a local ordinance.

Moreover, the holding in *County of Saginaw* is inapplicable to counties that do not have certified health departments under Part 115. Section 11520(1) of Part 115, which the court relied upon for its holding, provides:

Fees collected by a *health officer* under this part shall be deposited with the city or county treasurer, who shall keep the deposits in a special fund designated for use in implementing this part. If there is an ordinance or charter provision that prohibits a health officer from maintaining a special fund, the fees shall be deposited and used in accordance with the ordinance or charter provision. Fees collected by the department under this part shall be credited to the general fund of the state.

M.C.L. § 324.11520(1) (emphasis added). A *health officer* is expressly defined as in Part 115 as “a full-time administrative officer of a *certified* city, county or district department of health.” M.C.L. § 324.11504(1) (emphasis added). A certified department of health must be “specifically delegated authority by [MDEQ] to perform designated activities prescribed by [Part 115].” M.C.L. § 324.11502(5). Part 2 (Certification of Local Health Departments) of the Part 115 Rules sets forth the specific requirements that a county health department must meet in order to become certified. Mich. Admin. Code r. 299.4201 *et seq.* Part 115 contains absolutely no authority for the collection of fees by a county that does not have a certified health department.

Further, even if Part 115 did authorize the inclusion of a fee provision in the solid waste management plan of a county with a certified health department (which it does not), MDEQ is prohibited from approving such a plan if the fee is really a disguised tax that violates the Headlee Amendment to the Michigan Constitution, which prohibits local units of government from imposing new taxes without voter approval. Mich. Const. art. 9, § 31; *See Bolt v. City of*

Lansing, 459 Mich. 152 (1998) (storm water fee invalidated under Headlee Amendment as disguised tax). MDEQ's act of approving a solid waste management plan is not merely a rubber stamp of a county's independent act. Rather, MDEQ's approval is the final step in establishing a statewide "cohesive scheme of uniform controls" over the disposal of solid waste. *Southeastern Oakland Co. Incinerator Auth. v. Avon Twp.*, 144 Mich. 39, 44 (1986). By approving a solid waste management plan, MDEQ incorporates that plan into the State solid waste management plan, M.C.L. § 324.11544(1), and, thereafter, a person may not "establish a disposal area" or "conduct, manage, maintain, or operate" a disposal area "contrary" to that approved plan. M.C.L. §§ 324.11509(1), .11512(2). Accordingly, MDEQ could not approve a solid waste management plan that imposes a fee on the disposal of solid waste *unless* MDEQ can demonstrate that the amount of any fee imposed will be reasonable related to the services provided to the persons paying the fee, and that the fee will not otherwise constitute a tax that requires voter approval.

MWIA also believes that, because the decision in *County of Saginaw* has been appealed to the Michigan Supreme Court, MDEQ should use its discretion and refrain from approving county solid waste management plans that contain fee provisions until this issue has been fully resolved. In this regard, MWIA notes that the appeals court's analysis of Section 11520(1) is clearly erroneous because it failed to consider the history and development of Part 115. Section 11520(1) was originally enacted as Section 18 of 1978 PA 641. M.C.L. § 299.418 (repealed, now Section 11520(1) of Part 115). In 1978, the only fees expressly contemplated in Act 641 were nominal disposal area operating license and construction permit application fees, which ranged between \$100 and \$700. Further, the language of Section 18 of Act 641 was nearly identical to Section 3(3) of the Garbage and Rubbish Disposal Act of 1965, which imposed similar nominal application fees and imposed very few obligations on counties with respect to the solid waste disposal. M.C.L. § 325.293(3) (repealed by Act 641). The Legislature's intent with respect to Section 11520(1) was to allow certified county health departments to retain and use these application fees solely for the purpose of processing the applications. The Legislature clearly did not intend for Section 11520(1) to operate as enabling legislation for counties to impose fees on the disposal of solid waste in order to fund an extensive county solid waste or recycling program.⁹ Accordingly, the appeals court's interpretation of Part 115 will likely be overturned.

OPERATING CRITERIA

A solid waste management plan may not contain disposal area operating criteria. Nothing in Part 115 or the Part 115 Rule provisions discussed above authorizes a solid waste management plan to regulate the day-to-day operations of a disposal area. To the contrary, Part 115 provides MDEQ with exclusive authority to regulate disposal area operation. Further, Michigan Appellate Court decisions have unanimously interpreted Part 115 as preempting all local regulation of disposal area operation. *County of Saginaw v. Peoples Garbage Disposal, Inc.*, 232 Mich. App. 202 (1998); *Southeastern Oakland County Incineration Authority v. Avon Township*, 144 Mich. App. 39 (1985); *Weber v. Orion Twp. Bldg. Inspector*, 149 Mich. App. 660

⁹ It is also noteworthy that, for the last three years, bills that would authorize county-imposed fees have been proposed in the Michigan Legislature.

1986) ("all local regulations concerning the operation of a landfill are preempted"); *Daferwnship v. Reid*, 159 Mich. App. 149 (1987). Thus, disposal area operating criteria are not appropriate for a solid waste management plan.

MANDATED RECYCLING

A solid waste management plan may not mandate a quota on the volume of solid waste that is recycled within the planning area. Nothing in Part 115 or the Part 115 Rule provisions discussed above authorizes a county or any another planning agency to mandate such a quota system. Rather, Part 115 only authorizes a county to "propose a recycling or composting program" in a county plan. M.C.L. § 324.11539(1)(b). Such a program may only set recycling goals, rather than require absolute volume reductions. M.C.L. § 324.11539(1)(d). Further, a program that prohibits a disposal area from accepting a particular type of solid waste, such as waste that could be recycled, would directly conflict with Section 11516(5) of Part 115, which states that "[i]ssuance of an operating license by [MDEQ] *authorizes the licensee to accept waste for disposal.*" M.C.L. §§ 324.11533(1), 11516(5) (emphasis added). Thus, any recycling program may, at most, be referenced as a goal.

MANDATED DATA COLLECTION

A solid waste management plan may not require the owner or operator of a disposal area to collect and report data concerning the volume of solid waste that is recycled or disposed of. Nothing in Part 115 or the Part 115 Rule provisions discussed above authorizes a county to impose such an on-going duty on disposal area owners and operators. Rather, Part 115 only requires that, at the time a plan is prepared, a county evaluate "how the planning entity is meeting the state's waste reduction goals." M.C.L. § 324.11539(1)(d).¹⁰ Further, Part 115 expressly delegates the authority to impose such data-collection duties solely to MDEQ and not to the counties. M.C.L. § 324.11507a. Thus, data collection requirements imposed in a solid waste management plan exceed the authority delegated under Part 115.

PRESERVATION OF MORE THAN 10 YEARS OF CAPACITY

A solid waste management plan should provide for the free flow of solid waste to the extent the plan otherwise demonstrates 10 years of disposal capacity. A county has no duty or obligation under Part 115 to demonstrate more than 10 years of disposal capacity. M.C.L. § 324.11538(2). Therefore, a county has no legitimate interest in preserving additional disposal capacity by restricting or prohibiting the importation of out-of-county waste. While the preservation of disposal capacity beyond the legitimate needs of a county may ultimately benefit county residents, the cost of providing that benefit is imposed solely on the disposal area owners and operators doing business within the county. Such a restriction on the use of a disposal area's air space constitutes a taking without compensation that violates the federal and Michigan constitutions.

¹⁰ A bill that would authorize such mandated data collection regarding recycled material was proposed in the Michigan Legislature last year.

VOLUME RESTRICTIONS

A solid waste management plan cannot restrict the volume of solid waste that may be accepted for disposal at a disposal area during any given time period. Such a restriction is not authorized by that Part 115 Rule provisions discussed above and directly conflicts with Section 11516(5) of Part 115, which states that "[i]ssuance of an operating license by [MDEQ] *authorizes the licensee to accept waste for disposal,*" without limitation. M.C.L. §§ 324.11533(1), .11516(5) (emphasis added). Such a volume cap would also constitute local regulation of disposal area operating criteria, which, as discussed above, is preempted by Part 115. *Southeastern Oakland County Incineration Authority v. Avon Township*, 144 Mich. App. 39 (1985); *Weber v. Orion Twp. Bldg. Inspector*, 149 Mich. App. 660 (1986) ("all local regulations concerning the operation of a landfill are preempted"); *Dafter Township v. Reid*, 159 Mich. App. 149 (1987). Moreover, such a restriction is an unconstitutional taking of property because it temporarily prevents the use of air space at the disposal area without compensating the owner or operator.

IDENTIFICATION OF SPECIFIC DISPOSAL AREAS

While a solid waste management plan may identify specific disposal areas that are available and willing to accept a county's waste in order to demonstrate that a county has 10 years of disposal capacity and that the plan does not require an interim siting mechanism under Section 11538(2) of Part 115, nothing in Part 115 authorizes a county to restrict the disposal of its solid waste to those specifically identified facilities. Rather, Sections 11513 and 11538(6) of Part 115 require that a plan authorize the "acceptance" of out-of-county waste and the disposal "service" provided either by or for another Michigan county; however, these sections do not require that such acceptance or service be limited to specifically identified disposal areas. M.C.L. §§ 324.11513, .11538(6). At most, a solid waste management plan may limit the disposal of a county's solid waste to specific *counties* that are explicitly authorized in the plan to accept the waste and to serve the county's disposal needs. Furthermore, to the extent that Rule 711(e)(iii)(C) of the Part 115 Rules can be interpreted as requiring the identification of specific disposal areas in solid waste management plans, MWIA contends that such a requirement exceeds MDEQ's authority under Part 115 and is unenforceable.

RESTRICTIONS ON SPECIAL WASTE

A solid waste management plan may not restrict the importation of specific types of solid waste. With the possible exception of municipal solid waste incinerator ash, nothing in Part 115 authorizes a solid waste management plan to distinguish between different types of solid waste. See M.C.L. §§ 324.11513, 11538(6). Therefore, to the extent a solid waste management plan authorizes solid waste to be imported from or exported to other counties, such authorization must extend to all forms of solid waste, as that term is defined in Part 115.

ENFORCEMENT BY UNCERTIFIED HEALTH DEPARTMENT

Part 115 and the Part 115 Rules only grant enforcement powers to county health departments that have been certified by MDEQ. For example, Part 115 expressly provides that a health officer of a certified health department may inspect a licensed disposal area at any reasonable time and may issue a cease and desist order, establish a schedule of closure or remedial action, or enter into a consent agreement with an owner or operator of a disposal area that violates the provisions of Part 115 or the Part 115 Rules. M.C.L. § 324.11516(3); Mich. Admin. Code r. 299.4203. In addition, a health officer of a certified health department may inspect a solid waste transporting unit that is being used to transport solid waste along a public road or is being used for the overnight storage of solid waste and may order the unit out of service if it does not comply with the requirements of Part 115 or the Part 115 Rules. M.C.L. §§ 324.11525, .11528(3); Mich. Admin. Code r. 299.4205. None of these enforcement and inspection powers, however, has been delegated to a county that does *not* have a certified health department. Therefore, to the extent a county does not have a certified health department, any enforcement and inspection provisions contained in a solid waste management plan are unlawful.

It should also be noted that several counties without certified health departments are attempting incorporating ordinances into their solid waste management plans under the guise of “enforceable mechanisms,” which regulate matters that have been delegated solely to a counties that have certified health departments. For example, at least one such ordinance includes a provision that would authorize a county without a certified health department to issue a “stop order” that prohibits the operation of a disposal area in violation of any provision of the ordinance. As discussed above, this authority has been delegated solely to counties with certified health departments. M.C.L. § 324.11516(3). Further, such a “stop order” would operate as a suspension of a license issued under Part 115 without any of the procedural protections provided under the Michigan Administrative Procedures Act. M.C.L. § 24.101 *et seq.*

It should also be noted that, although a solid waste management plan must include a “program and process” to assure that solid waste is properly collected and disposed of, Part 115’s planning provisions are not enabling legislation for county ordinances. M.C.L. § 324.11533(1). The “program and process” included in a solid waste management plan is only “enforceable” to the extent the plan incorporates “enforceable mechanisms” that are specifically authorized under enabling statutes other than Part 115. M.C.L. § 324.11538(1)(f). Although the Legislature contemplated that “enforceable mechanisms” may include ordinances,¹¹ Part 115 expressly states that it does not “validate or invalidate an ordinance adopted by a county” for purposes of assuring solid waste collection and disposal. M.C.L. § 324.11531(2). Thus, it is clear that the Legislature intended that Part 115 would not operate as enabling legislation for the adoption of such enforceable mechanisms. Such authority, if any, must be specifically delegated to counties in some other enabling legislation. Accordingly, to the extent a solid waste management plan incorporates a county ordinance that provides enforcement powers to a county, MDEQ may not approve such a

¹¹Part 115 defines the term “enforceable mechanism” as “a legal method whereby the state, a county, a municipality, or a person is authorized to take legal action to guarantee compliance with an approved county solid waste management plan. Enforceable mechanisms include contracts, intergovernmental agreements, laws, ordinances, rules and regulations.” M.C.L. § 324.11503(5).

plan until MDEQ has reviewed each provision of that ordinance and determined that it has been authorized by some enabling legislation and does not exceed a county's delegated authority under that legislation.

TRANSPORTER LICENSING

A solid waste management plan may not impose a licensing requirement on solid waste transporting units. Nothing in the Part 115 or Part 115 Rule provisions discussed above authorizes a county to implement such a licensing program. Rather, Part 115 imposes certain minimum requirements on solid waste transporting units. See M.C.L. § 324.11528(1); Mich. Admin. Code r. 299.4601(1). While MDEQ, a health officer of a certified health department, or a law enforcement officer may order a solid waste transporting unit out of service if it does not comply with these minimum requirements, Part 115 is expressly "intended to encourage the continuation of the private sector in the solid waste . . . transportation business *when in compliance with the minimum requirements of this part.*" M.C.L. §§ 324.11528(3), .11548(2) (emphasis added). Moreover, as discussed in the previous section, Part 115's planning provisions do not operate as enabling legislation for counties to adopt ordinances regulating the transportation of solid waste. It should be noted that the Legislature repealed Part 115's licensing requirement for solid waste transporting units in 1979. See 1979 Public Act 10. Therefore, licensing requirements applicable to solid waste transporting units exceed a county's authority and a solid waste management plan containing such requirements (or incorporating an ordinance containing such requirements) may not be approved by MDEQ.

SEVERABILITY CLAUSE

The provisions of a solid waste management plan are not severable. Part 115 does not authorize such piecemeal revisions to a solid waste management plan without following the specific plan amendment procedures set forth in Part 115 and the Part 115 Rules. *Michigan Waste Systems, Inc. v. Department of Natural Resources*, 157 Mich. App. 746 (1987). Rather, an amendment to a solid waste management plan to remove an unlawful provision must proceed through a specific five-step approval process. M.C.L. § 324.11535; Mich. Admin. Code r. 299.4708, .4709. To the extent any portion of a plan is declared unlawful or invalid and the county does not properly amend its plan to remove the offending provision, MDEQ must withdraw its approval of the entire plan and establish a schedule for the county to amend the plan in order to comply with Part 115. M.C.L. § 324.11537(2). Therefore, counties and MDEQ should make every effort at this time to ensure that each plan fully complies with Part 115.

DEPARTMENT OF
ATTORNEY GENERAL
MEMORANDUM

May 25, 1999

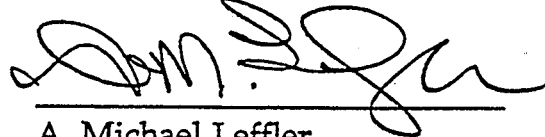
RECEIVED

MAY 26 1999

Waste Management
Division

TO: Jim Sygo, Chief
Waste Management Division
John A. Hannah Bldg - 1st Floor

Approved by:



A. Michael Leffler

FROM: Kathleen L. Cavanaugh
Assistant Attorney General
Natural Resources Division

RE: Waste Management Industries
Comments on Solid Waste
Management Plans

CONFIDENTIAL

Attorney-Client
Privileged

I have reviewed the comments of the Waste Management Industries Association (WMI) concerning County Solid Waste Management Plans ("County Plans"). My response to their concerns follows.

WMI has requested that MDEQ not approve County Plans that contain certain provisions. MDEQ's responsibility in reviewing County Plans is to determine if the plan meets the requirements of, and complies with Part 115 and the rules promulgated under Part 115. See: MCL 324.11537(1); MCL 324.11538(1); MCL 324.11539 and Rule 299.4701.

Several of the WMI comments concern the issue of preemption. Section 11538(8) states:

Following approval by the director of a county solid waste management plan and after July 1, 1981, an ordinance, law, rule, regulation, policy, or practice of a municipality, county, or governmental authority created by statute, which prohibits or regulates the location or development of a solid waste disposal area, and which is not part of or not consistent with the approved solid waste management plan for the county, shall be considered in conflict with this part and shall not be enforceable.

MCL 324.11538(8).

Although this language on its face appears to apply only to location or development of a solid waste disposal area, the court in *Southeastern Oakland County Incinerator Authority ("SOCIA") v Avon Township*, 144 Mich App 39

(1983), found that Part 115 also preempted local regulations that concerned "operations" at landfills.

In *Saginaw County v Sexton Corp*, 232 Mich App 202 (1998), ("*Saginaw County* 1998 decision"), the court considered the issue of preemption in the context of disposal fees imposed by the county on landfill operators. The court determined that the fees did not affect landfill operations. The court also found that the fee would not otherwise interfere with the state's uniform scheme regulating landfill location, development or operation, and therefore the fee was a permissible local regulation compatible with Part 115's statutory scheme. The court in the *Saginaw County* 1998 decision distinguished the disposal fee requirement imposed by the county ordinance from the requirements imposed by the ordinance in SOCIA. The court in SOCIA found that an ordinance regulating activities such as land permit and bond requirements, landfill performance standards and other operational requirements was preempted by Part 115. In the *Saginaw County* 1998 decision the court found that regulation of these type of activities was distinguishable from collecting fees, and concluded that collection of fees was not "operation of a landfill". *Saginaw County* at 217, n 1. Collection of fees is not incompatible with the statutory scheme under Part 115, but a county's imposition of different and conflicting operating parameters than those specified in a MDEQ operating license or in Part 115, would conflict with the statutory scheme under Part 115.

Therefore, to a certain extent MDEQ must not only determine whether a County Plan meets the requirements of, and complies with Part 115 and its rules, it must also review the plan to determine if the County Plan imposes any regulations that would conflict with the statutory scheme under Part 115 regarding location, development or "operation" of a landfill.

WMI also attacks several aspects of County Plans as being unconstitutional because ordinances adopted by a county and referenced in a County Plan exceeds the county's delegated authority or are a taking of property without just compensation. MDEQ is not responsible for determining the constitutionality of county ordinances. Courts have held that administrative agencies have no authority to determine constitutional claims. See *Dation v Ford Motor Co.*, 314 Mich 152, 159-169 (1946); *Long v City of Highland Park*, 329 Mich 146 (1950); *Flanigan v. Reo Motors, Inc.*, 300 Mich 359 (1942). The appropriate venue to challenge the constitutionality of a county ordinance is in the courts.

1. Disposal Fees. Apparently, it is WMI position that a plan containing disposal fees does not comply with Part 115. Nothing in Part 115 prohibits counties from imposing disposal fees. In the *Saginaw County* 1998 decision, the Michigan Court of Appeals expressly held that imposition of disposal fees is not preempted by Part 115. Because Part 115 does not bar the imposition of disposal fees nor does it

preempt the counties ability to impose such fees, MDEQ may approve a County Plan containing disposal fees.

The WMI also claims that imposition of fees is an unconstitutional tax. MDEQ's role in reviewing plans is to determine whether they comply with Part 115 and that they do not interfere with the state statutory scheme under Part 115. MDEQ is not responsible for determining the constitutionality of all local ordinances included within the provisions of a County Plan. It should be noted that the Court of Appeals, in the *Saginaw County* 1998 decision, found that the fees were not unconstitutional and did not violate the Headlee Amendment. The WMI urges MDEQ not to follow the case law established by *Saginaw County* because the case may be heard by the Supreme Court. Even assuming, for purposes of argument, that the MDEQ were to consider WMI's constitutional issue, MDEQ must abide by the *Saginaw County* decision, unless it is reversed.

2. Operating Criteria. It is WMI position that a County Plan cannot contain operating criteria or regulate the day to day operations of a disposal area. In *SOCIA v. Avon Township*, the Court held that Part 115 preempted local regulations concerning operations at a landfill. In the *Saginaw County* 1998 decision the Court of Appeals held that disposal fees did not concern operation of a disposal area and did not otherwise "interfere with the state's uniform statutory scheme regulating landfill location, development and operation", and therefore, it was not preempted.

Based on the Court of Appeals decisions in these two cases some local ordinances dealing with landfill operations may be preempted if they interfere with the state's uniform statutory scheme regulating landfill location, development and operation. However, based upon the *Saginaw County* 1998 decision, not all local regulations are preempted. If a local regulation does not interfere with the State's regulating scheme or conflict with Part 115, then MDEQ could approve a plan referencing such local ordinances or regulations.

3. Mandated Recycling. WMI claims that a County Plan cannot mandate a quota on the volume of solid waste to be recycled. Nothing in Part 115 appears to conflict with such a mandate. In fact Section 11539(1)(d) encourages counties to reduce and recycle wastes. Whether a county has the independent statutory or constitutional authority to mandate such a requirement is not part of MDEQ's analysis in reviewing County Plans under Part 115.

4. Mandated Data Collection. WMI claims that a County Plan cannot require that owner or operator of a solid waste facility to collect and report data concerning the volume of solid waste that is disposed of or recycled. Nothing in Part 115 precludes the counties from mandating collection of this information. Section 11507a requires landfills to submit data on an annual basis to the MDEQ and to the

relevant counties and municipalities. In the *Saginaw County* 1998 decision, the court found that the county imposed fee structure did not conflict with the statute even though the statute imposed a separate fee structure. The same rationale should apply to data collection. Data collection would also be important in determining the disposal needs of a county for the purposes of updating its plans. There appears to be no conflict with Part 115 and data collection could be included in a County Plan.

5. Preservation of more than 10 year capacity. WMI claims that a solid waste management plan should provide for a free flow of solid waste to the extent the plan otherwise demonstrates 10 years of disposal capacity. Apparently, it is WMI position that County Plans should not bar the importation of solid waste from out of county in order to preserve capacity beyond the 10 year time frame.

