



**RAMSEY/WASHINGTON COUNTY  
RESOURCE RECOVERY PROJECT**

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**MEETING NOTICE  
RAMSEY/WASHINGTON COUNTY  
RESOURCE RECOVERY PROJECT BOARD**

**DATE:** September 25, 2014  
**TIME:** 9:00 a.m. to Noon  
**PLACE:** Note Location:  
Oakdale Discovery Nature Center  
4444 Hadley Avenue North  
Oakdale, MN

**AGENDA:**

- I. Call to Order and Introductions**
- II. Approval of Agenda**
- III. Approval of Minutes – July 24, 2014**
- IV. Project Management**
  - A. Report of Budget Activity Information
  - B. Project Fund Balance Policy Action
  - C. Update on Consultant Solicitations Information
- V. Non-Residential Organic Waste and Recycling**
  - A. Progress Report Information
  - B. Criteria for Business Association Grants Action
- VI. Policy Evaluation**
  - A. Presentations Information
    - i. Xcel Energy
    - ii. RRT
  - B. Evaluation Progress Report Information
  - C. Policy Recommendations
    - i. Waste Diversion Goal Action
    - ii. Market Development Action
- VII. Other Business**
  - A. Conferences and Tours Information
  - B. Staff Updates



**RAMSEY/WASHINGTON COUNTY  
RESOURCE RECOVERY PROJECT BOARD  
JULY 24, 2014  
MINUTES**

A meeting of the Ramsey/Washington County Resource Recovery Project was held at 9:00 a.m., July 24, 2014, at the Keller Golf Course Clubhouse in Maplewood, Minnesota.

**MEMBERS PRESENT**

Commissioners Toni Carter, Blake Huffman, Mary Jo McGuire (Alternate), Rafael Ortega, Victoria Reinhardt – Ramsey County  
Commissioners Ted Bearth, Autumn Lehrke, Fran Miron – Washington County

**MEMBERS ABSENT**

Commissioner Janice Rettman, Ramsey County  
Commissioner Lisa Weik, Washington County

**ALSO ATTENDING**

Joel Andersen, Kate Bartelt, Mary Elizabeth Berglund, Gary Bruns, Barry Fick, Chris Gondeck, Mike Hagen, Zack Hansen, Tom Hartwell, Judy Hunter, Kevin Johnson, Anna Kerr, Randy Kiser, Sue Kuss, Harry McPeak, Roel Ronken, Peder Sandhei, Norm Schiferl, Katie Shaw, Warren Shuros, Mark Stoltman, Jim Wollschlager, Joe Wozniak

Introductions were made.

**APPROVAL OF AGENDA**

Commissioner Carter moved, seconded by Commissioner Miron, to approve agenda.

Roll Call: Ayes – 6                      Nays – 0                      Motion Carried.

**APPROVAL OF THE APRIL 29, 2014 MINUTES**

Commissioner Bearth moved, seconded by Commissioner Lehrke, to approve the minutes.

Roll Call: Ayes – 6                      Nays – 0                      Motion Carried.

**PROGRAM MANAGEMENT**

**Report of Budget Activity**

Susan Kuss summarized the budget activity report. There were no questions.

**Budget Addendum for 2015**

Zack Hansen presented two changes to the approved 2015 Project Board Budget. One is a reallocation of funds within the general outreach program and the other one is allocating funds for policy evaluation work.

The approved budget for the outreach program is \$306,500. Staff is proposing:

- \$162,500 for general outreach
  - Maintain funding for Green Guides in each County
  - \$33,000 for video development for the BizRecycling website as well as residents on the prospective websites
  - School and group tours
- \$144,000 for new business grant program
  - Focus on business organizations that can create links to BizRecycling
  - Replaces separate County funding to SWMCB for Community Power business grants
  - If approved, specific outline and criteria will be presented in September
  - Washington County: \$48,000 | Ramsey County: \$96,000

Staff propose to modify the Community Power model that SWMCB has used:

- Continuous grants vs. grant rounds
- Lower administrative costs
- Absorb work with existing County Staff and not pay the administrative cost
- County Staff already doing a lot

If approved, staff will come back in September with a specific grant criteria and guidelines.

#### Policy Evaluation

- No funds budgeted
- Proposed: Up to \$850,000 from Project Fund Balance
  - Legal Services: \$400,000
  - Engineering Services: \$250,000
  - Financial Adviser: \$ 80,000
  - Communications: \$ 80,000
  - Other Services: \$ 40,000
- Actual work will depend on the Project Board decisions in 2015

Commissioner Huffman asked staff to draft a fund balance policy.

Commissioner Carter moved, seconded by Commissioner Bearth that the Ramsey/Washington County Resource Recovery Project Board approves and recommends that the Ramsey and Washington County Boards approve the addendum to the 2015 Resource Recovery Project Budget as recommended by the Resource Recovery Project Joint Staff Committee summarized as follows:

#### Expense Program Area: General Outreach

##### Change From:

421602 Advertising and Promotion: \$306,500

##### Change To:

421602 Advertising and Promotion: \$162,500

Funds used for general outreach, allocated for publication and distribution of a "green guide" in each County, development of videos for use on Resource Recovery tours, on the website and in other venues, and to assist schools and community groups with tours of the Facility and other solid waste venues; general outreach materials and promotional items.

421522 Other Professional Services \$144,000

Funds allocated to create a new grant program modeled after the Solid Waste Management Coordinating Board's Community Power program. This program will replace the individual County contributions made to the SWMCB for grants administered by that organization. The major focus of this program would be aimed at business organizations that can create outreach and links to BizRecycling.

#### Expense Program Area: Policy Evaluation

Change From: \$0

##### Change To:

421201 Legal Services \$400,000

Stoel Rives, LLC, the Project's legal adviser, will continue as the Project Board's legal adviser in 2015. In 2015 outside legal assistance will be needed for work on the continued examination of policy and legal issues. Stoel Rives, will be involved in work in all of the policy issues identified in the table (transaction issues, waste assurance, ownership, governance, planning and policy development and operations). Legal assistance related for financing and various agreements are expected as well. The Project will continue to contract with Stoel Rives, LLC.

421501 Engineering Services \$250,000

Foth Infrastructure and Environment, LLC will continue as the Project Board’s technical and engineering advisor in 2015. Foth will be involved in most of the issues identified in the table above, serving as the lead consultant in several. This includes further evaluation of technologies and integrating technologies into long –term plans, detailed examination of the Facility and assets as part of due diligence, assistance on waste assurance issues, work on preparing estimated operating costs, capital analysis, scope of operations, and evaluation of various agreements.

421501 Consulting Services  
 Financial Services \$80,000  
 Springsted, Inc. will continue to serve as the Project Board’s financial adviser in 2015. Springsted will be involved in most of the issue areas identified above, particularly issues associated with ownership and financing, but also operations and waste assurance. In particular is work on Facility financing, operating costs and financing, and capital analyses, and assistance on cost projections.

421501 Consulting Services  
 Communications Consultant \$80,000  
 As the Project examines alternatives to processing or possible purchase of the facility, it will be important to communicate with waste haulers, municipalities and the public. The Project will be procuring services for strategic communications in 2014, and the services would be used in 2015 as Project decisions are implemented.

421601 Other Services \$40,000  
 In the event other services are needed during the policy evaluation, funds are included in this line item as a contingency.

Roll Call: Ayes: 6 Nays: 0 Motion Carried.

Commissioner Ortega arrived.

**Solicitation for Communications Consultant**

Zack Hansen said the purpose of this RFP is to solicit proposals for strategic communications consulting services to assist in the development and implementation of a strategic communications plan. The Project seeks assistance in developing effective communication strategies about the future of waste processing, evaluation processes, key findings and key decisions and impacts based on the decision. A strategic waste processing communications plan will provide the tools for the Project Board to communicate to a wide variety of stakeholders and media. The plan will assist in raising awareness and understanding of the Counties efforts, build support, and educate decision makers on current and future needs.

The solicitation would result in an agreement with a consultant for a one-year term in 2015, in an amount not to exceed \$80,000 with the possibility of two one-year renewals.

Commissioner Ortega moved, seconded by Commissioner Bearth that the Project Board authorizes the Executive Committee to confirm the selection of the vendor and approve the negotiated agreement, upon approval as to form by the County Attorney.

Roll Call: Ayes: 7 Nays: 0 Motion Carried.

**Solicitation for CEC Audit Firm**

Zack Hansen said the purpose of this RFP is to solicit proposals for County Environmental Charge Audit Services. The purpose of the review is to determine if entities are assessing, billing, collecting and/or remitting the CEC or performing related operations in compliance with county ordinances. The successful proposer will perform between 30 – 40 audits during each year of the agreement.

The solicitation would result in an agreement with a consultant for a one-year term in 2015 in an amount not to exceed \$100,000 with the possibility of four one-year renewals.

Commissioner Miron moved, seconded by Commissioner Bearth that the Project Board authorizes the Executive Committee to confirm the selection of the vendor and approve the negotiated agreement, upon approval as to form by the County Attorney.

Roll Call:           Ayes: 7           Nays: 0           Motion Carried.

## **NON—RESIDENTIAL ORGANIC WASTE AND RECYCLING**

### **Progress Report**

Kate Bartelt updated the Project Board on the BizRecycling Program. On April 8, 2014, BizRecycling soft launched its Starter & Container Grant Program and hard launched on June 1, 2014. There were 5 grants in the soft launch. Since that date, there are 23 grants. 9 have been issued in Ramsey County and 12 in Washington County.

There are two types of grants that are available. Applications will be accepted and evaluated throughout the year on a first come-first serve basis and cannot exceed \$10,000.

- Starter Grants – financial awards to businesses for equipment, supplies, or educational materials to help reduce waste or initiate or improve the collection of recyclables, food waste or source separated organics.
- Container Grants – recycling, food waste and source separated organics collection containers from the BizRecycling container catalog.

The Organics Collection Rewards Program can assist businesses by providing financial incentives for starting or enhancing an organics collection programs. Payments to a business for either reward program may not exceed \$5,000.

Project Staff and the technical consultants that support this program, Waste Wise and JL Taitt & Associates will continue in 2014 to promote the BizRecycling program through presentations with business associations; advertising & public relations; outreach with cities and project partners. The team is anticipating many additional grants being submitted in the following months. An update on progress will be provided at the September Board meeting.

## **POLICY EVALUATION**

### **Progress Report**

Zack Hansen said the policy evaluation has been framed around two key questions. The first related to technology and the second to public sector.

1. How should processing of MSW be integrated into the solid waste system in the East Metro area?
2. What should be the role of the Counties with regard to integrating processing into the solid waste system?

The Project Board approved the following Guiding Principles in April 2014 as the Project Board continues to frame the future role of waste processing in the Counties:

1. Plan for a 20-30 year horizon
2. Build on the current system and allow changes in processing to emerge over time
3. Assure flexibility
4. Manage risks
5. Pivot the view from waste to resources to add value to the local economy and environment

The current approach:

- On-going technology work
  - Waste composition analysis
  - Examine 75% recycling goal
  - Issued Request for Expression of Interest on gasification technology
  - Examine Sanimax/Sanigreen facility & technology
  - Arranging tours

Zack Hansen introduced Warren Shuros, Foth, to talk about the Waste Sort.

Warren Shuros stated that the Waste Sort purpose was to:

- develop separate composition data for residential vs. commercial wastes
- the focus was on Ramsey and Washington Counties only
- get current data for planning purposes

The preliminary results:

- breakdown split by sector
  - 55% commercial
  - 45% residential
- food waste composition over 20% in both residential and commercial
- organics content high overall
- typical recyclables relatively low percentage
- composition differences between commercial and residential were lower than expected

The data usage:

- demonstrates how and when to focus on using source separated collection and mixed waste processing
- can't reach 75% recycling goal via standard recyclables
- provide valuable information to state and local officials

How to achieve a 75% recycling goal by 2030

- level of effort required for source separation programs
- role of source separation and mixed waste processing

Zack Hansen said that how we are going to meet the 75% recycling goal is to move into organics.

- Commercial - very active source separated programs
  - Food to hogs
  - Collection of organics for composting
  - Food for people through Second Harvest
- Residential
  - Ramsey County is providing organics collection at the Yard Waste sites
  - Cities are looking into organics curbside collection

### **Presentation on Randy's Sanitation**

Jim Wollschlager presented to the Project Board their new company called Organix Solutions which is a wholly owned subsidiary of Randy's Environmental Services. They will carry the vision for recycling, the advanced processing of MSW and the blue bags organics program into the future. That vision includes the manufacturing of blue bags in its current home in Maple Grove, MN and the launching of their new green bag organix programs for those areas that require the color green for their curbside programs. The first bags will be launched in September.

### **OTHER BUSINESS**

#### **Staff Updates**

Staff invited the Project Board to meet with Public Officials and attend a tour of Enerkem in Edmonton, Canada on September 29-30. The Project Board was also invited to attend the REW Conference in San Jose, CA on November 17-20.

### **ADJOURNMENT**

Chair Reinhardt adjourned the meeting.

Approved:

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Commissioner Victoria Reinhardt, Chair



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

Project Board Meeting Date: <u>9/25/14</u>	AGENDA ITEM: <u>IV.A</u>
SUBJECT: <u>Report of Budget Activity</u>	
TYPE OF ITEM: <input checked="" type="checkbox"/> Information <input type="checkbox"/> Policy Discussion <input type="checkbox"/> Action	
Submitted By: <u>Joint Staff Committee</u>	

**PROJECT BOARD ACTION REQUESTED:** For information only.

**EXECUTIVE SUMMARY:**

The Joint Staff Committee reports on a regular basis to the Resource Recovery Project Board on budget status for the Project. Attached is a report on 2014 Project revenue and expenditures.



**ATTACHMENTS:**

- 1. 2014 Resource Recovery Project Budget and Actual Expenditures

**SUBJECT: Report of Budget Activity**

**FINANCIAL IMPLICATIONS: None**

**AUTHORIZED SIGNATURES**

<b>Joint Staff Committee</b>	<b>Date</b>
	9/15/2014
<b>Ramsey County Attorney</b>	<b>Date</b>
<b>Washington County Attorney</b>	<b>Date</b>
<b>Ramsey County Department of Finance</b>	<b>Date</b>
	9/11/14
<b>Other</b>	<b>Date</b>



## RESOURCE RECOVERY PROJECT 2014 BUDGET & YTD ACTUALS

### PROGRAM: PROJECT MANAGEMENT

This Program includes expenditures associated with managing the Resource Recovery Project and the Processing Agreement with RRT.

	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
421102 State Auditor	5,200	5,246
421208 County Attorney Services	45,000	14,189
421501 Consulting Services (Superior Consulting)	1,500	-
421502 Engineering Services	35,000	6,661
421511 County Project Management Services	255,296	25,874
423309 Records Storage/Retrieval Fee	500	89
424107 Liability & Property Damage	14,000	17,182
424302 Membership & Dues	750	1,050
424303 Conference & Seminar	-	3,387
424304 Other Travel	10,000	1,961
424306 Meeting Expenses Account	300	1,365
424601 Other Services (Olson -Thielen)	110,000	-
<b>TOTAL PROJECT MANAGEMENT EXPENDITURES</b>	<b>477,546</b>	<b>77,004</b>

### PROGRAM: ORGANIC WASTE MANAGEMENT

This program includes funding for the variety of activities that the Project initiated in 2011, following a year-long policy evaluation of organic waste management. The work includes education, consultation and technical assistance; evaluation and recommendations to address collection efficiencies; evaluation of a starter-grants program; and funding for food rescue.

	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
421501 Consulting Services	390,000	153,476
421201 Legal Services (BizRecycling Trademark)	500	243
421502 Engineering Services	15,000	8,373
421602 Advertising & Promotion	100,000	-
424601 Other Services	-	-
425102 Organic Waste Management (Second Harvest Heartland/starter grants)	540,000	124,429
<b>TOTAL ORGANIC WASTE MANAGEMENT EXPENDITURES</b>	<b>1,045,500</b>	<b>286,521</b>

### PROGRAM: GENERAL OUTREACH

This program includes outreach and education activities targeted at waste generators in the two Counties.

	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
421602 Advertising & Promotion	306,500	84,052
<b>TOTAL GENERAL OUTREACH EXPENDITURES</b>	<b>306,500</b>	<b>84,052</b>

## RESOURCE RECOVERY PROJECT 2014 BUDGET & YTD ACTUALS

### PROGRAM: POLICY EVALUATION

This program is the result of the policies discussions and development of the 2013-2015 Processing Agreement. There are three main categories of work: Evaluation of processing alternatives, establishing a purchase price for the Facility, and evaluation of the future of processing, including purchase of the Facility.

	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
421201 Legal Services	354,500	157,618
421225 Administrative Hearing Fees	-	8,040
421501 Consulting Services (Springsted)	70,000	16,396
421501 Communications Consultant	25,000	-
421502 Engineering Services	315,000	182,125
424601 Other Services	40,000	-
<b>TOTAL POLICY EVALUATION EXPENDITURES</b>	<b>804,500</b>	<b>364,179</b>

### PROGRAM: RESOURCE RECOVERY

This program provides funding for hauler rebates. Prior year rebates paid in the current year are reflected in 424601

	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
424601 Other Services - Prior year Hauler Rebates	-	-
424623 Rebates - Resource Recovery Tipping Fees	8,400,000	5,204,115
<b>TOTAL RESOURCE RECOVERY EXPENDITURES</b>	<b>8,400,000</b>	<b>5,204,115</b>

### EXPENDITURE SUMMARY

<u>TITLE OF PROGRAM</u>	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
Project Management	477,546	77,004
Organic Waste Management	1,045,500	286,521
General Outreach	306,500	84,052
Policy Evaluation	804,500	364,179
Resource Recovery	8,400,000	5,204,115
<b>TOTAL PROJECT BOARD BUDGET:</b>	<b>11,034,046</b>	<b>6,015,871</b>

### REVENUE SUMMARY

	<u>2014 Budget</u>	<u>2014 Actuals to Date</u>
314103 Other Participation (Washington County)	2,783,492	839,034
319110 Ramsey County Participation	7,440,554	2,268,501
318102 Interest on Investments	5,000	585
319105 Insurance Dividends	-	-
Resource Recovery Project Board Fund Balance	805,000	364,179
<b>TOTAL REVENUE:</b>	<b>11,034,046</b>	<b>3,472,298</b>

2014 actuals as of 09/10/2014



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>Project Board Meeting Date: <u>9/25/2014</u></b>	<b>AGENDA ITEM: <u>IV.B.</u></b>
<b>SUBJECT: <u>Proposed Resource Recovery Project Fund Balance Policy</u></b>	
<b>TYPE OF ITEM: <input type="checkbox"/> Information    <input type="checkbox"/> Policy Discussion    <input checked="" type="checkbox"/> Action</b>	
<b>Submitted By: Joint Staff Committee</b>	

**PROJECT BOARD ACTION REQUESTED:**

1. Establish a fund balance standard of a minimum of two months of the subsequent year's expenditures for cash flow purposes, and
2. Direct staff for the Project to evaluate the level of fund balance annually and assess the Counties their share of any projected shortfall.

**EXECUTIVE SUMMARY:**

At its July 24, 2014 meeting, the Project Board asked for discussion of the Project's fund balance and its sufficiency. Both Ramsey and Washington Counties have adopted fund balance policies but to date, the Project has not adopted a policy of its own that meets its unique needs.

The attached memo provides a history of the Project's fund balance and recommends a fund balance equal to at least two months of the subsequent year's budget.

**SUBJECT:** *Proposed Resource Recovery Project Fund Balance Policy*


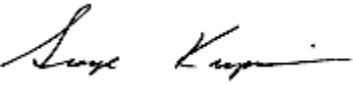

**Attachments:**

1. Memo dated September 18, 2014 from the Joint Staff Committee
2. Ramsey County Fund Balance Policy, Effective May 1, 2014
3. Washington County Fund Balances, Revised December 8, 2011
4. Resolution

**FINANCIAL IMPLICATIONS:**

The Project's current fund balance meets the proposed fund balance standard. Annually, Project staff will measure whether the standard will be met in the upcoming budget year and assess the Counties if found to be deficient.

**AUTHORIZED SIGNATURES**

<b>Joint Staff Committee</b>	<b>Date</b>
	9/16/14
<b>Ramsey County Attorney</b>	<b>Date</b>
<b>Washington County Attorney</b>	<b>Date</b>
	9/16/14
<b>Ramsey County Department of Finance</b>	<b>Date</b>
	9/16/14
<b>Other</b>	<b>Date</b>

**September 18, 2014**

**To: Resource Recovery Project Board**

**From: Joint Staff Committee**

**Re: Proposed Fund Balance Policy**

**Background:**

At the July 24, 2014 Resource Recovery Project Board meeting, commissioners asked that staff draft a fund balance policy for the Resource Recovery Project. The issue was raised during a discussion of the 2015 budget addenda that proposed using \$850,000 in Project fund balance to pay for policy evaluation work in technology, ownership, governance, financing, and waste assurance related to the future of waste processing in the two counties. The budget addendum was adopted by the Project Board.

**Discussion**

Both Ramsey County and Washington County have adopted fund balance policies recognizing that maintenance of a fund balance preserves financial integrity by maintaining cash flow and providing resources for unanticipated expenditures or revenue shortfalls. The Counties' policies are based on the Governmental Accounting Standards Board (GASB), Minnesota Office of the State Auditor (OSA) guidelines, and rating agency criteria for governments that rely significantly on property tax payments that occur twice a year.

The Project Board's fund balance, according to GASB definition, is categorized as "unrestricted." This category includes fund balance categorized as committed, assigned, and unassigned. The unrestricted fund balance is the amount of fund balance that a local government (in this case the Project Board) can place constraints on its use.

The Project's fund balance is the result of converting a \$27.7 million variable rate revenue bond issued by the Counties in 1984 and backed by Northern States Power. When interest rates dropped in 1987, the Counties converted the bonds from a variable to a fixed rate. The original issue exceeded the cost of the facility and the excess funds were to be used to make improvements to the facility, with the Counties' permission. Funds not used for improvements returned to the Counties for any future eligible costs related to Resource Recovery and other solid waste facilities. Also contributing to the fund balance was the now defunct practice of the Counties remitting to the Project their proportion of the Project Budget, regardless of how much was actually spent.

Below is a table that shows the audited Project fund balance for fiscal years 2009-2013. Included in the table is a projection of the ending fund balance as of 12/31/2014 and 12/31/2015 based on the approved uses of fund balance.

<b>Resource Recovery Fund Balance History</b>						
<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	2014 <u>Projected</u>	2015 <u>Projected</u>
\$6,032,842	\$5,918,389	\$5,545,936	\$5,776,210	\$5,473,931	\$4,668,931	\$3,818,931

The Resource Recovery Project is unique among funds in that its expenditures drive its revenue. Over 99% of that revenue is derived from the two Counties. The Counties are invoiced for their share of actual costs of the Project. If expenditures are higher than expected, the Counties will be billed the higher amount, pay the invoice, and revenue in the fund will be replenished within 45 days. This mitigates the need to maintain a fund balance to protect against unanticipated expenditures.

The need to provide adequate revenue for cashflow, however, remains. Ramsey County’s Fund Balance policy dictates that no less than two months of the subsequent year’s budget be maintained for unassigned General Fund Balance. If this standard were applied to Resource Recovery, fund balance would equal \$1,847,046. Because of the predictable nature of Project revenues and the short timeframe to receive these revenues, staff recommends two months of subsequent year’s budget be adopted as a minimum fund balance level.

Related to this is Minn. Statute Section 473.811, Subd.9, restricts the use of funds collected for waste management purposes. The Resource Recovery Fund Balance, therefore, can only be used for specific waste management purposes.


A copy of each jurisdiction’s fund balance policy is attached. However, both counties have additional requirements for fund balance that don’t pertain to the Resource Recovery Project.

**Recommendation**

Staff recommends that the Resource Recovery Project Board adopt a minimum fund balance policy of two months of the subsequent year’s budget. At this time, that amount would be \$1,847,046. This amount will be measured on December 31 of each year. If the fund is deficient on that date, both Counties will be invoiced a special assessment for fund balance per their respective share of the Project. Any funds in excess of two months of the subsequent year’s budget will remain in the fund balance pending a decision by the Project Board on the future of processing.

**Attachments:**

- Ramsey County Fund Balance Policy, Effective May 1, 2014
- Washington County Fund Balances, Revised December 8, 2011

	<b>RAMSEY COUNTY</b> Administrative Policy <b>Finance</b> <b>Department</b>	Policy Number: 2.7.4 Effective Date: May 1, 2014
Chapter #: 2  Section #: 7	<b>Fund Balance Policy</b>	

**POLICY STATEMENT** The Ramsey County Board recognizes that the maintenance of a fund balance is essential to the preservation of the financial integrity of Ramsey County and is fiscally advantageous for both the County and the taxpayer. This policy establishes goals and provides guidance concerning the desired level of fund balance maintained by the County to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and similar circumstances.

**APPLICABILITY**

**GENERAL INFORMATION**

The Ramsey County Board has created the following fund balance policy:

- Maintain an unrestricted General Fund Balance of no more than 50% of current year revenues, current year expenditures, or the subsequent year's operating budget
- Maintain an unassigned General Fund Balance of no less than two months of the subsequent year's budget.
- Commit and transfer any unrestricted General Fund Balance in excess of the 50% threshold to the Capital Projects Fund.
- Require the commitment and transfer the Capital Projects Fund to take place during the development of the current year Comprehensive Annual Financial Report

**AUTHORITY**

County Board Resolution 2013-318

**DEFINITIONS**

*General Fund* – Consists of the financial transaction of the County Revenue Fund, the Community Human Services Fund, and the Self Insurance Funds.

*Nonspendable Fund Balance\** – Consists of amounts that are not in spendable form, such as prepaid items.

*Restricted Fund Balance\** – Consists of amounts related to externally imposed constraints established by creditors, grantors or contributors; or constraints imposed by state statutory provisions.