Part 115 requires solid waste management plans to plan for 10 years or more. MCL 324.11533. Therefore, it is clear under the statute that a County Plan can plan for a period of more than 10 years.

The WMI reference to "free flow of solid waste" appears to relate to a county's ability to prohibit the intrastate transport of solid waste. Sections 11513 and 11538(6) prohibit a disposal area from accepting waste generated in another Michigan county unless the acceptance of that waste is authorized in both the County Plans for the county of origin and the county of disposal. This prohibition has been upheld in the courts. See: *Citizens for Logical Alternatives and Responsible Environment ("CLARE") v Clare County Bd of Commissioners*, 211 Mich App 494 (1995); *Fort Gratiot v. Kettlewell*, 150 Mich App 648 (1986); *County of Saginaw v. Sexton Corp*, 150 Mich App 677 (1986) ("*Saginaw County* 1986 decision"), *Montmorency/Oscoda County Joint Sanitary Landfill Committee v Alpena County*, Mich Court of Appeals docket No. 181874, Oct 8, 1996); and *Waste Management of Michigan v Ingham County*, USDC Western Division Michigan, Case No. 5:94-CV-94, July 29, 1996).

A County Plan that provides for more than 10 years of planning and that does not provide for disposal of waste from other counties, is not inconsistent with Part 115 nor does it interfere with the statutory scheme. Therefore, there is no reason for MDEQ to disapprove such a plan. The WMI claims that such a plan violates the constitution, as a taking without compensation. MDEQ's review of County Plans is limited to a determination as to whether the plans comply with Part 115 and do not interfere with it's statutory scheme.

6. Volume Restrictions. WMI claims that a plan cannot impose a volume restriction on disposal areas within a county. WMI claims this violates Section 11516(5) of the statute which states, in part, "issuance of an operating license by the department authorizes the licensee to accept waste for disposal..."

WMI reads this to mean that a landfill can accept waste "without limitation". Part 115 clearly contemplates limitations on the amount and types of waste that can be accepted by a landfill. Part 115 construction permits and operating licenses effectively limit the volume of waste that a landfill may accept. Moreover, county planning would be impossible if a licensed landfill were permitted to accept wastes "without limitation". Counties would not be able to ensure their future capacity if landfills could accept unlimited amounts of waste.

WMI also claims that limiting the amount of wastes that a licensed landfill could take constitutes a local regulation of a disposal area that is preempted by Part 115. As set forth above, in determining whether local operating criteria is preempted, the MDEQ must determine if the regulation in question interferes with the statutory scheme of Part 115. A cap on the volume of waste does not interfere with the statutory scheme and is in fact supported by the statutory scheme which requires counties to plan for future waste disposal needs.

The WMI also claims that volume restrictions are unconstitutional. As set forth above, constitutional challenges to a County Plan are not within MDEQ's scope of review!

7. Identification of Specific Disposal Areas. WMI claims that a County Plan cannot restrict disposal to specific facilities identified in the County Plan. As set forth above, counties must be able to plan for future waste disposal needs. Identification of the disposal facilities is consistent with this planning requirement. Moreover, Rule 711(e) states, in part, as follows:

Plan selection shall be based on all of the following:

* * *

(iii) Site requirements, including the following requirements:

(A) The selected alternative shall identify specific sites for solid waste disposal areas for the 5-year period subsequent to plan approval or update.

(B) If specific sites cannot be identified for the remainder of the 20-year period, the selected alternative shall include specific criteria that guarantee the siting of necessary solid waste disposal areas for the 20-year period subsequent to plan approval.

(C) A site for a solid waste disposal area that is located in one county, but serves another county, shall be identified in both county solid waste management plans.

This rule clearly contemplates the identification of specific disposal areas, as does Section 11538 of Part 115. WMI claims this rule exceeds MDEQ's authority. The rule was upheld in *Fort Gratiot v. Kettlewell, supra*, and in the *Saginaw County* 1986 decision, *supra*.

8. Restrictions on Special Waste. WMI claims that a County Plan may not restrict the importation of specific types of solid waste. Nothing in Part 115 would prevent counties from restricting the importation of a certain type of solid waste from another county. A county can restrict the importation of any out of county waste in order to meet its planning requirement under Part 115. Clearly, if a county can restrict all out of county wastes it can restrict specific types of wastes in order to meet its planning obligations under the Act.

9. Enforcement by Uncertified Health Departments. WMI claims that Part 115 only grants enforcement powers to county health departments that are certified by MDEQ. Although Part 115 and its rules delegates certain powers and duties to certified public health departments, nothing in the statute or rules suggests that other local entities may not be responsible for enforcement under a County Plan.

Section 11537(1)(f) of Part 115 requires a County Plan to contain enforceable mechanisms for implementing the plan, including identification of the municipalities within the county responsible for enforcement. An "enforceable mechanism" is defined as:

a legal method whereby the state, a county, a municipality, or a person is authorized to take action to guarantee compliance with an approved county solid waste management plan. Enforceable mechanisms include contracts, intergovernmental agreements, laws, ordinances, rules, and regulations.

MCL 324.11503(5).

It is WMI position that counties have only limited authority under the constitution, and enforcement of County Plans by something other than a certified health department is not authorized by the constitution or any other enabling statute. The WMI further claims that MDEQ must review every county ordinance referenced in a County Plan and determine whether all provisions of all ordinances have been authorized by some enabling legislation and that the provisions do not exceed a county's delegated authority under that legislation.

As set forth above, MDEQ's responsibility is to determine if a County Plan complies with Part 115 and does not interfere with the statutory scheme set forth in Part 115. MDEQ has no authority to determine constitutional issues, including issues pertaining to the counties delegated authority.

10. Transporter License. WMI claims that a County Plan may not impose a licensing requirement on solid waste transporting units. WMI is correct in stating that nothing in Part 115 authorizes a county to implement such a licensing program. If such a licensing program is incorporated into a plan and relied upon by counties to implement their plan, then MDEQ requests or suggests that a county discuss the ordinance in the County Plan. Therefore, reference to such an ordinance is appropriate.

WMI main contention appears to be that the ordinance exceeds a county's authority. As set forth above, it is not MDEQ's role to determine whether a county has the authority to adopt a particular ordinance.

11. Severability Clause. WMI claims that provisions of a County Plan are not severable and in the event that any portion of the plan is declared unlawful or -- invalid the plan must then follow the formal amendment procedures set forth in Part 115 and its rules. A portion of an approved County Plan will only be found unlawful or invalid by a court of law. It will then be up to the court to decide whether the unlawful/invalid portion is severable from the County Plan.

It should be noted that in several cases courts have severed the unconstitutional portions of a local ordinance dealing with county regulation of solid waste, but upheld the remainder of the ordinance as constitutional. See *Saginaw County* 1998 decision at 218 and *CLARE, Inc.* at 498. Neither of these decisions declared the entire county plan invalid because the plans relied upon a portion of an ordinance that was determined to be unlawful. However, it is not clear from these decisions whether this issue was raised.

It is my understanding that MDEQ will sometimes conditionally approve a County Plan, but reject a portion of the Plan and require the County to amend the Plan in order to correct the rejected portion of the Plan. WMI may be asserting that this partial approval is inconsistent with the Part 115 amendment procedures set forth in Rule 299.4708(4) which states:

An amendment of the plan shall follow the same procedures for review and adoption as the original plan and the updates. However, there is no required submittal date for an amendment, and the cost of the required public notices and required public hearings shall be borne by the person seeking the amendment.

Partial approval does not appear to violate this rule. MDEQ requires any amendment of the Plan to comply with this provision.

Jim Sygo
Page 8
May 25, 1999

Please be advised that this is not a formal opinion of the Attorney General. If you have any questions, please call me at 51488.

c: Robert Reichel
A. Michael Leffler
Seth Phillips



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

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INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

REPLY TO:

WASTE MANAGEMENT DIVISION
PO BOX 30241
LANSING MI 48909-7741

October 21, 1999

Ms. Ann Mason
Clinton County Department of Waste Management
100 Cass Street
St. Johns, Michigan 48879

Dear Ms. Mason:

The Department of Environmental Quality (DEQ) has received and reviewed a copy of the draft Clinton County (County) Solid Waste Management Plan Update (Plan) that was released for the 90-day public comment period on July 12, 1999. I will address our comments in the same order as the topics appear in the Plan. In my opinion, this Plan is not approvable as written. The following areas of the County's Plan require revision or additional information:

Cover Page Please be sure to indicate the date when the final Plan is submitted to the Department of Environmental Quality (DEQ) for approval. If different versions of the Plan are prepared during the update process, listing the date can ensure that discussions between the DEQ and the County are referring to the correct document.

Page 9 The citation for Part 115 is not quite correct. The correct citation should be: Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 115).

In the definition of Type III waste the Plan states that it may be accepted at a Type II landfill. Shouldn't this be a Type III landfill? Or does the definition mean that Type III waste may also be disposed of in a Type II landfill?

Page 12 The facility description sheets are not numbered which makes it difficult to refer to a particular sheet.

The sheet for Pitsch landfill, which should be page number 16, does not specify any location information. How can the area under a permit be larger than the area sited by the Plan for use?

Page 36 The manner of evaluation and ranking of alternatives is required by Rule 711(e), but no such description occurs in this section. This should appear here and not in the Appendix. There is no Appendix A1-h.

Page 42 The annual cap as referenced on this page only applies to facilities owned by Granger but Section 6.8 on Page 85 does not limit the annual cap to one company. Annual caps should be for the entire county and not specifically discriminate against one company.

Page 44 What does n/a that appears in some of the columns mean? That no waste may be exported to those counties or that there are no limitations? How is this different from "unlimited?" What if they construct a landfill in the future? If the County wishes to authorize exports to counties that do not presently host solid waste disposal areas but may in the future, utilization of a separate page such as the one that appears on page III-5 of the Standard Plan Format may help avoid confusion.

Page 47 What is the purpose of this list? The facility descriptions on the pages that follow are not in the same order that they appear on the list, nor are the pages numbered a, b, c, etc. The facility description pages are not numbered at all and are very confusing to follow.

Page 48 Inclusion of this type of detailed legal property description is not necessary.

Page 49 Nothing is on this page.

Following the page that shows the site plan of the Venice Park Recycling and Disposal Facility, which is not numbered, there is a page that is not numbered with a "Venice Park-Shiawassee County" heading showing a list of counties. What is the purpose of that page?

The following page is the Pitsch Landfill facility description sheet that is also not numbered. No location information is provided for Pitsch Landfill. How can the area under a construction permit be larger than the area sited by the Ionia County Plan for use?

The facility description page for Daggett Sand and Gravel is also not numbered. What is the location of Daggett Sand and Gravel Type III Landfill?

Page III-19 This landfill is no longer owned by USA Waste, as that company merged with Waste Management last year. This page should list the current owner of the facility. This page number is not in any sequence with the other pages.

Page II-7 No location information is included for this facility. How large is the area sited by the Calhoun County Plan for use? This page number is not in any sequence with the other pages.

Pages III-14
and III-15 These page numbers are not in any sequence with the other pages.

Page II-8 This page number is not in any sequence with the other pages.

Page III-13 The location information for this facility is not complete. How large is the area sited by the Oakland County Plan for use? This page number is not in any sequence with the other pages.

Page III-14 How can the area under a construction permit be larger than the area sited by the Ottawa County Plan for use? This is the second page numbered III-14. The first one is for Brent Run Landfill.

Page II-12 This page number is not in any sequence with the other pages.

The facility description page for People's Landfill is not numbered. The location information for this facility is not complete. How large is the area sited by the Saginaw County Plan for use?

This landfill is no longer owned by USA Waste, as that company merged with Waste Management last year. This page should list the current owner of the facility.

The facility description page for Taymouth Landfill is not numbered. Who is the owner of the Taymouth Landfill?

The facility description page for Saginaw Valley Landfill is not numbered. This landfill is no longer owned by USA Waste, as that company merged with Waste Management last year. This page should list the current owner of the facility.

Page II-5
and II-6

These page numbers are not in any sequence with the other pages.

Page II-3

Why is the City of Ann Arbor transfer station included in the Plan? It is not identified on the list of facilities to be used by Clinton County. This page number is not in any sequence with the other pages.

Page II-4

Why is the village of Chelsea transfer station included in the Plan? It is not identified on the list of facilities to be used by Clinton County. This page number is not in any sequence with the other pages.

The facility description page for Carleton Farms Landfill is not numbered. City Management Corp. no longer owns this landfill. This page should list the current owner of the facility.

The facility description page for Riverview Land Preserve is not numbered. This page should list the owner of the facility.

The facility description page for Sauk Trail Hills Landfill is not numbered. The location information is not complete. Wayne Disposal-Canton, Inc. no longer owns this landfill. This page should list the current owner of the facility.

Page 53

Most of the programs that were included on this page are not volume reduction techniques. Volume reduction involves the use of a process to reduce the physical size of the waste, such as, incineration. Other methods, such as compaction, baling, or shredding could also be used to reduce the waste volume. It is that type of process that should be listed on this page. If any parties such as haulers, industries, or transfer facilities use volume reduction techniques, that information should be listed here.

Page 70

The County's siting process should be placed here in the Selected System portion of the Plan, not as an attachment in Appendix D.

Page 76

The last paragraph under the powers of the Board of Commissioners to enact ordinances provides overly broad authority for adoption and enforcement of local regulations on solid waste disposal areas and is not approvable as written. This may be interpreted as our approval of greater local authority than the law intends to allow. If the county wants to adopt regulations that affect solid waste disposal areas, the specific subjects of regulations must be identified in the Plan, or the regulations, themselves, included.

Page 81

Again, the paragraph under the Authority heading provides overly broad authority for adoption and enforcement of local regulations on solid waste disposal areas and is not approvable as written. The County does not have unlimited authority to enforce ordinances. This statement and the one on Page 76 must be modified

and both should include statements that the ordinances may be adopted and/or enforced only to the extent approved by DEQ as part of the Plan.

Page 82 The last sentence under the Disposal Facilities heading concerns incinerator ash. The two facilities in the County cannot accept municipal solid waste incinerator ash anyway, but other incinerator ash generated in Clinton County can go there and the Plan has no authority to stop it.

The information under the Other Counties and Facilities Recognized in The Plan heading duplicates the information presented on Pages 42-45.

Page 84 The Plan does not discuss local ordinances, only the County Ordinance. Are local ordinances included or allowed? Please be specific. See Pages III-32 through III-34 of the Standard Plan Format for guidance.

How will correspondence between facilities and the DEQ be "regulated?"

Page 85 Annual caps must be established in the Plan and may not be changed except by a Plan amendment. The Board may not change annual caps in the manner described here, which is, in effect, an alternate amendment process. This must be deleted.

Page 87 The Plan contemplates licensing of haulers and "non-disposal facilities", however haulers or facilities that are not a solid waste disposal areas are not subject to the provisions of a solid waste Plan. This proposed activity does not need to be included in, nor is it enabled by, "authorizing" it in the Plan.

Page 90 As previously discussed, the County's overall disposal cap should not just apply to one company.

This page includes a discussion of an alternative amendment process. If such a process is included in the Plan when it is submitted to the DEQ for approval we will have no choice but to recommend that the Director disapprove the Plan. The second paragraph of Section 6.11 must be deleted.

The Capacity certification form is stamped "Not Applicable." If so, it does not need to be included in the Plan.

The second page of Section A-2d states under Sunrise "Jenny checking on geographic." Has that area been determined?

In Appendix C, the County's appointment procedure needs to be specified. See Page C-3 of the Standard Plan Format.

In Section D-2, what are the letters of assurance? If Plan management roles are by County agencies, the County Board of Commissioners acceptance of their planning responsibilities is sufficient. Letters are only needed from outside agencies or persons that will have management responsibilities under the Plan.

In article 5, Sections 5.4, 5.6, 5.8, 5.9, and 5.10 of the County's Ordinance, references are made to facilities partially within Clinton County. Is the County attempting to regulate what occurs in the facility as a whole or just the portion that lies within Clinton County? The County has no jurisdiction over the portions of facilities that lie beyond the County's borders.

Appendix D-4, the Plan's siting process, belongs in the body of the Plan under the Selected System, not in the Appendix. See the Standard Plan Format for proper placement of this section.

The definition of a New Disposal Area would not include Type B transfer stations. This means they would not be subject to the siting process and could locate anywhere in the County.

Page 2, item 4 of the siting process refers to 66 months of capacity, but the Plan does not contain a capacity certification process. Please describe the methodology by which the County will determine if 66 months of capacity is available and who in the County will make that determination?

Page 3, item 11 of the siting process should include a statement that each proposal will be evaluated only against the criteria specified in the Plan. Who in the County is responsible for transmitting the County's decision to the DEQ?

In item 13, implies that a developer may only appeal to DEQ over the County's decision or if no determination is made if less than 66 months of capacity remains. This is not correct. A developer has the right to request a determination be made by DEQ per Rule R299.4902 (2)(b) regardless of the amount of capacity available, provided that the County has run the siting process and determined that the facility is not consistent or has refused to issue a consistency determination.

Where is item 14?

Item 15 should begin "In all circumstances, the MDEQ..."

Page 4 gives the Local Planning agency (LPA) the right to refuse to allow the siting process to be used if the County has more than 66 months of capacity. Section 11538(3) of Part 115, however, provides that the siting mechanism shall be operative at the call of the Board of Commissioners if the County has more than 66 months of capacity.

Item 3 on Page 4 is not clear. What role does this "criterion" play in the review? If none, it should be not be included in the criteria. If it is required, it can't be approved as a criterion as it is subjective.

On Page 5 of the siting process, Item 15, what is "other designation appropriate for solid waste disposal activity?" While this was language in DEQ's example, it was intended to suggest the opportunity to specify other zoning areas. In the actual criteria these should be specific otherwise they are open to discretionary interpretation.

In item 17, the Plan cannot require that the developer sign agreements over roads as the County could stop a development arbitrarily by refusing to sign an agreement. The Plan can require signed statements from the developer regarding road improvements and maintenance, however.

What is the purpose of the table entitled Siting Criteria-Isolation Distances on an unnumbered page? It seems to just duplicate information already in the siting criteria. Additionally the bottom two lines deal with user fees and vertical expansions, which have little to do with the Plan's isolation distances.

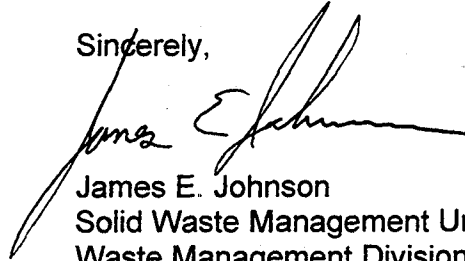
As previously discussed, the Fast Track Amendment process in Appendix D-6 must be deleted.

The information in Appendix D-7 is not necessary. Additionally it makes reference to Act 641, which no longer exists.

I appreciate the use of the Standard Plan Format wherever it was followed, but there was deviation from the Format throughout the Plan that made the Plan difficult to review. The lack of page numbers on many pages nor a consistent page numbering system, make the Plan hard to read and make it difficult to locate cross referenced sections.

I hope that these comments are useful to Clinton County as you attempt to develop an approvable Plan. If you have any further questions or comments, please feel free to contact me by telephone or by email, at johnsoj1@state.mi.us.

Sincerely,



James E. Johnson
Solid Waste Management Unit
Waste Management Division
517-373-4738

cc: Mr. Seth Phillips, DEQ
Clinton County File

C-5

November 8, 1999

Mr. James E. Johnson
Solid Waste Management Unit
Waste Management Division
P.O. Box 30241
Lansing, MI 48909-7741

RE: Response to MDEQ Comments

Dear Jim:

Thank you for providing comments on Clinton County's draft Solid Waste Management Plan. I am attaching our response (also the document used by the SWPC to vote on changes).

I believe we have addressed each of the issues raised by your letter. A new draft will be printed shortly and that recommended document, containing these changes, will be considered by the Board of Commissioners this month.

Please phone with any added comments, questions or concerns.

Sincerely,

Ann Mason

attachment

At November 2, 1999 meeting of SWPC, the following
recommended changes
were unanimously approved.

CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN UPDATE

Recommendations in response to MDEQ comments.

The DPA received comments from the MDEQ on the draft Solid Waste Management Plan update in a communication dated October 21, 1999. Though comments were lengthy, the vast majority pertain to numbering of facility description pages, verifying owners and locations of facilities in those same pages and organization of some pieces of the document (shifting files to different places, renumbering, etc.). There are some substantive issues pertaining to language addressing annual caps and authority language contained in the solid waste ordinance. Communication has taken place with the MDEQ on these more substantive issues with resulting recommended resolutions contained in the following.

The recommendations in the following track the memo from Jim Johnson. **Suggest that the SWPC review all recommendations with a copy of their draft Plan handy. Changes can be approved as a block except for those items where no recommendation is made and some discussion may be necessary.**

- Cover Page: No recommended change. It will be filled in when actually submitted.
- Page 9: Make definition change to Part 115.
Make change in Type III definition: "which may be accepted at a Type II or Type III municipal solid waste disposal facility".
- Page 12: 'Letter' facility description sheets.
Pitch has revised facility description. Insert it.
- Page 36: (Found A1-h) Move the appendix page A1-h to this section. Delete from Appendix.
- Page 42: This is a matter of reading - not intent. Suggest inserting the following on second line of the "Annual Cap" paragraph. Delete "and" Add "*which were owned by Granger*"
- Page 44: Change all "n/a's" to "unlimited". For those counties with "n/a's", add "***" and note at the bottom of the page that these counties do not currently have facilities.
Conditions already address MDEQ's other issues.
- Page 47: The facility descriptions will be put in same order as the front list (which we view as helpful) and 'lettered' a,b,c, etc., a-1, a-2 for counties with multiple facilities.
- Page 48: No change recommended. *Granger's legal*
- Page 49: Get the legal description *Wood Street*

Fix all ownership and location changes in facility descriptions - to the extent possible.

All Facility Descriptions will be numbered (see above)
Venice Park - Shiawassee County Listing: Delete list.
Revised description for Pitsch to be inserted.
Insert Range number for Daggett.
Requested revised facility descriptions from Hastings
Requested location information from Calhoun
Requested location information from Oakland County.
Insert owner of Taymouth.