*Unrestricted General Fund Balance\** – The total of Committed Fund Balance, Assigned Fund Balance, and Unassigned Fund Balance.

*Committed Fund Balance\** – Amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority.

*Assigned Fund Balance\** – Amounts intended to be used by the government for specific purposes.

*Unassigned General Fund Balance\** – The residual classification for the general fund and includes all amounts not contained in the other classifications. Unassigned amounts are available for any purpose

*\*In accordance with GASB 54*

## **RESPONSIBILITIES**

The Ramsey County Finance Department is responsible for making the fund balance calculations during the preparation of the Financial Statements

## **PROCEDURES**

Upon completion of the General Fund Financial Statement for any given year staff will calculate the 50% of the given year’s general fund revenue, 50% of the given year’s expenditures, and 50% of subsequent year’s budget. If the amount of unrestricted fund balance exceeds any one of those amounts, a transfer of the excess will be made to the Capital Projects Fund. That transfer will be recorded in the given year’s financial statement so that the remaining unrestricted fund balance is below the amounts stipulated. If the amount in unassigned either before or after the transfer is below 2 months of the subsequent years budget the transfer is to be made from the amount assigned for Community Human Services

## **LINKS AND RESOURCES**

- Revised Fund Balance Policy RBA – Attachment A
- Minnesota State Auditor – Statement of Position, Fund Balances for Local Governments - Attachment B
- Government Finance Officers Association – Appropriate Level of Unrestricted Fund Balance in the General Fund – Attachment C

## **CONTACTS/SUBJECT MATTER EXPERTS**

Finance Department Financial Reporting Manager



## REVISION HISTORY

Date	Brief Description of Change
5/1/2014	Creation of Policy

### APPROVAL:



Lee Mehrkens, CFO  
Director, Ramsey County Finance Department  
May 1, 2014

Attachment A

Resolution

Board of

Ramsey County Commissioners

Presented By: Commissioner Rettman Date: November 26, 2013 No. 2013-318

Attention: Finance

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WHEREAS, On December 16, 1997, per Resolution 1997-531, the Ramsey County Board of Commissioners established a fund balance policy to maintain Undesignated Fund Balance at 7.5% of the General Fund operating budget; and

WHEREAS, The policy pertained to the General Fund; and

WHEREAS, In Ramsey County the General Fund includes both the General Revenue Fund and the Community Human Services Fund; and

WHEREAS, In February 2009, the Governmental Accounting Standards Board (GASB) issued GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, which is effective for fiscal periods that begin after June 15, 2010. This accounting standard creates new classifications for fund balance based on a new focus on the constraints placed on the use of current fund balance and also redefines governmental fund type definitions; and

WHEREAS, The Minnesota State Auditor recommends that local governments that rely significantly on property taxes maintain an unrestricted fund balance of approximately 35 to 50 percent of fund operating revenues or no less than five months of operating expenditures in their General Fund; and

WHEREAS, The Government Finance Officers Association (GFOA) recommends that governments maintain an unassigned fund balance equal to at least two months of its General Fund operating revenues or expenditures; and

WHEREAS, Prior to the changes implemented by GASB the Community Human Services Fund balance was included in the Designated for Cash Flow and the Undesignated portion of the General Fund Balance; and

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Jim McDonough	X		
Mary Jo McGuire	X		
Victoria Reinhardt	X		
Janice Rettman	X		
Rafael Ortega	X		

Rafael Ortega, Chair

By:  \_\_\_\_\_  
Bonnie C. Jackelen  
Chief Clerk - County Board

# Resolution

Board of

## *Ramsey County Commissioners*

Presented By: Commissioner Rettman Date: November 26, 2013 No. 2013-318

Attention: Finance

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WHEREAS, In the new definitions of fund balance, the Fund Balance in the Community Human Service is now reported as a separate assignment and the Designated for Cash Flow and Undesignated Fund Balance are now reported as Unassigned Fund Balance; and

WHEREAS, The assignment for Human Services continues to be available for use for other County needs; and

WHEREAS, The Ramsey County Board desires to establish a new General Fund Balance Policy that is consistent with the recommendations of the GFOA and Minnesota State Auditor, and that conforms to the GASB updated standards and terminology; and

WHEREAS, The Ramsey County Board desires any unrestricted General Fund balance in excess of the 50% threshold to be transferred to the Capital Projects Fund in order to reduce bonding required for capital projects and to reduce associated interest costs; Now, Therefore, Be It

RESOLVED, The Ramsey County Board of Commissioners hereby approves the following fund balance policy:

- *Maintain an unrestricted General Fund Balance of no more than 50% of current year revenues, current year expenditures, or the subsequent year's operating budget;*
- *Maintain an unassigned General Fund Balance of no less than two months of the subsequent year's budget;*
- *Commit and transfer any unrestricted General Fund Balance in excess of the 50% threshold to the Capital Projects Fund;*

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Jim McDonough	X		
Mary Jo McGuire	X		
Victoria Reinhardt	X		
Janice Rettman	X		
Rafael Ortega	X		

Rafael Ortega, Chair

By: 

Bonnie C. Jackelen  
Chief Clerk – County Board

**Resolution**  
Board of  
***Ramsey County Commissioners***

Presented By: Commissioner Rettman Date: November 26, 2013 No. 2013-318

Attention: Finance

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- *Require the commitment and transfer to the Capital Projects Fund to take place during the development of the current year Comprehensive Annual Financial Report;*

and Be It Further

RESOLVED, The Board directs that the above policy supersedes Resolution 1997-531.

Ramsey County Board of Commissioners

	YEA	NAY	OTHER
Toni Carter	X		
Blake Huffman	X		
Jim McDonough	X		
Mary Jo McGuire	X		
Victoria Reinhardt	X		
Janice Rettman	X		
Rafael Ortega	X		

Rafael Ortega, Chair

By:   
Bonnie C. Jackelen  
Chief Clerk – County Board

Attachment B



REQUEST FOR RAMSEY COUNTY BOARD ACTION

10.1

Type of Agenda: [ ] Policy [ ] Consent [ ] Public Hearing
[X] Administrative [ ] Information [ ] Ordinance

Requesting Department: Finance/County Manager

Committee:
Committee:

Meeting Date:
Meeting Date:

County-Wide Ramifications [X]
or
Affected Commissioner District(s) #:

Board Meeting Date: 11/26/2013
Board Meeting Date:

SUBJECT: Revised General Fund Balance Policy

EXECUTIVE SUMMARY

On December 16, 1997, per Resolution 1997-531, the Ramsey County Board of Commissioners established a fund balance policy to maintain undesignated fund balance at 7.5% of the General Fund operating budget. In addition, the County would designate funds needed to provide working capital (cash flow) to fund County operations until property taxes are collected.

In February 2009, the Governmental Accounting Standards Board (GASB) issued GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, which is effective for fiscal periods that begin after June 15, 2010. This accounting standard creates new classifications for fund balance that focus on the constraints placed on the use of current fund balance and also redefines governmental fund type definitions.

As a result of changes brought about by GASB Statement No. 54, the terminology used in the County's fund balance policy no longer applies as the undesignated category has been eliminated. In addition, designating funds for working capital is not recognized as a constraint under GASB 54.

(The Executive Summary is continued on the following page.)

ACTION REQUESTED

- 1. Approve a new fund balance policy for the General Fund as provided in the attached Draft Resolution.
2. Direct that the new fund balance policy supersedes Resolution 1997-531.

May 2014

## **EXECUTIVE SUMMARY, Continued**

The Minnesota State Auditor and the Government Finance Officers Association (GFOA) both recommend that governments establish fund balance policies and provide suggested language.

The Minnesota State Auditor recommends that “local governments that rely significantly on property taxes maintain an unrestricted fund balance of approximately 35 to 50 percent of fund operating revenues or no less than five months of operating expenditures in their general fund...”

The GFOA recommends “... at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures ... Furthermore, governments may deem it appropriate to exclude from consideration resources that have been committed or assigned to some other purpose and focus on unassigned fund balance rather than on unrestricted fund balance.”

Therefore, a revised fund balance policy for the General Fund, consistent with the recommendations of the GFOA and the Minnesota State Auditor, is needed to conform to the GASB’s updated standards and terminology.

At its August 14, 2012 budget hearing, the County Board received the financial report, "*Ramsey County Budget and Financial Overview*," and discussed the need for a new General Fund balance policy.

The revised fund balance policy would maintain an unrestricted General Fund balance of no more than 50% of current year revenues, current year expenditures, or the subsequent year's operating budget, while maintaining an unassigned fund balance of no less than two months of the subsequent year's budget. Any unrestricted General Fund balance in excess of the 50% threshold would be transferred to the Capital Projects Fund.

The size of Ramsey County's unrestricted fund balance in the General Fund has increased annually since 2007. In 2012, the County’s unrestricted General Fund balance was 49.99% of current year expenditures. If this trend continues, a transfer of funds may occur as early as at the end of 2013 when the 2013 Comprehensive Annual Financial Report is prepared. Any transfers of fund balance to the Capital Projects Fund would be used to offset the cost of capital projects authorized in the County's Capital Improvement Plan and Capital Improvement Budget, or as otherwise approved by Board resolution. This would reduce the amount of bonding required for capital projects and also reduce associated interest expenses.

***SUBJECT: Revised General Fund Balance Policy***

**ATTACHMENTS:**

1. Minnesota State Auditor - Statement of Position, Fund Balances for Local Governments
2. Government Finance Officers Association - Appropriate Level of Unrestricted Fund Balance in the General Fund

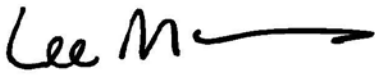
**PREVIOUS ACTION:**

December 16, 1997 - Budget Resolution 1997-531 established a fund balance policy for the General Fund  
August 14, 2012 - Budget Hearing discussion on General Fund balance


**COUNTY MANAGER COMMENTS:**

A revised fund balance policy for the General Fund is needed to conform with current fund balance classifications of the Governmental Accounting Standards Board and to maintain adequate fund balance in accordance with the recommendations of the Minnesota State Auditor and the Government Finance Officers Association. Adoption of the policy and any potential transfer of fund balances to the Capital Projects Fund will reduce the amount of bonding required for approved capital projects and also reduce associated interest expenses.

**SUBJECT:** Revised General Fund Balance Policy

Originating Department Request – Authorized Signature	Date
Lee M. 	11/18/2013

Finance – Authorized Signature	Date

County Attorney – Authorized Signature	Date
	11-19-2013

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date



**DRAFT RESOLUTION**

**WHEREAS, On December 16, 1997, per Resolution 1997-531, the Ramsey County Board of Commissioners established a fund balance policy to maintain Undesignated Fund Balance at 7.5% of the General Fund operating budget; and**

**WHEREAS, The policy pertained to the General Fund; and**

**WHEREAS, In Ramsey County the General Fund includes both the General Revenue Fund and the Community Human Services Fund; and**

**WHEREAS, In February 2009, the Governmental Accounting Standards Board (GASB) issued GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which is effective for fiscal periods that begin after June 15, 2010. This accounting standard creates new classifications for fund balance based on a new focus on the constraints placed on the use of current fund balance and also redefines governmental fund type definitions; and**

**WHEREAS, The Minnesota State Auditor recommends that local governments that rely significantly on property taxes maintain an unrestricted fund balance of approximately 35 to 50 percent of fund operating revenues or no less than five months of operating expenditures in their General Fund; and**

**WHEREAS, The Government Finance Officers Association (GFOA) recommends that governments maintain an unassigned fund balance equal to at least two months of its General Fund operating revenues or expenditures; and**

**WHEREAS, Prior to the changes implemented by GASB the Community Human Services Fund balance was included in the Designated for Cash Flow and the Undesignated portion of the General Fund Balance; and**

**WHEREAS, In the new definitions of fund balance, the Fund Balance in the Community Human Service is now reported as a separate assignment and the Designated for Cash Flow and Undesignated Fund Balance are now reported as Unassigned Fund Balance; and**

**WHEREAS, The assignment for Human Services continues to be available for use for other County needs; and**

**WHEREAS, The Ramsey County Board desires to establish a new General Fund Balance Policy that is consistent with the recommendations of the GFOA and Minnesota State Auditor, and that conforms to the GASB updated standards and terminology; and**

**WHEREAS, The Ramsey County Board desires any unrestricted General Fund balance in excess of the 50% threshold to be transferred to the Capital Projects Fund in order to reduce bonding required for capital projects and to reduce associated interest costs; Now, Therefore, Be It**

**RESOLVED, The Ramsey County Board of Commissioners hereby approves the following fund balance policy:**

- 53       • *Maintain an unrestricted General Fund Balance of no more than 50% of current*  
54       *year revenues, current year expenditures, or the subsequent year's operating*  
55       *budget;*  
56  
57       • *Maintain an unassigned General Fund Balance of no less than two months of the*  
58       *subsequent year's budget;*  
59  
60       • *Commit and transfer any unrestricted General Fund Balance in excess of the*  
61       *50% threshold to the Capital Projects Fund;*  
62  
63       • *Require the commitment and transfer to the Capital Projects Fund to take place*  
64       *during the development of the current year Comprehensive Annual Financial*  
65       *Report;*  
66

67  
68 **and Be It Further**

69  
70       **RESOLVED, The Board directs that the above policy supersedes Resolution**  
71 **1997-531.**  
72



REBECCA OTTO  
STATE AUDITOR

**STATE OF MINNESOTA**  
**OFFICE OF THE STATE AUDITOR**

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1-800-627-3529 (Relay Service)

**Statement of Position**  
**Fund Balances for Local Governments**  
**Based on GASB Statement No. 54**

**Background**

Governmental Accounting Standards Board's (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, defines the classifications of fund balance based on the focus of the constraints placed on the use of current fund balance. The Statement also identifies the governmental fund type definitions. This Statement of Position addresses only the fund balance classifications and reporting.

The requirements of GASB 54 are applicable to all local governments. Implementation was required for the first fiscal year ended June 30, 2011. However, most Minnesota local governments report on a calendar year. For those reporting on a calendar year, the first required year for implementation was the year ended December 31, 2011.

In governmental funds,<sup>1</sup> local government should identify fund balance separately based on a hierarchy of the constraints placed on the use of the financial resources within governmental funds. A local government will classify its fund balances into one of up to 5 classifications: nonspendable, restricted, committed, assigned, and unassigned. While some of the GASB 54 classifications are similar in nature to the classifications under pre-GASB Statement No. 54, the focus is different, and thus, what is classified into these classifications may be different.

**Fund Balance Classifications/Definitions for Governmental Funds**

The fund balances of a local government's governmental funds should be reported in the new classifications based on the definitions in the following table:

<sup>1</sup> Governmental fund reporting focuses primarily on the sources, uses, and balances of current financial resources and often has a budgetary orientation. The governmental fund category includes the general fund, special revenue funds, capital projects funds, debt service funds, and permanent funds. Codification of Governmental Accounting and Financial Reporting Standards § 1300.102.

Reviewed: July 2012  
Revised: July 2012

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This Statement of Position is not legal advice and is subject to revision.

An Equal Opportunity Employer

<b>Fund Balance Reporting</b>			
<b>Classification</b>	<b>Definition</b>	<b>Examples</b>	
<b>Nonspendable</b>	“Amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact.” <sup>2</sup>	<ul style="list-style-type: none"> <li>• Inventories,</li> <li>• Prepaid items,</li> <li>• Long-term receivables in the general fund, and</li> <li>• Permanent principal of endowment funds.</li> </ul>	
<b>Restricted</b>	“Fund balance should be reported as restricted when constraints placed on the use of resources are either: <ol style="list-style-type: none"> <li>Externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or</li> <li>Imposed by law through constitutional provisions or enabling legislation.”<sup>3</sup></li> </ol>	<ul style="list-style-type: none"> <li>• Restricted by state statute,</li> <li>• Unspent bond proceeds,</li> <li>• Grants earned but not spent,</li> <li>• Debt covenants,</li> <li>• Taxes dedicated to a specific purpose, and</li> <li>• Revenues restricted by enabling legislation.</li> </ul>	
<b>Unrestricted</b>	<b>Committed</b>	“Used for specific purposes pursuant to constraints imposed by formal action of the government’s highest level of decision-making authority.” <sup>4</sup>	<ul style="list-style-type: none"> <li>• The governing board has decided to set aside \$1M for a new city hall.</li> <li>• Property tax levies set for a specific purpose by resolution.</li> </ul>
	<b>Assigned</b>	“Amounts that are constrained by the government’s intent to be used for specific purposes, but are neither restricted nor committed.” <sup>5</sup>	<ul style="list-style-type: none"> <li>• Governing board has set aside \$2 million for a county hospital and the county manager may amend this up to \$100,000.</li> <li>• Governing body delegates the authority to assign fund balance to the finance officer.</li> <li>• Governing board has appropriated fund balance often to balance next year’s budget.<sup>6</sup></li> <li>• Positive residual balances in governmental funds other than the general fund.</li> </ul>
	<b>Unassigned</b>	Unassigned fund balance is the residual classification for the General Fund. This is fund balance that has not been reported in any other classification. The General Fund is the only fund that can report a positive unassigned fund balance. Other governmental funds would report deficit fund balances as unassigned. <sup>7</sup>	

<sup>2</sup> GASB Statement No. 54, ¶ 6.

<sup>3</sup> GASB Statement No. 54, ¶ 8.

<sup>4</sup> GASB Statement No. 54, ¶ 10.

<sup>5</sup> GASB Statement No. 54, ¶ 13.

<sup>6</sup> See appropriated fund balance section of this document.

<sup>7</sup> GASB Statement No. 54, ¶ 17.

Reviewed: July 2012

Revised: July 2012

## **Classifying Fund Balance**

A local government should classify its fund balances based on the nature of the particular net resources reported in a governmental fund. The government would first start by identifying nonspendable net resources, followed by restricted, committed, assigned and lastly unassigned. This will classify a fund's net resources from those that have the most constraints placed on their use to the least. A fund's net resources also are affected by the spending policy of that government. A local government should determine the order of use of resources when expenditures are incurred. Are restricted resources used first? Or, if available for use, are unrestricted net resources (committed, assigned, or unassigned) used first? If a local government does not have an accounting policy that identifies the order of use of resources, then the net resources with the most constraints are used first.

## **Unrestricted Fund Balance**

Unrestricted fund balance is the amount of fund balance left after determining both nonspendable and restricted net resources. The unrestricted fund balance is the amount of fund balance that a local government, itself, has placed constraints on its use (committed and assigned) and fund balance that does not have any specific purpose identified for the use of those net resources (unassigned). Unrestricted fund balance, therefore, includes the committed, assigned, and unassigned classifications. Committed and assigned fund balance represent resources set aside by the government to fund specific purposes. The two classifications differ in the formality of the action required to set aside the net resources.

The government's highest level of decision-making authority is required to commit available fund balance to a specific purpose. Once the action has been taken, the committed funds cannot be used for any other purpose unless the commitment is rescinded by the same type of action that previously committed the funds. The action taken to commit the funds must be taken prior to the end of the fiscal year, but the specific amount may be determined in the subsequent period.

The authority to assign may be delegated to an official other than the governing body. Unlike committed fund balance, the action taken to assign fund balance may be made after year end. In governmental funds other than the general fund, the assignment must follow the government's intent for the specific purpose of the individual funds. Therefore, all remaining positive fund balances in the special revenue, debt service, and capital projects funds are classified as assigned.

Unassigned fund balance represents the remaining unrestricted fund balance in the general fund after identifying fund balance that has been committed or assigned. Deficits in fund balances of other governmental funds are reported as unassigned. Assignments should never cause a deficit in unassigned fund balance to occur.

## **Stabilization Arrangements: Restricted/Committed vs. Unassigned**

Many local governments currently set aside part of fund balance for emergencies, working capital, cash flows, revenue shortages, or other contingencies. The authority to set aside these amounts usually comes from ordinance or resolution. The GASB calls these types of funds

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Revised: July 2012

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“stabilization arrangements.” For a government to be able to set aside these types of funds as restricted or committed, they need to specifically define when these amounts may be used and specify a situation that cannot be expected to occur routinely. For example, identifying funds to be accessed “in an emergency” does not sufficiently detail the circumstance or condition that must be met for the funds to be considered committed. To commit these funds, the government needs to be more specific in defining an emergency. If the arrangement meets these requirements, it would be considered a specific purpose and reported as either restricted or committed, depending on the source of the constraint. Stabilization arrangements that do not meet the requirements should be reported as part of unassigned fund balance in the general fund.

### **Appropriated Fund Balance**

Usually a local government only classifies fund balances at year end for financial reporting purposes. Thus only current, and not future, net resources are classified. Typically, the subsequent year’s budgeted expenditures are expected to be paid from the subsequent year’s revenues and not the current reporting year’s ending fund balances. On occasion, local governments will “deficit” budget, or in other words, budget more expenditures than anticipated revenues and drawdown beginning fund balance for the subsequent year. An appropriation of existing fund balance to eliminate a projected budgetary deficit in the subsequent year’s budget in an amount no greater than the projected excess of expected expenditures over expected revenues satisfies the criteria to be classified as an assignment of fund balance.<sup>8</sup>

### **Recommendations**

#### Adoption of Comprehensive Fund Balance Policy

The GASB’s Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, identifies fund balance accounting policies that a local government may have or should consider. The Office of the State Auditor recommends that each local government establish/approve a formal comprehensive fund balance policy relating to accounting and financial reporting of governmental fund balances. A local government’s fund balance policy could address the following areas:

- Minimum fund balance
- Order of resource use
- Stabilization arrangements
- Committing fund balance
- Assigning fund balance

#### *Minimum Fund Balance*

The Office of the State Auditor recommends that local governments determine and establish in their fund balance policy a desired minimum level of unrestricted fund balance to maintain in their general fund and other significant governmental funds. The local government’s governing

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<sup>8</sup> GASB Statement No. 54, ¶ 16.

body should keep revenue streams in mind when determining a minimum level of fund balance for their policy. Often a local government's revenue stream is not evenly distributed throughout the year. A local government will need sufficient beginning fund balances to pay expenditures until these revenues are received. For example, funds that rely heavily on property taxes must maintain sufficient financial resources until the next tax revenue collection cycle. Funds that rely on state appropriations and grants should consider the timing of those payments. Also, local governments need to maintain a prudent level of financial resources to protect against a forced service level reduction or having to raise taxes and fees because of temporary revenue shortfalls or unpredicted one-time expenditures.

Other considerations include the predictability of revenues and the volatility of expenditures. A local government may need higher levels of unrestricted fund balance if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile, such as greater expenditures in the early part of the year. The availability of resources in other funds and the potential drain on the general fund resources from other funds could affect the necessary level of minimum unrestricted fund balance. The availability of resources in other funds may reduce the amount of unrestricted fund balance needed in the general fund, just as deficits in other funds may require that a higher level of unrestricted fund balance be maintained in the general fund.

After establishing a minimum level of unrestricted fund balance, the policy should provide for both a time frame and a specific plan for increasing or decreasing the level of unrestricted fund balance. If the actual unrestricted fund balance is not consistent with the policy, a plan should be developed by the governing body that will allow for compliance with the desired minimum level. The fund balance policy should include a provision for a regular review of the sufficiency of the minimum fund balance level.

#### *Order of Resource Use*

The Office of the State Auditor recommends that local governments include in their comprehensive fund balance policy the normal order of resource use. The policy should identify which fund balance resources (restricted or unrestricted) are normally used first when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available. Also, for unrestricted fund balance, the local government should identify the order in which committed, assigned, or unassigned amounts are spent when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used.

#### *Stabilization Arrangements*

The Office of the State Auditor also recommends that local governments consider establishing a stabilization arrangement for emergency situations in their comprehensive fund balance policy. The policy should establish the amount to be set aside, identify the types of nonroutine emergencies/situations that would meet the need for use of stabilization funds, and clearly state that the amount set aside may only be used for the identified emergency situations.

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### *Committing Fund Balance*

The Office of the State Auditor also recommends that a local government's governing body identify in its comprehensive fund balance policy its process for committing fund balance to a specific purpose. The policy could identify the local government's highest level of decision making authority, what formal action is required to commit fund balance, and what specific purposes normally will require committing resources.

### *Assigning Fund Balance*

Furthermore, the Office of the State Auditor recommends each local government that decides to delegate the authority to assign fund balance for a specific purpose include in their comprehensive fund balance policy the body or official authorized to assign amounts to a specific purpose and the types of specific purposes that may be assigned by that delegated body or official. The policy should also specify how the amounts for such assignments are arrived at and whether the governing body will set the assignments annually or will set up a process to make the assignment based on the guidelines established by the governing body.

### Appropriate Fund Balance Levels

The Office of the State Auditor recommends that, at year-end and/or at other key times of the year, local governments that rely significantly on property taxes maintain an unrestricted fund balance of approximately 35 to 50 percent of fund operating revenues or no less than five months of operating expenditures in their general fund and special revenue funds. This amount of unrestricted fund balance should provide the local government with adequate funds until the next property tax revenue collection cycle. The adequacy of unrestricted fund balance should be assessed based on an individual local government's own circumstances. If the local government's unrestricted fund balance is less than or greater than the recommended level, the local government should be able to explain the reason for the difference.

According to the Minnesota Department of Education, Minnesota school districts, unlike most local governmental units, experience timing of receipts from local property tax levies, state aids, and federal aids that provide a more reliable flow of cash to fund operations. Therefore, a recommended unrestricted fund balance for school districts may be less than the amounts recommended above for other local governmental units. Each school district should determine the appropriate level of unrestricted fund balance based on the school district's circumstances.

Local governments should also consider taking a position on the level of unrestricted fund balance in other funds that have unrestricted revenues. In setting an appropriate level, the local government should consider any long-term forecasting/planning issues to avoid the risk of placing too much emphasis on the level of unrestricted fund balance at any one time.