Move Range into range slot for Peoples. - Change owner name to Waste Management.
Change owner of Saginaw Valley.

Add a paragraph under 5.7 SOLID WASTE DISPOSAL AREAS to include use of any transfer facilities located within specified counties so long as waste is ultimately disposed of in the disposal facilities listed. *Make sure transfer facility descriptions are included.*

Insert the following in 5.7 at the end of the first paragraph.

Additionally, while Transfer Facilities are Disposal Facilities, they are not end disposal sites. However, any Transfer Facility located within the authorized counties is authorized for use so long as waste leaving that Transfer Facility which originated in Clinton County is disposed of at an end disposal facility located within the counties authorized in 5.6 of this Plan. Additionally, waste coming into Clinton County may come from any of those Transfer Facilities so long as the waste originates from within the counties named and authorized in 5.5 of this Plan.

Correct owner for Carleton Farms Landfill.

Insert Owner for Riverview.

Change owner for Sauk Trail Hills Landfill - insert location information.

Page 53: Gayle revised to meet Jim Johnson's definitions

Page 70: Move siting procedure here - delete from Appendix D

Page 76: Add: after "Plan" in the first line - delete the remainder and insert: *as specified in 6.8, the Enforcement, Local Ordinances and Regulation portion of this Plan.*

Page 81: Halfway down the paragraph: "Ordinances are authorized" delete this sentence, delete the sentence beginning "The Solid Waste Ordinance is the central..." and replace with "This Plan authorizes the use of a solid waste ordinance to regulate issues as specified in section 6.8, the Enforcement, Local Ordinances and Regulation portion of this Plan. Repeat language limiting authority at the front of the next paragraph as well.

Page 82: In the last sentence - insert "municipal solid waste" before "incinerator ash"

Page 84: Relative to the item above (p. 81), repeat language limiting regulation to the list contained on this page. (MDEQ wants explicit references to the part of the Ordinance that applies.)

Add section that describes the ability for local municipalities to enact ordinances regulating how solid waste is managed (i.e. - local solid waste programs - no trash out at the curb more than 24 hrs ahead, etc.)

Paragraph to be added to 6.8 - add to General Paragraph:

This section of the Plan does not preclude adoption of local ordinances governing the collection and management of solid waste within a municipality so long as such ordinances do not result in a conflict with the Plan. For example, local ordinances may prescribe local funding, collection methods, restrictions on placement of waste and recyclables at the curb, etc., but may not provide for end disposal locations other than those contained within this Plan document.

The "regulating" of correspondence that is referenced here refers to the requirement that we receive copies cover letters of correspondence pertaining to the three issues identified. It can be assured through FOIA's of the appropriate State agencies if necessary.

Page 85: Recommend following language replace annual cap language in the Plan and Ordinance. Note from the meeting - Committee was awaiting final approval from MDEQ. MDEQ has indicated they can work with that language and has made no recommended changes.

PLAN: In 6.8, replace current Annual Cap language with the following:

The sum of all facilities in the County will not accept waste for end disposal in amounts that exceed a maximum annual cap of 2,500,000 cubic yards per year. However, the facility owner/operators may only accept up to 2,000,000 cubic yards per year unless they petition the Board to increase the 2,000,000 cubic yards cap by an amount of up to 500,000 cubic yards. The Board shall grant such an increase if the landfill facility owner/operators requesting the increase, confirm in writing that the increase will not jeopardize:

- a) the availability of 10 years disposal capacity from the date of the request for a cap expansion,*
- b) their ability to meet Part 115 requirements,*
- c) their ability to review traffic, mud-tracking or litter nuisances,*
- d) a maximum annual cap of 2,500,000 cubic gate yards*

Once approved by the Board, the annual increase of up to 500,000 shall renew automatically unless the Board reviews the above conditions and finds that the landfill facility owner/operators, who received the increase, have not met the commitments they confirmed.

The Board must act upon a petition for cap increase within 90 days of receiving the request. Within the 90 day period, the Board shall notice and hold a public hearing on the request, at which time the Board will formally receive the written confirmation.

The MDEQ shall be notified of any changes in the annual cap.

If another facility should be sited in Clinton County beyond those facilities located in the County at the time of this Plan enactment, a Plan amendment would implemented to increase the cap.

ORDINANCE under Article 5, replace current annual cap language with:

No facility owner or operator may accept Type II or Type III waste for disposal in Clinton County in excess of the Plan's aggregate 2,500,000 annual cubic yard cap, unless the disposal is within a temporary cap increase approved by the Board of Commissioners through a special resolution designed to address a catastrophic or natural disaster that has produced unanticipated quantities of waste. However, for purposes of this paragraph, the annual cap shall be 2,000,000 cubic yards if the facility owners or operators have not petitioned the Board of Commissioners for a 500,000 cubic yard annual cap increase or if the Board has rescinded such an increase because of the landfill owners' or operators' failure to meet their cap increase commitments.

Page 87: P 87, second line. Delete: "this Plan recognizes the validity and appropriateness of enacting a licensing program to do so." Insert: "the County may choose to enact a licensing program to do so, outside the auspices of this Plan. Delete the last sentence.

Page 90: Third paragraph down: second line: change all references to Granger facilities to facilities located in Clinton County. Update annual cap language. Also, insert a sentence that says: "Should the annual cap be elevated to an absolute ceiling of 2,500,000 and using the same calculations, the facility would last for 14.88 years, which also exceeds the 10 year assurance requirement."

Page 91: Delete the Fast Track Amendment process.
Move the Capacity Certification Form.: May want to use that form, in combination, with Air space capacity reports if we are ever asked to site a facility and must determine capacity at that time. Take "not applicable" off and move the form to siting section - attaching to siting procedure.

End of Plan Document Comments/Recommendations

Appendix Comments/Recommendations

Appendix A-2d: On second page: modify Sunrise's curbside recycling charge.

Appendix C: - Insert documentation re: appointment process. (Advertising and Board of Commissioner appointments. Include replacements.) (Ruth had compiled)

Appendix D-2: Change Letters of Assurance to Letters of Acceptance of Responsibility.

Appendix D-3 Ordinance: Article 5. Do search and replace delete: "disposal facility located completely or partially in Clinton County" and replace with "disposal facility or portions of a disposal facility which are located within Clinton County"

Article 5.4: Replace with new Annual Cap language.

Appendix D-4 - (Siting Procedure) see previous re: moving to body of the Plan.

Page 1: In this document, add the definition of "Disposal Area" contained in the Rules (324.11503(2)): "means a solid waste transfer facility, incinerator, sanitary landfill, processing plant or other solid waste handling or disposal facility utilized in the disposal of solid waste." Place above "New Disposal Area" and renumber - add bullet to New Disposal Area - re: transfer facility.

Page 2, item 4: Insert language re: Capacity can be assessed at the time of application through use of capacity certification form. Two methods may be used: a) first check air space capacity reports for local facilities. If fails to show more than 66 months, then b) check unused permitted capacity of facilities in authorized counties, divided by annual amounts coming into those each facilities and commitments from those counties regarding how much waste they will take from Clinton County. Addition of years (mos) remaining plus airspace capacity reports years (mos) remaining = capacity available to the county at time of facility site request.

Page 3, item 11: Insert MDEQ recommended language. Note that Board of Commissioners would be responsible for notifying MDEQ based on recommendation of the Site Review Committee (SRC).

Page 3, Item 13: Third line, after "MDEQ" delete the remainder of the sentence.

Page 3, Item 14/15: Change numbering re: item 14 - and insert recommended language "In all circumstances". Take out word "area" on last line of item 14

Page 4, item 1: In the note, strike "refuse to allow this procedure to be used,"

Page 4, item 3: - remove from Criteria section and insert in Process section.

Page 5, item 15: Insert "or" before commercial and strike the remainder of the sentence.

Page 5, item 17: second line, after "shall" - delete the remainder of the sentence and insert: "submit signed statements indicating willingness to provide for necessary upgrading and/or maintenance.

Regarding the table: delete the bottom two lines and leave in. Provides background for authority - of isolation distances - an item of discussion during plan development.

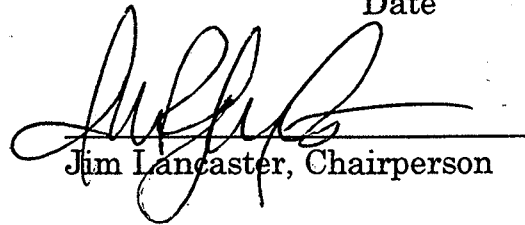
Position Descriptions D-7 - change reference in first description and leave in. Useful in understanding scope of responsibilities of those staffing implementation of the Plan.

**CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN
RECORD OF APPROVAL**

**Solid Waste Planning Committee Release
Draft for Public Review**

6-29-99

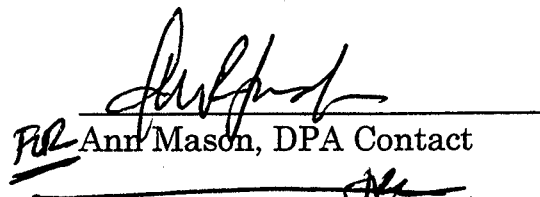
Date


Jim Lancaster, Chairperson

Date of Public Hearing

10-5-99

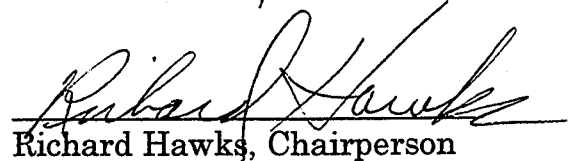
Date


Ann Mason, DPA Contact

Date of Approval by County Board of Commissioners

11/30/99

Date


Richard Hawks, Chairperson

CLINTON COUNTY BOARD OF COMMISSIONERS

COURTHOUSE
100 E. STATE STREET
ST. JOHNS, MICHIGAN 48879-1571

517-224-5120



Administrator
Ryan L. Wood

The following is an excerpt from the minutes of the Clinton County Board of Commissioners meeting held November 30, 1999. Present were John Arehart, Russel Bauerle, Richard Hawks, Scott Hummel, Sara Pierson, Larry Martin and Mary Rademacher.

**RE: WASTE MANAGEMENT REQUEST FOR ADOPTION OF ORDINANCE,
PLAN UPDATE AND USER FEE AGREEMENT AND LEGISLATIVE
FINDINGS**

4. Chairperson Pierson introduced Ann Mason, Waste Management Coordinator, regarding the Solid Waste Ordinance Adoption, Plan Update Approval and Adoption, Special Waste and User Fee Agreement Addendum and Legislative Findings. The Solid Waste Planning Committee approved, and recommended for Board approval, the updated Plan on November 2, 1999.

COMMITTEE RECOMMENDATION: Commissioner Bauerle moved, supported by Commissioner Arehart to **recommend** adoption of the new Solid Waste Ordinance with the effective date of the Ordinance to be the date of publication in the local newspaper, authorizing the Chairperson to sign the adopted Ordinance and approve the Ordinance through the Plan Update Adoption Resolution on behalf of the entire Board of Commissioners. Motion carried

BOARD ACTION: Commissioner Pierson moved, supported by Commissioner Martin to concur with the Committee recommendation to adopt the new Solid Waste Ordinance. Voting on the motion by roll call vote, those voting aye were Rademacher, Bauerle, Hummel, Martin, Pierson, Arehart and Hawks. Seven ayes, zero nays. Motion carried.

COMMITTEE RECOMMENDATION: Commissioner Arehart moved, supported by Commissioner Rademacher to **recommend** adoption of a resolution approving the Plan Update, the new Ordinance and authorize the Chairperson to sign on behalf of the entire Board of Commissioners. Motion carried.

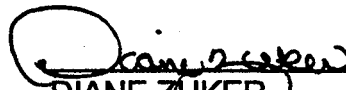
BOARD ACTION: Commissioner Pierson moved, supported by Commissioner Arehart to concur with the Committee recommendation to adopt the Resolution approving the Plan Update and the new Ordinance. Voting on the motion by roll call vote, those voting aye were Martin, Rademacher, Arehart, Bauerle, Hummel, Pierson and Hawks. Seven ayes, zero nays. Motion carried.

COMMITTEE RECOMMENDATION: Commissioner Hummel moved, supported by Commissioner Bauerle to **recommend** approval of the User Fee Agreement Addendum and Legislative Findings and authorize the Chairperson to sign on behalf of the entire Board of Commissioners. Motion carried.

BOARD ACTION: Commissioner Pierson moved, supported by Commissioner Bauerle to concur with the recommendation of the Planning Commissioner to approve the User Fee Agreement Addendum and Legislative Findings. Voting on the motion by roll call vote, those voting aye were Bauerle, Hummel, Martin, Rademacher, Arehart, Pierson and Hawks. Seven ayes, zero nays. Motion carried.

STATE OF MICHIGAN
COUNTY OF CLINTON

I, DIANE ZUKER, Clerk of the County of Clinton do hereby certify that the foregoing was duly adopted by the Clinton County Board of Commissioners at a regular meeting held November 30, 1999 as on file in the records of this office.



DIANE ZUKER
CLINTON COUNTY CLERK

CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN

MUNICIPAL APPROVAL

Municipality	Y/N	Date
Bath Township	Y	1/4/00
Bengal Township	Y	1/5/00
Bingham Township		
Dallas Township		
DeWitt City	Y	1/4/00
DeWitt Township	Y	2/14/00
Duplain Township		
Eagle Village		
Eagle Township	Y	2/7/00
Elsie Village		
Essex Township	Y	2/10/00
Fowler Village	Y	3/13/00

Municipality	Y/N	Date
Greenbush Township	Y	2/7/00
Lebanon Township	Y	2/14/00
Maple Rapids Village	Y	2/2/00
Olive Township	Y	2/14/00
Ovid Village		
Ovid Township	Y	2/17/00
Riley Township	Y	1/13/00
St. Johns City	Y	1/10/00
Victor Township		
Watertown Township	Y	1/17/00
Westphalia Village	Y	2/7/00
Westphalia Township	Y	2/14/00
Total:		17/24

Letters/Resolutions indicating local approval/disapproval are attached.

Michigan Department of Environmental Quality:

Date

STATE OF MICHIGAN
COUNTY OF CLINTON
CHARTER TOWNSHIP OF BATH

RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Bath Charter Township Board of Trustees held in Bath, Michigan on January 4, 2000, at 7:00 p.m.

Present: Vail-Shirey, McQueen, King, Gutzki, Leiby, Weeks, Wiswasser

Absent: None.

The following resolution was offered by Trustee Leiby and supported by Clerk McQueen.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, Bath Charter Township has reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of Bath Charter Township;

NOW, THEREFORE, BE IT RESOLVED that the Bath Charter Township Board of Trustees approves the proposed update to the Clinton County Solid Waste Management Plan, and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St. Johns, Michigan 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: Vail-Shirey, McQueen, King, Gutzki, Leiby, Weeks, Wiswasser.

NAYS: None.

I, Kathleen B. McQueen, being the duly elected Clerk of Bath Charter Township, attest that this is a true and correct copy of the Resolution adopted by the Board of Trustees of Bath Charter Township at its regular monthly meeting of January 4, 2000.

A handwritten signature in cursive script, reading "Kathleen B. McQueen". The signature is written in dark ink and is positioned above the printed name and title.

Kathleen B. McQueen, Clerk
Bath Charter Township

BENGAL TOWNSHIP
Clinton County, Michigan

JAN 7 2000

At the regular meeting of the Bengal Township Board, held on the 5th day of January, 2000 at 7.30 p.m., at the Township Hall in Bengal Township there were:

Present: Eric Mohnke, Arleita Schafer, Jane Knight, Kenneth Miller and Kenneth Thelen.

Absent: None

The following resolution was offered by Treasurer Jane Knight and supported by Clerk Arleita Schafer.

2000-1
RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTER MANAGEMENT PLAN

WHEREAS, The Bengal Township Board has adopted a Solid Waste Management Plan under the authority of 1994 PA 451, Part 115 as amended; and

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated Plan and the Bengal Township Board has approved the Plan; and

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, Bengal Township Board had reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of Bengal Township;

NOW, THEREFORE, BE IT RESOLVED that the Bengal Township Board approves the proposed update to the Clinton County Solid Waste Management Plan; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

A Vote on the foregoing resolution was taken and was as follows:

YEAS: Five (5)

NAYS: Zero (0)

ABSTAIN: Zero (0)

I, Arleita M Schafer, Clerk of Bengal Township, do certify that the foregoing is a true copy of the resolution adopted by the Bengal Township Board of Trustees at its meeting held January 5th, 2000.

January 5, 2000
DATE

Arleita M Schafer
Arleita M Schafer, Clerk

**CITY OF DEWITT
CITY COUNCIL**

RESOLUTION

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF DEWITT APPROVING
THE CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN**

WHEREAS, the Clinton County Board of Commissioners has adopted a Solid Waste Management Plan under the authority of 1994 PA 451, Part 115 as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

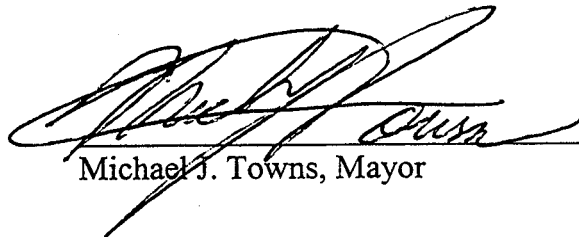
WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the updated Plan and the County Board of Commissioners has approved the plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within the County; and,

WHEREAS, the City of DeWitt has reviewed the plan and finds that it does promote and protect the solid waste needs and interests of the residents of the City of DeWitt.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of DeWitt approves the proposed update to the Clinton County Solid Waste Management Plan.

RESOLVED this 4th day of January, 2000.



Michael J. Towns, Mayor

Margie N. Lotre, Clerk - Treasurer

YES: 5
NO: 1
FOR: Conway, Flood, Lancaster, Reust, Showers
AGAINST: Thompson
ABSENT: None
ABSTAINING: None

JAN 12 2000

RESOLUTION
000205

At a regular meeting of the DeWitt Charter Township Board of Trustees held at the Township Hall, 16101 Brook Rd., Lansing, MI on the 14th day of February, A.D., 2000, at 7:00 p.m.

PRESENT: Members Supervisor Zeeb, Clerk Mosier, Treasurer Barnett,
Trustee Rhead

ABSENT: Members Trustees: Peterson, Calder, and Wrzesinski

The following Resolution was offered by Member Rhead and supported by Member Barnett.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the 2000 Update to the Plan and the County Board of Commissioners has approved the Plan; and

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and

WHEREAS, DeWitt Charter Township has reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of DeWitt Charter Township.

NOW THEREFORE BE IT RESOLVED that the DeWitt Charter Township Board approves the proposed update to the Clinton County Solid Waste Management Plan.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

AYES: 4

NAYS: 0

ABSENT: 3

The foregoing Resolution declared adopted on the date written above.



Diane K. Mosier, Clerk

STATE OF MICHIGAN
COUNTY OF CLINTON
TOWNSHIP OF EAGLE

FEB 6 2000

RESOLUTION APPROVING CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN

At a regular meeting of the Eagle Township Board held in Eagle, Michigan on February 7, 2000, at 7:30 p.m.

Present: Supervisor David C. Morris, Clerk Jane A. Korroch, Treasurer Patti J. Schafer, Trustees Stephen Colby and Ronald Hodge.

Absent: None

The following resolution was offered by Ronald Hodge and supported by Stephen Colby.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning committee has recommended approval of the attached updated Plan and the County board of Commissioners has approved the Plan; and

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

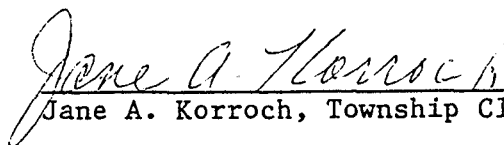
WHEREAS, Eagle Township has reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of Eagle Township;

NOW, THEREFORE, BE IT RESOLVED that the Eagle Township Board approves the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: Morris, Korroch, Schafer, Colby and Hodge

NAYS: None


Jane A. Korroch, Township Clerk

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan
(if you would like a copy of this in disk form, or via e-mail, give our office a call)

RECEIVED
FEB 17 2000

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING [DISAPPROVING] THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Essex Township held in Maple Rapids,
Michigan on Feb. 10, 2000, at 7:30 p.m. (a.m.)

Present: Swanson, Benson, Anderson, Schlarf, Findlay

Absent: none

The following resolution was offered by Benson and supported by
Anderson.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, [name of municipality] had reviewed the Plan and finds that it does [does not] promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the [name of municipality governing board] approves [disapproves] the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: 4

NAYS: 1

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan

(if you would like a copy of this in disk form, or via e-mail, give our office a call)

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING [DISAPPROVING] THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Village Council held in Fowler
Michigan on March 13, 2000, at 8:00 p.m. (a.m.)

Present: R. Cook, R. Smith, D. Pline, D. Klein, D. Simon, V. Thelen

Absent:

The following resolution was offered by V. Thelen and supported by
R. Smith.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a
Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as
amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing
circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the
attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities
located within Clinton County; and,

WHEREAS, [name of municipality] had reviewed the Plan and finds that it does [does not]
promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the [name of municipality governing board]
approves [disapproves] the proposed update to the Clinton County Solid Waste Management Plan;
and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton
County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a
matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: 6

NAYS: 0

MAR 20 2000

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan
(if you would like a copy of this in disk form, or via e-mail, give our office a call)

FEB 10 2000

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING [DISAPPROVING] THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Greenbush Township Board held in St. Johns
Michigan on February 7, 2000, at 7:00 P.M. (a.m.)

Present: Sup. Gary Hyde-Trea. Mike Schnieder-Clerk Betty Pettigrew
Trustee Bill Dershem-Trustee Dan Jorae

Absent: None

The following resolution was offered by Betty Pettigrew and supported by
Dan Jorae.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a
Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as
amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing
circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the
attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities
located within Clinton County; and,

WHEREAS, [name of municipality] had reviewed the Plan and finds that it does [does not]
promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the [name of municipality governing board]
approves [disapproves] the proposed update to the Clinton County Solid Waste Management Plan;
and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton
County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a
matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: 5 (five)

NAYS: None

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan
(if you would like a copy of this in disk form, or via e-mail, give our office a call)

FEB 17 2000

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING [DISAPPROVING] THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Township Board held in Lebanon
Michigan on Feb 14, 2000, at 8:00 p.m. (a.m.)