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## BEST PRACTICE

**Appropriate Level of Unrestricted Fund Balance in the General Fund (2002 and 2009) (BUDGET and CAAFR)**

**Background.** Accountants employ the term *fund balance* to describe the net assets of governmental funds calculated in accordance with generally accepted accounting principles (GAAP). Budget professionals commonly use this same term to describe the net assets of governmental funds calculated on a government's budgetary basis.<sup>1</sup> In both cases, fund balance is intended to serve as a measure of the financial resources available in a governmental fund.

Accountants distinguish up to five separate categories of fund balance, based on the extent to which the government is bound to honor constraints on the specific purposes for which amounts can be spent: *nonspendable fund balance*, *restricted fund balance*, *committed fund balance*, *assigned fund balance*, and *unassigned fund balance*.<sup>2</sup> The total of the last three categories, which include only resources without a constraint on spending or for which the constraint on spending is imposed by the government itself, is termed *unrestricted fund balance*.

It is essential that governments maintain adequate levels of fund balance to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures) and to ensure stable tax rates. Fund balance levels are a crucial consideration, too, in long-term financial planning.

In most cases, discussions of fund balance will properly focus on a government's general fund. Nonetheless, financial resources available in other funds should also be considered in assessing the adequacy of unrestricted fund balance (i.e., the total of the amounts reported as committed, assigned, and unassigned fund balance) in the general fund.

Credit rating agencies monitor levels of fund balance and unrestricted fund balance in a government's general fund to evaluate a government's continued creditworthiness. Likewise, laws and regulations often govern appropriate levels of fund balance and unrestricted fund balance for state and local governments.

Those interested primarily in a government's creditworthiness or economic condition (e.g., rating agencies) are likely to favor increased levels of fund balance. Opposing pressures often come from unions, taxpayers and citizens' groups, which may view high levels of fund balance as "excessive."

**Recommendation.** The Government Finance Officers Association (GFOA) recommends that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the general fund.<sup>3</sup> Such a guideline should be set by the appropriate policy body and should provide both a temporal framework and

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<sup>1</sup> For the sake of clarity, this recommended practice uses the terms GAAP fund balance and budgetary fund balance to distinguish these two different uses of the same term.

<sup>2</sup> These categories are set forth in Governmental Accounting Standards Board (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which must be implemented for financial statements for periods ended June 30, 2011 and later.

<sup>3</sup> Sometimes restricted fund balance includes resources available to finance items that typically would require the use of unrestricted fund balance (e.g., a contingency reserve). In that case, such amounts should be included as part of unrestricted fund balance for purposes of analysis.



specific plans for increasing or decreasing the level of unrestricted fund balance, if it is inconsistent with that policy.<sup>4</sup>

The adequacy of unrestricted fund balance in the general fund should be assessed based upon a government's own specific circumstances. Nevertheless, GFOA recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures.<sup>5</sup> The choice of revenues or expenditures as a basis of comparison may be dictated by what is more predictable in a government's particular circumstances.<sup>6</sup> Furthermore, a government's particular situation often may require a level of unrestricted fund balance in the general fund significantly in excess of this recommended minimum level. In any case, such measures should be applied within the context of long-term forecasting, thereby avoiding the risk of placing too much emphasis upon the level of unrestricted fund balance in the general fund at any one time.

In establishing a policy governing the level of unrestricted fund balance in the general fund, a government should consider a variety of factors, including:

- The predictability of its revenues and the volatility of its expenditures (i.e., higher levels of unrestricted fund balance may be needed if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile);
- Its perceived exposure to significant one-time outlays (e.g., disasters, immediate capital needs, state budget cuts);
- The potential drain upon general fund resources from other funds as well as the availability of resources in other funds (i.e., deficits in other funds may require that a higher level of unrestricted fund balance be maintained in the general fund, just as, the availability of resources in other funds may reduce the amount of unrestricted fund balance needed in the general fund);<sup>7</sup>
- Liquidity (i.e., a disparity between when financial resources actually become available to make payments and the average maturity of related liabilities may require that a higher level of resources be maintained); and
- Commitments and assignments (i.e., governments may wish to maintain higher levels of unrestricted fund balance to compensate for any portion of unrestricted fund balance already committed or assigned by the government for a specific purpose).

Furthermore, governments may deem it appropriate to exclude from consideration resources that have been committed or assigned to some other purpose and focus on unassigned fund balance rather than on unrestricted fund balance.

Naturally, any policy addressing desirable levels of unrestricted fund balance in the general fund should be in conformity with all applicable legal and regulatory constraints. In this case in particular, it is essential that differences between GAAP fund balance and budgetary fund balance be fully appreciated by all interested parties.

Approved by the GFOA's Executive Board, October, 2009.

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<sup>4</sup> See Recommended Practice 4.1 of the National Advisory Council on State and Local Budgeting governments on the need to "maintain a prudent level of financial resources to protect against reducing service levels or raising taxes and fees because of temporary revenue shortfalls or unpredicted one-time expenditures" (Recommended Practice 4.1).

<sup>5</sup> In practice, a level of unrestricted fund balance significantly lower than the recommended minimum may be appropriate for states and America's largest governments (e.g., cities, counties, and school districts) because they often are in a better position to predict contingencies (for the same reason that an insurance company can more readily predict the number of accidents for a pool of 500,000 drivers than for a pool of fifty), and because their revenues and expenditures often are more diversified and thus potentially less subject to volatility.

<sup>6</sup> In either case, unusual items that would distort trends (e.g., one-time revenues and expenditures) should be excluded, whereas recurring transfers should be included. Once the decision has been made to compare unrestricted fund balance to either revenues or expenditures, that decision should be followed consistently from period to period.

<sup>7</sup> However, except as discussed in footnote 4, not to a level below the recommended minimum.

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## **FUND BALANCES**

### **Policy**

The county believes sound financial management principles require that sufficient funds be retained by the county to provide a stable financial base at all times. To maintain this stable financial base, the county needs to have sufficient fund balances to fund cash flows, and to provide financial resources for unanticipated expenditures and/or revenue shortfalls.

### **Guidelines**

The county will manage the level of unrestricted fund balance to protect against the need to raise taxes and fees or incur short-term borrowing because of temporary revenue shortfalls or unpredicted one-time expenditures.

All funds, as determined by Generally Accepted Accounting Principals (GAAP) and reported in the county's annual financial statements, shall use the following guidelines to manage appropriate fund balance levels:

A. Fund Balance Classifications:

The county's reporting and communication relating to fund balance will utilize the following hierarchical fund balance classification structure:

1. Non-spendable: fund balance amounts that cannot be converted to cash, such as inventories or prepayments, or are legally or contractually required to be maintained intact.
2. Restricted: fund balance amounts that have externally imposed constraints placed on their use which are legally enforceable.
3. Committed: fund balance amounts that have self-imposed constraints on items that can be used only for the specific purposes as determined by formal action of the county board. Amounts within this category require the same formal board action to remove the commitment.
4. Assigned: fund balance amounts that have self-imposed constraints to demonstrate intent, which can be established by board action or delegated by the county board to others.
5. Unassigned: fund balance amounts that are available for any public purpose. The county's general fund is the only fund that should report a

positive unassigned fund balance as the remaining balance after all other amounts have been classified.

**B. Fund balance authorizations and resource flow.**

1. Commitments: any funds set aside as committed fund balance requires the passage of a resolution that must take place prior to December 31st. If the actual amount of the commitment is not available by December 31st, the resolution will state the process or formula necessary to calculate the actual amount as soon as the information is available.
2. Assignments: the county board authorizes the county administrator as the official authorized to assign fund balance to a specific purpose as approved by this fund balance policy.
3. Resource flow: when fund balance resources are available for a specific purpose in more than one classification, it is the county's policy to use the most restrictive funds first: restricted, committed, assigned, and unassigned as they are needed.

**C. Fund Balance Operations.**

1. The General Fund Group and Major Special Revenue Funds.
  - a. The aggregate committed, assigned, and unassigned fund balance shall have a minimum and maximum operating range of between 20% and 50% of the budgeted annual expenditures. This shall be determined at June 30 and December 31 of each year.
  - b. A budget plan or semi-annual balance sheet that is below the minimum operating range shall require a written plan to restore minimum compliance.
2. The Capital Projects Fund Group.
  - a. The fund balance in capital project funds may be drawn down to zero consistent with budgeted plans for project costs.
  - b. If large projects require the county to pay for costs prior to seeking reimbursement of the cost by a third party, the department overseeing the project must submit a cash flow analysis. This cash flow analysis shall specify the ending period balance of amounts owed to the county and the potential impact of the fund balance. They shall be submitted as part of the annual budget process or with board actions seeking project approval.

- c. The aggregated cash flow of the Capital Project Fund Group and planned use of fund balance shall not result in a negative fund balance at any time.
3. The Debt Service Fund Group.
  - a. Fund balances shall be managed to meet the scheduled debt service obligations as they become due and to provide for the statutory 5% excess amount, if that amount is not budgeted annually.
  - b. Fund balance shall be managed to comply with tax exempt debt requirements as defined by the United States Internal Revenue Service.
4. Other Governmental Funds.
  - a. A fund that anticipates reporting a negative unassigned fund balance at year-end shall disclose the amount and provide a plan to restore the fund balance to zero or above.

**Responsibility**

The Accounting and Finance Director shall prepare semi-annual reports that document the status of the fund balance as of June 30<sup>th</sup> and December 31<sup>st</sup>. This report shall be presented to the finance committee in conjunction with the development of the annual budget.

The County Administrator shall require cash flow analyses and corrective plans of department as necessary to satisfy the guidelines and intent of the policy.

Other county departments with responsibility for a fund as identified in Policy #2803 shall be required to provide budgets, cash flow analyses, and plans regarding the fund balances for which they are responsible. Department are responsible for managing within these budgets and plans and notifying the Department of Administration if they will not be able to accomplish the stated budgets or plan objectives.

**Source**

MS 475.61 Subd. 1  
County Board action July 26, 2005  
County Board Approval December 8, 2011

Resolution 2014-RR- \_\_

WHEREAS, The Counties have created the Ramsey/Washington County Resource Recovery Project (the Project) for the purpose of administering the Counties rights and obligations under the Processing Agreement with RRT and overseeing other joint solid waste activities; and

WHEREAS, both counties participating in the Project have adopted fund balance policies for their general funds; and

WHEREAS, The Government Finance Officers Association (GFOA) recommends that governments maintain an unassigned fund balance equal to at least two months of its subsequent year's expenditures; and

WHEREAS, The Project is unique in that over 99% of the Project's revenues are derived from invoicing the participating Counties their share of the Project's revenues thus eliminating volatility in revenues; and

WHEREAS, The Project Board desires to maintain the financial integrity of the Project and adequate cashflow is essential to the smooth operation of the Project; Now Therefore Be It

RESOLVED, The Ramsey/Washington County Resource Recovery Project Board hereby establishes a fund balance standard of a minimum of two months of the subsequent year's expenditures for cashflow purposes. BE IT FURTHER

RESOLVED, The Project Board directs staff for the Project to evaluate the level of fund balance annually and assess the Counties their share of any projected shortfall.

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Commissioner Victoria Reinhardt, Chair

September 25, 2014



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>Project Board Meeting Date:</b> <u>9/25/2014</u>	<b>AGENDA ITEM:</b> <u>IV.C.</u>
<b>SUBJECT:</b> <u>Update on Consultant Solicitations</u>	
<b>TYPE OF ITEM:</b> <input checked="" type="checkbox"/> Information <input type="checkbox"/> Policy Discussion <input type="checkbox"/> Action	
<b>Submitted By:</b> Joint Staff Committee	

**PROJECT BOARD ACTION REQUESTED:** Information

**EXECUTIVE SUMMARY:**

At its July 24, 2014 meeting, the Project Board approved the release of two Requests for Proposals (RFP) for consulting services. This is an update on these solicitations; no action is requested of the Board.

The first RFP is to solicit proposals for County Environmental Charge (CEC) Audit Services. The work scope will consist of performing specific compliance reviews of solid waste transfer stations and waste haulers licensed by the Counties. The purpose of the review is to determine if these entities are assessing, billing, collecting and/or remitting the CEC, or performing related operations in compliance with applicable county ordinances. The solicitation would result in an agreement with a consultant for a one-year term (2015), in an amount not to exceed \$100,000, with the possibility of four one-year renewals. Funds are available in the approved 2015 Project Board budget.

The second RFP is to solicit proposals for strategic communications consulting services to assist the Resource Recovery Project Board in the development and implementation of a strategic communication plan. Specifically, the Project seeks assistance in developing effective communication strategies about the future of waste processing, evaluation processes, key findings and key decisions and impacts based on the decision. The solicitation would result in an agreement with a consultant for a one-year term (2015), in an amount not to exceed \$80,000, with the possibility of two one-year renewals. Funds will be available pursuant to the addendum for the 2015 Project Board budget, approved on July 24, 2015.

The RFP responses are due on Wednesday, September 17<sup>th</sup> at 4 p.m. A list of vendors who submit responses, the evaluation process, and evaluation team's members for both solicitations will be distributed at the Board meeting.



**SUBJECT:** *Update on Consultant Solicitation*



**ATTACHMENTS:**

None

**FINANCIAL IMPLICATIONS:**

CEC Audit services in amount not to exceed \$100,000 and Strategic Communications services in an amount not to exceed \$80,000. Funds are available pursuant the 2015 budget and its addendum.

**AUTHORIZED SIGNATURES**

<b>Joint Staff Committee</b>	<b>Date</b>
	9/15/2014
<b>Ramsey County Attorney</b>	<b>Date</b>
<b>Washington County Attorney</b>	<b>Date</b>
<b>Ramsey County Department of Finance</b>	<b>Date</b>
	9/16/2014
<b>Other</b>	<b>Date</b>



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>PROJECT BOARD MEETING DATE:</b> <u>9/25/14</u>	<b>AGENDA ITEM:</b> V.A.
<b>SUBJECT:</b> <u>Non-Residential Organic Waste and Recycling: Progress Report</u>	
<b>TYPE OF ITEM:</b> <u>  X  </u> Information <u>  </u> Policy Discussion <u>  </u> Action	
<b>SUBMITTED BY:</b> <u>Joint Staff Committee</u>	

**PROJECT BOARD ACTION REQUESTED:**

Information Only

**EXECUTIVE SUMMARY:**

BizRecycling is the Resource Recovery Project’s program to reach businesses and institutions about recycling and organic waste management. Staff will provide an update at the Project Board meeting about progress made since July in outreach to businesses, as well as the Starter and Container Grant program.

The attached memo includes a summary of the approved grants and program activities to-date.


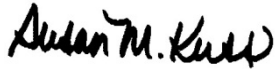
**SUBJECT: Non-Residential Organic Waste and Recycling: Progress Report**

**ATTACHMENTS:**

1. Staff memo dated September 18, 2014

**FINANCIAL IMPLICATIONS:** None

**AUTHORIZED SIGNATURES**

Joint Staff Committee	Date
	9/16/14
Ramsey County Attorney	Date
Washington County Attorney	Date
Ramsey County Department of Finance	Date
	9/16/14
Other	Date

**September 18, 2014**

**To: Resource Recovery Project Board**

**From: Joint Staff Committee**

**Re: Non-Residential Organic Waste and Recycling: Progress Report**

**Background:**

On June 1, 2014 BizRecycling soft launched its Starter and Container Grant program. The Business Recycling Grants assist businesses located in Ramsey and Washington Counties in breaking down common barriers found when undertaking or improving recycling and food/source separated organics (SSO) recovery programs, leading to long-term program improvements that divert increasing portions of recyclables and food/SSO from trash.

**Business Engagement**

Businesses and institutions remain very engaged in the BizRecycling program and are actively working to develop programs and apply for grants. In 2014, BizRecycling, primarily through Minnesota Waste Wise and J.L. Taitt and Associates, has worked directly on program development with nearly 200 businesses. The following list highlights just the businesses that BizRecycling began working with in July and August of this year as a representative sample.

<b><i>Business/Institution</i></b>	<b><i>City</i></b>
Summit Orthopedic	Vadnais Heights
Tutor Time	White Bear Lake
Element Boxing & Fitness	Saint Paul
Holy Cross Lutheran Church	Oakdale
Oak Glen Golf Course	Stillwater
C.G. Hook's/Tally's Dockside	White Bear Lake
Macalester College	Saint Paul
Walt's Wine and Spirits	Oakdale
Wheel Service Brake & Equipment	Saint Paul
J.J.'s Bierstube	White Bear Lake
Rudy's Redeye Grill	White Bear Lake
Pace Analytical	Oakdale
Manitou Dental	White Bear Lake
CenturyLink	Saint Paul
AMG Arch	Maplewood
Swede Hollow Café	Saint Paul
Computer Revolution	Roseville
Macalester Plymouth United Church	Saint Paul

**BizRecycling Grant Results:**

To-date, 41 grant applications have been approved which means 22 grants have been received, reviewed, approved and processed since the July 24, 2014, Board meeting. Grants continue to be submitted by businesses and institutions in both counties.

Highlights of the grant distributed to-date include:

- Issued 41 grants that will add recycling and/ organics recycling programs to 65 businesses. 20 grants have been issued in Ramsey County and 21 grants have been issued in Washington County.
- \$206,578 in grant monies has been issued or 41.3% of the funding available for 2014 grants.
- The 41 grants have leveraged an additionally \$49,439 in business and institution funding for a total grant impact of \$256,017.
- The grants have reached a wide diversity of businesses and institutions including:
  - Four grants to four facilities owned by Boston Scientific located in Arden Hills for \$10,000 each to start organics recycling programs in each of the cafeterias on the corporate campus. The organics collected will be sent to Specialized Environmental Technologies (SET) in Dakota County for composting. Finished compost will be brought back to the corporate campus for employees to use in their on-site community garden. The food grown in the garden is donated to local food shelf programs.
  - Two grants to serve three Legacy Funeral homes located in Saint Paul and Maplewood for \$10,000 each to start a comprehensive recycling and organics collection program at each funeral home. The funeral home hosts approximately 1,100 Hmong family funerals each year. Each funeral last approximately 1 week and all food is prepared on-site by the individual families. BizRecycling Staff are working with Waste Wise and Ramsey County’s Hmong consultant to design a sustainable education program for the families and staff.
  - Two grants to Washington County Schools, St. Croix Preparatory Academy in Stillwater and Hugo Elementary in White Bear Lake, to start school wide recycling, organics and milk carton collection programs. (As a reminder, Ramsey County Schools are not funded through the BizRecycling program and have a separate source of funding support through Ramsey County.)
  - The first reward grant was issued to Neighborhood Energy Connection in St. Paul to fund three months of a new organics collection services in the amount of \$90.

Grants issued to-date are below.

<b><i>Business/Institution Name</i></b>	<b><i>County</i></b>	<b><i>Grant Amount</i></b>
Panacea Healthcare Solutions, Inc.	Ramsey	\$ 1,206.77
The Lodge at White Bear	Washington	\$ 2,080.18
Warners' Stellian	Ramsey	\$ 10,000.00

Concordia University	Ramsey	\$ 10,000.00
Sarah's...an Oasis for Women	Ramsey	\$ 3,926.88
Blue Heron Grill	Washington	\$ 10,000.00
Amherst H. Wilder Foundation	Ramsey	\$ 10,000.00
Amherst H. Wilder Foundation	Ramsey	\$ 3,323.82
Cajah Salon	Ramsey	\$ 559.62
Crossroads Commerce Center	Washington	\$ 555.58
Crossroads Commerce Center	Washington	\$ 463.03
Crossroads Commerce Center	Washington	\$ 622.47
Crossroads Commerce Center	Washington	\$ 481.35
Crossroads Commerce Center	Washington	\$ 775.87
Crossroads of Oakdale	Washington	\$ 598.20
Crossroads of Oakdale	Washington	\$ 509.78
Crossroads of Oakdale	Washington	\$ 1,829.82
Crossroads of Oakdale	Washington	\$ 444.70
Lake Elmo Bank	Washington	\$ 592.67
KinderGardens	Washington	\$ 10,000.00
Amherst H. Wilder Foundation	Ramsey	\$ 3,777.96
Urban Growler Brewing Company	Ramsey	\$ 4,998.57
Lakeview Hospital	Washington	\$ 10,000.00
Boston Scientific - Building B	Ramsey	\$ 10,000.00
Boston Scientific - Building 3	Ramsey	\$ 10,000.00
Boston Scientific - Building 9	Ramsey	\$ 10,000.00
Boston Scientific - Building 14	Ramsey	\$ 10,000.00
Portico Healthnet	Ramsey	\$ 1,149.17
AJ Johnson & Sons Florist	Ramsey	\$ 2,365.27
Legacy Funeral Homes - Maplewood Chapel	Ramsey	\$ 10,000.00
Legacy Funeral Homes - East & West Chapel	Ramsey	\$ 10,000.00
Regions Hospital	Ramsey	\$ 10,000.00
Travelers Insurance	Ramsey	\$ 9,244.68
Math and Science Academy	Washington	\$ 2,849.05
Neighborhood Energy Connection	Ramsey	\$90
The Lodge at White Bear (Grant #2)	Washington	\$ 2,080.18
St. Croix Preparatory Academy	Washington	\$ 10,000.00
Anderson Corporation	Washington	\$ 10,000.00
Hugo Elementary – White Bear Lake Area Schools (ISD 624)	Washington	\$ 7,689.67
Valley Outreach	Washington	\$4,362.29

#### **Fall 2014**

Starting in October 2014, the BizRecycling program will be launching an advertising and public relations campaign to promote the BizRecycling technical assistance resources and grant funding. The advertising will be placed in East Metro business publications and chambers both on-line and in-print. The public

relations campaign will focus on the commercial recycling law change and encourage businesses to act now.

The BizRecycling website is being continually improved, with certain elements redesigned, and new elements added. Staff and consultants frequently seek feedback to assure that the site reaches appropriate audiences with appropriate information. Staff are currently working with the consultants to re-organize the website to better match the growing content on the site.

Work continues on developing the BizRecycling GIS database. At the January 2015 Project Board meeting staff will be able to present the GIS map results including a geographical look at which businesses have been reached through the program, which businesses have grants and which business still need to be made aware of the program.



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>Project Board Meeting Date:</b> <u>9/18/14</u>	<b>AGENDA ITEM:</b> <u>V.B.</u>
<b>SUBJECT:</b> <u>Criteria for Business Association Grants</u>	
<b>TYPE OF ITEM:</b> <input type="checkbox"/> Information <input type="checkbox"/> Policy Discussion <input checked="" type="checkbox"/> Action	
<b>Submitted By:</b> Joint Staff Committee	

**PROJECT BOARD ACTION REQUESTED:**

- Approve the proposed BizAware grant program and criteria;
- Authorize the Joint Staff Committee, working with the county attorneys, to design and implement administrative procedures and agreements to implement the program to begin in January, 2015;
- Authorize the Lead Joint Staff Committee member to execute grant agreements associated with the BizAware grant program.

**EXECUTIVE SUMMARY:**

At the July 24, 2014, meeting, the Resource Recovery Project Board approved the Addendum to the 2015 Project Budget, and forwarded it to the County Boards for approval. That Addendum re-allocated \$140,000 to create a new business-oriented grant program structured to support business organizations, chambers of commerce, economic development authorities, and economic development agencies that specialize in providing education to and supporting businesses and institutions in the East Metro. The new grant program will be called BizAware (Advocates for Waste and Recycling Education).

Project Staff recommend that the grant criteria shown in the enclosed memo be used to develop a grant solicitation and grant agreement in consultation with legal and finance staff.

**ATTACHMENTS:**

1. Criteria for Business Association Grants Memo, dated September 18, 2014
2. Draft Resolution


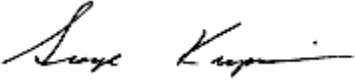



**SUBJECT:** *Criteria for Business Association Grants*

**FINANCIAL IMPLICATIONS:**

Action will result in a grant program resulting in a number of agreements that, in total, will not exceed \$140,000 during 2015. Funds are available in the 2015 Budget Addendum approved on July 24, 2014, which is subject to County Board action in both counties.

**AUTHORIZED SIGNATURES**

<b>Joint Staff Committee</b>	<b>Date</b>
	9/16/14
<b>Ramsey County Attorney</b>	<b>Date</b>
<b>Washington County Attorney</b>	<b>Date</b>
	9/16/14
<b>Ramsey County Department of Finance</b>	<b>Date</b>
	9/16/14
<b>Other</b>	<b>Date</b>

**September 18, 2014**

**To: Resource Recovery Project Board**

**From: Joint Staff Committee**

**Re: Criteria for Business Association Grants**

**Background:**

At the July 24, 2014, meeting, the Resource Recovery Project Board approved the Addendum to the 2015 Project Budget, and forwarded it to the County Boards for approval. That Addendum re-allocated \$140,000 to create a new business-oriented grant program modeled after the Solid Waste Management Coordinating Board's Community POWER program. The grant program is structured to support business organizations, chambers of commerce, economic development authorities, and economic development agencies that specialize in providing education to and supporting businesses and institutions in the East Metro.

The new grant program will be called BizAware (Advocates Waste and Recycling Education). Project Staff recommend that the grant criteria shown in Attachment A be used to develop a grant solicitation and grant agreement in consultation with legal and finance staff.

**Current Community POWER Grantees**

Currently Ramsey County has provided funding in the amount of \$90,000 as a Special Project to the Solid Waste Management Coordinating Board (SWMCB) for six grantees: \$67,500 in direct assistance funds and \$22,500 in grant management services carried out by Richardson, Richter and Associates. The grantees are listed in the table on the next page. Project Staff recommend continuing to work with these grantees through the Community Power program at SWMCB until those grants expire in August, 2015. Staff propose to send a letter outlining the program changes to the current grantees. SWMCB would then remain responsible for reviewing of expenditures and issuing the remaining two payments. County staff will be responsible for coordinating day-to-day management, training, as well as report review and approval.