Present: Floyd Messer, Steven Thelen, Dave Piggott,
Mike Klein, Frank McMillan
Absent: none

The following resolution was offered by Thelen and supported by
McMillan.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a
Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as
amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing
circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the
attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities
located within Clinton County; and,

WHEREAS, [name of municipality] had reviewed the Plan and finds that it does [does not]
promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the [name of municipality governing board]
approves [disapproves] the proposed update to the Clinton County Solid Waste Management Plan;
and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton
County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a
matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: 5

NAYS: 0

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan
(if you would like a copy of this in disk form, or via e-mail, give our office a call)

FEB 17 2000

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING [DISAPPROVING] THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Maple Rapids Village Council held in Maple Rapids
Michigan on Feb. 2, 2000, at 7:30 p.m. (~~a.m.~~)

Present: Robert Stephens, Daryl Trefil, Troy LaBar, Tim Maier

Absent: Robert Holland - Tamra Parks

The following resolution was offered by Robert Stephens and supported by
Daryl Trefil.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a
Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as
amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing
circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the
attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities
located within Clinton County; and,

WHEREAS, [name of municipality] had reviewed the Plan and finds that it does [does not]
promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the [name of municipality governing board]
approves [disapproves] the proposed update to the Clinton County Solid Waste Management Plan;
and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton
County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a
matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: R. Stephens, D. Trefil, T. LaBar, T. Maier

NAYS: None

George W. Abbott
President

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan
(if you would like a copy of this in disk form, or via e-mail, give our office a call)

FEB 17 2000

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING [DISAPPROVING] THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Olive Township Board held in Olive Township, Clinton
Michigan on Feb 14, 2000, at 8:00 p.m. ~~(a.m.)~~

Present: all board

Absent: None

The following resolution was offered by David Cook and supported by
Gayle Watkins

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a
Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as
amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing
circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the
attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities
located within Clinton County; and,

WHEREAS, Olive Township had reviewed the Plan and finds that it does ~~[does not]~~
promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the Olive Township governing board
approves ~~[disapproves]~~ the proposed update to the Clinton County Solid Waste Management Plan;
and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton
County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a
matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: 5

NAYS: 0

Neil Hart Olive Township Clerk

STATE OF MICHIGAN
COUNTY OF CLINTON
OVID TOWNSHIP

**RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN**

At a regular meeting of the Ovid Township Board held in Ovid, Michigan on February 17, 2000, at 8:00 p.m.

Present: Dale Devereaux, Carolyn Stilwell, Jeanne Ott, Charles Olson & James McClelland.

Absent: None.

The following resolution was offered by McClelland, and supported by Devereaux.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 11") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, Ovid Township had reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of Ovid Township;

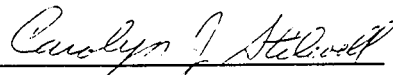
NOW, THEREFORE, BE IT RESOLVED that the Ovid Township Board approves the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: (5) Five

NAYS: None

This Resolution declared adopted this 17th day of February, 2000.


Carolyn J. Stilwell, Clerk

RILEY TOWNSHIP

Clinton County, Michigan

Chairman, Supervisor	Susan Blizzard, Clerk	Lester Sehlke, Treasurer	Charles Silm, Trustee	Lawrence Witt, Trustee
S. Airport Road St. Johns, MI 48820 24-7249	4900 W. Pratt Road DeWitt, MI 48820 517 669-3330	6612 W. Price Road St. Johns, MI 48879 517 224-2451	6322 W. Price Road St. Johns, MI 48879 517 224-3051	8504 W. Lehman Road DeWitt, MI 48820 517 626-6304

STATE OF MICHIGAN CLINTON COUNTY RILEY TOWNSHIP

RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTE MANAGEMENT

At a regular meeting of the Riley Township Board held at the Township Hall on January 13, 2000 at 7:30 p.m.

Present: Chant, Blizzard, Sehlke, Silm, Witt

Absent: None

The following resolution was offered by Trustee Silm and supported by Treasurer Sehlke.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's solid Waste Planning Committee has recommended approval of the attached updated Plan and the County Board of Commissioners has approved the Plan; and

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and

WHEREAS, Riley Township had reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of Riley Township;

NOW, THEREFORE, BE IT RESOLVED that the Riley Township Board approves the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED that a copy of the resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: Chant, Blizzard, Sehlke, Silm, Witt

NAYS: None

Res. adopted by the Riley Township Board at a regular meeting on January 13, 2000.
Attest: Susan M. Blizzard, Riley Township Clerk

APPENDIX D

- D-1 Letters of Commitment regarding Capacity Assurance**
- D-2 Acceptance of Roles and Responsibilities**
- D-3 Ordinance**
- D-4 Licensing**
- D-5 Position Descriptions**

February 2000

The Lebanon Twp. Board Meeting was held February 14, 2000 at the home of Steve Jelen. All Members present. Also present Dep. Doug Alward. Meeting was called to order at 8:00pm. Motion by Klein, supported by Jelen to approve minutes as read 5 yea, Ayes. Messer led discussion on Fed. funding for Cemetery grants. Messer led discussion on County road projects. Motion by Jelen, supported by Piggott to approve land split for End Wood. 5 yea, Ayes. Messer led discussion on no major projects in County with M.D.D.T. Motion by Jelen, supported by McMillan to support waste management Plan for Clinton County Year 2000. 5 yea, Ayes

Bills presented:

3467 - Karl Blemaster - cemetery maint.	450.00
3468 - Citizen Bank - Jan. Jrs payment	76.98
3469 - Dallas Twp. Kilpatrick Bennett Remo	600.00
3470 - Steve Jelen - postage	17.08
3471 - C.C. Treasurer - Daintax	3003.21
3472 - Mike Klein - postage	35.91

Motion by Klein, supported by McMillan to pay bills 5 yea, Ayes. Motion by McMillan, supported by Piggott to adjourn meeting. 5 yea, Ayes

[Signature]
David Piggott

[Signature]
Steven McMillan

RECEIVED

APR 12 2000

Waste Management

Gary Hyde
Sup. Gary Hyde

Betty Pettigrew
Clerk, Betty Pettigrew

January 3, 2000

The January Meeting of the Greenbush Township Board was held on the 3rd. of January, 2000. at 7:00 P.M. All board members present. Pledge to the Flag opened the meeting. Minutes of the Dec. 1999 meeting were read and approved. Treasurers report was as follows:

Citizens Bank	\$64,834.55
Old Kent Bank.	93,149.14
Checking Acct.	189.67
Total	\$158,173.36

There was discussion on road work that needs to be done. There needs to be a culvert on French Rd., east of U.S.27. Also need to have brush cut back and ditches on Williams Rd. between Maple Rapids Rd. and Hyde Rd. WE need to talk to the Rd. Comm. about Chloride on this stretch of road. Res. John Stevens says they omit Chloride on this 1/2 mile.

There has been no news from Planning & Zoning concerning the Subdivision of Condo's that was talked about in June of last year. We have not recieved word from Planning & Zoning that Standard Aggregates have ask for a Special Use Permit

Bill Dershem made the motion to transfer \$3800.00 to pay bills due, Dan Jorae gave suport and this carried.

James Graham was sworn in, so he could serve on the Board of Review. This gives us an extra in case one of them were unable to serve. Don Swagart, Tim Price and Jim Whitford, are the others who serve on the Board of Review.

Motion to adjourn by Betty Pettigrew, Suport by Mike Schnieder, at this Carried.

Sup. Gary Hyde

Betty Pettigrew
Clerk, Betty Pettigrew

February 7, 2000

The Feb. meeting of the Greenbush Township Board was held on the 7th @ 7:00 P.M. All Board members present. Pledge opened the meeting. Minutes of the January meeting were read and approved. Treasurers report was as follows:

Citizens Bank	\$88,477.37
Old Kent Bank	93,545.12
Checking	155.83
Total	\$182,178.32

Betty Pettigrew made the motion that the Treasurers Report be accepted as read, Bill Dershem gave suport, and this carried.

Supervisor Hyde has been to several meetings as well as the M.T.A. Convention that was held in Lansing this year. Among the many topics discussed, was the Land Div. Act. One of the questions ask was, did the Townships feel the Land Div. Act, meant do we have to except Private Roads? He learned that it is within our power to deny private roads if we wish. Sup Hyde feels we should have an ordinance in place stating our position on roads. He is going to talk to Cli. Co. Rd. Comm. about this, and possible set in motion for us to do something.

The Blue Busses that pick up and deliver people, who have no means of travel, without aid, are possibly being taken over by C.A.T.A. This service has been known as Clinton County Public Transportation. People call in and request transportation, a fee is charged, according to the distance, and circumstance, and dis-Clinton Co. would become an operating division of C.A.T.A.

The Commissioners have not as yet, taken any action on this propo-Their would be a nessesity of placing a .25 millage levy on the ballot to fund this.

C.A.T.A. staff believe this would be sufficient cushion to accommodate unknowns in the State funding allocation. Greenbush Board supported the Countys and the Committee findings that they should put this on the Ballot to get the .25 mill funding they need to suport this.

A packet from Cli. Co. Building and Zoning--Case ZC-03-02-2000

Applicant: Adam Valteau, Nextel Communications
904 E. Kalamazoo, Lansing, Mi. 48912

Owner: Blue Pond Trust (Toms Cycle Shop)
5301 N. U.S. 27, St. Johns, Mi. 48879

Requested Action: To grant a variance from Section 7.2.4 Subsection E.5 of Cli. Co. Zoning Ordinance to allow the placement of a Communications Tower within less than 2 miles of another tower. After discussion of the pros and cons of this-Mike Schnieder made the motion to deny this request. Bill Dershem gave suport and this carried by a 4 to 1 vote.

A letter from Cli. Co. Rd. Comm. was recieved by the Sup. We are schedualled for our annual meeting with them on March 29th @ 9.A.M. Our Cost share this year is \$20,563.46. They sent several estimates to us totaling \$89,591.00. Sup. Hyde toured our roads with a member of the Rd. Comm., and these estimates are derived from what they seen on this tour. Some of them need very badly to be done, but as many as we can afford we will try to do.

Clinton County Dept. of Waste Management sent us a copy of their solid Waste Management Plan. They ask us to approve by Resolution, this plan. They-ask-us-to-approve- Betty Pettigrew made the motion, Dan Jorae gave suport, and we approved this plan Unanimous.

Bill Dershem made the motion to Transfer \$29,000.00 to pay bills due, Dan Jorae gave suport and this carried.

Betty Pettigrew motion to adjourn, Mike Schnieder gave suport and this carried.

Gary Hyde
Gary Hyde Supervisor

Betty Pettigrew
Betty Pettigrew, Clerk

February 7-2000

Immediately following the Feb. regular meeting, the election Commission meeting was held. Ken Schelb from Dewitt has set the Voting machines for the Feb. 22, 2000 Presidential Primary Election. Helen Wakefield, Gwen Hartenburg, and Romona Smith are all set to be Election Workers. This meeting was adjourned.

Gary Hyde
Gary Hyde, Supervisor

Betty Pettigrew
Betty Pettigrew, Clerk

March 6, 2000

The Regular monthly meeting of the Greenbush Township Bd. was held on the 6th. @ 7:00P.M. All Board members present. Pledge opened the meeting. Minutes of the Feb. Meeting were read and approved. Treasurers report was as follows:

Citizens Bank	138,749.87
Old Kent Bk.	93,730.93
Checking	107.22
Total	\$232,588.02

Betty Pettigrew made the motion to accept the Treasurers Report as read, Bill Dershem gave suport and this carried.

Concern over Private Rds, led to discussion with Comm.

~~ESSEX~~ TOWNSHIP
REGULAR MEETING
FEBRUARY 10, 2000

The regular meeting of Essex Township was called to order by Supervisor David Swanson on Thursday, February 10, 2000 at 7:30 PM in the Maple Rapids Village Hall.

Present: Swanson, Benson, Anderson, Findlay and Schlarf

Absent: None

Guests present: Clem and Ruth Feldpausch, Duane and Gwendoline Stillwell, Deputy Eric Thompson and Representative Valde Garcia

The reading of the minutes from the previous meeting of December 09, 2000 was waived. Schlarf moved the minutes be approved, Findlay seconded it and the motion carried.

VISITOR STATEMENTS

Mr. and Mrs. Stillwell and Mr. and Mrs. Feldpausch reported that they had attended a Summit meeting sponsored by the Soil Conservation Service. The meeting was concerning three watersheds in the County. The Summit was called to look at possible ways to raise money to help preserve the watersheds.

Deputy Eric Thompson reported that at present there were no problems in the Township.

Representative Garcia reported we should expect an eleven per cent increase in revenue sharing. He also briefly described some issues he is concerned about, including local hospitals, term limits, and aid to schools. He had voted yes on both the Right to Farm Bill and the Drain Code Bill.

TREASURER

The Treasurer reported there is a balance of \$ 20,068.00 in the General Fund. Benson moved the report be placed on file. Findlay seconded it and the motion carried.

Benson moved that we amend the budget. The Public Works budget will be increased to \$ 66,000.00 and the Unallocated budget be will be reduced to \$ 38,000.00. Findlay seconded it and the motion carried.

CLERK

The Clerk reported on expenditures 3042 to 3055. Findlay moved the bills corresponding to these orders be paid. Schlarf seconded it and the motion carried.

Fire runs outstanding: Nunemaker, Schmitz, Perez, Teems, Ferden, Duffield

Fire runs paid: Upton

Rescue runs outstanding:

Rescue runs paid:

Anderson moved that we employ the firm of Abraham and Gaffney to do the Township audit for the 1999 - 2000 fiscal year. Findlay seconded it and the motion carried. The estimated cost is \$ 1,600.00

Anderson moved that we approve the following as election inspectors for the February Presidential Primary: Sharon Pung, Mary Ellen Pung, Mary Ann Schlarf, Jerry Horan, Patsy Horan, and Pam Snyder, Chairperson. Findlay seconded it and the motion carried.

SUPERVISOR

A Transportation Committee has been established for the county. They will investigate ways to continue to fund public transportation in the County.

The Supervisor reported the Assessing Roll has been turned in to the County. The assessed values increased to \$ 43,476,300. This is a ten per cent increase for agriculture and twenty-one per cent increase in residential. For tax purposes the assessed value is at \$ 31,196,000.

Tri County Utilities Cooperative is suing the Township over taxes assessed in 1999. The Supervisor will attend the tax tribunal to represent Essex Township.

OLD BUSINESS

Schlarf moved that the Township approve the Eyde Project, Orchard Estates, on Forest Hill Rd. Findlay seconded it and the motion carried.

Bengal Township had requested that Essex Township join with them in sharing the cost of developing a Land Use Plan. Schlarf moved that we decline to participate with Bengal at this time. Findlay seconded it and the motion passed.

NEW BUSINESS

We received a letter from the Sheriff's Department requesting a donation to the Metro Unit. Benson will ask Deputy Thompson to explain how the Metro Unit operates. We will consider the request at the next meeting.

~~Benson moved Essex Township approve the Clinton County Solid Waste Management Plan. Anderson seconded it. Roll call vote: Swanson, yea; Benson, yea; Anderson, yea; Findlay, yea; Schlarf, nay. Motion carried.~~

The meeting date for planning for road projects for 2000 will be March 27, 1:30.

The Budget for the 2000 - 2001 fiscal year was discussed. The estimated carry over is \$ 50,000 and the estimated income is \$ 104,000. Expenditures were estimated at \$ 122,000. A complete Budget will be submitted with the Annual Report at the next meeting.

Meeting adjourned at 9:55 PM.

Florence Benson

Essex Township Clerk

Clinton County Solid Waste Mgt. Plan

**State of Michigan
County of Clinton
Village of Elsie**

RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN.

At a regular meeting of the Elsie Village Council held in Elsie, Michigan on March 13, 2000, at 7:00 PM.

Present: Donald Lloyd, Ann Frye, Archie Moore, Donald Taylor and Audie Clairmont.

Absent: Barbara Ross and Sue Ladisky.

The following resolution was offered by Ann Frye and supported by Archie Moore.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, the Village of Elsie had reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of the Village of Elsie;

NOW, THEREFORE, BE IT RESOLVED that the Village of Elsie Council approves the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Dept. of Waste Management, 100 Cass St., St. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: D. Taylor-Aye, A. Moore-Aye, A. Clairmont-Aye, D. Lloyd-Aye and A. Frye-Aye.

NAYS: None.

CLINTON COUNTY SOLID WASTE MANAGEMENT PLAN

MUNICIPAL APPROVAL

Municipality	Y/N	Date	Municipality	Y/N	Date
Bath Township	Y	1/4/00	Greenbush Township	Y	2/7/00
Bengal Township	Y	1/5/00	Lebanon Township	Y	2/14/00
Bingham Township			Maple Rapids Village	Y	2/2/00
Dallas Township			Olive Township	Y	2/14/00
DeWitt City	Y	1/4/00	Ovid Village		
DeWitt Township	Y	2/14/00	Ovid Township	Y	2/17/00
Duplain Township			Riley Township	Y	1/13/00
Eagle Village			St. Johns City	Y	1/10/00
Eagle Township	Y	2/7/00	Victor Township		
Elsie Village	Y	3/13/00	Watertown Township	Y	1/17/00
Essex Township	Y	2/10/00	Westphalia Village	Y	2/7/00
Fowler Village	Y	3/13/00	Westphalia Township	Y	2/14/00
			Total:		18/24

Letters/Resolutions indicating local approval/disapproval are attached.

Michigan Department of Environmental Quality:

Date

Clinton County
Department of Waste Management
Designated Implementation Agency



April 10, 2000

Ms. Lynn Dumroese, Environmental Quality Analyst
Michigan Department of Environmental Quality
Waste Management Division
P.O. Box 30473
Lansing, MI 48909-7973


RE: Minutes of the Lebanon Township, Greenbush Township, Essex Township Meetings
Added approval of the Village of Elsie

Dear Lynn,

Per our recent discussion, please find enclosed copies of the minutes of the meetings of Lebanon, Greenbush and Essex Townships in which the Clinton County Solid Waste Management Plan was approved. Please also find a 'recent arrival' from the Village of Elsie - also approving the Plan. Finally, a revised cover sheet summarizing these approvals is included for your files.

Please phone with any questions. Thank you.

Sincerely,



Ann Mason



FEB 17 2000

At a regular meeting of the Westphalia Twp. Board held in Clinton County,
Michigan on February 14, 2000, at 7:30 p.m.

Absent: None

Jane P. Bierstetel
Westphalia Township Clerk

Suggested Resolution regarding the
Clinton County Solid Waste Management Plan
(if you would like a copy of this in disk form, or via e-mail, give our office a call)

FEB 10 2000

STATE OF MICHIGAN
COUNTY OF CLINTON
[NAME OF MUNICIPALITY]

RESOLUTION APPROVING ~~DISAPPROVING~~ THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN

At a regular meeting of the Village of Westphalia held in Westphalia,
Michigan on February 7th, 2000, at 7:00 p.m. ~~(a.m.)~~

Present: Charles Schafer, Mark Simon, Dan Pohl, Tom Trierweiler, Phil Hanses,
Scott Strong, Sandy Smith and Mark Schafer.

Absent: None

The following resolution was offered by Dan Pohl and supported by
Phil Hanses.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a
Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as
amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing
circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the
attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities
located within Clinton County; and,

WHEREAS, [name of municipality] had reviewed the Plan and finds that it does [does not]
promote and protect the solid waste needs and interests of the citizens of [name of municipality];

NOW, THEREFORE, BE IT RESOLVED that the [name of municipality governing board]
approves [disapproves] the proposed update to the Clinton County Solid Waste Management Plan;
and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton
County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a
matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: 8

NAYS: 0

**WATERTOWN CHARTER TOWNSHIP
CLINTON COUNTY, MICHIGAN**

**RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTE MANAGEMENT
PLAN**

At a Regular meeting of the Township Board of the Charter Township of Watertown, Clinton County, Michigan, held at the Township Complex, 12803 S. Wacousta Road, Grand Ledge, MI, on January 17, 2000 at 7:00 p.m., there were:

PRESENT: Supervisor Peter Kempel, Clerk Ken Himebaugh, Treasurer Janice Thelen, Trustees Ed McKeon, Chris Pratt and Ken Mitchell.

ABSENT: Trustee George Weitzel.

The following Resolution was offered by Pratt and supported by McKeon.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated Plan and the County Board of Commissioners has approved the Plan; and'

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, Watertown Charter Township had reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of Watertown Charter Township;

NOW, THEREFORE BE IT RESOLVED, THAT the Watertown Charter Township Board approves the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED, THAT a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, ST. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

A VOTE ON THE FOREGOING RESOLUTION WAS AS FOLLOWS:

YES: McKeon, Pratt, Himebaugh, Kempel, Thelen, Mitchell.

RECEIVED
FEB 2 2000
CLINTON COUNTY

NO: None.

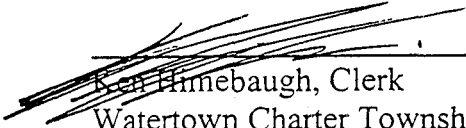
ABSENT: Weitzel.

This Resolution declared adopted.

CERTIFICATION

I, the undersigned, duly qualified Clerk of the Charter Township of Watertown, Clinton County, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Board at a meeting held on January 17, 2000.

Dated: January 17, 2000.


Ken Himebaugh, Clerk
Watertown Charter Township

STATE OF MICHIGAN
COUNTY OF CLINTON
CITY OF ST. JOHNS

**RESOLUTION APPROVING THE CLINTON COUNTY SOLID WASTE
MANAGEMENT PLAN**

At a regular meeting of the St. Johns City Commission held in St. Johns, Michigan on January 10, 2000, at 7:00 p.m.

Present: Starck, Beaman, Bates, Hanover
Absent: LaForest

The following resolution was offered by Commissioner Beaman and supported by Commissioner Hanover.