**Ramsey County Community POWER Business-Related Grants, Administered by SWMCB**

<b>2014-2015 Community POWER Business Contracts</b>	<b>Contract Amount</b>	<b>Program description</b>	<b>Contract Issued By</b>	<b>Contract Start</b>	<b>Contract End</b>
Frogtown Neighborhood Development Association	\$ 7,500	Multi-tenanted outreach pilot	SWMCB	8/25/2014	8/21/2015
Neighborhood Development Center	\$ 12,000	University Corridor - 60 businesses	SWMCB	8/25/2014	8/21/2015
Latino Economic Development Center	\$ 12,000	Latino business outreach	SWMCB	8/25/2014	8/21/2015
East Side Neighborhood Development Company	\$ 12,000	Payne Neighborhood	SWMCB	8/25/2014	8/21/2015
St. Paul Area Chamber of Commerce	\$ 12,000	Digital Outreach/Videos	SWMCB	8/25/2014	8/21/2015
Grand Ave. Business Association	\$ 12,000	Continuation of the program	SWMCB	8/25/2014	8/21/2015
	<b>\$ 67,500</b>				

**Recommendation**

Staff recommends that the Resource Recovery Project Board:

1. Approve the proposed BizAware grant criteria;
2. Authorize the Joint Staff Committee, working with the county attorneys, to design and implement administrative procedures and agreements to implement the program;
3. Authorize a grant solicitation for grants that would begin in January, 2015; and
4. Authorize the Joint Staff Committee member from Ramsey County to execute grant agreements.

## **Attachment A**

### **BizAware Grants Program** **Proposed Grant Criteria**

#### **Applicant Eligibility**

Organizations that possess the following characteristics are eligible:

- **Geographic Service Area**: Organizations that involve or serve businesses in Ramsey and/or Washington Counties.
- **Types of Organizations**:
  - *Commercial Club*: Usually an incorporated 501(c)(4) or (6)) organization whose purpose is to promote community and retail events.
  - *Chamber of Commerce*: A chamber is an incorporated non-profit 501(c)(4) or (6) that is generally affiliated with the state and national chamber of commerce.
  - *Economic Development Commission*: A board used to advise a City Council, appointment by Mayor/or City Council.
  - *Economic Development Authority (EDA)*: An EDA is a legal entity created by a City or County to facilitate a well-rounded development program.
  - *Business Leagues* including Professional Organizations and service clubs such as Rotary International.
  - *Non-Profit Development Corporation*: formed to provide financing for business development in a community.

The following are not eligible: Regional Agencies, federal government, University of Minnesota and MnSCU Facilities, and for-profit development corporations/business associations.

#### **Selection Criteria**

The following criteria are used to evaluate applications:

- All projects must include:
  - Recycling education;
  - Promotion of BizRecycling® and its resources to businesses/institutions related to the Applicant's purpose;
  - A demonstrated understanding of the purpose in being a Project Partner with BizRecycling®
  - Documentation of outreach efforts and evaluation criteria.
- Project Focus: Priority is given to applicants that focus on one or more of the following topics:
  - Provide direct outreach to businesses within its jurisdiction or membership in various and relevant manners.
  - Target a significant number of businesses
  - Promote BizRecycling on its website, printed materials and/or social media.
  - Target business within hard to-reach populations.

- Develop culturally relevant programs.

## **Funding**

- Grant Amounts:
  - Each selected program partner is eligible for a grant of up to \$15,000 per year for a three-year term, with the potential for one, two-year extension, with a total contract maximum not to exceed \$75,000.
  - Funding will be distributed as follows
    - 50% upon execution of the contract,
    - 40% upon receipt and approval of mid-term grant report, and
    - 10% upon receipt and approval of final report.
  - All funds are cost reimbursable.
- Appropriate Use of Funds and Restrictions
- Funds may be used for the following:
  - Materials,
  - Supplies,
  - Printing,
  - Dissemination of information,
  - Salaries devoted to education and program development,
  - Outreach expenses, and
  - Other items as agreed to by the RRP.

## **Expectations and Reporting Requirements**

All organizations awarded a contract through this program will be required to fulfill the obligations described below.

- Attend grantee orientation and periodic meetings.
- Complete mid-year one progress report and one final report that documents activities and expenditures.
- Recognize the Ramsey/Washington County Resource Recovery Project and its BizRecycling® Program as the source of funding in publications, presentations, websites, at events, and other communication tools related to the grant.
- Promote the LessTrash.com website in newsletters, websites, and any new promotional items produced with program support funding.

## **Solicitation Process**

Grant Solicitation will open at the beginning of each year and be available on a first-come basis to ensure flexibility and meet program timing needs of the various eligible organizations.

**Resolution 2014- RR - \_\_\_\_**

Whereas, The Joint Powers Agreement creating the Ramsey/Washington County Resource Recovery Project provides that the Project Board shall administer joint solid waste management activities proposed by the Joint Staff Committee, which includes business and institution recycling and organics education; and

Whereas, The Project Board has administered food waste and organic waste outreach, communication and technical assistance for eight years; and

Whereas, The Project Board established and implemented an East-Metro Organic Waste and Recycling program including the BizRecycling website, consulting and technical assistant services, and outreach and education to provide resources to non-residential waste generators to assist in reducing costs and meeting environmental goals; and

Whereas, The Project Board established and implemented a starter and container and reward grant program to incentivize businesses to improve recycling and organics programs for non-residential organic waste generators; and

Whereas, Ramsey County is currently providing funding in the amount of \$90,000 as a Special Project to the Solid Waste Management Coordinating Board (SWMCB) for six business grantees and grant management services;

Whereas, The Project Board to save on administrative costs, to expand the program flexibly, and to extend the program to Washington County business organizations amended its 2015 project budget to reallocate \$144,000 to create a new grant program modeled after the SWMCB and to replace the individual county contributions made to the SWMCB for grant administer by that organization. Now, Therefore, Be It

Resolved, The Project Board hereby approves the BizAware (Advocates for Waste and Recycling Education) grant program and criteria. Be it further

Resolved, The Project Board hereby authorizes the Joint Staff Committee, working with the county attorneys, to design and implement administrative procedures and implement the program in conformance with those presented to the Project Board at its September 25, 2014 meeting. Be it further

Resolved, The program is to be implemented in January, 2015. Be it further

Resolved, The Project Board hereby delegates to the Lead Staff Person for the Project the authority to execute the said grant agreements on behalf of the Project conditioned upon approval as to form by the county attorneys.

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Commissioner Victoria Reinhardt, Chair

September 25, 2014



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>PROJECT BOARD MEETING DATE:</b> <u>9/25/2014</u>	<b>AGENDA ITEM:</b> <u>VI. A</u>
<b>SUBJECT:</b> <u>Presentations</u>	
<b>TYPE OF ITEM:</b> <u>  X  </u> Information <u>  </u> Policy Discussion <u>  </u> Action	
<b>SUBMITTED BY:</b> <u>Joint Staff Committee</u>	

**PROJECT BOARD ACTION REQUESTED:**

For information and discussion

**EXECUTIVE SUMMARY:**

Representatives from Xcel Energy and RRT will give brief presentations at the Board meeting to share their responses to questions asked by Project Staff.


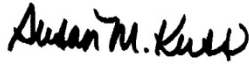
**SUBJECT: Evaluation Progress Report**

**ATTACHMENTS:**

1. Questions for Xcel Energy, September 2014
2. Questions for RRT, September 2014

**FINANCIAL IMPLICATIONS:** None

**AUTHORIZED SIGNATURES**

<b>Joint Staff Committee</b>	<b>Date</b>
	9/17/14
<b>Ramsey County Attorney</b>	<b>Date</b>
<b>Washington County Attorney</b>	<b>Date</b>
<b>Ramsey County Department of Finance</b>	<b>Date</b>
	9/17/14
<b>Other</b>	<b>Date</b>



**Ramsey/Washington County Resource Recovery Project  
Questions for Xcel Energy, September 2014**

1. The Resource Recovery Project Board has been involved in significant policy analysis over the past two years, to evaluate the future of waste processing in the two counties. The policy evaluation is leading to a decision in 2015 about the future of processing, and, in particular, whether the Counties will exercise their option to purchase the Facility. The policy evaluation includes examination of several factors including waste technologies, waste assurance, ownership, governance alternatives, etc. The decisions made as a result of this analysis will affect the way recyclables, organic waste, and MSW are managed in the East Metro for decades to come.
  - a. What is Xcel's vision for the role of the Facility and its combustion facilities for waste management in the future?
  - b. Describe where Xcel Energy would like to be with regard to waste processing in the next five ten years.
  - c. Do you see any gaps in the Counties evaluation? Do you have any suggestions that the Counties should consider in the evaluation?
  
2. Ramsey and Washington Counties are looking into other technologies that could be implemented over time for use of some elements of the waste stream, such as mixed waste processing to recover recyclables and organics, directing the organic fraction of waste to an anaerobic digester, and possibly gasification as a market for RDF.
  - a. Does Xcel Energy have concerns about the Counties' direction, or see opportunity in it?
  - b. Does Xcel have any changes in technology, or consideration of alternate technologies, on the near-term horizon?
  
3. Ramsey and Washington Counties are considering public ownership of the processing facility in Newport, which could lead to use of waste designation to assure a supply of waste into the facility, and the associated production of RDF.
  - a. What is Xcel's reaction to public ownership and operation, instead of RRT or its successor?
  - b. What is Xcel's reaction to potentially more RDF becoming available through public ownership?
  
4. The Counties currently subsidize the facility in Newport at the rate of \$28 per ton, and elected officials are concerned about that level of subsidy for the private owner/operator. The economics of the solid waste processing system are very important in looking forward over the next 20-30 years. How does Xcel see the economics of the system evolving?

**Ramsey/Washington County Resource Recovery Project**  
**Questions for RRT, September 2014**

1. The Resource Recovery Project Board has been involved in significant policy analysis over the past two years, to evaluate the future of waste processing in the two counties. The policy evaluation is leading to a decision in 2015 about the future of processing, and, in particular, whether the Counties will exercise their option to purchase the Facility. The policy evaluation includes examination of several factors including waste technologies, waste assurance, ownership, governance alternatives, etc. The decisions made as a result of this analysis will affect the way recyclables, organic waste, and MSW are managed in the East Metro for decades to come.
  - a. What is RRT's vision for the role of the Facility in waste management in the future?
  - b. Describe where RRT would like to be with regard to waste processing in the next five years. 20 years?
  - c. Do you see any gaps in the Counties evaluation? Do you have any suggestions that the Counties should consider in the evaluation?
  
2. Ramsey and Washington Counties are looking into other technologies that could be implemented over time for use of some elements of the waste stream, such as mixed waste processing to recover recyclables and organics, directing the organic fraction of waste to an anaerobic digester, and possibly gasification as a market for RDF.
  - a. What process is RRT using to look for and examine new or emerging technologies?
  - b. Does RRT have concerns about the Counties' direction, or see opportunity in it?
  - c. Does RRT have any changes in technology on the near-term horizon?
  
3. The economics of the solid waste processing system are very important in looking forward over the next 20-30 years.
  - a. How does RRT see the economics of the system evolving?
  - b. How do you see enforcement of Minn. Stat. Section 473.848 impacting waste supply to the Facility.
  - c. Please describe any changes in the economics of waste delivery you may have recently encountered.
  - d. Do you see any opportunities to change the economics of getting waste to combustion facilities?
  
4. Other
  - a. What are RRT's opinions about the 75% recycling goal?
  - b. What other waste streams have you looked at, besides MSW, for RDF production?



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>PROJECT BOARD MEETING DATE:</b> <u>9/25/2014</u>	<b>AGENDA ITEM:</b> <u>VI. B</u>
<b>SUBJECT:</b> <u>Evaluation Progress Report</u>	
<b>TYPE OF ITEM:</b> <u>  X  </u> Information <u>  </u> Policy Discussion <u>  </u> Action	
<b>SUBMITTED BY:</b> <u>Joint Staff Committee</u>	

**PROJECT BOARD ACTION REQUESTED:**

For information and discussion

**EXECUTIVE SUMMARY:**

The Resource Recovery Project is conducting a policy evaluation on the future of waste processing in 2013 – 2014 leading to a decision point in 2015 about the future of waste processing, and in particular, whether the Counties would exercise their option to purchase the facility. Two workshops have been held, in January and February 2014, to provide background information and research results to the Project Board related to these questions. At its April 24 meeting the Project Board provided direction for more specific work, leading to the 2015 decision. In July the Project Board received an update on work in this area. At the September 25, 2014, meeting staff and consultants are reporting the results of current work, and are checking-in with the Project Board on the direction of the policy evaluation


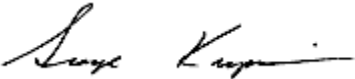

**SUBJECT: Evaluation Progress Report**

**ATTACHMENTS:**

1. Memo from JSC dated September 18, 2004 entitled "Policy Evaluation Progress "
2. Attachments to the staff memo:
  - A. Attachment A - Scope for Resource Management
  - B. Attachment B – Report from Foth titled "Waste Composition Study"
  - C. Attachment C – Memo from Foth titled "Estimated Calculations of Additional SSR/SSO Tons"
  - D. Attachment D – Report from Foth titled "Analysis of Mixed Waste Processing (MWP) at the Newport Resource Recovery Facility"
  - E. Attachment E – Report from Foth titled "Summary of Responses to Request for Expressions of Interest on Gasification Technologies to Process Mixed Municipal Solid Waste"
  - F. Attachment F – Memo from Stoel Rives on Waste Designation
  - G. Attachment G – Memo from Stoel Rives on MPCA enforcement of 473.848
  - H. Attachment H - Memo from Stoel Rives on Governance options

**FINANCIAL IMPLICATIONS:** None

**AUTHORIZED SIGNATURES**

<b>Joint Staff Committee</b>	<b>Date</b>
	9/17/14
<b>Ramsey County Attorney</b>	<b>Date</b>
<b>Washington County Attorney</b>	<b>Date</b>
	9/17/14
<b>Ramsey County Department of Finance</b>	<b>Date</b>
	9/17/14
<b>Other</b>	<b>Date</b>

**September 18, 2014**

**To: Resource Recovery Project Board**

**From: Joint Staff Committee**

**Re: Policy Evaluation Progress**

The Resource Recovery Project is conducting a policy evaluation on the future of waste processing in 2013 – 2014 leading to a decision point in 2015 about the future of waste processing, and in particular, whether the Counties would exercise their option to purchase the facility. Two workshops have been held, in January and February 2014, to provide background information and research results to the Project Board related to these questions. At its April 24 meeting the Project Board provided direction for more specific work, leading to the 2015 decision. In July the Project Board received an update on work in this area. At the September 25, 2014, meeting staff and consultants are reporting the results of current work, and are checking-in with the Project Board on the direction of the policy evaluation. This memo has several parts, organized as follows:

<b>Item</b>	<b>Page</b>
1. Current Approach - Scope for Resource Management	2
2. Technology	
a. Results of the Waste Composition Study	3
b. Meeting a 75% recycling goal by 2030	4
i. Summary of Recycling and Organics Trends	4
ii. Source Separated Organics and Recycling	5
iii. Mixed Waste Processing	8
iv. SSO/R with Mixed Waste Processing	9
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c. Update on Anaerobic Digestion	10
d. Update on Gasification	12
3. Policy	
a. Update Waste Assurance	13
i. Waste Designation	13
ii. MPCA Enforcement of Minn. Stat. Section 473.848	13
b. Governance Options	14

## Item

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Attachment A - Scope for Resource Management

Attachment B – Report from Foth titled “Waste Composition Study”

Attachment C – Memo from Foth titled “Estimated Calculations of Additional SSR/SSO Tons”

Attachment D – Report from Foth titled “Analysis of Mixed Waste Processing (MWP) at the Newport Resource Recovery Facility”

Attachment E – Report from Foth titled “Summary of Responses to Request for Expressions of Interest on Gasification Technologies to Process Mixed Municipal Solid Waste”

Attachment F – Memo from Stoel Rives on Waste Designation

Attachment G – Memo from Stoel Rives on MPCA enforcement of 473.848

Attachment H - Memo from Stoel Rives on Governance options

### **1. Current Approach – Scope for Resource Management**

As a first step in the check-in, staff would like to the Board to discuss the draft “Scope for Resource Management,” which is a roadmap to guide technology changes in the future.

In April 2014 the Resource Recovery Project Board approved the following **guiding principles** as the Project Board continues to frame the future role of waste processing in the Counties:

1. Plan for a 20-30 year horizon;
2. Build on the current system and allow changes in processing to emerge over time;
3. Assure flexibility;
4. Manage risks; and
5. Pivot the view from “waste” to “resources” to add value to the local economy and the environment.

At that meeting the Project Board also provided direction as to which technologies to include in further evaluation, and policy approaches to research. A scenario has been prepared that describes how the selected technologies could be implemented over time as part of a fully integrated waste management system that includes source separated recycling and organics management. The scenario builds on the current waste processing technology in place, and is designed to make progress toward the new “75% by 2030” recycling mandate adopted by the Legislature in 2015. The scenario is important, because it serves as a guide to system design and future policy decisions.

#### “Scope for Resource Management”

The scenario, called “A Scope for Resource Management,” (See Attachment A) is designed using the Board’s guiding principles. It describes a system that begins with existing source separation and processing systems, and evolves to stronger source separation programs and newer and more flexible technologies.

With regard to waste processing, the Scope shows

- Increased source separation efforts for recycling and organics;
- The use of mixed waste processing to recover some recyclables and organics that remain in mixed municipal solid waste;

- A move from using refuse derived fuel (RDF) for electrical generation to using RDF for gasification to produce biofuel; and
- Organic waste being used as a feedstock using anaerobic digestion.

The Scope is neutral as to ownership of the Newport facility. The timing of the Scope was developed to allow adequate time for policy decisions and evaluation of new and emerging waste conversion technologies.

With regard to timing within the Scope,

- In 2014 and 2015 there will be expanded efforts to increase source separation of recyclables and organics from residential and non-residential generators;
- In 2014, and lasting until an alternative conversion technology is selected (in this Scope, that is gasification) processing of MSW into RDF will continue, with combustion of RDF for electrical generation;
- Beginning in 2014, the need for, and technological viability of Mixed Waste Processing for recyclables and organics capacity will continue to be evaluated, leading to potential procurement and construction of a Mixed Waste Processing facility for recyclables and or organics at Newport;
- In 2016, the Scope envisions availability of the SaniGreen Anaerobic Digestion facility in South Saint Paul, or another privately owned facility.
- Beginning in 2014 there will be continued exploration of gasification technology, and, if the technology is viable, work on gasification procurement, siting, permitting, and construction. Sometime around 2018 to 2022, the Scope envisions a phased approach to change from using RDF for combustion to gasification to producing biofuel.

## 2. Technology

### a. Results of the Waste Composition Study

In order to inform the planning efforts of the Project Board, current waste composition data specific to generator types was needed. Detailed waste composition results for wastes from residential sources, commercial sources and the aggregates are provided in Attachment A.

The study determined that residential waste makes up approximately 45% of the total municipal solid waste (MSW) stream with commercial waste at 55%. Table 1 below shows the top ten most prevalent materials by sector.

Only traditional recyclable materials, cardboard & kraft paper, are present in the commercial waste top ten list. Several of the other categories will be difficult to manage such as bulky material, treated wood, and non-recyclable plastics and do not have readily available end markets. Future options of recycling will need to focus on food waste and compostable paper.

The low percentage of standard recyclables and higher fraction of food waste found the Counties is consistent with the results from other waste composition studies in jurisdictions with mature, aggressive recycling and diversion programs.

**Table 1: Top Ten Most Prevalent Material in Residential and Commercial Waste**

Residential Waste			Commercial Waste		
Rank	Material	Percent	Rank	Material	Percent
1	Food Waste	20.0%	1	Food Waste	22.4%
2	Yard Waste	7.6%	2	Bulky Material	8.4%
3	Textiles & Leather	7.1%	3	Treated Wood & Plywood	8.1%
4	Compostable Paper	6.3%	4	Compostable Paper	6.3%
5	Film: Other	4.5%	5	Non-Recyclable Plastic	5.4%
6	C&D Material	4.3%	6	Cardboard & Kraft Paper	5.3%
7	Carpet & Padding	3.5%	7	Clean Lumber, Pallets & Crates	5.2%
8	Diapers & Sanitary Napkins	3.0%	8	Film: Other	3.3%
9	Bulky Material	2.6%	9	C&D Material	2.4%
10	Non-Recyclable Plastic	2.5%	10	Other Organics	2.0%
<b>Cumulative</b>		<b>61.4%</b>	<b>Cumulative</b>		<b>68.7%</b>

b. Meeting a 75% Recycling Goal by 2030

Joint staff and consultant team has been working to identify how Ramsey and Washington Counties can achieve the NEW 75% recycling rate by 2030 goal established by the 2014 Legislature. To meet the 75% recycling goal, three alternatives were evaluated:

1. Increase collection of Source Separated Organics and Recycling (SSO/R) from residents and commercial sectors. See Attachment C for detailed analysis.
2. Use Mixed Waste Processing (MWP) technology at Newport to separate waste sent to the facility and recover recyclables and organics before processing the remaining waste into RDF. See Attachment C for detailed analysis.
3. Use a combination of SSO/R and MWP. See Attachment C for detailed analysis.

The attached memo and report outline the analysis and methodology used for evaluating the three alternatives. The following provides an overview of the findings from this work, and the costs associated with each of the three alternatives.

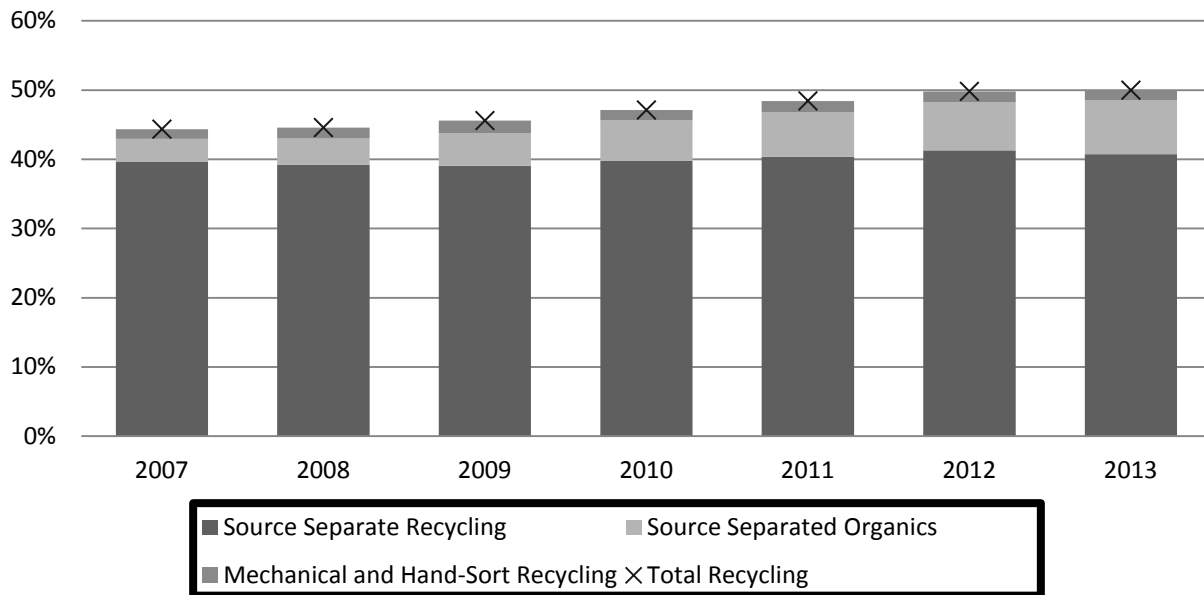
i. Summary of Recycling and Organics Trends

Table 2 below shows a summary of current recycling trends in Ramsey and Washington Counties. Ramsey and Washington Counties generate about 824,000



tons per year (TPY) of solid waste. About 50% or 412,000 TPY is currently recycled through a combination of recycling methods. Yard waste has not been included in previous reporting but will be included in future. When yard waste is included, about 921,000 TPY is generated in the two counties and about 53% or 487,000 TPY is recycled. Including yard waste, an additional 204,000 TPY or 22% increase of “new” recyclable tons are necessary to achieve the new 75% recycling goal (based on current total tonnages managed in the two counties).

**Table 2: Summary of Recycling and Organics Trends in Ramsey and Washington Counties 2007-2013 (without Yard Waste)**



ii. Source Separated Organics and Recycling (SSO/R)

The goal of this analysis is to forecast how much additional recyclable material that remains in the mixed municipal solid waste (MSW) by commodity can be captured by source separation. Considerations by individual commodity grade included: current capture rate, ease of recycling, and law of diminishing returns. Table 3 displays the “additional” tons of recyclable commodities projected to be recovered with enhanced SSO/R programs, based on current total tonnages managed in the two counties. These are tons-per- year (TPY) in addition to current recycling tons. Table 2 also displays the calculated “percent recycling of total mixed municipal solid waste (MSW) managed.” This line indicates that, given the assumed new capture rates, the total amount of additional “new” tons of recycling is estimated to be an additional 103,000 TPY or 11.2%. It is important to note that this analysis includes very ambitious target capture rates for residential and commercial SSO.

**Table 3: Additional “Recyclable” Commodities Projected for SSO/R Recovery by 2030  
 (“New” tons per year, based on 2013 total tons generated)**

	<b>Residential</b>	<b>Commercial</b>	<b>Aggregate Sum</b>
Traditional Recyclables:			
• Paper	8,700	9,300	18,000
• Plastic	3,500	6,400	9,900
• Metal	3,100	2,500	5,600
• Glass	900	2,300	3,200
Food Waste	10,916	27,614	38,531
Compostable Paper	3,450	7,460	10,910
Grass & Leaves	7,700	0	7,700
Other “Organic” Materials:			
• Textiles	2,400	400	2,800
• Clean Lumber, Pallets & Crates	0	2,000	2,000
Electronics	800	1,200	2,000
HHW	0	0	0
Other: Bulky Waste, Small Household Appliances, Carpet & Padding, C&D, and Tire/Rubber	2,400	0	2,400
<b>Total</b>	<b>43,866</b>	<b>59,174</b>	<b>103,040</b>
<b>Percent Recycling of Total Solid Waste Managed</b>	<b>4.8%</b>	<b>6.4%</b>	<b>11.2%</b>

The results in Table 3 indicate that even with ambitious SSO/R program improvements, it will be very difficult to achieve the 75% recycling goal by 2030 through implementation of enhanced source separated programs alone.

The cost for implementing an enhanced SSO/R program would be extensive and includes:

- *Commercial Sector-Borne Costs:* In order to enhance the commercial SSO/R program, source separation would need to be established in almost all of the non-residential establishments in Ramsey and Washington Counties, including those currently without or with limited recycling and/or organics recycling programs.

There are an estimated 20,000 business and institutional establishments in the two counties. The estimated cost to establish ambitious recycling

programs at these establishments is estimated to be nearly \$40 million. This cost assumes that 50% of these 20,000 establishments will need a one-time capital influx; the average one-time capital costs summarized by the BizRecycling program to-date is \$4,000 per business. These would be costs borne by the business to buy recycling bins, compactors, and make needed construction improvements. It is assumed that, through right-sizing of SSO/R and trash services, that there would be no net overall service cost increase to businesses.

- Residential Sector-Borne Costs:
  - To establish curbside SSO programs, the projected one-time cost is estimated to be \$4.1 million, assuming that 30% of the approximately 300,000 households in Ramsey and Washington Counties opt-in to the program and need a cart. The estimated cost for a cart delivered to a household is \$45. In addition to the one-time cart cost, the estimated monthly cost of SSO service per participating household is \$7, or a total annual cost born by residents of \$7.6 million.
    - To enhance SSR programs, an estimated \$3 million one-time capital influx is needed for equipment to get multi-family units served and improve their programs.
  - *County-Borne Costs:* For the Counties to achieve the necessary participation from both the commercial and residential sector, extensive advertising, promotion and educational outreach will be needed. At a minimum the on-going annual costs to Counties is estimated to be \$6.1 million which includes doubling the current BizRecycling efforts and technical assistance program and spending the equivalent of \$1 per month per residential household on outreach and education.

Table 4 summarizes the costs associated with the enhanced SSO/R by sector.

**Table 4: Summary Costs Associated with Improved SSO/R**

Additional SSO/R	Estimated Additional Cost for Households or Businesses	Estimated Annual Residential or Business Cost	Estimated Annual County Costs
	One-time Cost	On-Going	On-Going
Commercial SSO/R	\$40 million	-	\$2.5 million
Residential SSO Curbside	\$4.1 million	\$ 7.6 million	\$3.6 million
Residential Improved SSR	\$3 million	-	
<b>Total</b>	<b>\$ 47.1 million</b>	<b>\$ 7.6 million</b>	<b>\$6.1 million</b>

iii. Mixed Waste Processing (MWP)

Foth worked with Resource Recovery Technologies (RRT) staff and MWP processing equipment vendors to create an estimated cost for installation of an MWP system that will fit within the existing Newport facility. The MWP technology consists of two-lines: one for residential waste and one for commercial waste. See Attachment D for additional details and diagrams. This section addresses addition of an MWP system to the existing Newport plant, without enhanced SSO/R.

The addition of a MWP system targeting organics and cardboard results in a 4.6% increase towards the 75% recycling goal. This system provides potential revenue for the Counties from recovery of some ferrous materials and cardboard. By expanding the MWP system to include container collection (i.e. plastics, aluminum, and additional ferrous) the increase in percent recovery raises to 5.9% percent as well as adding new revenue streams.

Assuming the capital costs are amortized at 4% over 20 years, the annual costs range from approximately \$938,000 to \$1,453,000. Table 5 summarizes the costs associated with MWP (i.e., using union labor rates), potential revenue and percent increase in recovery goals.

**Table 5: Summary of Costs Associated with MWP, Potential Revenue and Percent Increase in Recovery Goals (“New” tons per year, based on 2013 total tons generated)**

Potential MWP System	Site Capital Costs	Equipment Capital Costs	Total Estimated Capital Costs	Annual O&M Costs	Potential Annual Revenue	Percent Increase in Recovery
Targeting Organics	\$4,500,000 to \$5,300,000	\$8,250,000 to \$8,750,000	\$12,750,000 to \$14,050,000	\$5,238,900 to \$6,088,900	\$619,665	4.6%
Targeting Organics and Containers	\$5,900,000 to \$7,000,000	\$11,950,000 to \$12,750,000	\$17,850,000 to \$19,750,000	\$6,461,650 to \$7,311,650	\$4,646,365	5.9%

Results in table 5 indicate that a comprehensive MWP system at Newport alone will not allow the Counties to reach the 75% recycling goal by 2030 (as the current recycling rate is 53% with yard waste).

iv. Source Separated Organics and Recycling (SSO/R) With Mixed Waste Processing

If enhanced SSO/R were implemented, the amount of material within the waste stream “available” for processing with a MWP system targeting organics and containers would be reduced. In other words, the increased recovery rate through implementation of enhanced SSO/R and increased recovery rate through installation of MWP system are not directly additive because SSO/R implementation reduces the volume of “available” tons in the waste stream for MWP system capture.

The estimated tons of material that remain in the waste stream after implementation of SSO/R in conjunction with the estimated recovery rates using MWP system are presented in Table 6.

**Table 6: Estimated Tons Recovered with Installation of a MWP System at Newport Facility and Enhanced SSO/R (“New” tons per year, based on 2013 total tons generated)**

Material	Tons of Material in MSW for Recovery after Enhanced SSO/R	Estimated Tons Recovered using SSO/R and MWP	Approximate Increase Recycling of Solid Waste
PET	2,600	1,425	0.2%
HDPE	1,400	765	0.1%
Cardboard/Boxboard	4,240	1,780	0.2%
Ferrous (Tin, Steel, Containers)	5,900	4,455	0.5%

Non-Ferrous	1,450	1,035	0.1%
Organics (Food, Yard Waste)	52,300	21,965	2.4%
<b>Total</b>	<b>68,170</b>	<b>31,425</b>	<b>2.9% *</b>

*\*Note: The ferrous and non-ferrous tons are not included in the total percent increase as they are currently recovered at the Newport Facility.*

The estimated increases in recovery rates with implementation of enhanced SSO/R only is 11.2% and with installation of a MWP system only is 5.9 %. These estimated recovery rates are not additive when combining enhanced SSO/R with a MWP system. If both SSO/R and MWP were implemented, the estimated combined material recovery rate is estimated to be 14.1%. When added to the current recycling rate of 53%, this cumulative recovery rate, at 67.1%, is still significantly less than the Minnesota Legislature’s Goal of 75%.

v. Findings and Next Steps

The current analysis found that Ramsey and Washington Counties cannot meet the 75% State recycling goal. Further analysis is needed to confirm the data and analysis, and to continue to explore the best strategy for the counties. Next steps include:

- *Peer Review:* The extensive analysis completed used best data available by the counties and consultant staff team. The work has not yet been peer reviewed. A formal peer review process will be used to vet the data by other metro counties, industry representatives, and Minnesota Pollution Control Agency during the last quarter of 2014.
- *Carbon and Energy Analysis:* An analysis will be conducted to examine these management methods applied to the East Metro taking into consideration energy and carbon associated with collection, management, and disposal.
- *Economic Analysis:* Further analysis is needed to integrate the economic costs identified with this analysis with the current system costs in order to better evaluate the cost of increased recycling percentage vs diversion.
- *Additional Policy Discussion:* If a MWP system is implemented that can recover a substantial portion of the residential food waste, the need for starting new residential SSO programs should be further evaluated. Commercial food waste reduction and recycling is well established in the East Metro, but there is very little infrastructure in place yet for residential collection programs.

c. **Update on Anaerobic Digestion**

At its April 2014 meeting the Project Board selected several technologies on which to focus, that included Source Separated Organics and mixed waste processing with organics being sent to Sanimax’ SaniGreen facility. In particular, it was noted that the Counties would explore the viability and economics of the SaniGreen facility, and how best to capitalize on that processing technology for organics in the future. That work

was to include finding the right balance of delivering SSO, and whether to invest in mixed waste processing to recover organics from the MSW stream. Previous discussion in April 2014 memo focused on SSO and MWP to recover organics.

Foth and Project staff have been continuing to evaluate the SaniGreen Facility, and have also explored other anaerobic digestion opportunities. Key points about the proposed SaniGreen facility:

- SaniGreen continues to seek a supply of feedstock; one setback was the closing of one supplier of organic waste, because of challenges in the beef industry. Before proceeding with construction the company is seeking a minimum level of commitment for organic feedstock. The plant has a design capacity of 150,000 tons per year, they currently have about 45,000 tons committed (after the loss of the major supplier).
- SaniGreen is very interested in the potential use of organic waste recovered from mixed waste processing as a feedstock. To that end, the Project, RRT and SaniGreen have discussed having MSW from the East Metro processed at a mixed waste processing facility, and providing the organics to Sanimax's technology provided, Big Ox Energy, to test in an existing digester.
- SaniGreen's estimate of a tipping fee remains in the range of \$25 to \$35 per ton, depending on quality.
- SaniGreen is working through MPCA permitting. They are beginning work on other permits that may be needed. They have been awarded an Xcel Energy Renewable Development Fund grant of \$5 million. They are looking into potential funding through the Metropolitan Council Environmental Services "Industrial Pretreatment Incentive Program," if that program is approved by the Council in October. That program could provide significant funding at a low interest rate for a digester. Big Ox Energy has private capital available for up to ten projects; they currently have projects in Denmark, WI; Mason City, IA; and South Sioux City, NE.

The Metropolitan Council has proposed a new program will provide a partnership and incentive to help high-strength wastewater industrial dischargers build and operate pretreatment equipment (e.g. anaerobic digestion facilities) on their sites. The following information is from the Metropolitan Council:

*"The proposed incentive would require that the Council finance (at low public financing taxable rates), own the pretreatment equipment, and also pay up to 30% of annual debt service payments (up to a budget limit). The industry applicant would be responsible for the design, build and operation of the facility and all related costs and risks. In addition, at the end of the agreement term, the applicant would agree to assume ownership of the equipment regardless of its condition.*

*"On June 25, 2013, MCES held a hearing to get public input. Interest from those attending seemed strong. Since that meeting, staff have met with several*

*interested parties and program details have been further refined for this public hearing. Final action by the Metropolitan Council is scheduled for December.*

*“If the IPIP is eventually adopted, the direct public benefits include reduced MCES operating costs (mostly energy savings) and a delay of future capital costs to expand plants. Financial analyses show the present value of the benefits to Council (energy cost savings and avoided capital costs) exceed the costs (lost revenue and incentive payment) over the term. In addition, indirect benefits to the Region include helping the private industry, jobs and the tax base (eventually), and environmental benefits from energy impacts.”*

**Next Steps:**

SaniGreen’s project has had a setback with the loss of a potential supplier, but has local permits, land, and capital. Staff will continue to closely monitor this project work to determine the viability of using organics from mixed waste processing in anaerobic digestion.

The Metropolitan Council will be considering implementation of an “Industrial Pretreatment Incentive Program,” which would provide low cost capital for projects to reduce the organic load on the metropolitan wastewater system. Anaerobic digestion of solids falls within this type of program, and staff will closely monitor the IPIP program to determine if other opportunities arise.

**d. Update on Gasification**

A Request of Expressions of Interest (RFEI) on Technologies to Process Mixed Municipal Solid Waste was issued by Foth, on behalf of the Resource Recovery Project, on June 27. The purpose of the RFEI is to assist the Project Board in understanding the commercial viability of new and emerging MSW gasification technologies and if those technologies could fit within the existing waste processing infrastructure.

Four responses to the RFEI were received including:

1. Coronal, LLC, St. Paul, MN
2. Enerkem, LLC, Montreal, Canada
3. Fiberight, LLC, Baltimore, MD
4. Sierra Energy, Davis, CA

Attachment E, provides a short summary of each of the respondents based on the information submitted in their respective responses. The Project Staff learned a great deal about the operations and potential of the four technologies promoted but additional research and evaluation is needed.

**Next Steps:**

There are limited numbers of companies with proven MSW gasification capabilities at this time. The Project Board Joint Staff Team has met with representatives of Enerkem and Coronal as part of this process and there is a site visit planned for several representatives to the City of Edmonton waste management facilities and the Enerkem



plant at that location on September 29-30, 2014. There may be value in meeting with representatives of Fiberight and/or visiting its facility in Lawrenceville, VA. Fiberight is active with development projects in Iowa and it will be beneficial to better understand the Mechanical Biological Treatment (MBT) process technology they proposed in their response. Project Staff are also planning to attend the separate MBT workshop at the Renewable Energy from Waste Conference in San Jose in November 2014.

### 3. Policy

#### a. Update on Waste Assurance

Waste Assurance is the key economic issue related to any processing alternative and ownership option selected. Assuring a supply of material to be delivered to a facility, whether for recycling, processing, or manufacturing, is essential to the success of that facility. Without material coming into the facility, there is no revenue, and the facility cannot be sustained. In sum, controlling and assuring a supply of waste over a period of time is also essential for financing the capital and operating costs, and meeting policy goals associated with waste processing.

There are two broad categories of waste assurance: Regulatory and economic incentive approaches. Regulatory approaches are those in which government regulations are adopted and enforced, resulting in waste being compelled to be delivered to a facility. The focus of work since July has been to outline specific issues related to waste designation (flow control), and to interpret the litigation that has occurred related to the MPCA's enforcement of Minn. Stat. Chapter 473.848.

- i. Waste Designation – Minnesota law provides that a county may require all, or a portion, of the solid waste generated within its boundaries be delivered to a processing or disposal facility. There is a process set forth in statute for implementing designation, including development of a designation plan that needs approval by the MPCA. An ordinance is also developed, and that also must be approved by the MPCA. Stoel Rives has provided a memo (Attachment F) that outlines the process to implement designation, with information specific to Ramsey and Washington Counties.

If Ramsey and Washington County were to re-establish waste designation under a public ownership scenario, they would need to amend their solid waste master plans, prepare waste designation plans, amend their solid waste ordinances, and go through the MPCA approval processes. The memo from Stoel Rives outlines these requirements, and provides a timeline.

- ii. MPCA enforcement of Minn. Stat. Section 473.848 - Since 2009 the MPCA has explored renewed enforcement of Minn. Stat. Section 473.848 (known as the Restriction on Land Disposal Statute). This statute provides that a person may not dispose of unprocessed MSW in a landfill unless it has met some requirements related to processing. The MPCA developed an approach to enforce this statute which was contested by Waste Management of Minnesota, Inc. Stoel Rives has

prepared a memo (Attachment G) that explains the results of the litigation, and the effect on Ramsey and Washington Counties.

Stoel Rives concludes the following:

*“The Master Plans in both Ramsey and Washington Counties are consistent with the MPCA Plan and support MPCA’s strategy to enforce the Statute. To the extent MPCA remains successful against Waste Management’s or other legal challenges and pursues enforcement of the Statute, it could result in additional waste being delivered to the Newport Refuse-Derived Fuel Facility (“Newport Facility”). However, because MPCA has determined that it cannot enforce the Statute beyond the state’s boundaries without implicating constitutional dormant Commerce Clause concerns, it does not affect landfills located in other states that accept MMSW generated in the Metro Area.*

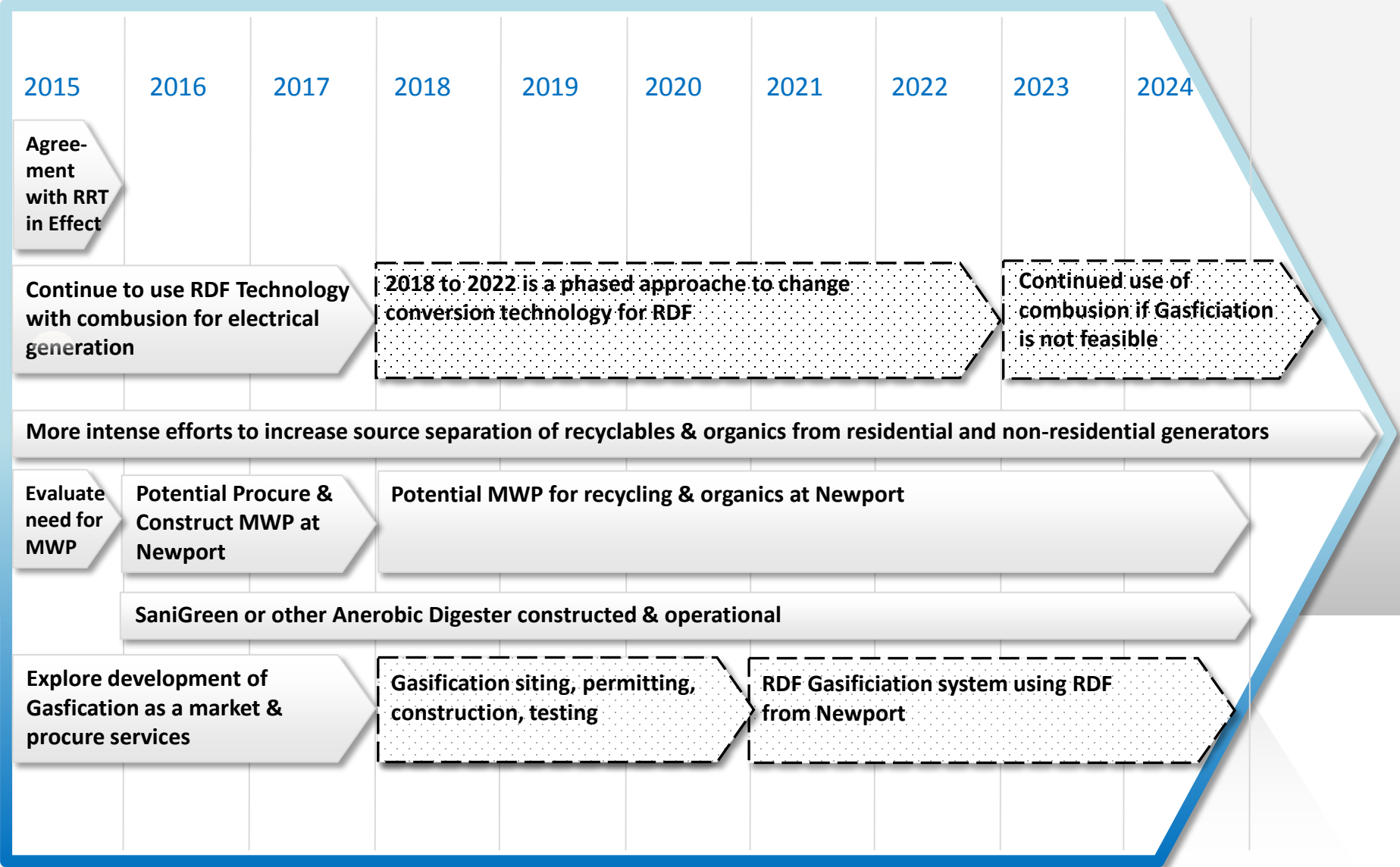
*“In the case of Ramsey and Washington Counties, about 300,000 of the approximately 400,000 tons of available MMSW already is delivered to the Newport Facility. Close to half of the remaining approximately 100,000 tons is disposed of at the Advanced landfill near Eau Claire, Wisconsin. That waste will not be affected by MPCA’s increased enforcement efforts. Although it is possible that some or all of the remaining Ramsey and Washington MMSW that is landfilled in Minnesota could be redirected to the Facility by MPCA enforcement of the Statute, it is also possible that some or all of that waste could be redirected to landfills in other states and thus not be subject to enforcement. Therefore, Ramsey and Washington Counties cannot rely on MPCA enforcement of the Statute to achieve a substantial increase in waste delivered to the Facility.”*

b. Governance Options

At its April meeting the Project Board directed staff to further evaluate two governance options; Joint exercise of powers (Joint Powers Agreements) and Waste Management District. Stoel Rives has prepared a memo (Attachment H) which evaluates these options.

# Scope for Resource Management

Looking ahead at the next 10 years



Note: Shaded steps represent uncertainty in timing and the need for the previous step to be successful



## Waste Composition Study

### Executive Summary

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The Ramsey/Washington Counties Resource Recovery Project Board is evaluating future options for processing and disposal of waste generated in the Counties. To inform the planning efforts, current waste composition data specific to generator types is needed. The composition of residential wastes typically is different from commercial wastes. Different approaches for recycling may be considered.

This study sought to determine the composition of waste from the following generator sectors:

- ◆ Residential,
- ◆ Commercial (including multi-family apartments collected on commercial routes), and
- ◆ The percentage breakdown between residential and commercial waste tonnages.

Although the study did not seek statistically comprehensive samples from the multi-family sector, a small number of waste samples from a segregated load of multi-family wastes were also sorted to provide anecdotal information.

Detailed waste composition results for wastes from residential sources, commercial sources, and the aggregates are provided in the report. The tables below provide a summary of the “Top Ten” waste composition categories in residential and commercial wastes. The study determined that residential wastes make up approximately 45 percent of the total municipal solid wastes (MSW) with commercial wastes totaling to the remaining 55 percent.

Table ES-1  
Top Ten Most Prevalent Materials in Residential Waste

Rank	Material	Percent
1	Food Waste	20.0%
2	Yard Waste	7.6%
3	Textiles & Leather	7.1%
4	Compostable Paper	6.3%
5	Film: Other	4.5%
6	C&D Material	4.3%
7	Carpet & Padding	3.5%
8	Diapers/Sanitary Napkins	3.0%
9	Bulky Material	2.6%
10	Non-Recyclable Plastic	2.5%
<b>Cumulative</b>		<b>61.4%</b>

Table ES-2  
Top Ten Most Prevalent Materials in in Commercial Waste

<b>Rank</b>	<b>Material</b>	<b>Percent</b>
1	Food Waste	22.4%
2	Bulky Material	8.4%
3	Treated Wood/ Plywood	8.1%
4	Compostable Paper	6.3%
5	Non-Recyclable Plastic	5.4%
6	Cardboard/Kraft paper	5.3%
7	Clean Lumber/ Pallets/ Crates	5.2%
8	Film: Other	3.3%
9	C&D Material	2.4%
10	Other Organics	2.0%
<b>Cumulative</b>		<b>68.7%</b>

Food wastes were found in particularly high percentages. Residential waste had 20 percent food waste. This was fairly uniformly found in samples. Commercial waste had 22.4 percent Food Waste.

The “Top Ten” categories of waste still present in both residential and commercial waste are noticeably lacking the standard recyclables. Only Cardboard/Kraft Paper made the Top Ten in commercial waste. Recovering even higher percentages of the standard recyclables may not achieve the new state goal of 75 percent recovery. Several of the “Top Ten” categories will be difficult to recover (bulky material, treated wood/plywood, textiles and leather, non-recyclable plastics, film, etc.).

The percentage of the “standard” or “typical” recyclables such as Newspaper still remaining in both the residential and commercial waste streams is fairly low.

Future options for recycling/organics recovery will need to focus on the Food Wastes.

The low percentages of the standard recyclables and the higher fraction of food waste found in the Counties is consistent with the results from other waste composition studies in jurisdictions with mature, aggressive recycling and diversion programs (including those with effective volume-based pricing structures that give waste generators an incentive to reduce as well as recycle).

The data provided in this report will be used in planning for future recycling and waste processing options.



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September 15, 2014

TO: Ramsey / Washington County (R/W) Resource Recovery Project Staff: Kate Bartelt Norm Schiferl and Gary Bruns

CC: Foth Infrastructure & Environment, LLC (Foth): Warren Shuros, Jennefer Klennert, Susan Young, Curt Hartog, and Nate Klett

FR: Dan Krivit (Foth)

RE: Estimated Calculations of Additional SSR/SSO Tons

This memorandum provides a summary of calculations of existing recycling tonnage data compared to materials still remaining in the mixed municipal solid waste (MSW) stream. The objective of this task was to develop “capture rates” by commodity category where possible. Capture rate for purposes of this analysis is defined as the percent of:

$$\frac{\text{Tonnage of current recyclable tonnage by commodity}}{(\text{Tonnage of current recyclable tonnage by commodity} + \text{Tonnage of comparable materials remaining in the MSW})}$$

The goal is to look at these results to determine how much recyclable material by commodity remains in the MSW relative to amounts recovered in current source separation recycling programs.

This method works best for traditional recyclables (paper, metal, glass, plastic), especially from the residential sector for which communities report reasonably good data overall for municipal curbside recycling programs. But this method is less accurate (or even not feasible due to lack of data), for non-traditional recyclables and the commercial sector (which for these purposes includes multi-family buildings not collected on curbside routes; the quality of multi-unit recycling data reported varies, depending on the community).

An alternative means of estimating capture rates is to examine the quantities of potentially recyclable materials remaining in the MSW, based on the recent R/W *Waste Composition Study* (August 2014), and then to use best professional judgment to estimate what portion of the quantity of each potentially recyclable material can feasibly be recovered through additional source-separated recycling efforts.

This alternative method results in similar total capture rates and “new” recyclables tons compared to the adjusted commercial SCORE reports method.

This data can serve as a basis for discussion and further analysis of feasibility of increasing source separation recovery of these commodities. This task also results in another view on the various means by commodity to achieve the new 75% recycling rate by 2030 goal established by the 2014 Legislature. The final set of data in this memo estimates remaining recyclables in MSW which is used for a separate analysis and Foth report, *Analysis of Mixed Waste Processing (MWP)*.

In “round numbers,” Ramsey and Washington Counties manage approximately 921,000 tons per year (TPY) of solid waste, including all yard waste. About 53% is currently recycled through a combination of recycling methods (approximately 487,000 TPY, including grass and leaves). An additional 204,000 TPY of “new” recyclable tons is needed to achieve the State’s 75% recycling goal.