WHEREAS, the Clinton County ("County") Board of Commissioners ("Board") has adopted a Solid Waste Management Plan ("Plan") under the authority of 1994 PA 451, Part 115 ("Part 115") as amended; and,

WHEREAS, Part 115 requires the Plan to be periodically updated in light of changing circumstances; and,

WHEREAS, the County's Solid Waste Planning Committee has recommended approval of the attached updated Plan and the County Board of Commissioners has approved the Plan; and,

WHEREAS, Part 115 requires review and approval of the Plan by 67% of the municipalities located within Clinton County; and,

WHEREAS, St. Johns had reviewed the Plan and finds that it does promote and protect the solid waste needs and interests of the citizens of St. Johns;

NOW, THEREFORE, BE IT RESOLVED that the City of St. Johns City Commission approves the proposed update to the Clinton County Solid Waste Management Plan; and,

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Clinton County Department of Waste Management, 100 Cass Street, St. Johns, MI 48879 and included as a matter of record in the Appendix of the Solid Waste Management Plan.

YEAS: Starck, Beaman, Bates, Hanover
NAYS: None

JAN 11 2000

Clinton County
Department of Waste Management
Designated Implementation Agency



MEMORANDUM

DATE: April 30, 1999

TO: County DPA's

Ingham	Allegan	Jackson	Oakland
Eaton	Barry	Kalamazoo	Ottawa*
Shiawassee	Calhoun	Kent	Saginaw
Ionia	Genesee	Livingston	Washtenaw
Gratiot	Isabella	Montcalm	Wayne

FROM: Ann Mason

RE: Solid Waste Management Plan Service Territory
Authorization Letter

Please be advised that at its regularly scheduled meeting April 28, 1999, the Clinton County Solid Waste Planning Committee (SWPC) revised its import/export authorizations to include all of the above named counties. Conditions of authorization follow. We hope you will include, or have included Clinton County in your Plan import/export designations. To expedite documentation for Plans, your files, and simplify response processes back to our county, two attached letters provide a) authorization from us for Clinton County waste to flow to your County under conditions contained in the Plan; and b) verification that you have (or have not) included Clinton County in your Plan and will both accept waste from Clinton County and permit (or not permit) waste to flow out of your County to Clinton County for disposal.

IMPORTANT: *Counties with "*" do NOT have to send an attached letter back to Clinton County as we already have a letter from your county on file.*

Conditions for import/export of solid waste to Clinton County for disposal and from Clinton County for disposal in your county are contained in the following memo. Please read them carefully and phone with questions. (517/224-5188) While they are not excessive, Counties must meet all conditions.

Clinton County
Department of Waste Management
Designated Implementation Agency

MEMORANDUM

DATE: April 30, 1999

TO: DPA's of the following Counties:

Ingham	Allegan*	Jackson	Oakland
Eaton*	Barry	Kalamazoo	Ottawa
Shiawassee	Calhoun	Kent	Saginaw
Ionia*	Genesee	Livingston	Washtenaw*
Gratiot	Isabella	Montcalm	Wayne

FROM: Ann Masco, Director; Clinton County Department of Waste Management
Clinton County Designated Planning Agency

RE: Authorization for Waste Export

Upon legal adoption and MDEQ approval of the Clinton County Solid Waste Management Plan, waste generated from within Clinton County is authorized for export to any of the above named Counties provided the sum of all conditions named below are met.

Importation Conditions:

Each county must name Clinton County in their Plan as a county to which they will export waste. Each County which has a disposal facility must also name Clinton County in their Plan as a county from whom they will accept waste for disposal. Those counties presently without disposal facilities must warrant that if they should construct a facility during this Plan period, they will agree to accept Clinton County waste for import. These warranties may be secured through a letter submitted to the Clinton County DPA which is signed by the DPA of the Exporting County. Solid Waste Incinerator Ash is not accepted for disposal in Clinton County.

*At the time of this Plan's development, Wayne County required that each municipality and the county agree to abide by waste reduction and recycling goals and objectives contained in Wayne County's Plan. Further, Wayne County requires that each municipality pass and submit a resolution stating such and specifying the quantity of waste to be exported to Wayne County. Until such time as a written letter authorizing reciprocity without the imposition of these requirements is received by the Clinton County DPA and placed on file, solid waste generated from within Wayne County may not be disposed of in Clinton County.

Exportation Conditions

Each County must name Clinton County in their Plan as a County to which they will export waste. Each County which has a disposal facility must name Clinton County in their Plan as a county from whom they will accept waste for disposal. Those Counties presently without disposal facilities must warrant that if they should construct a facility during this Plan period, they will agree to accept Clinton County generated waste for import. These warranties may be secured through a letter submitted to the Clinton County DPA which is signed by the DPA of the Exporting County. Solid Waste Incinerator Ash is not accepted for disposal in Clinton County.

*At the time of this Plan's development, Wayne County required that each municipality and the county agree to abide by waste reduction and recycling goals and objectives contained in Wayne County's Plan. Further, Wayne County requires that each municipality pass and submit a resolution stating such and specifying the quantity of waste to be exported to Wayne County. Until such time as a written letter authorizing reciprocity without the imposition of these requirements is received by the Clinton County DPA and placed on file, solid waste generated from within Clinton County may not be disposed of in Wayne County

D-1 STATUS OF IMPORT/EXPORT CONFIRMATION

County	Letter On File	Included Clinton	Meet Conditions	Limitations	Inter-County Agreement Required?
1 Ingham					
2 Eaton	x	x	capacity if future site constructed.		no
3 Shiawassee	only from facility - not from county				
4 Ionia	x	x	x	30,623 tpy or 91,869 cy/yr	
5 Gratiot	x	x	x	n/a	no
6 Allegan	x	x	x	n/a	no
7 Barry					
8 Calhoun	x	x	x	included in total annual cap	no
9 Genesee	x	x	x	no restrictions	
10 Isabella					
11 Jackson	x	x	x	unknown - may be included in agreement	yes
12 Kalamazoo	x	x	no - facility did not fill in bottom of memorandum		no
13 Kent	x	x*	no	no export to Clinton allowed	no
14 Livingston	x	x	x	none	no
15 Montcalm	x	x*	x*	no limitations	*required
16 Oakland		x	x	no limitations	
17 Ottawa		x	x	included in total annual cap of 1,500,00 tons/yr	no
18 Saginaw	x	x	x	conditions: provide certain information.	no - not if information is provided
19 Washtenaw	x	x	x	included in total annual cap of 500,000 cy/yr	
20 Wayne	x	x	no	awaiting update on restrictions	

MEMORANDUM

DATE:

TO

Ann Mason, DPA Contact
Clinton County, Michigan

FROM:

_____, DPA Contact for _____
County

Phone

RE:

Plan Import/Export Authorization Documentation

_____ County ___ has ___ has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within _____ County may be exported for disposal.

Waste generated from within Clinton County ___ is ___ is not authorized in _____
County's Plan for disposal in _____ County.

Limitations: _____

_____ County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

_____ County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations _____

DPA Contact

Date

Please mail or fax to: Clinton County Department of Waste Management
100 Cass St.
St. Johns, MI 48879
517/224-5102
Attn: Ann Mason



May 4, 1998

Ms. Ann Mason, Director
Clinton County
Department of Waste Management
100 East Cass street
St. Johns, MI 48879

Re: Assurance of landfill capacity

Dear Ms. Mason:

I want to acknowledge receipt of your letter dated April 24, 1998 wherein you request capacity assurances from Granger to meet the needs of the solid waste planning process. Granger Land Development Company and Granger Waste Management Company by this letter will assure that Clinton County residences and businesses will have access to disposal capacity for a ten year period commencing with the date the Clinton County Solid Waste Management Plan Up-date becomes certified by way of the required two-thirds vote by the municipalities in Clinton County. Granger's two facilities can serve as Clinton County's primary disposal sites for waste generated in Clinton County during the aforementioned ten year period. The volume you note required would be approximately 1,500,000 gate yards of capacity for type 11 and type 111 waste during the ten year period; Granger acknowledges that the capacity is available to meet those needs.

I hope this information is sufficient. If not, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Terry L. Guerin".

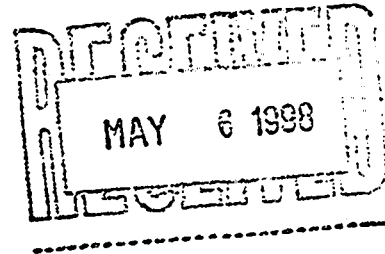
Terry L. Guerin
Director of Governmental Relations



Waste ManagementSM

Grand Rapids Customer Service Center
1668 Porter Street, S.W.
Grand Rapids, Michigan 49509-1796

Phone 616 538 3750



May 1, 1998

Ms. Ann Mason
Clinton County Dept. of Waste Management
100 East Cass
St. Johns, MI 48879

Re: Waste Management Landfills in Michigan

Dear Solid Waste Planning Committee Members:

Waste Management of Michigan, Inc. owns and operates eight (8) licensed solid waste landfills located throughout the lower peninsula of Michigan. All of these landfills are allowed to receive waste from many counties and a few from all counties in the lower peninsula. Attached please find the following information:

1. MDEQ standard format information sheets for each of our landfills.
2. A map showing the location of our landfills.
3. A listing for each landfill showing which counties may import waste to the site.

The list of counties for each site is based upon existing county plans or our existing host agreements with counties which provide for the county to add these counties during the current plan updates. In most cases there is no requirement to have signed inter-county agreements. However, for those counties that do require inter-county agreements, we have indicated that on the sheet. We are encouraging all counties to have their plans as open as possible with regards to inter-county transfers and to not require signed agreements between the counties. In some cases, we are requesting our host counties to add additional counties, during the update process, which are not covered under a host agreement. These are also indicated on the attached sheets.

As you update your plan, please add as many of our landfills, as you wish, to your plan and notify out host counties of your intentions and request that they also include you in their plans.

May 1, 1998

Page 2

Ms. Ann Mason

Clinton County Dept. of Waste Management

Clinton County

If you have any questions, need additional information, or wish to add your county as an exporting county to one of our landfills, please call me at (616) 538-1921 ext. 151.

Sincerely,

WASTE MANAGEMENT OF MICHIGAN, INC.



Jeff Poole
Manager, Business Development

File: Clinton County, 517/224-5188

Region 2 Planning Commission

Jackson County Tower Building - 16th Floor
120 West Michigan Avenue
Jackson, Michigan 49201

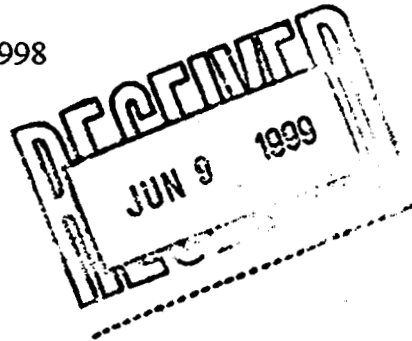
517-788-4635

517-788-4426

Email: Region2@dmci.net

November 2, 1998

Ms. Ann Mason
Clinton Co. Dept. of Waste Mgmt.
100 East Cass
St. Johns, MI 48879



Dear Ms. Mason:

The Jackson County Solid Waste Management Planning Committee, through the Jackson County Solid Waste Management Plan Update, would like to continue to recognize Clinton County as eligible for import/export authorization. The committee proposes to maintain the current process of identifying counties with which Jackson may enter into agreements for the import/export of municipal solid waste, but requiring that formal agreements be made if the need to import or export becomes necessary.

Please consider this to be Jackson County Solid Waste Planning Committee's request to be recognized in the Clinton County Solid Waste Plan Update as eligible for import/export authorization.

If you have any questions or concerns about this matter, please feel free to contact me at (517) 768-6711.

Sincerely,

Deborah Kuehn

Deborah L. Kuehn
Principal Planner

6-7-99
We will add Clinton Co. back into the Jackson County Plan as eligible for import-export, subject to a formal agreement, by the Jackson County Board of Commissioners, as per your request of 4-30-99
FADLK\SOLIDWASJACKSON#3.LTR
Serving: Hillsdale, Jackson and Lenawee Counties

MEMORANDUM

DATE: 6-7-99
TO: Ann Mason, DPA Contact
Clinton County, Michigan

FROM: Deborah Kuehn, DPA Contact for Jackson
(517) 768-6711 County
Phone

RE: Plan Import/Export Authorization Documentation

Jackson County will continue to has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within Clinton County may be exported for disposal. Jackson

Waste generated from within Clinton County is is not authorized in Jackson County's Plan for disposal in Jackson County.

Limitations: Requires a formal
agreement approved
by the Jackson County Board of Commissioners

Jackson County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations _____

DPA Contact Date

Please mail or fax to: Clinton County Department of Waste Management
100 Cass St.
St. Johns, MI 48879
517/224-5102
Attn: Ann Mason

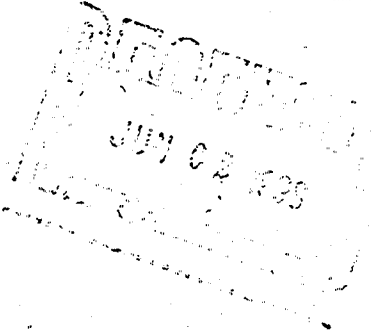
EATON COUNTY DEPARTMENT OF RESOURCE RECOVERY
1045 INDEPENDENCE BLVD
CHARLOTTE, MI 48813



May 27, 1998

MS. ANN MASON
CLINTON CO WASTE MANAGEMENT
100 E CASS ST
ST JOHNS, MI 48879

book



Dear MS. MASON:

For the 1998 Solid Waste Management Plan Update, Eaton County has recognized 41 counties as possible candidates for import/export authorization of solid waste. Your county has been identified as one for potential inclusion in the Plan. As part of the import/export authorization conditions, Eaton County is requiring that reciprocal agreements for the transfer of solid waste be entered into to provide for a free-flow of waste in Michigan.

At the present time, Eaton County does not have a disposal facility within its borders. However, the County will agree to include all 41 counties in its future import authorization category for disposal if and when a facility is actually sited. Eaton County is considering the authorization of 100% import/export between these counties to account for market changes within the plan update period.

As per MDEQ requirements, it is necessary for explicit authorization for import/export from each county be included in the plan. As such, Eaton County is asking for that authorization from your county at this time. If your county is interested in being recognized in Eaton County's Plan, please submit a letter stating your acceptance of the reciprocal agreement and any stipulations, conditions, etc. that are necessary.

Also required by the MDEQ is an inventory of each disposal site. If your county hosts one or more disposal facilities, Eaton County would very much appreciate receiving a facility description (and contact person/phone number) for each disposal area in your county. Please include any stipulations, conditions, or restrictions that will affect import/export at the facility.

I thank you for your attention and cooperation regarding these matters. If you have any questions or concerns, please do not hesitate to contact me at (517) 543-7500 x627 or via E-mail at mhill@co.eaton.mi.us. You can address any correspondence to: Marc Hill, Eaton County Resource Recovery, 1045 Independence Blvd, Charlotte, MI 48813.

Sincerely,

Marc A. Hill
Resource Recovery Coordinator

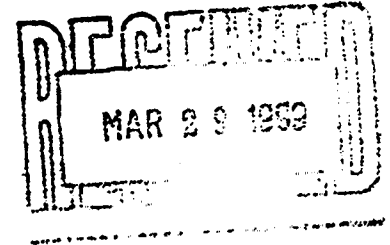


VENICE PARK RECYCLING & DISPOSAL FAC
A WASTE MANAGEMENT COMPANY

9536 East Lennon Road
Lennon, MI 48449
(810) 621-9080
(810) 621-3156 Fax

March 25, 1999

Ms. Ann Mason
Clinton County Department of Waste Management
100 East Cass
St. Johns, Mi. 48879



Dear Ms. Mason,

This letter shall serve as Venice Park's formal request to be included as a primary disposal site in the Clinton County Solid Waste Plan. Waste is approved to leave Clinton County and be disposed of at Venice Park in the Shiawassee County Solid Waste Plan. Currently, Venice Park has 900,000 cu. yds. of available air space. Venice Park is in the process of finalizing a construction permit expansion that will be completed and approved in June of 1999. The expansion will yield an additional 15 million cu. yds. of capacity.

Venice Park can accept up to 100% of Clinton Countys solid waste. If you have questions regarding this communication, please feel free to call me at 810-621-9080.

Sincerely,

Chris Basgall

Chris Basgall

cc: Terry Cooney

5/5/99
Ann Mason, DPA Contact
Clinton County, Michigan

Michele A. Stember, DPA Contact for Ionia
County
616/527-5357
Phone

RE: Plan Import/Export Authorization Documentation

Ionia County ☒ has has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within Ionia County may be exported for disposal.

Waste generated from within Clinton County ✓ is _____ is not authorized in Ionia
County's Plan for disposal in Ionia County.

Limitations: Import to Ionia - 84 TPD, 30,623 TPY

Tonia County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

_____ County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations _____
Mickelle A. Stemler
 DPA Contact

5/5/99
Date

IMPORT AUTHORIZATION

If a Licensed solid waste disposal area is currently operating within the County, disposal of solid waste generated by the EXPORTING COUNTY is authorized by the IMPORTING COUNTY up to the AUTHORIZED QUANTITY according to the CONDITIONS AUTHORIZED in Table 1-A.

Table 1-A

CURRENT IMPORT VOLUME AUTHORIZATION OF SOLID WASTE

IMPORTING COUNTY	EXPORTING COUNTY	FACILITY NAME ¹	AUTHORIZED QUANTITY/ TPD	AUTHORIZED QUANTITY/ TPY	AUTHORIZED CONDITIONS ²
<u>Ionia</u>	<u>Barry</u>	-	<u>108</u>	<u>38,880</u>	<u>*</u>
<u>Ionia</u>	<u>Clinton</u>		<u>84</u>	<u>30,623**</u>	<u>P</u>
<u>Ionia</u>	<u>Kent</u>		<u>100</u>	<u>36,000</u>	<u>P</u>
<u>Ionia</u>	<u>Montcalm</u>		<u>50</u>	<u>18,000</u>	<u>P</u>
<u>Ionia</u>	<u>Allegan</u>		<u>267</u>		<u>*</u>
<u>Ionia</u>	<u>Eaton</u>		<u>162</u>	<u>58,947</u>	<u>*</u>
<u>Ionia</u>	<u>Gratiot</u>		<u>48</u>		<u>*</u>

¹ Facilities are only listed if the exporting county is restricted to using specific facilities within the importing county.

² Authorization indicated by P = Primary Disposal; C = Contingency Disposal; * = Other conditions exist and detailed explanation is included in the Attachment Section, Special Conditions for Import/Export.

**The current limit on waste from Clinton County, per the December 1991 Clinton-Ionia agreement is 72,000 cubic yards per year (approximately 50 tons/day).

EXPORT AUTHORIZATION

If a Licensed solid waste disposal area is currently operating within another County, disposal of solid waste generated by the EXPORTING COUNTY is authorized up to the AUTHORIZED QUANTITY according to the CONDITIONS AUTHORIZED in Table 2-A if authorized for import in the approved Solid Waste Management Plan of the receiving County.

Table 2-A

CURRENT EXPORT VOLUME AUTHORIZATION OF SOLID WASTE

EXPORTING COUNTY	IMPORTING COUNTY	FACILITY NAME ¹	AUTHORIZED QUANTITY/ DAILY	AUTHORIZED QUANTITY/ ANNUAL	AUTHORIZED CONDITIONS ²
<u>Ionia</u>	<u>Barry</u>	—	—	—	<u>P</u>
<u>Ionia</u>	<u>Clinton</u>	—	—	—	<u>P</u>
<u>Ionia</u>	<u>Kent</u>	—	—	—	<u>P</u>
<u>Ionia</u>	<u>Montcalm</u>	—	—	—	<u>P</u>
<u>Ionia</u>	<u>Calhoun</u>	—	—	—	<u>*</u>
<u>Ionia</u>	<u>Ottawa</u>	—	—	—	<u>*</u>
<u>Ionia</u>	<u>Shiawassee</u>	—	—	—	<u>*</u>

☐ Additional authorizations and the above information for those authorizations are listed on an attached page.

¹ Facilities are only listed if the exporting county is restricted to using specific facilities within the importing county.

² Authorization indicated by P = Primary Disposal; C = Contingency Disposal; * = Other conditions exist and detailed explanation is included in the Attachment Section.



RESOURCE RECOVERY PROJECT OF IONIA COUNTY

March 13, 1998

TO: Designated Planning Agencies for Allegan, Barry, Clinton, Eaton, Gratiot, Ingham, Isabella, Kent, Lake, Mason, Montcalm, Muskegon, Newaygo, Oceana, and Ottawa Counties
FROM: Don Lehman, Ionia County Solid Waste Coordinator
RE: Solid Waste Management Plan Import/Export Arrangements

At Ionia County's Solid Waste Planning Committee meeting on March 5, your county was designated as a county from which general type II solid waste will be accepted at solid waste disposal facilities in Ionia County. Presently that consists of the Pitsch Landfill in northwest Ionia County. General type II solid waste, as described in Ionia County's Solid Waste Management Plan, consists of residential, commercial, industrial, and special wastes.

As Ionia County updates its SWMP we will be listing your county as a potential exporter of solid waste to Ionia County. Ionia County's Solid Waste Planning Committee desires to make all import/export arrangements reciprocal. Consequently, Ionia County requests that your county designate your present disposal facilities as available for Ionia County waste. If you do not presently have an operating disposal facility we request that you designate any facilities constructed in the future as available for Ionia County waste.

Ionia County will most likely put an annual cap on the amount of waste permitted to be disposed of at the Pitsch Landfill in order to maintain sufficient capacity for Ionia County's future needs. This could put some restrictions on the use of Pitsch Landfill by your county, but under current conditions the need for restrictions seems to be very limited or even nonexistent.

If you have any questions or comments about Ionia County's intent in proposing this import/export relationship, please contact me with your questions or concerns. It is to be hoped that this type of arrangement will help provide your county, and Ionia County, with both primary and contingency capacity over the next ten years and beyond.

Sincerely,

A handwritten signature in cursive script, reading "Don Lehman".

Donald Lehman
Solid Waste Coordinator

100 Library Street, Ionia, MI 48846
Phone: (616)527-5357 Fax: (616)527-5312

MEMORANDUM

DATE: May 4, 1999
TO: Ann Mason, DPA Contact
Clinton County, Michigan

FROM: Helen Laurenz, DPA Contact for Gratiot
County
517-875-5207
Phone

RE: Plan Import/Export Authorization Documentation

Gratiot County x has has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within Gratiot County may be exported for disposal.

Waste generated from within Clinton County x is is not authorized in Gratiot County's Plan for disposal in Gratiot County.

Limitations: NA

Gratiot County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

Gratiot County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations NA

Helen Laurenz
DPA Contact

May 3, 1999
Date

Please mail or fax to: Clinton County Department of Waste Management
100 Cass St.
St. Johns, MI 48879
517/224-5102
Attn: Ann Mason

MEMORANDUM

DATE: 5/4/99
TO: Ann Mason, DPA Contact
Clinton County, Michigan

FROM: Mary H. Jones, DPA Contact for Allegan
County
616-673-5415
Phone

RE: Plan Import/Export Authorization Documentation

Allegan County ☒ has ☐ has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within Allegan County may be exported for disposal.

Waste generated from within Clinton County ☒ is ☐ is not authorized in Allegan County's Plan for disposal in Allegan County.

Limitations: No land fill at
present only
Transfer Stations

DPA for Allegan County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

Allegan County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations _____

Mary H. Jones
DPA Contact

5/4/99
Date

Please mail or fax to: Clinton County Department of Waste Management
100 Cass St.
St. Johns, MI 48879
517/224-5102
Attn: Ann Mason

Post-It® Fax Note 7671		Date 5-10	# of pages 1
To Ann Mason	From Whitney Goodroe		
Co./Dept Waste Mgt.	Co. Calhoun County		
Phone # 517 224 5188	Phone # 616 781 9841		
Fax # 517 224 5102	Fax # 616 781 6101		

MEMORANDUM

DATE: 5-7-99
 TO: Ann Mason, DPA Contact
 Clinton County, Michigan

FROM: Whitney Goodroe DPA Contact for Calhoun County
 616-781-9841
 Phone

RE: Plan Import/Export Authorization Documentation

Calhoun County ☒ has ☐ has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within Calhoun County may be exported for disposal.

Waste generated from within Clinton County ☒ is ☐ is not authorized in Calhoun County's Plan for disposal in Calhoun County.

Limitations: annual cap in place
 for C+C landfill per
 civil agreement between C+C/BFI and Calhoun County.

Calhoun County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations

Whitney Goodroe
 DPA Contact

5-7-99
 Date

Please mail or fax to: Clinton County Department of Waste Management

100 Cass St.

St. Johns, MI 48879

517/224-5102

Attn: Ann Mason



May 22, 1998

Ms. Ann Mason
Clinton County Depart. of Waste Mgmt.
100 East Cass
St. Johns, MI 48879

RE: Clinton County Solid Waste Management Plan Update
Explicitly Authorized Solid Waste Exports

Dear Ms. Mason:

BFI Waste Systems of North America, Inc. is a waste disposal company operating three Type II Sanitary Landfills in Michigan. These disposal facilities are authorized to accept municipal refuse, non-hazardous industrial waste and non-hazardous contaminated soils. These facilities are C&C Landfill in Calhoun County (south central Michigan), Arbor Hills Landfill in Washtenaw County (southeast Michigan) and Vienna Junction Landfill in Monroe County (also southeast Michigan). Included with this letter are the facility descriptions for each of the three BFI sites. You will be required by the MDEQ to provide this information in your planning process.

BFI understands that your county has indicated to the Michigan Department of Environmental Quality (MDEQ) its intention to update your solid waste management plan as required by Part 115 of the Natural Resources and Environmental Protection Act. In order for a landfill located in one county to serve the disposal needs of another county, Part 115 requires that the solid waste management plans of both counties explicitly authorize such services. The MDEQ also recommends, as part of your solid waste management plan update, that the updated plan explicitly identify the quantity of waste which may be exported to another county for disposal. Current export/import authorizations for your county are listed in the MDEQ "Export/Import Authorizations in County Solid Waste Management Plan Updates - January 1996". A copy of this report can be obtained from the MDEQ.

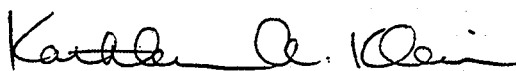
BFI's intent in sending this letter is to ask that your Solid Waste Planning Committee review its current export authorizations. We would then ask that your committee consider providing for export authorization to the three counties identified above (Calhoun, Washtenaw and Monroe) in the event that your county should ever be in need of one of

County SW Planning
May 22, 1998
Page 2

these disposal facilities in the next five to ten years (as required by the solid waste planning process). BFI would also ask your committee to consider authorizing each of these three landfills to serve up to 100 percent of the daily and annual disposal needs of your county, again, in the event that this should ever be necessary.

BFI would be pleased to help your county to provide for its long term disposal needs. We looks to provide any assistance we may offer to you as you move through this solid waste planning update process. We would also be happy to attend any scheduled meetings at which you might request BFI to be present in order to discuss this request in more detail. I thank you for your attention to this request.

Sincerely,



Kathleen A. Klein
BFI Public Sector Representative

Encl.



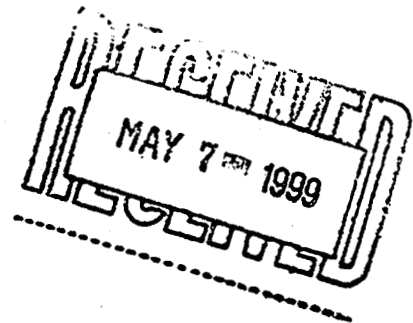
ROOM 223 - 1101 BEACH STREET FLINT, MICHIGAN 48502-1470

TELEPHONE (810) 257-3010 FAX (810) 257-3185

CHAPIN W. COOK, AICP
DIRECTOR-COORDINATOR
THOMAS G. GOERGEN
ASSISTANT DIRECTOR

May 6, 1999

Ms. Ann Mason
Clinton County
Clinton County Department of Waste Management
100 E. Cass
St. Johns, MI 48879



Subject: Genesee County Solid Waste Management Plan Update
Importation and Exportation of Solid Waste

Dear Ms. Mason:

The Genesee County Solid Waste Management Committee has developed the following criteria for evaluation of the counties to be included as exporters and importers of solid waste in the our "Update to Genesee County's Solid Waste Management Plan."

In order to be included in our Plan, the following must be met:

- Genesee County must have ample space to accommodate solid waste imported from other counties.
- The exporter's/importer's Goals must be similar to Genesee County's Solid Waste Management Goals.
- There must be no restrictions on the amount of waste received by or exported to another county.
- Genesee County must be named in the importer's/exporter's respective solid waste management plans; and since Genesee County must be in the individual solid waste management plans, we will not sign a reciprocal agreement with any county.

If you wish to be included in Genesee County's plan, please send a letter to me requesting either Importation, exportation or both; a copy of your approved Solid Waste Management goals and objectives; a copy of your approved selected alternative; and proof of the inclusion of Genesee County in your respective plans.

If you have any questions, please don't hesitate to contact me at (810) 257-3010.

Sincerely,

Tom Goergen

Thomas Goergen
Assistant Director

Clinton County
Department of Waste Management
Designated Implementation Agency



fill

C

May 7, 1999

Mr. Thomas Goergen, Asst. Director
Genesee County Metropolitan Planning Commission
1101 Beach Street, Rm #223
Flint, MI 48502-1470

Dear Mr. Goergen:

I am in receipt of your May 6, 1999 correspondence regarding import and export authorization in the Genesee County Plan. Clinton County would like to be included in your Plan. By now you have likely received correspondence from our office relative to the inclusion of Genesee County in Clinton County's Plan and reciprocal waste flow. As you may have noted, there are no restrictions on the quantity of waste proposed to be exported to Genesee County or received from Clinton County.

I note by your letter that you would also like to receive a copy of our Goals and Objectives. Please find this document attached. Also attached is a copy of the authorization pages for both import and export - indicating inclusion of Genesee County. Both documents have been approved by the Solid Waste Planning Committee and are a part of our draft. Finally, you requested a copy of our selected solid waste management system description. As this is well over 30 pages long, I have not included it in this mailing. You will, of course receive a copy of the entire Plan once we publish for 90 day review. In the meantime, I have included a copy of our Program Priorities matrix which indicates, over the next plan period, the programs and services to be offered by the County relative to meeting objectives and goals; I hope this will suffice.

The letter I recently sent to your attention had attached a one page document, provided for your convenience, to document back to us, your inclusion of Clinton County in your Plan. Additionally, a letter was included authorizing export of Clinton County waste to Genesee County. I hope these will be of assistance. Should you conclude that Clinton County will be a part of your Plan, I would very much appreciate return of the one page sheet indicating that intent.

Thank you and please contact me with questions or further documentation needed. 517/224-5188.
Sincerely,

Ann Mason, Director
Designated Planning Agency Contact



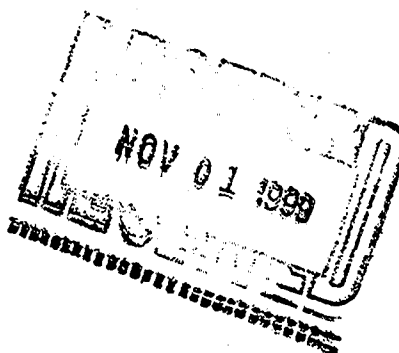


ROOM 223 - 1101 BEACH STREET FLINT, MICHIGAN 48502-1470

TELEPHONE (810) 257-3010 FAX (810) 257-3185

CHAPIN W. COOK, AICP
DIRECTOR-COORDINATOR
THOMAS G. GOERGEN
ASSISTANT DIRECTOR

October 29, 1999



Ms. Ann Mason
Clinton County
Clinton County Department of Waste Management
100 E. Cass
St. Johns, MI 48879

Dear Ms. Mason:

The Genesee County Solid Waste Management Planning Committee has taken action to include your county in the Genesee County Solid Waste Management Plan Update, as eligible for import/export authorization. Attached, please find the list of counties eligible for import export authorization. *If you do not wish to have your county included in the Genesee County Solid Waste Management Plan or if you did not include Genesee County in your county's solid waste management plan, please respond in writing (mail or fax 810-257-3185) by November 11, 1999.*

Your response will be greatly appreciated. If you have any questions or concerns about this matter, please feel free to contact Ms. Comeakco Copeland at (810) 257-3010.

Sincerely,

A handwritten signature in cursive script that reads "Tom Goergen".

Thomas Goergen
Assistant Director

wastmg/Import Export letter

Selected System

If a Licensed solid waste disposal area is currently operating within another County, disposal of solid waste generated by the **EXPORTING COUNTY** is authorized up to the **AUTHORIZED QUANTITY** according to the **CONDITIONS AUTHORIZED** in the current export volume authorization of solid waste table if authorized for import in the approved Solid Waste Management Plan of the receiving County

Export Authorization

CURRENT EXPORT VOLUME AUTHORIZATION OF SOLID WASTE

Exporting County	Importing County	Facility Name	Authorized Quantity Daily	Authorized Quantity Annual	Authorized Conditions
Genesee	Bay				
Genesee	Branch				
Genesee	Calhoun				
Genesee	Clinton				
Genesee	Eaton				
Genesee	Emmet				
Genesee	Gratiot				
Genesee	Ingham				
Genesee	Jackson				
Genesee	Lenawee				
Genesee	Livingston				
Genesee	Macomb		5000TPD		
Genesee	Mason				

Selected System

If a Licensed solid waste disposal area is currently operating within another County, disposal of solid waste generated by the **EXPORTING COUNTY** is authorized by the **IMPORTING COUNTY** up to the **AUTHORIZED QUANTITY** according to the CONDITIONS AUTHORIZED in the Current Import Volume Authorization of Solid Waste table.

CURRENT IMPORT VOLUME AUTHORIZATION OF SOLID WASTE

Exporting County	Importing County	Facility Name	Authorized Quantity Daily	Authorized Quantity Annual	Authorized Conditions
Allegan	Genesee				
Antrim	Genesee				
Bay	Genesee				
Branch	Genesee				
Calhoun	Genesee				
Cass	Genesee				
Charlevoix	Genesee				
Clinton	Genesee				
Eaton	Genesee				
Emmet	Genesee				
Grand Traverse	Genesee				
Gratiot	Genesee				
Ingham	Genesee				
Jackson	Genesee				
Kalkaska	Genesee				
Lapeer	Genesee				
Lenawee	Genesee				
Livingston	Genesee				
Macomb	Genesee				

MEMORANDUM

DATE: May 6, 1999
TO: Ann Mason, DPA Contact
Clinton County, Michigan

FROM: Dean Holub, DPA Contact for Kalamazoo
(616) 384-8114 County
Phone

RE: Plan Import/Export Authorization Documentation

Kalamazoo County X has has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within Kalamazoo County may be exported for disposal.

Waste generated from within Clinton County _____ is X is not authorized in Kalamazoo
County's Plan for disposal in Kalamazoo County.

Limitations: _____

Kalamazoo County has read Clinton County's import/export conditions and understands their limitations.

Fill in only if you do not presently have a facility:

_____ County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations

DPA Contact

Date _____

Please mail or fax to: Clinton County Department of Waste Management
100 Cass St.
St. Johns, MI 48879
517/224-5102
Attn: Ann Mason

MEMORANDUM

DATE: MAY 3, 1999

TO Ann Mason, DPA Contact
Clinton County, Michigan

FROM: DENNIS Kmiecik DPA Contact for KENT County

(616) 336-4369
Phone:

RE: Plan Import/Export Authorization Documentation

KENT County, has X has not included Clinton County in its updated Solid Waste Management Plan as a County to which waste generated from within KENT County may be exported for disposal.

Waste generated from within Clinton County X is _____ is not authorized in KENT
County's Plan for disposal in KENT County.

Limitations:

KENT County has read Clinton County's import/export conditions and understands their
limitations.

Fill in only if you do not presently have a facility.

County agrees that if it should construct a disposal facility during this Plan period, it will accept Clinton County waste for disposal.

Foreseen Limitations

Dennis L. Smith
DPA Contact

5-4-99
Date

Please mail or fax to: Clinton County Department of Waste Management

100 Cass St.
St. Johns, MI 48879
517/224-5102
Attn: Ann Mason

MONTCALM COUNTY
OFFICE OF THE COUNTY CONTROLLER

211 W. MAIN ST.
P.O. BOX 368, STANTON, MI 48888
(517) 831-7300
FAX (517) 831-7375

Date: August 10, 1998

To: Solid Waste Management Planning Committee
Allegan County
Clare County
Clinton County
Eaton County
Ingham County
Midland County
Oceana County
Shiawassee County
Saginaw County
Missaukee County
Wexford County

From: Ed Sell, County Controller 

Subject: Reciprocal Import/Export Agreement

The Montcalm County Solid Waste Management Planning Committee has identified your county as one they would like to enter into a reciprocal agreement with for the import and/or export of solid waste. Central Sanitary Landfill is located in Pierson on the west end of Montcalm County.

The Montcalm County Solid Waste Management Planning Committee requests that reciprocal agreements, allowing Montcalm County to export solid waste to your county, be included in your county plans for import/export counties. Montcalm County would, in turn, allow your county to export solid waste to our county. Please respond in writing with your willingness to enter into such an agreement.

Please contact me with any question.

Clinton County
Department of Waste Management
Designated Implementation Agency



May 12, 1999

Mr. Edward J. Sell Jr., CPA
County Countroller
Montcalm County
211 W. Main St.
P.O. Box 368
Stanton Michigan 48888

RE: Inter-county Agreement

Dear Mr. Sell:

I note that in communication received from your County and your draft Plan that you have included Clinton County as an authorized county for both import and export. It is my understanding that the county requires an inter-county agreement in order for waste to flow between our two counties.

I looked in your draft Plan for a copy of the inter-county agreement - but was unable to locate one. Is this a document which is separate from the Plan or still in drafting stages? If you do have a copy of a draft, I would very much appreciate receiving a copy. As you know, we have included Montcalm County in our draft Plan and require only that there be reciprocity. However, if you require an agreement, we would certainly be willing to look at the document and do what we can to facilitate enactment of an agreement. Please feel free to phone me with any questions regarding our request.

Thank you,

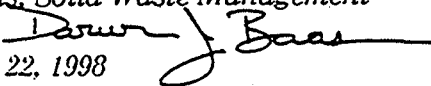
Ann Mason



Memorandum

*To: Solid Waste Management Planning
Committees/Designated Planning
Agencies for:*

*Allegan, Barry, Berrien, Branch,
Calhoun, Cass, Clare, Clinton, Eaton,
Gratiot, Ionia, Isabella, Kalamazoo, Kent
Lake, Mason, Mecosta, Muskegon,
Montcalm, Newago, Oceana, Osceola,
St. Joseph, Van Buren Counties.*

*From: Darwin J. Baas, Solid Waste Management
Coordinator* 

Date: Monday, June 22, 1998

*Subject: Ottawa County Import/Export
Authorizations for Type II/III Solid Waste*

In preparing the Solid Waste Management Plan Update, Ottawa County has recognized 24 counties within the disposal region for import and export authorization.

Importation of Out-of-County Solid Waste

Ottawa County has approved the counties listed above for disposal of Type II/III solid waste and authorizes solid waste from these counties to be deposited in licensed facilities located in Ottawa County. Solid waste may be imported from one or any combination of the above listed counties if explicitly authorized by the exporting county's Solid Waste Management Plan. Disposal of solid waste in licensed Type II facilities in Ottawa County is subject to an annual cap of 1,500,000 tons annually.

Exportation of Ottawa County Solid Waste

Ottawa County will authorize the exportation of up to 100 percent of the Ottawa County solid waste stream to any of the counties listed above whose Solid Waste Management Plan specifically authorize the acceptance of Ottawa County's solid waste.

Enclosed are copies of facility descriptions for the Type II landfills located in Ottawa County. We are requesting that you provide a facility description for each Type II and Type III landfill located within your county, provided the importation of Ottawa County solid waste will be authorized by your Plan. I will be calling you shortly regarding this information.

In the mean time, if you have any questions regarding the enclosed material, please feel free to call me at 616/393-5638.

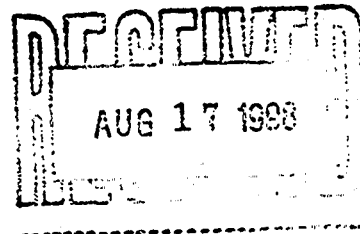


DEPARTMENT OF ENVIRONMENT AND INFRASTRUCTURE SERVICES

PUBLIC WORKS DIVISION

110 NORTH FOURTH AVENUE

P.O. Box 8645, ANN ARBOR, MI 48107-8645



August 7, 1998

Ms. Anne Mason
Clinton County Solid Waste Director
100 East Cass St.
St. Johns, MI 48879

*Imp/Exp
Sub Comm*

Dear Ms. Mason,

In preparing its 1998 Part 115 Solid Waste Management Plan Update, Washtenaw County is considering recognizing all 83 counties in Michigan for import/export authorization. Exhibit A (attached) describes Washtenaw County's intended import/export authorizations, including quantities, for each county in the State. Please review this document carefully, noting particularly our proposed levels of solid waste importation from and exportation to your County.

Washtenaw County currently has one licensed and operational Type II landfill located within its borders, the Arbor Hills Landfill operated by Browning Ferris Industries. Per statutory requirements, it is necessary for both the generating and receiving county plans to explicitly authorize waste transfers and amounts. Washtenaw County is hereby requesting that your County authorize the receipt of Washtenaw County solid waste, in the quantity identified in Exhibit A, through explicit authorization in your solid waste plan.

Washtenaw County intends to release the draft of its Plan Update in October of this year. In order to ensure that your County's disposal needs are included in our Plan, and that our needs are likewise included in your Plan, we would appreciate receiving written notice of your import/export intentions by September 1, 1998.

Thank you for your attention to this matter. If you have any questions or concerns, please contact me at (734) 994-2398 or via e-mail at todds@co.washtenaw.mi.us.

Sincerely,

Susan Todd

Susan Todd
Solid Waste Coordinator

Enc.

Authorized Importation of Solid Waste

From all sources, the Arbor Hills Landfill shall not receive more than 4.5 million gate cubic yards in any one year and no more than 17,500,000 gate cubic yards in the most recent consecutive five year period that concludes at the end of the current year of activity.

Subject to this overall limit, import of solid waste to the Arbor Hills Landfill from the following counties in the quantities specified is explicitly recognized in this Plan Update:

Jackson County – No more than 250,000 gate cubic yards of solid waste per year may be imported from Jackson County to the Arbor Hills Landfill.

Kalamazoo County - No more than 200,000 gate cubic yards of solid waste per year may be imported from Kalamazoo County to the Arbor Hills Landfill.

Lenawee County – No more than 750,000 gate cubic yards of solid waste per year may be imported from Lenawee County to the Arbor Hills Landfill.

Livingston County – No more than 750,000 gate cubic yards of solid waste per year may be imported from Livingston County to the Arbor Hills Landfill.

Macomb County – No more than 1,500,000 gate cubic yards of solid waste per year may be imported from Macomb County to the Arbor Hills Landfill.

Monroe County - No more than 1,500,000 gate cubic yards of solid waste per year may be imported from Monroe County to the Arbor Hills Landfill.

Oakland County – No more than 1,500,000 gate cubic yards of solid waste per year may be imported from Oakland County to the Arbor Hills Landfill.

Wayne County – No more than 2,000,000 gate cubic yards of solid waste per year may be imported from Wayne County to the Arbor Hills Landfill.

In addition, a total of no more than 500,000 gate cubic yards of solid waste may be imported from one or any combination of the counties listed below, subject to the overall limit identified above:

Alcona	Dickinson	Lake	Oceana
Alger	Eaton	Lapeer	Ogemaw
Allegan	Emmet	Leelanau	Ontonagon
Alpena	Genesee	Lenawee	Osceola
Antrim	Gladwin	Livingston	Oscoda
Arenac	Gogebic	Luce	Otsego
Baraga	Grand Traverse	Macinac	Ottawa
Barry	Gratiot	Macomb	Presque Isle
Bay	Hillsdale	Manistee	Roscommon
Benzie	Houghton	Marquette	Saginaw
Berrien	Huron	Mason	Saint Clair

D-2

Letters of Acceptance of Roles and Responsibilities

Branch	Ingham	Mecosta	Saint Joseph
Calhoun	Ionia	Menominee	Sanilac
Cass	Iosco	Midland	Schoolcraft
Charlevoix	Iron	Missaukee	Shiawasee
Cheyboygan	Isabella	Monroe	Tuscola
Chippewa	Jackson	Montcalm	Van Buren
Clare	Kalamazoo	Montmorency	Wayne
Clinton	Kalkaska	Muskegon	Wexford
Crawford	Kent	Newago	
Delta	Keweenaw	Oakland	

These imports are contingent upon the export being explicitly recognized in the generating County's approved Part 115 Solid Waste Plan.