## **Methods**

The recent R/W *Waste Composition Study* data provides the means to calculate the amount of recyclable materials that remain in the waste stream today. This composition data was applied against the tonnages of total MSW reported by County staff in the 2013 county Certification reports submitted to the MPCA. R/W Project staff estimate that 405,000 tons were available for MSW processing in 2013. This estimate includes MSW delivered for processing at The Newport Facility plus unprocessed MSW delivered to landfills.

The amount of residential MSW was estimated at 182,000 tons for 2013 based on the 45% share estimated from the *Waste Composition Study* applied to the 405,000 tons. The amount of commercial MSW was estimated at 223,000 tons for 2013 based on the 55% share estimated from the *Waste Composition Study*.

2013 recyclable tonnage data for each County were provided by County staff from 2013 county “SCORE” reports submitted to the MPCA. This recyclable tonnage estimate does not include quantities of yard waste because yard waste has not been included as a reportable recycling commodity in SCORE reports.

The estimated amount of commercial recyclables for Ramsey County is not normally fully allocated by commodity due to the significant amount of “Unspecified/Unknown”. To allocate “splits” of these unspecified tons for Ramsey County, Foth applied the relative (i.e., percent by category) Washington County allocations for estimated commercial tons by broad category.

This Foth method of “adjusting” the Ramsey County commercial recyclables tons was compared against an alternative method of simply estimating a target or “new” capture rate of tons remaining in the MSW stream derived from the R/W *Waste Composition Study*. County staff used an assumption of 50% “new” recovery of commercial tons of recyclables remaining today in the MSW.

Foth made minor combinations of line item commodities to allow subtotals of like materials when reported differently by each County. For example, Foth created a more generic “Mixed / Other Paper” for the combined SCORE-reported totals from both Counties.

County SCORE reports have included three categories of organic materials: food-to-people (food rescue), food-to-livestock (food directly for livestock feeding, plus food for livestock feed manufacturing), and source separated organics (SSO). SSO is comprised primarily of food waste and non-recyclable, compostable paper.

For purposes of evaluating mixed waste processing (MWP), “organics” is defined as food waste and yard waste.

“Yard waste” in the *Waste Composition Study* was defined as:

*“Yard waste means grass clippings, leaves, branches, sticks, garden waste, brush, stumps compostable yard waste bags, and non-woody plant material such as cut flowers.”*

Yard waste recycling and recovery is not reported by Counties as part of their annual SCORE reports. This procedure is consistent with MPCA’s SCORE reporting requirements. The R/W Counties’ total residential yard waste recycling and recovery estimates, about at 87,700 TPY, are reported separately to the MPCA. For purposes of this analysis County staff developed separate tonnage estimates for “leaves & grass” recycled (66,200 TPY) vs. “brush” recovered (21,500 TPY).

The residential total yard waste tonnage estimates are derived from yard waste drop-off reports and may be conservative because they do not reflect all yard waste collected. For example, yard waste collected from residents by waste haulers are not reported in the County yard waste drop-off reports. These hauler-collected materials are usually transported to commercial yard waste sites, including composting facilities outside of R/W.

Foth estimated about 10,000 TPY of commercial yard waste is managed in R/W Counties. About 90% (9,000 TPY) is recycled or otherwise recovered and 10% (1,000 TPY) is disposed in with MSW. It is estimated that 6,794 TPY of commercial leaves & grass is recycled via composting and 2,206 TPY is chipped for energy recovery. The calculated total amount of yard waste recycled or recovered is 96,700 TPY (87,700 TPY residential + 9,000 TPY commercial).

Composting of leaves and grass is defined as a form of recycling in Minnesota. Most of the brush reported by R/W Counties is currently chipped and used for waste to energy at District Energy St. Paul along with other urban wood waste residuals. Waste to energy is considered resource recovery and not technically defined as “recycling” and therefore is not included in calculations of recycling rates.

## **Limitations of Data and Methods**

This approach has limitations, including:

- ◆ The “**estimated**” commercial SCORE recyclables tonnage data are very rough estimates of actual commercial tonnages, using estimating approaches developed two decades ago because of the large number of businesses in the two counties. Yet these estimated



commercial SCORE tonnages comprise the largest fraction of the total recyclables at about 283,000 tons total for both Counties in 2013 (59% of the total recyclables tonnage, excluding yard waste).

- ◆ By comparison, the “**documented**” commercial recyclables tonnage is reported at about 76,000 tons for both Counties in 2013 (18% of the total recyclables tonnage, excluding yard waste).
- ◆ Residential recycling tonnages overall are reasonably good, especially because the majority of households in the two counties, when viewed in aggregate, are in communities with contracts for recycling collection that include reporting requirements. Also, minor data inaccuracies in residential recycling reports by community tend to be diluted when aggregated at a county level. Residential recyclables tonnage is reported at about 81,000 tons for both Counties in 2013 (20% of the total recyclables tonnage, excluding yard waste).

Haulers generally report the original source data to communities. Communities then report to the Counties. The residential recyclables, which also includes some drop-off recycling tonnage, is relatively consistent between the two counties.

- ◆ The final fraction of recyclables reported to MPCA via the County’s SCORE reports include 12,265 tons (3% of total recyclables tonnage, excluding yard waste) from “mechanical/hand-separated” recovery at centralized facilities. This fraction of recyclables is reliable data and very consistent from year-to-year. About 98% of the mechanical/hand-separated tons come from the the Newport Facility.
- ◆ The SCORE report categories for recyclables do not match up exactly to the R/W *Waste Composition Study* (August 2014). This is in part because the *Waste Composition Study* categories were designed to be consistent with those used in the 2013 statewide and other recent waste composition studies. Foth consolidated several of the recyclable commodities into “mixed/other .....” subtotals.

This commodity category consolidation is not feasible for many of the special / problem wastes because of the unique SCORE reporting requirements. The following SCORE commodities were not sorted as separate categories in the *Waste Composition Study*: major appliances, used (automotive) oil, used oil filters, waste tires, and antifreeze.

- ◆ The definitions of commodities differ slightly between SCORE reports and the *Waste Composition Study*, even if they are worded the same. Only the most common commodities (e.g., newsprint, glass containers, film plastic) are defined exactly the same.
- ◆ Yard waste was sorted as one category for the *Waste Composition Study* and not split into subgrades (e.g., “grass/leaves” vs. “brush”). The annual recycling and waste to energy recovery estimates were applied to estimate these grass/leaves vs. brush splits of yard waste remaining in the MSW.

## Results

Table 1 displays the calculated tonnage of recyclables remaining in the MSW stream as defined by the *Waste Composition Study*. These are the tons of recyclables estimated to be currently in the MSW stream based on the estimates of total tons of MSW available by sector as discussed above. This is before any projected additional recovery via SSR/SSO improvements.

**Table 1**  
**"Recyclable" Commodities in MSW**  
**from the Waste Composition Study**

Before Additional Recovery via SSR/SSO Improvements  
(Tons per year)

	Residential	Commercial	Aggregate
<b>Traditional Recyclables:</b>			
<b>Paper</b>	18,296	22,366	40,662
<b>Plastic</b>	11,771	13,996	25,767
<b>Metal</b>	6,098	6,993	13,091
<b>Glass</b>	3,425	2,945	6,370
<b>Compostable Paper <sup>(a)</sup></b>	11,501	14,027	25,528
<b>Food Waste <sup>(b)</sup></b>	36,456	49,849	86,305
<b>Yard Waste</b>	13,819	1,007	14,826
<b>Other "Organic" Materials:</b>			
<b>Textiles</b>	13,010	4,162	17,172
<b>Clean Lumber / Pallets / Crates</b>	2,730	11,579	14,309
<b>Electronics</b>	2,568	2,355	4,923
<b>HHW</b>	294	132	426
<b>Other <sup>(c)</sup></b>	20,832	30,508	51,340
<b>TOTAL</b>	<b>140,800</b>	<b>159,919</b>	<b>300,719</b>

*Sources: Waste Composition Study (2014) and*

*Foth MSW tonnage data calculations as applied to the Composition Study percentages*

Notes:

- (a) "Compostable paper" was defined in the *Waste Composition Study* as: "Other paper products including paper napkins, towels, and tissues; paper plates, cups, coffee filters, paper egg cartons, soiled fast food paper bags and wrappers, waxed paper, parchment, and food contaminated or wet pizza boxes, and refrigerated or frozen food packaging."
- (b) "Food waste" was defined in the *Waste Composition Study* as: as "Food preparation wastes, food scraps, composting food waste bags, and spoiled food including meat' bones' and Keurig type coffee cups that have not been emptied. ...."
- (c) "Other": includes: bulky material, small household appliances, carpet and padding, construction & demolition material, and tires/rubber.

Table 2 displays the SCORE - reported recyclable commodities recovered in 2013. The commercial data is after the adjustments Foth made to the Ramsey County estimated commercial tonnages to match the same material category breakdown from Washington County.

The tonnages shown exclude recyclable materials removed from MSW by mechanical/hand-separation as reported in the county annual SCORE reports. These materials (a total of approximately 12,265 TPY in 2013) are not source separated and would be available to any future MWP system. The breakdown of R/W combined totals (both residential and commercial) mechanical/hand-separated tonnages include: 31 TPY of paper and 12,234 TPY of metals.

**Table 2**  
**"Traditional Recyclable" Commodities as Reported in Annual SCORE Reports Plus Yard Waste and Other Non-Traditional Materials**

As Calculated and/or Reported in Annual SCORE Reports  
 (With Adjusted Estimates of Commercial Tons for Ramsey County)  
 (Tons per year)

	<i>Residential</i>	<i>Commercial</i> <sup>(a)</sup>	<i>Aggregate</i>
<b>Traditional Recyclables:</b>			
Paper <sup>(b)</sup>	41,104	238,497	279,602
Plastic <sup>(b)</sup>	3,319	1,178	4,497
Metal <sup>(b)</sup>	3,524	13,530	17,054
Glass	13,508	1,473 <sup>(c)</sup>	14,981
SSO <sup>(d)</sup>	30	2,360	2,390
Food Waste <sup>(e)</sup>	0	61,324	61,324
Grass & Leaves	66,200 <sup>(f)</sup>	6,794 <sup>(g)</sup>	72,994
<b>Other "organic" materials:</b>			
Textiles	1,186	6	1,192
Clean Lumber / Pallets / Crates	0	1,113	1,113
Electronics	986	0	986
HHW <sup>(h)</sup>	5,154	0	5,154
Other <sup>(i)</sup>	4,802	0	4,802
<b>TOTAL</b>	<b>139,813</b>	<b>326,275</b>	<b>466,089</b>

Notes:

- (a) Adjusted "Estimated Commercial" from Ramsey County (prorated per Washington County splits).
- (b) Recyclable tonnages shown in this Table 2 exclude recyclables removed from MSW by mechanical/hand-separation as reported in the county annual SCORE reports. These materials (a total of approximately 12,265 TPY) are not source separated and would be available to any future MWP system.
- (c) Commercial glass, 1,473 TPY, based on assumed estimate from amounts in the MSW. SCORE reports reported no commercial glass recycling tonnages.
- (d) Source separate organics ("SSO") tons reported by Ramsey County for residential organics include both food waste + compostable paper. Commercial food waste (not including compostable paper) shown in this table are separate from SSO.
- (e) "Food waste" includes recycling for animal feed and food rescue programs (i.e., "food-to-people").
- (f) Residential yard waste calculations from County staff data (66,200 TPY), includes grass & leaves only. Brush is generally chipped and used for energy recovery and therefore not technically "recycled".
- (g) Commercial yard waste estimates based on Foth calculations (6,794 TPY), include grass & leaves only; No brush is included.
- (h) Recyclable HHW reported in SCORE reports includes lead acid batteries and paints/solvents.
- (i) "Other": includes: bulky material, small household appliances, carpet and padding, construction & demolition material, and tires/rubber.

Table 3 (see page 7) displays the current capture rates before any additional recovery via improved SSR/SSO systems. These data indicate very high capture rates for the most traditional, highest value recyclable commodities: paper and metal. The capture rates for plastic are low. The capture rate for SSO in the commercial sector is quite high; this is primarily a reflection of sizable quantities of recovery of food waste for livestock feeding that has been occurring for many years and has increased in recent years, accompanied by increases of smaller quantities of food rescue and SSO collections. As displayed, residential SSO is not yet started.

**Table 3**  
**Current "Recyclable" Commodities Capture Rates**  
 With Adjusted Estimates of Commercial Tons for Ramsey County  
 (Percent of Total: In MSW + Current Recovery)

	<i>Residential</i>	<i>Commercial</i> <sup>(a)</sup>	<i>Aggregate</i>
<b>Traditional Recyclables:</b>			
Paper	69%	91%	87%
Plastic	22%	8%	15%
Metal	37%	67%	57%
Glass	80%	33%	70%
SSO <sup>(b)</sup>	0.3%	15%	9%
Food Waste	0%	55%	42%
Grass & Leaves	86%	90%	87%
<b>Other "organic" materials</b> (selected):			
Textiles	8%	0.2%	6%
Clean Lumber / Pallets / Crates	0	9%	7%
Electronics	28%	0%	17%
HHW <sup>(c)</sup>	95%	0%	92%
Other <sup>(d)</sup>	50%	0%	7%

Notes:

- (a) Adjusted "Estimated Commercial" from Ramsey County (prorated per Washington County splits).
- (b) SSO capture rates for residential organics include commingled food waste + compostable paper. Commercial food waste (not including compostable paper) capture rates shown in this table are separate from SSO.
- (c) Recyclable HHW includes batteries and paints/solvents.
- (d) "Other": includes: bulky material, small household appliances, carpet and padding, construction & demolition material, and tires/rubber.

Table 4 provides the residential waste line item calculations of the current capture rates, projected target capture rates, and the resulting projected tons of additional recyclables by type and total, based on 2013 total tonnages generated in the two counties. The projected target capture rates, which are drawn from experience in other mature recycling programs with documented capture rates, are significantly higher than the current capture rates for most materials.

**Table 4**  
**Current and Projected New Residential Capture Rates by Material**  
(Tons per Year and Capture Rate as a Percent of Total Available Material Available)

Material	TOTAL Recycled + in MSW	Current Capture Rate	Target Capture Rate	New SSR Tons Recycled	Total of "Old" + "New" Tons Recycled	Tons Remaining in Mixed MSW
<b>Traditional Recyclables:</b>						
<b>Recyclable Paper Subtotal</b>	<b>59,401</b>	<b>69%</b>	<b>84%</b>	<b>8,721</b>	<b>49,826</b>	<b>9,575</b>
Newspaper	29,514	93%	<b>93%</b>	0	27,348	2,166
Office Paper	1,281	4%	<b>60%</b>	712	768	512
Magazines / Catalogs	3,897	45%	<b>60%</b>	581	2,338	1,559
Cardboard / Kraft Paper	7,920	44%	<b>75%</b>	2,451	5,940	1,980
Mixed / Other recyclable paper	16,790	50%	<b>80%</b>	4,977	13,432	3,358
<b>Recyclable Plastic Subtotal</b>	<b>15,091</b>	<b>22%</b>	<b>45%</b>	<b>3,487</b>	<b>6,806</b>	<b>8,285</b>
All PET	2,255	31%	<b>50%</b>	432	1,127	1,127
All HDPE	1,573	29%	<b>50%</b>	335	786	786
All other rigid plastic ["mixed rigid plastic"]	8,799	24%	<b>50%</b>	2,258	4,399	4,399
Recoverable Film & Film Bags	2,465	1%	<b>20%</b>	462	493	1,972
<b>Recyclable Metal Subtotal</b>	<b>9,623</b>	<b>37%</b>	<b>69%</b>	<b>3,132</b>	<b>6,657</b>	<b>2,966</b>
Aluminum Cans	2,084	65%	<b>80%</b>	320	1,667	417
Steel Cans	3,110	56%	<b>75%</b>	579	2,332	777
Mixed / Other Metal	4,430	10%	<b>60%</b>	2,234	2,658	1,772
<b>Food &amp; Beverage Glass</b>	<b>16,933</b>	<b>80%</b>	<b>85%</b>	<b>885</b>	<b>14,393</b>	<b>2,540</b>
Food Waste	36,486	0.3%	<b>30%</b>	10,916	10,946	25,540
Compostable Paper	11,501	0%	<b>30%</b>	3,450	3,450	8,051
Yard Waste: Grass & leaves	76,631	86%	<b>95%</b>	6,600	72,800	3,831
Textiles & Leather	14,196	8%	<b>25%</b>	2,363	3,549	10,647
Electronics	3,554	28%	<b>90%</b>	2,212	3,198	355
Batteries	4,749	98%	<b>98%</b>	0	4,669	80
Paints (latex) & solvents	489	99%	<b>99%</b>	0	485	4
Bulky Materials	9,563	50%	<b>75%</b>	2,371	7,172	2,391

Considerations by individual commodity grade included: current capture rate, ease of recycling, and “law of diminishing returns.” The general rule of thumb, or “law of diminishing returns,” is that the higher the capture rate, the more expensive (\$/ton) it is to recover new tons. For example, we are forecasting residential newspaper to have zero additional new tons because of the currently high capture rate. In addition, this forecast of zero new tons is due to the very clear, declining trend in the amount of newsprint generated due to decreasing subscriptions (e.g., due to the impacts of the

Internet), light-weighting of newsprint stock, downsizing the format of newspapers, and fewer newspaper ads, including inserts.

Table 5 displays the “additional” recyclable commodities projected to be recovered with improved SSR/SSO programs, based on current total tonnages generated in the two counties. These are TPY in addition to current recycling tons. The primary driving assumptions for these projections is the estimated “new” capture rates with improved SSR/SSO recovery programs. The estimated new capture rates were forecasted on best professional judgments of the full R/W Project staff team, including the extended Foth staff team.

The data for the commercial waste stream capture rates in Table 5 are not as detailed because there is less available documented data for these materials. According to the estimated total paper recyclables currently recovered, the current capture rate is already over 90%. Plastics, metal, and SSO present potential for additional recyclables recovery from commercial wastes.

Table 5 also displays the calculated “percent recycling of total solid waste (MSW) managed.” This line indicates that, given the assumed new capture rates, the total amount of additional “new” tons of recycling (including SSO) is only 11.2%. This includes very ambitious target capture rates for residential SSO (30%) and commercial SSO (80%).

**Table 5**  
**Additional "Recyclable" Commodities**  
 Projected for SSR/SSO Recovery by 2030  
 ("New" tons per year, based on 2013 total tons generated)

	<i>Residential</i>	<i>Commercial</i> <sup>(a)</sup>	<i>Aggregate Sum</i>
<b>Traditional Recyclables:</b>			
Paper	8,700	9,300	18,000
Plastic	3,500	6,400	9,900
Metal	3,100	2,500	5,600
Glass	900	2,300	3,200
Food Waste	10,916	27,614	38,530
Compostable Paper	3,450	7,460	10,910
Grass & leaves	7,700	0	7,700
<b>Other “organic” materials:</b>			
Textiles	2,400	400	2,800
Clean Lumber / Pallets / Crates	0	2,000	2,000
<b>Electronics</b>	800	1,200	2,000
<b>HHW</b> <sup>(b)</sup>	0	0	0
<b>Other</b> <sup>(c)</sup>	2,400	0	2,400
<b>TOTAL</b>	<b>43,866</b>	<b>59,174</b>	<b>103,040</b>
<b>Percent Recycling of Total Solid Waste Managed</b>	<b>4.8%</b>	<b>6.4%</b>	<b>11.2%</b>

Notes:

- (a) Based on adjusted "Estimated Commercial" from Ramsey County (prorated per Washington County splits)
- (b) Recyclable HHW includes batteries and paints/solvents.
- (c) “Other”: includes: bulky material, small household appliances, carpet and padding, construction & demolition material, and tires/rubber.

Table 5 indicates that even with ambitious SSR/SSO program improvements, it will be very difficult to achieve the 75% recycling by 2030 targets established by the 2014 Minnesota Legislature with source separation programs alone.

Table 6 displays the recyclable commodities remaining in the MSW stream after the additional SSR/SSO recovery (from Table 5). This table indicates the recoverable commodities that could be targeted for recovery through MWP. However, MWP will not be expected to recover all the targeted recyclables. It may not be possible to recover the approximately 200,000 total tons of materials to go from 53% recycling to 75% recycling.

**Table 6**  
**"Recyclable" Commodities Remaining in**  
**MSW after Additional SSR/SSO Recovery by 2030**

(Tons per year remaining in MSW)

	Residential	Commercial <sup>(a)</sup>	Aggregate Sum
<b>Traditional Recyclables:</b>			
<b>Paper subtotal:</b>	<b>9,600</b>	<b>14,891</b>	<b>24,491</b>
Cardboard	1,980	4,244	6,224
<b>Plastic subtotal:</b>	<b>8,300</b>	<b>7,600</b>	<b>15,900</b>
HDPE	786	612	1,398
PET	1,127	1,459	2,586
<b>Metal subtotal:</b>	<b>3,000</b>	<b>4,444</b>	<b>7,444</b>
Ferrous (steel cans)	777	332	1,109
Other / mixed metal	1,722	3,082	4,804
Non-Ferrous (e.g., aluminum cans)	417	1,030	1,447
<b>Glass</b>	<b>2,500</b>	<b>1,104</b>	<b>3,604</b>
<b>Food Waste</b>	<b>25,500</b>	<b>22,235</b>	<b>47,735</b>
<b>Compostable Paper</b>	<b>8,100</b>	<b>6,567</b>	<b>14,667</b>
<b>Grass &amp; Leaves</b>	<b>3,832</b>	<b>751</b>	<b>4,582</b>
<b>Brush / Wood Waste</b>	<b>1,244</b>	<b>250</b>	<b>1,495</b>
<b>Other "organic" materials:</b>			
Textiles	10,600	3,800	14,400
Clean Lumber / Pallets / Crates	0	2,100	2,100
<b>Electronics</b>	<b>355</b>	<b>1,200</b>	<b>1,555</b>
<b>HHW</b>	<b>100</b>	<b>0</b>	<b>100</b>
<b>Other <sup>(b)</sup></b>	<b>2,400</b>	<b>0</b>	<b>2,400</b>
<b>TOTAL</b>	<b>75,531</b>	<b>64,942</b>	<b>140,473</b>

Notes:

- (a) Adjusted "Estimated Commercial" from Ramsey County (prorated per Washington County splits)
- (b) "Other": includes: bulky material, small household appliances, carpet and padding, construction & demolition material, and tires/rubber.



## Analysis of Mixed Waste Processing (MWP)

### Executive Summary

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An analysis was performed to determine if a Mixed Waste Processing (MWP) system designed to manage the 405,000 tons of available mixed MSW could be co-located with the current Refuse Derived Fuel (RDF) system at the Newport Facility. The objective of this analysis is to determine how installation of an MWP system can help achieve the specific recycling and organics recovery goals.

This analysis included:

- ◆ Determining the materials targeted for recovery
- ◆ Determining the required MWP equipment size
- ◆ Selection of two MWP options
- ◆ Analysis of possible lay-outs for MWP
- ◆ Estimating costs associated with MWP
- ◆ Estimating material recovery
- ◆ Estimating potential revenue

The *Waste Composition Study* dated August 2014 by Foth was used as the basis for conceptual design of a MWP system. Results from the conceptual design process indicated two preferred options for MWP; targeting organics and commercial corrugated cardboard (cardboard) or targeting both organics/cardboard and recyclable containers. Based on equipment sizing information provided by equipment vendors a flexible lay-out for each option is presented using much of the existing infrastructure.

The waste composition percent, projected tons of targeted material received at the Newport Facility, estimated percent recovery with MWP and the estimated tons of material recovered used in this analysis are presented in Table ES-1.

The estimated percent recovery for PET and HDPE are considered conservative estimates considering the equipment vendors have indicated 85% recovery as part of a performance guarantee. The recovery rate for cardboard was not provided by the equipment vendor and will only be targeted in the pre-sort station, thus a 50% recovery rate is assumed. The recovery estimates for ferrous and non-ferrous are considered appropriate given the available data for recovery at the current Newport Facility. The lower percent recovery estimated for organics is considered appropriate since there is very little data available for comparable systems (accepting commercial and residential MSW and targeting organics for AD) and considering the East Metro region's well established source separation recycling programs.





**Table ES-1  
Estimated Percent Recovery with MWP  
and the Estimated Tons of Material Recovered**

Material	Waste Composition (%)	Total Tons of Material in Waste Stream Based on Composition Study <sup>1</sup>	Estimated Percent Recovery (%)	Estimated Tons Recovered
PET	1.1%	3,740	75%	2,805
HDPE	0.6%	2,040	75%	1,530
Cardboard/Boxboard	6.4%	11,970 <sup>2</sup>	50%	5,985
Ferrous (tin/steel containers)	2.4%	8,160	90%	7,345
Non-ferrous	0.8%	2,720	85%	2,310
Organics (food and yard waste)	25%	85,000	50% <sup>3</sup>	42,500

1. Assumes 340,000 tons of MSW will be processed with two MWP lines at the Newport Facility annually
2. Assumes 55% of the 340,000 tons processed is commercial waste
3. Assumes 50% of the targeted organic material is separated from the 2 inch minus disc screen and will pass over the 1 inch minus disc screen for recovery as organic material

A summary of the costs, potential revenue and percent recovery increase associated with installation of MWP targeting organics and targeting organics and containers is presented in Table ES-2.