Authorized Export of Solid Waste

A portion of the County's waste stream may be disposed of at licensed facilities in other counties as specified in this Plan. Export of solid waste to the following counties in the quantities specified below is explicitly recognized and authorized in this Plan Update:

Jackson County: No more than 250,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Jackson County.

Kalamazoo County: No more than 200,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Kalamazoo County.

Lenawee County: No more than 750,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Lenawee County.

Livingston County: No more than 750,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Livingston County.

Macomb County: No more than 1,500,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Macomb County.

Monroe County: No more than 1,500,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Monroe County.

Oakland County: No more than 1,500,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Oakland County.

Wayne County: No more than 2,000,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in Wayne County.

In addition, a total of no more than 500,000 gate cubic yards per year of solid waste may be exported to licensed disposal facilities in the following counties:

Alcona	Dickinson	Lake	Oceana
Alger	Eaton	Lapeer	Ogemaw
Allegan	Emmet	Leelanau	Ontonagon
Alpena	Genesee	Lenawee	Osceola
Antrim	Gladwin	Livingston	Oscoda
Arenac	Gogebic	Luce	Otsego
Baraga	Grand Traverse	Macinac	Ottawa
Barry	Gratiot	Macomb	Presque Isle
Bay	Hillsdale	Manistee	Roscommon
Benzie	Houghton	Marquette	Saginaw
Berrien	Huron	Mason	Saint Clair
Branch	Ingham	Mecosta	Saint Joseph
Calhoun	Ionia	Menominee	Sanilac
Cass	Iosco	Midland	Schoolcraft
Charlevoix	Iron	Missaukee	Shiawasee
Cheyboygan	Isabella	Monroe	Tuscola
Chippewa	Jackson	Montcalm	Van Buren
Clare	Kalamazoo	Montmorency	Wayne
Clinton	Kalkaska	Muskegon	Wexford
Crawford	Kent	Newago	
Delta	Keweenaw	Oakland	

This authorization is contingent upon the receiving County explicitly authorizing the receipt of Washtenaw County waste in their approved Part 115 Solid Waste Plan.



Edward H. McNamara
County Executive

March 8, 2000

Ms. Ann Mason
Clinton County Department of Waste Management
100 East Cass
St. Johns, MI 48879

RE: Wayne County Solid Waste Management Plan Import Authorizations

Dear Ms. Mason,

Wayne County is finalizing a draft update of its Solid Waste Management Plan (SWMP) in accordance with Act 451 requirements. Act 451 mandates that Wayne County, like all Counties, must provide specific authorization for imports and exports of solid waste. A draft waste import authorization procedure has been developed (copy enclosed) that identifies acceptable waste disposal quantities and conditions for importing waste into Wayne County. Clinton County is not currently exporting waste or is only exporting small quantities of waste into Wayne County, and we are notifying you that exportation of your waste into Wayne County will be authorized. This authorization however is contingent upon several conditions; first your plan must acknowledge Wayne County as an acceptable county for exporting; secondly if municipal household solid waste is exported, the generating municipality must meet the municipal waste recycling requirements of Wayne County's plan and; if Clinton County is intending to export significant quantities (over 100,000 cy per year) into Wayne County you must authorize Wayne County to export waste into Clinton County at similar volumes.

The attached draft has established a total quantity of waste that may be imported from counties not otherwise identified. In order for Clinton County to be included in this authorization we will need confirmation that your SWMP identifies Wayne County as an acceptable location for waste export. Please provide a current copy of the waste import/export section of your SWMP either in final or draft form as verification of export authorization. If Clinton County SWMP authorizes waste exportation into Wayne County volumes exceeding 100,000 CY per year, you must provide documentation that similar quantities will be authorized to be imported from Wayne County

Ms. Ann Mason
March 8, 2000
Page 2

If you wish to be identified in the Wayne County SWMP please submit the necessary information to this Division by April 7, 2000. If we do not receive a response we will assume you are not interested in exporting waste into Wayne County. If you have any questions or would like to discuss this issue please contact me at (734) 326-4494.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert N. Ratz", with a horizontal line extending from the end of the signature.

Robert N. Ratz, P.E.
Director
D.O.E. – Land Resource Management Division

Encl: draft import doc

Clinton County
Department of Waste Management
Designated Implementation Agency



November 8, 1999

Michigan Department of Environmental Quality
Waste Management Division
PO Box 30241
Lansing, MI 48909

To Whom It May Concern;

The Clinton County Board of Commissioners is prepared to assume its roles and responsibilities as outlined in Clinton County's 1999 updated Solid Waste Management Plan.

Sincerely,

Richard Hawks
Chair, Clinton County Board of Commissioners

Clinton County
Department of Waste Management
Designated Implementation Agency



November 8, 1999

Michigan Department of Environmental Quality
Waste Management Division
PO Box 30241
Lansing, MI 48909

To Whom It May Concern;

The Clinton County Solid Waste Committee is prepared to assume its roles and responsibilities as outlined in Clinton County's 1999 updated Solid Waste Management Plan.

Sincerely,

James Lancaster
Chair, Clinton County Solid Waste Committee

D-3 CLINTON COUNTY SOLID WASTE ORDINANCE

Adopted by the Clinton County
Board of Commissioners

On the 30th of November, 1999

SOLID WASTE ORDINANCE INDEX

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Describes base of Authority for the Ordinance.	
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Clinton County
Department of Waste Management
Designated Implementation Agency



November 8, 1999

Michigan Department of Environmental Quality
Waste Management Division
PO Box 30241
Lansing, MI 48909

To Whom It May Concern;

Clinton County is prepared to assume its responsibilities as outlined in Clinton County's 1999 updated Solid Waste Management Plan. The Department of Waste Management will assume the role as the County's Designated Implementing Agency and as the administrative office that will implement the County's Plan.

Sincerely,

Ryan Wood
Administrator

Clinton County
Department of Waste Management
Designated Implementation Agency



November 8, 1999

Michigan Department of Environmental Quality
Waste Management Division
PO Box 30241
Lansing, MI 48909

To Whom It May Concern;

As Clinton County's Solid Waste Management Coordinator, I am prepared to assume the roles and responsibilities of my position as outlined in Clinton County's 1999 updated Solid Waste Management Plan.

Sincerely,

Ann Mason
Solid Waste Management Coordinator

CLINTON COUNTY

SOLID WASTE MANAGEMENT ORDINANCE

Article 1 - AUTHORITY

- 1.1 In implementation of duties and responsibilities defined in this Ordinance, and the Solid Waste Management Plan, Clinton County will exercise, to the fullest extent allowed by law, its delegated authority.
- 1.2 Michigan Counties have been delegated the right to issue ordinances enforcing policy decisions made by county commissioners on topics over which they have jurisdiction. See MCL 46.11 et. seq. [MSA 5.331, sec. II (m)] Under Part 115 of PA 451 of 1994 as amended ("Part 115"), Michigan Department of Environmental Quality retains authority over disposal facility permitting, construction and certain monitoring functions. However, some solid waste responsibilities are delegated and administered through an authorized Solid Waste Management Plan. Such functions and responsibilities include assurance of waste disposal capacity, review of proposed disposal area siting for Plan consistency, recommendations on facility siting, implementation of recycling, alternative waste management strategies, enforcement as it relates to violations of an approved solid waste management plan, regulation of intra-state waste flow [until such time as federal law delegates the authority to also regulate inter-state waste] and issues generally impacting the health, safety and welfare of local citizens not otherwise regulated under State or Federal law.
- 1.3 Part 115 authorizes Clinton County and its municipalities to approve a Solid Waste Management Plan ("Plan") which contains local planning and regulation of waste disposal. The approved Plan is required to include identified enforcement mechanisms and to indicate persons or entities responsible for implementation and enforcement of that Plan. (Sec. 11538(1)(f)) Clinton County's authorized Plan specifies an adopted ordinance as one of the implementation and enforcement mechanisms to be utilized by the County to implement its responsibilities under the Plan. Among other issues, the Plan states that the County may use ordinances to establish waste controls, landfill usage fees or for purposes necessary to implement and enforce the plan.
- 1.4 This Ordinance and the Solid Waste Plan do not preclude negotiation of a legally executed and valid agreement between any Solid Waste Disposal Facility owner/operator within the County and the Board. Should an agreement be entered into which specifically addresses stipulations contained within this Ordinance, the negotiated terms of the agreement shall have precedence over this Ordinance. However, precedence is limited to each specific issue or stipulation addressed by the agreement and shall not, per se, render any other portions of this Ordinance null. Prior to adoption, the Board will conduct a public hearing on the negotiated agreement. The hearing may be conducted in conjunction with a regularly scheduled Board meeting.

Article 2 - FINDINGS

- 2.1 The Clinton County Board of Commissioners ("Board") finds that this Solid Waste Ordinance is necessary to fulfill the Clinton County Board of Commissioners' responsibilities under Part 115 and the Clinton County Solid Waste Plan ("Plan") including all updates.
- 2.2 Specifically, this Ordinance establishes regulations, enforcement mechanisms pertaining to violation of the Plan, enables procedures which fulfill duties and responsibilities associated with implementation of the Plan, and provides for implementation of such mechanisms through the establishment of funding.
- 2.3 The Board finds that the export and import of flow control of intra-state waste [until such time as federal law delegates the authority to also regulate inter-state waste] and annual cap provisions contained in this Ordinance promote and protect capacity estimates in the Plan. The Board recognizes that the flow of too much waste, too quickly, into the County could unduly shorten landfill capacity. The flow of excessive quantities of waste to disposal facilities outside those designated in the Plan, could upset the viability of regional facilities and thereby adversely impact expected available landfill capacity. The Board finds that improper handling of waste constitutes a nuisance to residents and creates potential health and safety risks. Regulation of waste handling protects the public and reduces such risks.
- 2.4 The Board finds that regulation of waste, data collection, operational issues at disposal facilities, preservation of solid waste disposal capacity for local use delineated through flow control of intra-state waste [until such time as federal law delegates the authority to also regulate inter-state waste], and sanctions against those who manage solid waste in a manner that violates the Plan and this Ordinance, are essential to meet Plan goals, provide for the legal handling of waste and to protect the well-being, safety and health of the citizens of Clinton County. The Board finds that regulations contained herein do not supercede or contradict federal, state or local laws, including Part 115, and its rules and regulations as they pertain to solid waste management.
- 2.5 The Board specifically finds that solid waste user fees contained herein are necessary to ensure the effective County Plan development, Plan implementation, administration, enforcement, and regulation of improper waste handling as required by Part 115 and the Plan. All fees imposed herein shall be collected and separately segregated from other County funds and be spent only pursuant to the purposes outlined in the Plan and contained in this Ordinance.

Article 3 - DEFINITIONS

- 3.1 In addition to the adoption of the terms and abbreviations included in the Plan which are incorporated by reference, the following terms shall have the meanings described in this Section, unless the context specifically indicates a different meaning;

- 3.1.1 Authorized Local Official. The Solid Waste Management Coordinator or his or her designee; or at the WMC's request, the County Sheriff, County Sheriff's Deputies, Local Police Department Chiefs and/or their officers.
- 3.1.2 Board. The Clinton County Board of Commissioners.
- 3.1.3 Disposal Facility. Any legal owner of any licensed solid waste disposal facility, including Type II and Type III landfills and a transfer or temporary storage station.
- 3.1.4 DPA. The Designated Planning Agency is the persons or agency formally designated by the Board as responsible for the development of the solid waste management plan, plan amendment and plan update. The DPA may be the Department of Waste Management.
- 3.1.5 Generator. Any person or legal entity producing solid waste.
- 3.1.6 Hauler. Any person or other legal entity transporting solid waste from one location to another, provided that the transportation is not at all times on the party's own premises. A Hauler includes any registered owner of a vehicle involved in hauling or dumping solid waste regardless of the identity of the operator of the vehicle.
- 3.1.7 Legally Executed Agreement. For purposes of this Ordinance, and as reflected in the Plan, a Legally Executed Agreement may mean a Memorandum of Understanding (MOU), Host Community Agreement (HCA), or any other agreement or contract referenced by law, and entered into by and between the County and a Disposal Facility Owner and/or Operator, pertaining to solid waste management issues, services, recycling and compost services, or operational matters at a disposal facility.
- 3.1.8 Ordinance. Solid Waste Ordinance of Clinton County
- 3.1.9 Part 115. Part 115 of Public Act 451 of 1994, as amended, known as the State of Michigan Natural Resources and Environmental Protection Act.
- 3.1.10 Plan. The approved Clinton County Solid Waste Management Plan and its updates or amendments prepared under the requirements of Part 115 of P.A. 451 of 1994.
- 3.1.11 SWC. The Solid Waste Council. This Council is appointed by the Board of Commissioners and consists of a representative from each of the townships hosting a disposal facility; the Board of Commissioners; the Health Department; and Planning and Zoning. Members shall serve at the pleasure of the Board with terms of office being specified by the Board.
- 3.1.12 WMC. The Solid Waste Management Coordinator; staff to the DPA if so designated.
- 3.1.13 Terms not defined herein are interpreted to have meanings ascribed by Part 115 of PA 451 of 1994 and associated regulations, include the approved Plan.

Article 4 - ADMINISTRATION

- 4.1 The provisions of this ordinance shall be administered by the WMC in accordance with Part 115 and the Plan.
- 4.2 The Board shall employ a WMC to act as its officer to effect the proper, consistent administration and enforcement of this Ordinance.
- 4.3 The WMC shall have the primary responsibility for the administration and enforcement of the ordinance. The SWC may recommend for Board approval, rules and guidelines to assist the WMC in administering and enforcing the Ordinance.
- 4.4 DUTIES OF THE BOARD OF COMMISSIONERS
 - 4.4.1 Appoint the SWC, WMC, and designate the DPA
 - 4.4.2 Employ staff to implement the Plan and define staff duties.
 - 4.4.3 Annually review and approve the operating budget for the implementation of the Plan.
 - 4.4.4 Enter into agreements or contracts with any person, governmental or private organization on matters pertaining to implementation of the Plan.
 - 4.4.5 Enact ordinances to establish solid waste handling controls, landfill user fees, disposal facility regulation and other purposes to enforce the Plan
- 4.5 DUTIES OF THE SOLID WASTE COUNCIL
 - 4.5.1 Advise the WMC on matters pertaining to programs, services and necessary enforcement actions.
 - 4.5.2 Meet quarterly with a minimum of one meeting per year in each of the townships hosting disposal facilities.
 - 4.5.3 Recommend to the Board to bond, build and/or maintain approved facilities if the private sector fails to provide approved facilities.
 - 4.5.4 Recommend to the Board for the provision of adequate resources in order to implement the Plan.
 - 4.5.5 Conduct public hearings.
 - 4.5.6 Establish and maintain bylaws under which the SWC will conduct its proceedings; make sub-appointments; and otherwise carry out its responsibilities.

4.6 DUTIES OF THE WMC.

4.6.1 Provide staff support to the SWC.

4.6.2 Complete the activities necessary to implement, administer and enforce the Plan and this Ordinance including:

- a. Annually evaluate the progress in accomplishing County recycling and waste reductions goals set forth in the Plan, and publish an annual report of progress toward the goal;
- b. Develop a data base that accurately reflects volumes and types of waste being hauled into landfills;
- c. Work with local units of government, service organizations and private haulers to expand recycling collection points in the County, and develop a data base to quantify recycling impacts in the County;
- d. Develop and recommend for Board approval County policies for recycled product procurement;
- e. Develop and implement public information efforts aimed at individuals, students, industries, institutions, commercial establishments and other units of government;
- f. Annually review compliance of any legally enacted agreement that is issued in accordance with the Plan.
- g. Inspect and monitor solid waste disposal facilities within Clinton County for compliance with Part 115, the Plan and this Ordinance. The Clinton County Sheriff's Department and local police departments located in the County, are authorized upon the request of the WMC to work with the WMC on Ordinance enforcement activities.
- h. Issue appearance tickets or appearance summons to alleged violators of this Ordinance.

4.6.3 Serve as the Designated Planning Agency for purposes of preparing Plan Updates and/or Plan Amendments as designated by the Board of Commissioners.

4.6.4 Provide staff support to the Solid Waste Management Planning Committee during the Plan Update, or Plan Amendment Process and provide staff support to the Site Review Committee during any facility siting processes.

4.6.5 Preparation and administration of an annual budget.

4.6.6 Direct administrative and programmatic responsibilities of the Department of Waste Management.

Article 5 - WASTE DISPOSAL AND DISPOSAL FACILITY RESTRICTIONS

- 5.1 No generator may transport or arrange for the transportation of solid waste to a disposal site that is not a licensed disposal facility according to law, regulations, the Plan and this Ordinance.
- 5.2 No generator may transport yard waste, or arrange for the transportation of yard waste to a landfill disposal facility.
- 5.3 No generator may burn solid waste of any type or yard waste, except in accordance with state law and local ordinances, whichever is more restrictive.
- 5.4 No facility owner or operator may accept Type II or Type III waste for disposal in Clinton County in excess of the Plan's aggregate 2,500,000 annual cubic yard cap, unless the disposal is within a temporary cap increase approved by the Board of Commissioners through a special resolution designed to address a catastrophic or natural disaster that has produced unanticipated quantities of waste. However, for purposes of this paragraph, the annual cap shall be 2,000,000 cubic yards if the facility owners or operators have not petitioned the Board of Commissioners for a 500,000 cubic yard annual cap increase or if the Board has rescinded such an increase because of the landfill owners' or operators' failure to meet their cap increase commitments.
- 5.5 No person or disposal facility may remove any posted "stop order" issued by the WMC or SWC, nor accept solid waste for storage or disposal in violation of any stop order.
- 5.6 No disposal facility or portions of a disposal facility which are located within Clinton County may accept Type II or Type III solid waste that was not generated from within counties specified in its approved Plan and which meet any criteria contained therein, unless otherwise authorized by state or federal law.
- 5.7 No hauler may transport Type II or Type III solid waste generated from within Clinton County to a facility for disposal other than to those licensed disposal facilities located within the counties specified in the Plan and which meet criteria contained therein, unless otherwise authorized by state or federal law.
- 5.8 No disposal facility or portions of a disposal facility which are located within Clinton County may accept Type II or Type III solid waste for disposal, except between the hours of 6:30 a.m. through 4:30 p.m., Monday through Saturday, unless otherwise authorized by state or federal law, or a Legally Executed Agreement. The WMC shall be authorized to grant waivers to these hours under extenuating circumstances upon finding that such a waiver will not be detrimental to the health, safety and welfare of the citizens.
- 5.9 Each disposal facility or portions of a disposal facility which are located within Clinton County shall submit a monthly report to the WMC summarizing the amount of solid waste handled during the reporting period, including the county/country of origin of waste

generation and volume accepted at the gate. This monthly report must be received in the WMC's office by the 15th of each succeeding month.

The facilities' owners/operators shall maintain data apportioning the quantity of waste disposed by types: residential, commercial, industrial and construction/demolition. Annually, the WMC shall be permitted access to review this data on site. However, the WMC is precluded from taking notes regarding such data and will only report trends, not specific data or percentages in public records. Viewing of such data will be used to aid assessment of Plan implementation impact, only.

- 5.10 No disposal facility or portions of a disposal facility which are located within Clinton County may accept Type II and Type III solid waste for disposal that contains municipal solid waste incinerator ash.
- 5.11 No person may scavenge source separated materials.
- 5.12 No person, generator, hauler or disposal facility may transport, dispose or otherwise handle solid waste in any manner other than that which is authorized under Part 115, the Plan or this Ordinance.
- 5.13 Unless otherwise specified in a Legally Executed Agreement, each disposal facility or portions of a disposal facility which are located within Clinton County must collect the user fees specified in Article 7 and according to Schedule A attached to this Ordinance on all Type II and Type III solid waste disposed of in its facility. Such user fees shall be remitted to the Clinton County Treasurer on a monthly basis by the 15th day in the succeeding month.
- 5.14 Unless otherwise specified in a Legally Executed Agreement, a disposal facility or portions of a disposal facility which are located within Clinton County shall install and maintain intermediate fencing on the landfill facility to control litter within the active fill area. Facility operators shall periodically police and pick up wind blown debris and litter from properties and roadways contiguous to the facility.
- 5.15 Unless otherwise specified in a Legally Executed Agreement, a disposal facility or portions of a disposal facility which are located within Clinton County shall be secured by adequate fencing.
- 5.16 Any disposal facility or portions of a disposal facility which are located within Clinton County shall assure that odor, smoke, fumes, dust and litter are controlled so as not to cause a nuisance or hazard.
- 5.17 Unless otherwise specified in a Legally Executed Agreement, a disposal facility or portions of a disposal facility which are located within Clinton County shall undertake recycling and salvaging activities on site as are determined to be economically feasible by the facility owner/ operator.
- 3 Unless otherwise specified in a Legally Executed Agreement, mud and debris shall be removed from the entrance and road flanking the front of a disposal facility or portions of a

disposal facility which are located within Clinton County on a periodic basis or as necessary. If detracking measures fail to meet a reasonable level of performance, the county shall require reasonable alternative or additional remedial actions.

- 5.19 Each disposal facility or portions of a disposal facility which are located within Clinton County shall have an emergency response plan on file with the host township, Sheriff's Department, local fire department, and the Department of Waste Management.
- 5.20 Each disposal facility or portions of a disposal facility which are located within Clinton County shall submit a yearly report to the WMC's office detailing air space capacity remaining.
- 5.21 Each disposal facility or portions of a disposal facility which are located within Clinton County shall provide the WMC with copies of cover letters sent to state regulators on matters pertaining to quarterly landfill inspections and results; monitoring well inspections and results; or which concern leachate collection from the facility.
- 5.22 Upon the effective date of this Ordinance, landscaping and screening provided at disposal facilities were regarded as satisfactory by the County. Should changes be made to entrance locations, entrance location landscaping, or should there be a catastrophic occurrence such that present screening and landscaping is materially degraded, the facilities' owner/operator will meet with local officials prior to conducting repairs or providing new landscaping.
- 5.23 The WMC shall be provided access to any disposal facility or portions of a disposal facility which are located within Clinton County during business hours for the purpose of inspecting matters regulated in the Plan, and this Ordinance.
- 5.24 The WMC shall be provided access to disposal facility records substantiating data regulated under the Plan and this Ordinance during business hours and upon providing twenty four (24) hours notification to the disposal facility owner or operator.
- 5.25 Any changes or modifications made to the ingress or egress of any disposal facility or portions of a disposal facility which are located within Clinton County, such that the entrance will be at a new location within the county, must be reviewed and approved by the SWC prior to implementation. Approval of a change of ingress/egress shall be granted, unless traffic related concerns are verified by the County Road Commissioner and/or Michigan Department of Transportation, or other safety concerns verified by the County.
- 5.26 Traffic related issues which are verified as partially or completely caused by disposal facilities and which are brought to the attention of the WMC, may be referred to the SWC and other parties, including but not limited to county sheriff and municipal police departments, Road Commission personnel, etc., for resolution. The SWC and WMC may augment, but not duplicate procedures of other county and state agencies addressing traffic related issues.