**Table ES-2  
Summary of the Costs, Potential Revenue and Percent Recovery**

Potential MWP Systems	Site Related Costs	Equipment Costs	Total Estimated Costs	O&M Costs <sup>1</sup>	Potential Revenue	% Increase in Recovery <sup>2</sup>
Targeting Organics	\$4,500,000 - \$5,300,000	\$8,250,000 - \$8,750,000	\$12,750,000 - \$14,050,000	\$5,238,900 - \$6,088,900	\$620,000	4.6%
Targeting Organics and Containers	\$5,900,000 - \$7,000,000	\$11,950,000 - \$12,750,000	\$17,850,000 - \$19,750,000	\$6,461,650 - \$7,311,650	\$4,650,000	5.9%

1. Includes costs associated with organics transportation and disposal
2. Percent increase in recovery is calculated using 921,500 tons/year of mixed MSW managed by the Counties

A MWP system targeting organics is estimated to increase the recovery rate by 4.6% and provides some revenue from ferrous and cardboard recovery using the drum magnet and manual pre-sorting, respectively. The MWP system targeting organics and containers results in a potential increase in the recovery rate of 5.9% and also provides a potential revenue source for offsetting a portion of the associated operation and maintenance costs.

The increase in recovery rates from installation of an MWP system cannot be simply added to the estimated recovery rate presented in the *Estimated Calculations of Additional SSR/SSO Tons* memorandum dated September 2014, because implementation of SSO/SSR affects the waste composition that would be available for processing with an MWP system. Therefore, additional analysis was performed to estimate how implementation of a source separated organics/source

separated recycling (SSO/SSR) program would affect the waste composition and thus the recovery rates if an enhanced SSO/SSR program was combined with installation of an MWP system. The results of this analysis indicate a decrease in the amount of recoverable materials in the MSW processed using an MWP system. Additionally, the data results indicate a decrease in the amount of material available for targeted recovery using MWP. The recovery rate of 5.9% using only MWP (no SSO/SSR) is reduced to an estimated 2.9% when SSO/SSR and MWP are combined. However, by analyzing the effect of SSO/SSR on the waste composition and determining the potentially available material remaining in the MSW for recovery using MWP, an additive recovery rate can be calculated. The result is a cumulative recovery rate of 14.1% from SSO/SSR (11.2%) and MWP (2.9%).

When added to the current recycling rate (53%), this cumulative recovery rate, at 67.1%, is still significantly less than the Minnesota Legislature's Goal of 75%.

## Request for Expression of Interest

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# Summary of Responses

## Gasification Technologies to Process Mixed Municipal Solid Waste

Project I.D.: 14R002-00

Prepared for  
Ramsey Washington Counties  
Resource Recovery Project

September 2014





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September 5, 2014

Zack Hansen  
Judy Hunter  
Ramsey Washington County Resource Recovery Project  
2785 White Bear Ave N  
Maplewood, MN 55109

Dear Zack and Judy:

RE: Summary of Responses to Request for expression of Interest (RFEI)

This letter transmits the Final Report of the summary of the RFEI. The RFEI process was conducted to gather information regarding the status of gasification technology and the potential interest of those companies active in the industry. This report summarizes the preliminary information provided by four respondents.

We look forward to working with you and your team in this planning process.

Sincerely,

Foth Infrastructure & Environment, LLC

  
Warren Shuros  
*Client Director*

  
Curt Hartog  
*Technical Director*

Summary of Responses to the  
Request for Expression of Interest

Gasification Technologies  
to Process Mixed Municipal Solid Waste

Project ID: 14R002

Prepared for  
Ramsey/Washington Counties  
Resource Recovery Project

Prepared by  
Foth Infrastructure & Environment, LLC

September 2014

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# Summary of Responses to the Request for Expression of Interest

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## Summary of Responses to the Request for Expression of Interest

### Executive Summary

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The Ramsey/Washington County Resource Recovery Project Board (Project Board) is evaluating potential options for their future solid waste processing system. As part of this evaluation process, the Project Board is interested in learning about companies with emerging technologies that can convert refuse-derived fuel (RDF) to higher value products through gasification of the RDF.

The purpose of the Request for Expressions of Interest (RFEI) was to assist the Project Board in understanding the commercial viability of new and emerging municipal solid waste (MSW) gasification technologies and if those technologies could fit within the existing waste processing infrastructure.

Four responses to the RFEI were received including:

- ◆ Coronal, LLC, St. Paul, MN
- ◆ Enerkem, LLC, Montreal, Canada
- ◆ Fiberight, LLC, Baltimore, MD
- ◆ Sierra Energy, Davis, CA

This report provides a summary of each of the respondents based on information submitted in the respective responses and/or referenced websites. The summaries address the following:

- ◆ Technology description – in plain terms, what does the technology do, what are the basic equipment components, and what is the process flow?
- ◆ Products made and potential markets.
- ◆ Residuals and emissions.
- ◆ Water use and wastewater.
- ◆ Flexibility to handle changing solid waste quantity and composition over time.
- ◆ Reference facility – What is the extent of proof of technical and economic viability? Is the technology proven viable at the scale required?
- ◆ Project approach – How would the company develop a project for the Project Board (ownership, operation, public/private partnerships, etc.)?
- ◆ Projected economics – Information provided regarding potential future costs and process economics.
- ◆ Use of Newport Facility – What role if any does the existing processing facility play?



There are a limited number of companies with proven MSW gasification capabilities at this time. One of the potential leaders, Fulcrum Energy indicated the Project Board opportunity does not fit their business plan. There were four companies that provided information for consideration by the Project Board as part of the future waste processing analysis. Gasification continues to have significant potential as a waste processing technology but is not a widely proven technology handling MSW.

The Project Board Joint Staff Coordinating Team has met with representatives of Enerkem and Coronal as part of this process and there is a site visit planned for several representatives to the City of Edmonton waste management facilities and the Enerkem plant at that location. There may be value in also meeting with representatives of Fiberight in the coming weeks or months. Fiberight is active with project development activity in Iowa and it will be beneficial to better understand the Mechanical Biological Treatment (MBT) process. Attendance at the separate MBT workshop at the Renewable Energy from Waste conference in San Jose should also provide valuable information.

Based on a potential meeting/discussion with Fiberight and the information provided at the separate workshop in San Jose, it may be advisable to conduct a site visit to the Fiberight reference facility in Lawrenceville, VA sometime in the coming months. As part of the continued consideration of MWP and organics recovery, Foth believes a site visit to the recently commissioned MWP facility in Montgomery County, Alabama will also be beneficial to improved understanding of the application of MWP for the Project Board. Perhaps these two site visits can be combined.

Summary of Responses to the  
Request for Expression of Interest

List of Abbreviations, Acronyms, and Symbols

---

F	Fahrenheit
Foth	Foth Infrastructure & Environment, LLC
MBT	Mechanical Biological Treatment
MSW	municipal solid waste
Newport Facility	Newport Resource Recovery Facility
Project Board	Ramsey/Washington County Resource Recovery Project Board
PSD	Prevention of Significant Deterioration
RDF	refuse-derived fuel
RFEI	Request for Expressions of Interest
TPD	Tons per day
TPH	Tons per hour

# 1 Introduction

The Ramsey/Washington County Resource Recovery Project Board (Project Board) is evaluating potential options for their future solid waste processing system. As part of this evaluation process, the Project Board is interested in learning about companies with emerging technologies that can convert refuse-derived fuel (RDF) to higher value products through gasification of the RDF.

The purpose of the Request for Expressions of Interest (RFEI) was to assist the Project Board in understanding the commercial viability of new and emerging municipal solid waste (MSW) gasification technologies and if those technologies could fit within the existing waste processing infrastructure.

Foth Infrastructure & Environment, LLC (Foth) prepared the RFEI on behalf of the Project Board and distributed it to potential vendors of various gasification technologies. The RFEI provided potential respondents with background information on the Project Board, waste processing history, MSW quantities and composition, and the existing Newport Resource Recovery Facility (Newport Facility). The RFEI explained potential approaches the Project Board could consider for the waste processing component of their solid waste management system. Instructions were provided for the desired contents of responses to the RFEI.

The RFEI was sent to eight (8) potential providers of MSW gasification technologies. Foth followed up with the potential vendors to determine their interest, one of which (Fulcrum BioEnergy) indicated that the Project Board's opportunity was too small for them to consider and did not fit their business plan.

Despite multiple contacts, IneosBio, the company with the existing gasification plant (Indian River Bioenergy Center) visited as part of the Renewable Energy from Waste Conference in Florida in 2013, did not respond. In reviewing their website, IneosBio indicated in December, 2013, that "bringing the facility on-line and up to capacity has taken longer than planned due to several unexpected start-up issues."

Four responses to the RFEI were received by Foth on behalf of the Project Board. Respondents included:

- ◆ Coronal, LLC, St. Paul, MN
- ◆ Enerkem, LLC, Montreal, Canada
- ◆ Fiberright, LLC, Baltimore, MD
- ◆ Sierra Energy, Davis, CA

This report provides a summary of each of the respondents in the next four sections based on information submitted in the respective responses and/or referenced websites. The summaries address the following:

- ◆ Technology description – in plain terms, what does the technology do, what are the basic equipment components, and what is the process flow?
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- ◆ Projected economics – Information provided regarding potential future costs and process economics.
- ◆ Use of Newport Facility – What role if any does the existing processing facility play?

Observations and potential next steps for the Project Board are provided in the summary in Section 6.

## 2 Coronal, LLC

Coronal, LLC specializes in consulting and developing Plasma Gasification waste-to-energy projects. The company is directly involved with waste-to-energy projects from early development involving feasibility studies, to design, permitting, construction, and commissioning. Coronal serves as the program manager/consultant in developing projects.

### 2.1 Technology

The proposed Coronal technology is based upon a plasma arc gasification reactor from AlterNRG manufactured by Westinghouse Plasma Corporation. The feedstocks are gasified into a synthetic gas (syngas) that is converted to biofuels, steam or electricity. The inert materials are vitrified to produce slag.

The proposed facility would include four (4) segments or technology “silos.” The first silo is called “Feedstock Handling.” This could be the existing Newport RDF Facility with a modification to include a mixed waste processing (MWP) system on the front end. The second silo is the “Conversion Technology” which gasifies the RDF at approximately 2,500 degrees F producing a syngas and slag. The synthetic gas exits at approximately 1,600 degrees F and goes to Silo 3. The molten slag exits at 3,000 degrees F. Silo 3 is termed “Synthetic Gas Cleanup and Conditioning which removes contaminants in the syngas. Silo 4 was termed “Facility Mission” where syngas is treated via a Fischer-Tropsch process to convert to a liquid biofuel that is refined into a marketable fuel (diesel, jet fuel or specialty chemicals).

### 2.2 Products Made and Potential Markets

Coronal indicated that marketable recyclable products (corrugated cardboard, ferrous, non-ferrous, and plastics) would be recovered in Silo 1 and marketed to current markets. For the potential fuels such as renewable diesel, jet fuel, or specialty chemicals, Coronal stated they have “...established business relationships with a national fuel purchaser and other blenders.” Coronal indicated that slag products are a vitrified, igneous rock that can be used for road aggregate, bricks, tiles and rock wool. Coronal indicated they have a business relationship with a user of rock wool that produces ceiling tile. No estimates as to the quantity or quality of products were provided by Coronal.

### 2.3 Residuals and Emissions

Coronal stated there would be no ash residues but rather the slag product. Air emissions from gas cleanup were not provided in Coronal’s response.

### 2.4 Water Use and Wastewater

No information was provided by Coronal on water use or wastewater discharge.

## 2.5 Flexibility

Silo 1 includes MWP equipment which could be flexible to address additional recyclable materials. In addition, the plasma arc gasification process is capable of treating many other types of solid wastes in addition to MSW and RDF. Coronal indicated the material destined for the plasma gasifier is baled. The baling process may limit feedstock materials selection and require multiple balers to process the current waste stream.

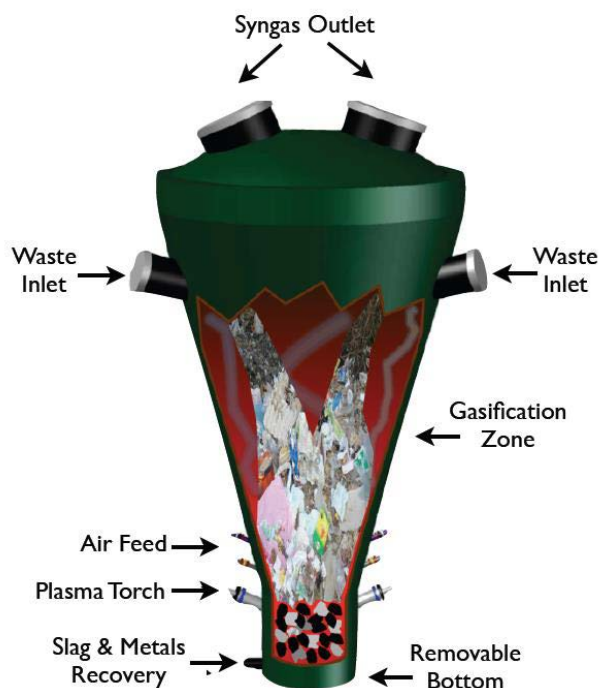
## 2.6 Reference Facility

Coronal mentions a pilot and demonstration facility done in Japan from 1998 to 2003. Also, Coronal mentions a small facility in India and another in China. Larger facilities were mentioned as under construction in China. A 1,000 TPD facility in Tees Valley, England was mentioned as being commissioned with another under construction. Reference facility information sheets were included with minimal information.

The primary reference facility is the proposed project in Koochiching County that Coronal has been promoting for several years. They stated the project is at the 30% design phase.

No operating plasma arc gasification facility in North America handling any amount of MSW or RDF, yet alone at the scale required by the Project Board, was provided by Coronal in their response to the RFEI.

Figure 2-1  
Coronal Plasma Gasifier Schematic



## 2.7 Project Approach

Coronal describes a project approach consisting of three phases including:

- ◆ Phase 1 – Feasibility, Conceptual Design, and Technical Analysis
- ◆ Phase 2 – Preliminary Design, Permitting, and Pre-construction Services
- ◆ Phase 3 – Construction and Commissioning

Coronal offers program management and consulting for all the phases but does not take on the role of the actual contractor responsible for construction, ownership, or operation.

## 2.8 Projected Economics

Coronal did not provide an analysis on economics for a plasma arc gasification system. Coronal did mention product revenues and a statement that “The tipping fee charged needs to be the competitive rate in the area.”

## 2.9 Use of Newport Facility

The Newport Facility could be used if modified to provide the technology associated with Silo 1. The modifications could be very similar to the MWP changes prepared by Foth in another analysis developed in this overall technology evaluation<sup>1</sup>. An analysis including the RDF baling operation and space needs for the silos has not been considered to determine if there is sufficient space for the operation.

---

<sup>1</sup> Foth memorandum titled “*Analysis of Mixed Waste Processing at the Newport Resource Recovery Facility*” dated August, 2014

### 3 Enerkem

Enerkem Inc. is a leading waste to biofuels company with more than 170 full-time employees. They have developed their technology over the course of several years and have a commercial scale facility being commissioned in Edmonton, Alberta. They have some strategic partnerships such as Waste Management providing financial backing and an agreement to develop projects. Enerkem also has a partnership with Valero Energy who has an obligation to use ethanol to meet Renewable Fuel Standards.

#### 3.1 Technology

Enerkem has a proprietary thermochemical technology that gasifies RDF to convert it into syngas and then cellulosic ethanol, and/or other renewable chemicals for use in every day products.

Enerkem's process starts with the RDF produced by the existing Newport Facility and uses a bubbling fluidized bed gasification reactor to break the RDF into its constituent parts or molecules, a process called thermal cracking. The technology is capable of breaking down the RDF chemically and structurally and converting it into a pure, chemical grade, stable, and homogeneous syngas rich in hydrogen, carbon dioxide, and carbon monoxide. The syngas is fed into a cleaning and conditioning process which upgrades the crude syngas to a chemical grade that can be refined into fuels. The last component is the catalytic conversion of syngas into renewable biofuels such as ethanol and chemicals.

Enerkem's gasification manufacturing approach results in a plant modular in size with the standard module handling 100,000 dry tons of RDF annually, producing 10 million gallons of ethanol. Enerkem proposes to install three of their modules to process 43.5 metric tons (48 tons) of RDF per hour, or 350,000 wet tonnes (385,809 tons) per year.

#### 3.2 Products Made and Potential Markets

Enerkem would produce cellulosic ethanol which is to be sold to refiners to blend with gasoline for automobiles. The federal government has established a Renewable Fuel Standard (RFS2) that mandates the production of specific cellulosic biofuel volumes to be blended in the national transportation fuel supply. The amount of cellulosic biofuels increases annually.

In the U.S., Enerkem has partnered with Valero Energy who has a vast ethanol network and is obligated by Renewable Fuel Standard to blend a certain amount of cellulosic ethanol into their gasoline. Enerkem may also market to local refineries.

#### 3.3 Residuals and Emissions

The same residuals from the Newport Facility (bulky waste and process residue) may continue. The Enerkem gasification process was stated to result in 10 to 15% of the RDF being inerts contained within the feedstock. Enerkem stated the inerts can be used in aggregate in brick,



cement manufacturing, or road construction, but if these markets do not develop, the inerts can be safely landfilled.

The only air emissions were stated to be from syngas that cannot be used (startup, shutdown, or system upset). This syngas is directed to a thermal oxidizer to fully oxidize the syngas in accordance with regulations.

### 3.4 Water Use and Wastewater

Most of Enerkem's water usage goes toward cooling water make-up and to generate process steam. Both of these uses can be non-potable water, if available. Enerkem stated their water usage to be similar to grain based ethanol.

The process generates two types of waste water – cooling tower and steam condensate blowdowns and process waste water. Blowdowns were indicated to be safely sent straight to a river if available. Process water is typical industrial wastewater which is sent to municipal treatment plants at other locations.

### 3.5 Flexibility

The Enerkem technology is compatible with existing recycling programs with the feedstock intended to be only that currently sent to waste processing or landfill. MWP equipment could be installed at the Newport Facility if desired to capture additional recyclables or organics. In addition, the Enerkem gasification process is capable of treating many other types of solid wastes in addition to MSW.

### 3.6 Reference Facility

Enerkem stated they have been disciplined in the testing of its technology as they have passed from pilot scale to demonstration scale to commercial scale to ensure there would be no issues with the scaling of the technology. They highlight these three facilities.

In 2003, the Sherbrooke, Quebec facility was built as the pilot gasification facility processing five metric tons per day (5.51 TPD) of feedstocks including MSW. Enerkem stated they gained extensive knowledge of gasification, gas cleaning and conditioning, and catalytic processes while producing methanol, acetates, and cellulosic ethanol. Twenty-five (25) different feedstocks have been tested.

Westbury, Quebec is the demonstration gasification facility handling 48 metric tonnes per day (52.9 TPD), a 10 times scale-up from the Sherbrooke facility. The primary feedstock has been sawmill residues from telephone poles and railroad ties, but the demonstration facility has also operated extensively on MSW. Initial construction was completed in 2009. Methanol production equipment was installed and methanol produced in June 2011. Ethanol production equipment was added as of June 2012.

Enerkem has worked progressively through the scale up of their technology to now be in “start-up” of their first commercial scale facility. Enerkem’s first full-scale commercial gasification facility is in Edmonton, Alberta. The Enerkem relationship with the City of Edmonton started in 2004. The facility has been commissioned and is undergoing start-up. This facility is sized to handle 100,000 dry metric tons (110,231 tons) of RDF and convert it into 10 million gallons of biofuels annually. Enerkem has stated they anticipate being at a stage where they will be producing syngas by the end of September, 2014.

Figure 3-1  
Preliminary Photo: Enerkem Facility in Edmonton



### 3.7 Project Approach

As Enerkem’s feedstock would be RDF, they suggest continuing to operate the Newport Facility and to integrate their technology with this existing system. Enerkem proposes more in-depth study of the Newport location to test some options including:

- ◆ Detailed engineering review of the site to test if the RRT site could accommodate a 30 million gallon ethanol plant.
- ◆ Installing a 30 million gallon per year methanol plant at the RRT location and a 30 million gallon methanol to ethanol plant at another location potentially co-located with refining and or blending infrastructure.
- ◆ Installing a 20 million gallon ethanol plant on the existing site and installing a 10 million gallon ethanol plant on another site.
- ◆ Installing a 30 million gallon ethanol plant on another site; this would be ideally located close to the Newport Facility and with access to proper infrastructure.

Enerkem has direct experience with the construction of its demonstration and commercial facilities to draw from. They indicate flexibility in their owner/operator approach to the Project Board. In one option, Enerkem would design, build, own and operate the gasification facility. Alternatively, they indicate an option for some type of public/private partnership. The Project Board's responsibilities could include feedstock supply assurance, meeting RDF quality at the Newport Facility, permitting process support, and potentially providing infrastructure.

### 3.8 Projected Economics

There was not much information provided regarding projected capital and operating costs. However, the Executive Summary provided a table comparing some economics of Enerkem to Incineration. The "Break-even Tipping Fee" for Enerkem was stated to be "...less than 1/4 the tipping fee vs. incineration" which was shown in the table to be "Greater than \$80/MT (\$72.57/ton). This seems to indicate a tipping fee under \$20 per ton.

### 3.9 Use of Newport

Enerkem's process uses RDF and therefore their approach assumes continued use of the Newport Facility to produce the RDF. They also indicate interest in further evaluation of the site to determine whether the Enerkem gasification equipment could be placed on the site or potentially some variation.

## 4 Fiberight

Fiberight is a privately held company founded in 2007 and is stated to be a leading edge clean technology company focusing on transforming MSW into next generation renewable biofuels, with cellulosic ethanol as the core product. A pilot facility started in 2008 in Lawrenceville, VA. Project development activity is reported underway in Blirstown and Marion, Iowa.

### 4.1 Technology

Fiberight technology is a Mechanical Biological Treatment (MBT) technology. The system sorts, pulps, processes, digests, and refines the energy content of MSW. It combines the MWP being considered by the Project Board with additional processing. The individual stages of the Fiberight technology include:

- ◆ Mixed waste processing to separate recyclables remaining in the MSW.
- ◆ Gasification in a biological nature combining low-temperature enzymatic hydrolysis and anaerobic digestion processes to convert the organics into cellulosic ethanol and biogas. The gasification process includes these steps:
  - Pulper – to pulverize, agglomerate, and pasteurize organics which are then screened to separate out plastics and metal 3 inches or greater.
  - Second sort – to remove and recover plastics and metals.
  - Wash – to a washing system to strip organic nutrients from the fiber.
  - Pre-treatment cook – a high temperature cook system.
  - Enzymatic hydrolysis – where enzymes release sugar from fiber. The sugar solution can be used to manufacture ethanol. The residual biomass may be used as RDF.
  - Anaerobic digester – where wastewater is processed to produce biogas which can be processed into natural gas.
  - Ethanol production – where the sugar solution is fermented into alcohol and further refined to cellulosic ethanol.

### 4.2 Products Made and Potential Markets

Marketable products listed include:

- ◆ Recyclables – typical materials sold to existing recyclable materials markets.
- ◆ Cellulosic ethanol – the market listed is Murex. There is a Murex Petroleum Corporation website showing Murex ranked as the 38<sup>th</sup> largest privately held oil and gas company with primary activity in North Dakota.
- ◆ Biogas – listed as CNG vehicle fuel or gas pipeline.
- ◆ Biomass – listed as available as RDF to external markets.

### 4.3 Residuals and Emissions

Fiberight indicates residues will be similar to the bulky waste and process residues currently generated at the Newport Facility and are estimated at 16%.

Based on engineering studies completed for a project in Iowa, Fiberight is considered a synthetic minor source of air pollutants with regards to Prevention of Significant Deterioration (PSD) regulations and Title V Operating Permit regulations. There are monitoring requirements and standards that will be met.

### 4.4 Water Use and Wastewater

Standard surface water control measures will be used. The wastewater discharge may be processed via membrane filtration or discharged meeting effluent limits to a standard municipal sanitary sewer. No data was provided on quantities.

Water is used in the process and a water balance is available subject to a mutual non-disclosure agreement. Water is recirculated in the process from one stage to another. Also the anaerobic digester is an internal water processing step with that water recirculated to the pulping and washing processes.

### 4.5 Flexibility

The Fiberight process includes MWP equipment which could be flexible to address additional recyclable material. The rest of the process seems capable of treating continuous changes in waste composition that may occur over time.

### 4.6 Reference Facility

The primary reference facility listed is in Lawrenceville, VA. Fiberight reports it is a pilot and demonstration plant which has over 5,000 hours of operating experience. It was designed to process 20 TPD of MSW. The plant has a material resource recovery facility, pulper, wash system, pre-treatment, hydrolysis reactors, and a high-rate anaerobic digester. A video tour is available at the Fiberight.com website.

They report producing a variety of products including:

- ◆ Recyclables (paper, plastics, metals, wood, etc.)
- ◆ Digester biogas
- ◆ Cellulosic sugars
- ◆ Cellulosic ethanol

Fiberight indicated their role to be developer, financier, owner, operator, constructor and the technology provider.

Fiberight listed projects in Iowa under development including facilities in Blairstown and Marion. The design processing capacity was stated to be scalable and only limited by the number of process lines installed. Fiberight stated each process line is designed for approximately 45 TPH although this size throughput has not yet been demonstrated by Fiberight.

Figure 4-1  
Fiberight Facility, Lawrence, Virginia



#### 4.7 Project Approach

Fiberight recommended a comprehensive techno-economic feasibility study with a detailed outline. Potential roles for Fiberight and the Project Board listed by Fiberight included:

- ◆ Public / Private Partnership wherein the Project Board exercises their right to purchase the RRT facility and Fiberight refits and repurposes the current facility by installing modular components for advanced waste processing.
- ◆ Partnership between Fiberight with RRT to retrofit and repurpose the facility by installing modular components for advanced waste processing.
- ◆ Fiberight designs and builds a new fully integrated advanced waste processing facility to serve the waste disposal needs of the Project Board.
- ◆ Fiberight designs and builds a front-end processing center and transfers the middle fraction of the waste stream to Blairstown, IA for further recycling and processing into renewable fuel and renewable energy.

#### 4.8 Projected Economics

Fiberight did not provide data on projected costs. They did allude to potential benefits such as avoiding the purchase of the Newport Facility, providing a competitive tipping fee, and eliminating the need for hauler rebates.