- 5.27 All vehicles transporting solid waste to disposal facilities are required to secure and cover loads in compliance with state laws so as not to present a risk to the safety and welfare of residents of the county and persons travelling on roads through the county.

Article 6 - ENFORCEMENT

- 6.1 The WMC, or authorized local official under the direction of the Board shall enforce the provisions of the Plan, this Ordinance, and any legally enacted agreement. The WMC shall regularly monitor and inspect; solid waste disposal facilities for purposes of compliance with this Ordinance. The WMC is authorized to enter any landfill operation in Clinton County during business hours to inspect records kept under this Ordinance or to inspect the facility for compliance with the Plan and this Ordinance. The WMC shall also have the authority to stop any vehicle transporting solid waste, for a reasonable period of time, for purposes of inspection for compliance with the Plan and this Ordinance.
- 6.2 The WMC may seek, through the offices of the County Prosecutor or other legal counsel, criminal action against any alleged violator of this Ordinance, and through the County's civil counsel, a civil action
- 6.3 Procedure.
- 6.3.1 The Municipal Civil Infractions Enforcement Procedure contained in 1994 PA 12, being MCL 60.8701, et seq. may be used in all judicial enforcement actions pursuant to this Ordinance.
- 6.3.2 The WMC is identified as an "authorized local official" as that term is defined in 1994 PA 12, subsection 1, being MCL 600.8701(a), and is fully empowered with all of the authority, privileges, and responsibilities of the "authorized local official" under that Act.
- 6.3.3 The WMC shall report to the Board the issuance of any citation, including the name of the alleged offender, date of the citation, and reasons for the citation. The WMC shall report on a final disposition of any citation.
- 6.4 Civil and Criminal Penalties. Any violation of any prohibition in Article 5 of this Ordinance shall be a municipal civil infraction, punishable by imprisonment in the county jail for not more than ninety (90) days, or by a fine of not more than five hundred dollars (\$500.00), or both, and the cost of prosecution, or by fine and imprisonment set at the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of the Plan, nor liability for injunctive or civil damages relief in other civil proceedings to enforce this ordinance or abate the violation, or other civil relief including fines and damages under State or Federal law.
- 6.5 Stop Work Order. If the WMC or SWC determines that the import OR CAP limitations of this Ordinance or the Plan have been exceeded, the SWC or WMC may issue a "stop order" directed to any violating disposal facility. The stop order shall preclude the receipt or

disposal of reported solid waste beyond amounts specified in this Ordinance and the Plan and or any legally enacted agreements. Such a "stop order" shall be posted in a prominent public location, at the County Courthouse, and shall be posted at the entrance to each violating disposal facility. The subsequent destruction of such a posting shall not preclude enforcement proceedings for violation of the stop order.

- 6.6 Confidentiality. In deciding confidentiality and public disclosure issues regarding reports of suspected violations of this Ordinance, the Plan and Part 115, the WMC and SWC shall be governed by Sec. 13(1)(b) of 1976 PA 442, as amended, being MCL 15.243(1)(b).

Article 7 - USER FEES AND FINANCIAL PROVISIONS

- 7.1 User Fee Provisions - The cost of developing, implementing, administering and enforcing the Plan and this Ordinance will be financed from the fees and fines provided for under this Ordinance. The fee schedule shall be established so as to adequately provide for such activities.
- 7.1.1 A user fee set by the Board will be collected from landfill users and remitted by disposal facility owners or operators for all waste deposited in any landfill located in Clinton County.
- 7.1.2 Unless otherwise specified through a Legally Executed Agreements, all user fees will be collected through a monthly payment program and deposited in a segregated fund to be used exclusively for purposes of funding the implementation of the Plan and this Ordinance.
- a. Should a user of the disposal facility refuse to pay the user fee, the landfill owner/operator may either refuse to receive the solid waste contained in that load, or the facility owner/operator may pay the user fee and admit the solid waste for disposal.
- 7.1.3 Unless otherwise stipulated in a Legally Executed Agreement, fees shall be in accordance with Schedule A attached to this Ordinance. The fees shall be adequate to provide for the costs necessary to implement and administer this Ordinance and other provisions of the Plan. Schedule A may be adjusted from time to time in order to provide for changes in such costs. The fees will be reviewed and adjusted at least annually to provide for the budgetary needs for the implementation, administration, and enforcement of the Plan and this Ordinance.
- 7.2 The WMC may inspect, upon reasonable notice, the records of a landfill operator or waste hauler to monitor compliance with the user fee provisions of this Ordinance.
- 7.3 Site Review Fee Provision - any applicant wishing to site a new disposal area within Clinton County whose proposed facility is not included in the Clinton County Plan, must proceed through the "Clinton County Siting Procedure - New Disposal Areas." A fee may be imposed to cover costs associated with such a review. Fees must be paid to the Clinton County Treasurer and will be maintained separately from landfill user fee revenues collected under the Plan and this Ordinance and used to offset costs associated with the


review. Upon completion of the review, any unused portion of the fee shall be refunded to the applicant.

Article 8 - SEVERABILITY CLAUSE

- 8.1 The Ordinance and the various articles, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or work is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, such invalidity shall not affect the remaining portions of applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the Court to be inoperable.

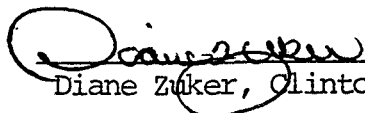
V. Article 9 - EFFECTIVE DATE

1. This Ordinance shall become effective as of the date when notice of the adoption is published in a newspaper of general circulation in the County.


Chairperson, Clinton County Board of Commissioners

CERTIFICATION

I, Diane Zuker, Clinton County Clerk, hereby certify that the above Ordinance was adopted by the Clinton County Board of Commissioners on November 30, 1999 and that the signature above is that of the Chairperson of Clinton County Board of Commissioners.


Diane Zuker, Clinton County Clerk

Data Submission: Volume and quantity data collected by service providers will be submitted to the Department on a quarterly basis. For purposes of verifying data submissions, WMC may audit dump tickets (landfill receipts) retroactively each quarter and/or may notify and require that service provider(s) maintain and submit dump tickets for an upcoming designated time period. Service providers shall maintain landfill dumping data for a minimum of one and one-half years at a time.

To be contained in Article 6 of the Ordinance

License Revocation.

- a. Notice. The WMC may institute license revocation proceedings by issuing a written revocation notice describing the reasons for the proposed revocation and serving this notice either on the hauler or disposal facility by person or by certified mail. The notice shall specify the date of a public hearing:
- b. Public Hearing. At the SWC hearing the party to whom the notice is addressed, shall have the opportunity to show cause why its license shall not be revoked. The SWC may take testimony from the alleged violator and any other interested party or witness. The SWC may issue a ruling at that time or extend the time for ruling up to 30 days. Thereafter, the SWC must issue a written ruling on the proposed revocation, including findings of fact.
- c. Circuit Court Review. Pursuant to MCR 7.101 et seq., the hauler or disposal facility may appeal a license revocation by filing an appeal with the Clinton County Circuit Court within 21 days of the SWC's issuance of a written decision.

To be contained in Article 5 of the Ordinance

No generator may transport or arrange for the transport of solid waste except through a licensed hauler.

No hauler may transport solid waste unless the hauler has received a license and is in compliance with all licensing restrictions.

To be contained in Article 7 of the Ordinance

A licensing fee payable by haulers doing business in Clinton County will be set by the Board of Commissioners and paid upon registration of vehicles with the Department of Waste Management. The fee will not exceed costs associated with implementation of the licensing program. Fees collected will be maintained separately from landfill user fees and site review user fees collected under the Plan and this Ordinance.

D-5 Position Descriptions

SCHEDULE A

Unless otherwise specified in a Legally Executed Agreement, the landfill operator or owner of any landfill facility located in Clinton County will collect fees from users of the landfill in the amounts specified.

User fees assessed to users will be collected at the gate, and submitted to the County monthly - before the 15th day of the succeeding month.

Fees may be adjusted up or down based upon a yearly review that occurs in conjunction with the county budgetary process and evaluates needs to implement and enforce the Plan. The landfill must be notified two months in advance of implementing any change in the collected amount.

Each landfill shall collect \$.30/cubic yard of solid waste disposed of in its landfill.

Increases to the user fee amount collected shall not exceed \$.10 per year.

*Should any landfill facility install weigh scales, assessment will utilize a conversion rate of 3:1 to convert the fee assessment from cubic yards to tons.

SCHEDULE B

Any applicant wishing to site a disposal area in Clinton County, whose facility is not presently included in the Plan shall proceed through the "Clinton County Siting Procedure" for new disposal areas.

When applicants submit their application package, they shall include an **application fee of \$4,500** payable to the Clinton County Treasurer.

The Fee shall cover costs associated with the review of the application. Costs shall be substantiated with copies of paid invoices and/or vouchers associated with review of the application. Should any of the portion of the fee remain upon completion of the review, that amount shall be refunded to the applicant.

Affidavit of Publication

STATE OF MICHIGAN

County of Clinton

ss.

William McHugh being duly sworn, deposes and says that he is President of the ST. JOHN'S REMINDER, a public newspaper printed and published by Central Michigan Newspapers, Inc. in the City of Johns (Clinton County) in said county and circulated in said city and counties, that the annexed printed notice was printed and published in said newspaper at least 1 in each week for 1 successive weeks, and that the publication of said notice in said newspaper was on the 12th day of December, 1999 and the last publication of said notice in said newspaper was on the 12th day of December, 1999.

William R. McHugh

scribed and sworn to before me the 13th day of December, 1999.

Linda Kunkel
Notary Public

Commission expires 12/21/01.

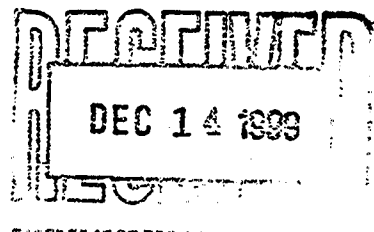
PUBLISHER'S FEE

_____ folios _____ times \$ _____

Affidavit of publication \$ _____

Received payment _____

Total \$ _____



NOTICE

On November 30, 1999, the Clinton County Board of Commissioners adopted a revised Solid Waste Management Ordinance identifying required waste handling practices, responsibilities of staff and county offices, and funding methods for enforcement and implementation responsibilities of the Department of Waste Management. Copies available upon request: 517/224-5186.

D-4 LICENSING

The County may require all commercial haulers and recycling service providers obtain or maintain an annual license issued by the SWC. Initial license applications must be submitted personally by a representative of the commercial hauler or recycling service provider to the Solid Waste Management Department.

Exemptions: Persons who, upon questioning, can verify that they are performing one-time services for neighbors, family or friends, or individuals hauling waste materials from their own home are exempt from the requirements of this section. The WMC may request a receipt or billing verifying proper handling and/or end disposal of the material. [we may add construction]

License renewals may be obtained through the mail. The WMC may issue a temporary license which shall not exceed sixty (60) days in duration. Criteria for the issuance or renewal of a hauling license shall include:

- a. exclusive use of vehicles approved as appropriate for transporting waste by the WMC;
- b. timely and accurate submission of collection and disposal data on the Data Sheet approved for this purpose;
- c. timely and accurate payment of the hauling surcharge fee established in Article 7;
- d. provision of a volume based waste collection and fee system with volumetric options that promote waste reduction;
- e. transportation and disposal activities that are in compliance with Part 115, Act 641, the Plan and this Ordinance.

Vehicle Identification: Each approved vehicle must display the name of the hauler on the side of the vehicle using lettering of a minimum two (2) inch size in a color that contrasts with the color of the truck-side background.

Licensing Inspections: The WMC or designee may stop and inspect a vehicle to ensure compliance with Part 115, the Plan or this Ordinance and may revoke approval of a vehicle if the WMC determines that the vehicle is not being maintained in a manner sufficient for the safe and effective transport of solid waste. A revocation of vehicle approval may be appealed to the SWC if a written appeal is filed with the County Clerk's office within ten (10) days of the WMC's decision.

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WASTE MANAGEMENT COORDINATOR

General Summary

Under the direction of the Board of Commissioners, and guidance of the Designated Implementation Agency, is responsible for the overall management of the Department of Waste Management. Responsible for all program development and management, including recycling and household hazardous waste disposal, enforcement and monitoring compliance with waste management regulations, education and public relations, coordinating activities with related area agencies, and managing all administrative activities of the department.

Essential Functions

1. Responsible for the development and administration of the County's Waste Management Plan under P.A. 641. Plans waste management programs and activities and recommends revisions to the County plan as appropriate. Develops County policies related to the waste management plan.
2. Initiates and supervises the development of programs related to waste management, including: [a] Resource recycling program, includes site selection, equipment purchases, securing program operators and site management volunteers, entering into contractual arrangements and overseeing the educational/public relations aspects of program [2] Household hazardous waste program, includes reviewing and making recommendations regarding legal/liability considerations, coordinating the establishment of an Authority, securing and supervising construction of facility, and supervising program operations and [3] Composting program, includes reviewing legal/nuisance considerations and overseeing educational efforts.
3. Responsible for tracking legislation which impacts solid waste management in the county and the work of the department. Performs summaries, analysis, constructs amendments, set and/or conducts meetings with commissioners, municipal elected officials legislators, and statewide organizations as needed and appropriate to legislative activity.
4. Manages and coordinates intercounty relationships, includes controlling waste flow to the County and initiating, advising and/or advising on cooperative programs between counties.
5. Monitors operating activity of solid waste management facilities, monitors intercounty waste flow and manages site reviews of existing and proposed facilities. Ensures implementation and compliance with Part 115 of P.A. 451 of 1994 as amended, the County Solid Waste Management Plan and the County Solid Waste Management Ordinance.

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6. Pursues illegal dumping incidents within the County and works with the Prosecutor's office on the prosecution of violators.
7. Coordinates the legal affairs of the department, includes working with outside counsel on matters of dispute or regarding contracts with with other governmental agencies and private sector organizations.
8. Manages all administrative activities of the department including departmental budget development and administration, monitoring revenues and managing expenditures. Prepares grant requests and manages grant funds.
9. Oversees and participates in the development of the data base for the department and programs.

OTHER FUNCTIONS

10. Reports to recycling collection sites to oversee and assist with collection activities.
11. Transports educational and other materials to various sites for meetings or presentations.

This list may not be inclusive of the total scope of job functions to be performed. Duties and responsibilities may be added, deleted or modified at any time.

Employment Qualifications

Education: Bachelor's degree in environmental management or waste management with coursework in management and administration. Prefer a Master's degree in public administration or environmental management.

Experience: Four years experience related to waste management with responsibility for program management and administration.

Other Requirements: Valid Michigan's driver's license.

The qualifications listed above are intended to represent the minimum skills and experience levels associated with performing the duties and responsibilities contained in this job description. The qualifications should not be viewed as expressing absolute employment or promotional standards, but as general guidelines that should be considered along with other job-related selection or promotional criteria.

Physical Requirements *[This job requires the ability to perform the essential functions contained in this description. These include, but are not limited to, the following requirements. Reasonable accommodations will be made for otherwise qualified*

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applicants unable to fulfill one or more of these requirements]:

Walking over uneven terrain, including dump sites and landfills.
Stooping and kneeling in order to investigate materials at dump sites and landfills.
Operating a passenger vehicle.

Working Conditions:

Majority of time spent in normal office conditions, however, monitoring and enforcement responsibilities require walking through dump sites and landfills in various weather conditions.

Exposure to various materials at landfills.

Exposure to strong odors at landfills.

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ASSISTANT WASTE MANAGEMENT COORDINATOR

General Summary

Under the supervision of the Waste Management Coordinator, develops and implements a comprehensive public relations and education program on waste management issues for the purpose of reducing the County's overall waste stream. Develops and implements programs such as workshops, classroom curriculum, demonstrations and special events. Provides support to Administrative Assistant on database system to track waste flow and recycling programs. Provides administrative support to the Waste Management Coordinator.

Essential Functions

1. Develops and implements the public relations program for the department, including delivering promotional messages to local media, public speaking engagements to governmental units, community and business groups and the general public, and participating in public events. Writes newspaper articles, publishes a waste education newsletter, produces brochures and other printed materials, develops and promotes seminars and workshops, and coordinates and supervises volunteer efforts relating to educational program's.
2. Develops and implements waste education programs within schools in the County. Develops teaching and program materials that teachers can implement themselves, and makes recommendations regarding existing environmental education materials. Presents programs in the classroom and/or sub-contracts with local environmental education organizations.
3. Provides support for collection and reporting of local waste flow data, including database development, data collection strategies and instruments.
4. Assists the Coordinator with various administrative activities such as preparing grant applications and reports, assembling data, and assisting in budget preparation and tracking expenditures.

Other Functions

5. Helps unload recyclable materials from vehicles and place in containers.
6. Transports educational and other materials to various sites for programs.
7. Coordinates and undertakes special collection programs for batteries and textbooks.

THIS LIST MAY NOT BE INCLUSIVE OF THE TOTAL SCOPE OF JOB FUNCTIONS TO BE PERFORMED. DUTIES AND RESPONSIBILITIES MAY BE ADDED, DELETED OR MODIFIED AT ANY TIME.

Employment Qualifications

Education: Bachelor's degree in public relations, marketing, resource development, communications or related field. Prefer coursework in environmental management, public relations and communications.

Experience: Three years of experience in a public relations and educational capacity, preferably related to environmental or waste management.

Other Requirements:

THE QUALIFICATIONS LISTED ABOVE ARE INTENDED TO REPRESENT THE MINIMUM SKILLS AND EXPERIENCE LEVELS ASSOCIATED WITH PERFORMING THE DUTIES AND RESPONSIBILITIES CONTAINED IN THIS JOB DESCRIPTION. THE QUALIFICATIONS SHOULD NOT BE VIEWED AS EXPRESSING ABSOLUTE EMPLOYMENT OR PROMOTIONAL STANDARDS, BUT A GENERAL GUIDELINES THAT SHOULD BE CONSIDERED ALONG WITH OTHER JOB RELATED SELECTION OR PROMOTIONAL CRITERIA.

Physical Requirements *THIS JOB REQUIRES THE ABILITY TO PERFORM THE ESSENTIAL FUNCTIONS CONTAINED IN THIS DESCRIPTION. THESE INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING REQUIREMENTS. REASONABLE ACCOMMODATIONS WILL BE MADE FOR OTHERWISE QUALIFIED APPLICANTS UNABLE TO FULFILL ONE OR MORE OF THESE REQUIREMENTS.*

Ability to supervise recycling sites operations.

Ability to enter and retrieve information from computer.

Ability to operate computer to maintain database, prepare spreadsheets, reports, and other documents.

Ability to travel to various sites to deliver programs.

Ability to access landfills for tours or monitoring purposes.

Ability to supervise and control large groups of children.

Ability to lift and move heavy objects in conjunction with special collection.

Working Conditions:

Majority of work in normal office conditions, however, supervising of recycling operations requires exposure to various weather conditions.

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ADMINISTRATIVE AIDE - DWM

General Summary

Under the supervision of the Waste Management Coordinator, provides clerical and administrative support to the DWM. Processes minutes, prepares for various departmental meetings, maintains resource and administrative files, assists with the maintenance of DWM data bases, issues licenses to haulers, processes vouchers, processes mailings, answers the telephone and provides basic waste management information to the public, and assists in the assembling of various reports.

Essential Functions

1. Works with the Waste management coordinator to establish the agenda for DIA meetings, Solid Waste Planning Committee meetings, special meetings, and other meetings. Attends all meetings to take notes and prepare minutes.
2. Verifies departmental revenues and expenditures. Tracks, codes, prepares invoices for approval. Verifies invoices and enters them in program areas of departmental data bases. Prepares reports as requested on fund balance, revenue, and expense status, by program, for each line item.
3. Maintains data bases on quantities of materials (waste and recyclables) handled in the county
4. Assists the Waste Management Coordinator and Assistant Waste management Coordinator with organization and maintenance of resource and administrative files.
5. Maintains and manages data base information on more than six thousand records.
6. Assists the Waste Management Coordinator and Assistant Waste management Coordinator with the development and implementation of large countywide events for the public. Completes special projects as assigned such as conducting surveys and compiling and arranging information.
7. Answers the telephone and responds to inquiries regarding basic waste management issues.
8. Performs paperwork and computer record maintenance required in issuing licenses to waste haulers and recycling service providers.
9. Processes mailings including numerous bulk mailings.
10. Assists with the compilation of various monthly and annual reports.

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11. Maintains the Department's news clippings file including screening materials for applicable articles/documents.
12. Performs various clerical tasks such as photocopying materials, filing, and so forth.

Other functions

13. Assists with organizing various events, including moving materials, tables, displays, and so forth.

This list may not be inclusive of the total scope of job functions to be performed. Duties and responsibilities may be added, deleted or modified at any time.

Employment Qualifications

Education: High school graduation or equivalent. Prefer advanced coursework in computer applications and accounting.

Experience: Some prior office experience including computer experience and experience processing expense vouchers in a spreadsheet environment.

Other Requirements: None.

The qualifications listed above are intended to represent the minimum skills and experience levels associated with performing the duties and responsibilities contained in this job description. The qualifications should not be viewed as expressing absolute employment or promotional standards, but as general guidelines that should be considered along with other job-related selection or promotional criteria.

Physical Requirements [This job requires the ability to perform the essential functions contained in this description. These include, but are not limited to, the following requirements. Reasonable accommodations will be made for otherwise qualified applicants unable to fulfill one or more of these requirements]:

Ability to enter and access information from a computer.
Ability to access office files.

Working Conditions:

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Works primarily in office conditions.