#### 4.9 Use of Newport

Fiberight indicated interest in considering use of the Newport Facility along with looking at other options. There was no analysis done to determine if the Fiberight components will fit on the Newport Facility property.

## 5 Sierra Energy

Sierra Energy is based in Davis, California and provides engineering and gasification systems. Their gasifier, termed FastOx™ is derived from the centuries old steel-making blast furnaces. It breaks down waste at the molecular level using heat, steam, and oxygen. Sierra Energy responded to the RFEI to be considered as a technology provider through engineering support and technology licensing agreements. Sierra Energy does not intend to develop, own, or operate the facilities.

### 5.1 Technology

The FastOx™ gasification system involves several processes, primarily including feedstock preparation, gasification, syngas cooling and conditioning, and product conversion. The feedstock preparation involves sorting, processing and storage functions. For the 1,000 TPD facility anticipated for the Project Board, the size of the feedstock needs to be less than 6 inches in diameter. Although not specifically stated by Sierra Energy, the existing RDF system at the Newport Facility could perform the feedstock preparation function.

The FastOx™ gasifier is a thermo-chemical process that breaks waste down to the molecular level, without burning. The waste is fed into the top of the gasifier with oxygen and steam injected at highly concentrated and rapid rates. Waste descends through the gasifier by gravity, passing four reaction zones – drying, devolatilization, partial oxidation, and melting. Syngas produced exits at the top and molten metal and inert slag exit at the bottom.

Syngas flows through a gas cleaning stage where contaminants are removed. The syngas can then be converted into a product such as electricity, fuels, and hydrogen.

### 5.2 Products Made and Potential Markets

Sierra Energy indicated syngas can be processed by use of the Fischer-Tropsch process to produce diesel fuel. The syngas was stated to be an intermediate fuel used to produce valuable energy products such as electricity, renewable diesel, ethanol, methane, and hydrogen. Sierra Energy did not provide further information on the production process, costs, or revenues associated with these products. They mention recovery of the inert stone called slag that can be used for cement and construction materials. Metals could also be recovered.

### 5.3 Residuals and Emissions

No information was provided by Sierra Energy on residues and emissions. They only submitted information on the gasifier function.

### 5.4 Water Use and Wastewater

No information was provided by Sierra Energy on water use or wastewater discharge.



## 5.5 Flexibility

The FastOx™ gasifier technology is stated to be capable to handle a wide variety of feedstocks. There was no information provided by Sierra Energy regarding recovery of recyclable materials in the feedstock preparation process, but it would be conceivable to include a MWP system for this purpose.

## 5.6 Reference Facility

Sierra Energy mentioned there is a commercial plant underway at Fort Hunter Liggett Army Base in Monterey County, California. No information was provided regarding the status, nor was any additional information found on websites for Sierra Energy or Fort Hunter Liggett. No information was provided regarding a facility of the scale required for the Project Board.

Figure 5-1  
Sierra Energy FastOx™ Gasifier



## 5.7 Project Approach

Sierra Energy indicated in the response that they would like to be considered as a technology provider through engineering support and technology licensing for the FastOx gasifier. They do not intend to develop, own, or operate facilities.

## 5.8 Projected Economics

No information was provided by Sierra Energy on projected economics.

## 5.9 Use of Newport

No information was provided by Sierra Energy on the use of Newport. However, it is likely that the RDF processing system at Newport could be used for the feedstock preparation process.

## 6 Summary

There are a limited number of companies with proven MSW gasification capabilities at this time. One of the potential leaders, Fulcrum Energy indicated the Project Board opportunity does not fit their business plan. Nevertheless, there were four companies that took the time to provide information for consideration by the Project Board as part of the future waste processing analysis. Gasification continues to have significant potential as a waste processing technology.

The Project Board Joint Staff Coordinating Team has met with representatives of Enerkem and Coronal as part of this process and there is a site visit planned for several representatives to the City of Edmonton waste management facilities and the Enerkem plant at that location. There may be value in also meeting with representatives of Fiberight in the coming weeks or months. Fiberight is active with project development activity in Iowa and it will be beneficial to better understand the Mechanical Biological Treatment (MBT) process. Attendance at the separate MBT workshop at the Renewable Energy from Waste conference in San Jose should also provide valuable information.

Based on a potential meeting/discussion with Fiberight and the information provided at the separate workshop in San Jose, it may be advisable to conduct a site visit to the Fiberight reference facility in Lawrenceville, VA sometime in the coming months. As part of the continued consideration of MWP and organics recovery, Foth believes a site visit to the recently commissioned MWP facility in Montgomery County, Alabama will also be beneficial to improved understanding of the application of MWP for the Project Board. Perhaps these two site visits can be combined.



## MEMORANDUM

September 16, 2014

TO: RAMSEY-WASHINGTON RESOURCE RECOVERY PROJECT BOARD

CC: HARRY MCPEAK; GEORGE KUPRIAN; ZACK HANSEN; JUDY HUNTER

FROM: KEVIN JOHNSON (612-373-8803; KDJOHNSON@STOEL.COM); SARA BERGAN (612-373-8819; SEBERGAN@STOEL.COM)

RE: **Waste Designation Process**

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### **I. Introduction.**

Use of waste designation by Ramsey and Washington Counties would be legally problematic under current law as it relates to the dormant Commerce Clause of the U.S. Constitution if the Newport refuse derived fuel facility (Facility) remains privately owned and operated. Whereas, publicly owned solid waste facilities do not have the same dormant Commerce Clause issues and thus the Project Board's decision on whether or not to exercise the current Option to Purchase the Facility from Resource Recovery Technologies (RRT) is determinative as to whether waste designation is a viable option.

If the Counties are in position to reinstate waste designation by becoming the owners of the Facility, they must adhere to the waste designation process outlined in state law. The following memorandum lays out these potential costs and benefits of waste designation, as well as the associated steps and timelines. We note that the entire designation process would likely take approximately two years to complete.

### **II. Designation Costs and Benefits**

Roughly 800,000 tons of solid waste are generated in Ramsey and Washington Counties each year. Half of this is currently recovered through a combination of recycling methods. Of the 400,000 tons remaining, roughly 300,000 are sent to the Newport Facility ("Facility"). In addition to other considerations below, waste designation has the potential to ensure that approximately another 100,000 tons of solid waste generated in the Counties goes to the Facility, waste that is currently sent to landfills.

Waste designation allows the Counties to set the associated fees so as to effectively cover the debt service and operational costs of the system designed by the Counties. Currently, the Counties must rely on a \$28 per ton rebate to incent waste haulers to sign delivery agreements

with the Facility to deliver the approximately 300,000 tons per year of Ramsey-Washington waste to the Facility.

One of the often cited benefits of waste designation is the role it can play in the orderly and deliberate development and financial security of waste processing facilities. Instituting waste designation ensures that waste is delivered to the facility at the tipping fee, even if the tipping fee is higher than other available options. This allows local governments to capitalize facilities deliberately and ensure capacity needs are met for waste management services and know they will be paid for over time and through use of the facility. The U.S. Supreme Court has recognized that waste designation, or “flow control,” ordinances give local governments a convenient and effective way to finance their integrated package of waste management services. *United Haulers Ass’n v. Oneida-Herkimer Solid Waste Management Authority*, 550 U.S. 330 (2007). Similarly Minnesota Statutes recognize that designation may be necessary for the financial support of a facility. Minn. Stat. § 115A.904.

Both the U.S. Supreme Court and the Minnesota Legislature have also recognized that the benefits of waste designation go far beyond financing. In the case of the U.S. Supreme Court, Chief Justice Roberts also noted that designation conferred significant additional public health and environmental benefits upon the local communities. Recycling, for example, was encouraged by higher tip fees for solid waste disposal and markedly increased ability of the counties to capture hazardous waste from the solid waste stream.

In Minnesota, designation plans must describe the costs and benefits of designation. The waste designation statute (Minn. Stat. §§115A.80-.893; copy attached) sets forth a detailed list of direct and indirect costs and benefits that must be included in the plan. These include the benefits of designation and the public purposes achieved by the recovery of resources and furtherance of local, regional or state waste management plans and policies. It also includes the estimated direct capital, operating and maintenance costs of the designated facility as well as the indirect costs and long-term effects of designation. Minn. Stat. §115A.84.

In addition plans must also pay particular attention to whether:

- Designation will result in the recovery of resources or energy from materials that would otherwise be wasted;
- Designation will lessen the demand for and use of indiscriminate land disposal;
- Designation is necessary for the financial support of the facility;
- Less restrictive methods for ensuring an adequate solid waste supply are available;
- Other feasible and prudent waste management alternatives for accomplishing the purposes of the proposed designation are available; and
- Designation takes into account and promotes local, regional and state waste management goals.

Ultimately the costs and benefits of any designation plan are subject to the particulars of the existing system and the system to be implemented. In the case of Ramsey and Washington Counties, designation would lessen the use of land disposal by capturing the approximately 100,000 tons per year that are currently landfilled. This, in turn, would further the state policy that Metropolitan Area waste be processed before being disposed of at a waste disposal facility. Minn. Stat. §473.848. Although a substantial portion is already being delivered to the Facility and combusted at Xcel's RDF plants, designation would further increase the recovery of resources and energy from waste whether through continued conversion to electricity or, potentially in the future, in the form of heat, chemicals or fuels. To the extent this occurs, there are likely substantial greenhouse gas reduction benefits of designation, even when compared against the best landfill operations.

Perhaps most importantly ownership of the Facility and use of designation would provide the Counties greater control of the long-term future of the solid waste system in the East Metro area. This would enable the Counties to fulfill regional and county goals of seeing waste as a resource and utilizing it for the most important and highest uses. With ever increasing recycling and organics goals applying to the Metro Area in particular, designation would allow the Counties to better implement means to achieve multiple ends that may not be feasible without such control.

On the cost side of the equation, the Counties must own the Facility to which waste is designated. The Designation Plan would need to provide a detailed accounting of the direct capital costs as well as the operating and maintenance costs associated with the Facility. In addition, an accounting of indirect costs and consequences of designation. These include items like route readjustment for haulers and potential increased vehicle miles traveled. In the case of the Newport Facility, many haulers are already delivering directly to the Facility. Others may have to significantly adjust routes. In addition, haulers that deliver waste generated in the Counties to their own landfill facilities would have to deliver the waste to the Newport Facility. These haulers are likely to oppose designation as a result. Even the smaller haulers who do not own landfills may oppose designation simply because they like the flexibility to choose who they do business with. In addition to the requirements under the designation statutes, the Counties will need to pay particular attention to private facility displacement pursuant to Minn. Stat. § [473.803, subd. 1.](#)

In summary, the statutorily directed designation planning process requires a very careful and detailed assessment of the costs and benefits of designation that lead to very deliberate and informed decisions.

### **III. Process Required to Enact Designation**

- A. Appropriate Plans in Place:** Before commencing the designation procedure under Minn. Stat. §115A.85, the Counties must adopt a comprehensive solid waste Master Plan under Minn. Stat. Chapter 473 that addresses the waste designation plans of the Counties. The actual Waste Designation Plan must then be consistent with the County Master Plans (see § [115A.85](#)).
- B. Comprehensive Waste Management Plan:** For the Twin Cities Metropolitan Area counties, the Minnesota Pollution Control Agency (MPCA) must revise a

long range Policy Plan for solid waste management every six years (see § [473.149](#)). This plan must include specific and quantifiable metropolitan objectives for abating land disposal and include objectives for waste reduction and abatement through resource recovery, recycling, and source separation programs for each metropolitan county in six-year increments for a period of 20 years from the date of adoption of Policy Plan revisions. See § [473.149, subd. 2d](#).

1. The Current Metropolitan Solid Waste Management Policy Plan: 2010-2030 (MPCA Plan) was prepared by the MPCA and adopted on April 6, 2011. The MPCA Plan needs to be updated and revised with the help of the Metro Counties by 2017, according to statute.
2. The current MPCA Plan addresses continued use of the Newport Facility and potential for waste designation.
  - a. **Decline/Under-Utilization of Resource Recovery a Key Theme in Challenges:** The MPCA Plan describes the challenges facing the region including a decline in resource recovery capacity by 15 percent while total MSW in the region grew by 8 percent, thus straining the system. Land disposal increased by 15 percent over the same time period (10 years). It also describes the “under-utilized resource recovery capacity that currently exists in the region” and notes that the “region is potentially facing the permanent loss of resource recovery capacity, because the MSW is being diverted to landfills by private haulers.”
  - b. **Policy to Promote Renewable Energy (inclusive of Resource Recovery):** A key policy included in the MPCA Plan is to “promote actions that conserve energy, and will encourage the use of renewable energy, which includes recovering energy from waste.”
  - c. **Reduce Greenhouse Gases (GHG):** Another thrust of the MPCA Plan is to reduce GHG emissions through improved solid waste management.
  - d. **Maintain and Fully Utilize Existing Resource Recovery Capacity:** One of approximately eight objectives included in the MPCA Plan is to maintain existing resource recovery facility capacity. It also notes: “If the system objectives are met for the upper end of the hierarchy and existing resource recovery capacity is maximized, it will not be necessary to build new resource recovery facilities.”
  - e. **Specific Attention Paid to Designation:** The MPCA determined three overarching needs to support the scenarios developed to reduce GHG through improved solid waste management:
    - (1) restoring waste designation or otherwise gaining more control over waste supply;

- (2) extended producer responsibility or product stewardship legislation and initiatives; and
- (3) strong state leadership in the form of a Legislative Commission on Waste Management and state mandates for waste management.

**C. Solid Waste Management Coordinating Board’s Regional Solid Waste Master Plan (2011-2030), adopted December 14, 2011 (“Regional Plan”).**

- 1. Since 1991, Metro counties have been collaborating on solid waste management through the Solid Waste Management Coordinating Board (SWMCB) as set forth through Joint Powers Agreement (JPA). The JPA includes Anoka, Carver, Dakota, Hennepin, Ramsey and Washington Counties. As part of that collaboration, the SWMCB has agreed to prepare a Regional Solid Waste Master Plan (Regional Plan) at such times as required by the MPCA Plan. Article V, Section 5.
  - a. The SWMCB adopts the Regional Plan by Special Resolution. Prior to adoption by the SWMCB, the representatives of each County must consent to the jointly negotiated solid waste management outcomes for their respective County.
  - b. Each County also prepares, adopts or amends, as needed, a County Master Plan that includes strategies to implement the County’s specific solid waste management outcomes in the Regional Plan.
- 2. The JPA directs the Board to work to “maximize the use of existing solid waste processing facilities and facilitate the development of additional solid waste processing and combustion capacity as necessary to meet the needs of the region.” Article V, Section 2.
- 3. Elements of the current Regional Plan:
  - a. MSW target objectives through 2030 basically include maintaining the current percentage of MSW managed through resource recovery (28%, going up a few percentage points and then back to 28%, or less, by 2030).
  - b. The Regional Plan describes the Counties’ arrangements with RRT at Newport and delivery to Xcel plants in Red Wing and Mankato.
  - c. Emphasis is on market-based/private sector delivery of waste management services.
  - d. “The MPCA and SWMCB acknowledge the need for MPCA to fully exercise its statutory authority to enforce Minn. Stat. §473.848; it is only through a combination of fully utilizing processing capacity and the exercise of statutory authority for how waste is managed that the Region’s future solid waste management objectives will be fully achieved.”



- e. Waste designation is not specifically addressed in the Regional Plan.

**D. County Master Plans.** Metro Counties must prepare Master Plans that implement the MPCA Plan and support activities that are consistent with the MPCA Plan. (See § [473.803](#))

1. **Designation Analysis Must be Included in the County Plans.** If a County Master Plan includes designation to resource recovery facilities under § [473.811](#), subd. 10, the County Master Plan must include specific detail and analysis (see § [473.803](#), subd. 1d) very similar to that required in the Designation Plan that must be prepared pursuant to Minn. Stat. Chap. 115A. (A copy of § 473.803 is attached).
2. **Additional Detail for Plans Including Publicly Owned Facilities:** For solid waste facilities owned or operated by public agencies, the Master Plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless displacement is required in order to achieve the waste management objectives identified in the Plan. § [473.803, subd. 1](#)

a. **Revision Process:**

- (1) The MPCA reviews Master Plans and revisions to determine if they are consistent with MPCA Plan (no express statutory timeline) but the Counties have 90 days to revise and resubmit if determined to be NOT consistent.
- (2) Each County must establish a solid waste management advisory committee to add in the preparation of Master Plan or revisions thereof. See § [473.803, subd 4](#) for guidance on the committee members.

b. **Ramsey and Washington County Solid Waste Master Plans (2011-2030):**

- (1) The current Master Plans include:
  - Broad support for processing of waste in order to recover energy and recyclable materials
  - Explicit support for a merchant approach for waste processing, but desire to eliminate the subsidy involved
  - State that the Counties would consider acquiring the Newport Facility and using waste designation if the solid waste market fails to support a merchant approach or other County environmental goals.
  - Focus is on waste processing over energy recovery

- (2) The County Master Plans would need to be amended to include the waste designation analysis needed per § [473.803](#), subd. 1d.

**IV. Joint Designation Plan.** Before commencing the waste designation procedure under § 115A.85, the Counties must adopt Master Plan revisions and prepare either a joint Designation Plan or individual Designation Plans. Previously, the Counties adopted a Joint Designation Plan for submission to MPCA, although each County separately adopted their own Waste Designation Ordinance. For purposes of this memo, it is assumed the Counties would continue past practice and prepare a Joint Designation Plan and their own Designation Ordinances. Further, it would be possible for the Counties to prepare the Joint Designation Plan concurrent with efforts to amend the County Master Plans. Thus, once the Master Plans revisions are complete, the Joint Designation Plan could immediately be submitted to MPCA.

**A. Designated Service Area**

1. Would likely be all of Ramsey and Washington Counties

**B. Designated Facilities**

1. Newport Facility

**C. Waste Subject to Designation**

1. Applies to:

- a. Mixed Municipal Solid Waste; and
- b. Other solid waste that prior to final processing or disposal:

- (1) Is not managed as a separate waste stream, or
- (2) Is managed as a separate waste stream using a lower ranked practice than that at the designated facility.

2. Designation may not apply to:

- a. Separated materials recovered for reuse in their original form or for use in manufacturing processes (“manufacturing processes” does not include the treatment of waste after collection for the purpose of composting);
- b. Materials processed at a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the MPCA;

- c. Materials that are separated at a permitted transfer station located within the boundaries of the Counties for the purpose of recycling the materials if:
    - (1) The transfer station was in operation on January 1, 1991; or
    - (2) The materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials; or
  - d. Recyclable materials that are being recycled, and residuals from recycling if there is at least an 85 percent volume reduction in the solid waste processed at the recycling facility and the residuals are managed as separate waste streams.
3. Excluded Materials and Petition Process: Materials processed at another resource recovery facility requesting exclusion provided that the MPCA determines:
- a. it will be complete or substantially completed within 18 months of the time that the Designation Plan is approved by the MPCA;
  - b. the facility has or will have contracts for the purchases of its product; and
  - c. the materials are or will be under contract for delivery to the facility requesting the exclusion at the time that the facility is completed (§ [115A.84, subd. 4](#))
  - d. Petitioners must file petition for exclusion not later than 30 days of Designation Plan submission.
4. Material separated for recycling at a transfer station outside the designated area if:
- a. Residual materials left after separation of recyclables are delivered back to the facility
  - b. Each waste collector who would otherwise be subject to the Designation Ordinance and who delivers waste to the transfer station has not been found in violation of the Designation Ordinance in the six months prior to the filing for exclusion;
  - c. Materials separated at the transfer station are delivered to a recycler and are recycled;

- d. Owner of transfer station agrees to report to the county the quantities of material that are recycled that otherwise would have been subject to designation;
  - e. Owner files for exclusion with the county and MPCA approves
5. Once the Joint Designation Plan is submitted, the MPCA must review and make a decision within 120 days. (§ [115A.84, subd. 3](#)) The MPCA shall approve the Plan if it meets the requirements outlined in Minn. Stat. §115A.84, subd. 2, which is a comprehensive list of the required contents of a Plan. The MPCA may attach conditions to its approval of the Designation Plan. The Joint Designation Plan must evaluate:
- a. The benefits of designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in §115A.02;
  - b. The estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.
  - c. Whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;
  - d. Whether it will lessen the demand for and use of indiscriminate land disposal;
  - e. Whether designation is necessary for the financial support of the facility;
  - f. Whether less restrictive methods for ensuring an adequate solid waste supply are available;
  - g. Other feasible and prudent waste management alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators; and
  - h. Whether the designation takes into account and promotes local, regional, and state waste management goals.

**D. Public Hearing**

- 1. After approval of the Joint Designation Plan by MPCA, each County would need to hold a public hearing to take testimony on the designation.

Specific public notice requirements for the hearing are outlined in §115A.85.

**E. Mandatory Negotiation Process**

1. During a period of 90 days following the public hearing, the Counties must negotiate with processing and disposal facility operators as well as licensed haulers who may use the Facility. The purpose of the negotiation is to develop contractual agreements that will require delivery of waste to the Facility.

**F. Approval and Implementation**

1. At the end of the 90 day contract negotiation process the Counties may proceed to seek approval from MPCA of Designation Ordinances. Although each of the Counties continues to have Designation Ordinances in place within their respective County Solid Waste Ordinances, it would appear best to amend and restate the ordinances in light of information in the Joint Designation Plan and to follow the MPCA process for approval of Designation Ordinances, rather than ordinance amendments.

**G. Ordinances**

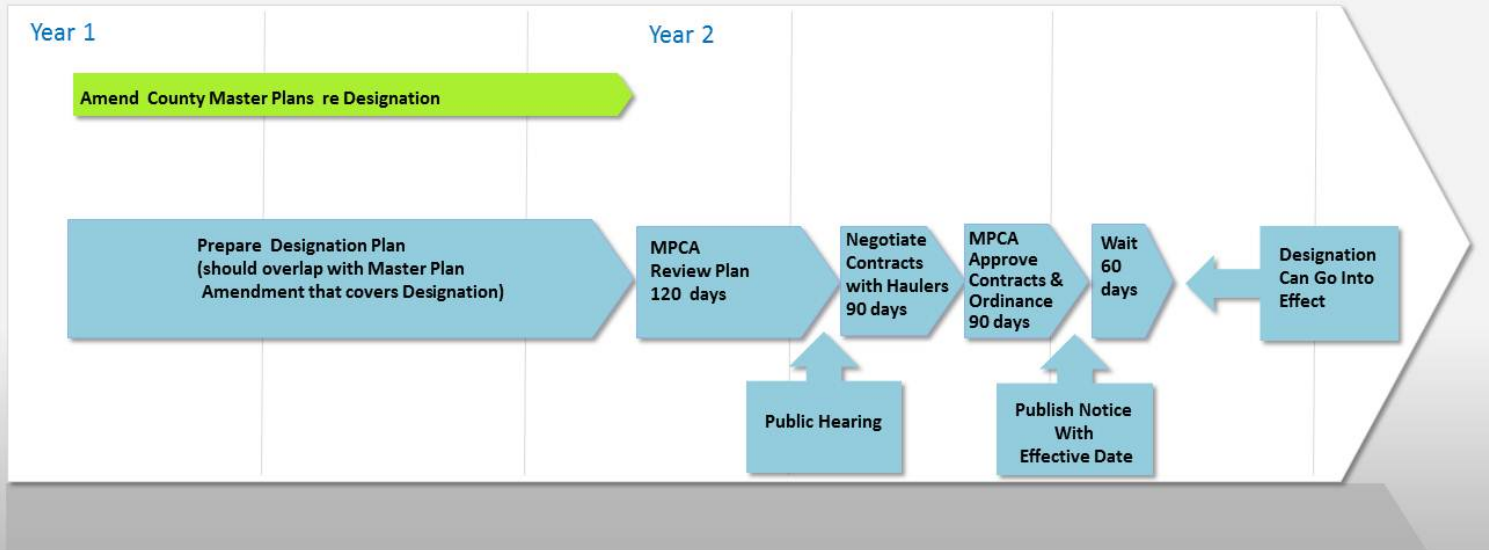
1. Elements that must be included in the Designation Ordinance:
  - a. Geographic area subject to and types and quantities of waste subject to designation
  - b. Points of delivery
  - c. Require that waste be delivered to the points of delivery
  - d. Require the facility to accept all designated waste delivered to the points of delivery, unless facility has notified waste collectors in the designated area that the facility is inoperative
  - e. Set out the procedures and principles to be followed by the County in establishing and amending any rates and charges at the designated facility; and
  - f. State any additional regulations governing waste collectors or other matters necessary to implement designation
  - g. Must also specify exceptions including excluded materials and negotiated contracts
2. [§ 473.811, subd 5](#) governs metro county solid waste ordinances and directs that, among other things, the ordinances shall provide for the enforcement of any designation facilities by the Counties under chapter 115A;
3. Submit ordinances together with negotiated contracts to MPCA for review and approval within 90 days of submission. (§ [115A.86](#))
4. The MPCA may attach conditions to the approval

5. Designation may not be placed into effect until 60 days after MPCA approval of ordinances. The effective date must be specified at least 60 days in advance and designation must be implemented within two years of approval.
6. Ordinance Amendments: must also be submitted to MPCA. If the MPCA finds that the amendment is a substantive change from the existing Plan, it may require a revised Designation Plan following procedures described above. If MPCA does not act within 90 days, the amendment is deemed approved.

## V. Timeline

- A. County Master Plans must be revised. This process will likely take about one year. The Counties should then anticipate at least a full year to complete the designation process. As noted above, the Joint Designation Plan could be prepared concurrent with the Master Plan revision process.
- B. The following are time commitments to be aware of along the way (yielding a minimum of a full year if the MPCA determines plans are complete, all steps have been properly followed, no significant issues along the way):
  1. Plan Review by MPCA: **120 days**
  2. Public Hearing to take testimony on designation: After plan approval, before contract negotiations can begin.
  3. Mandatory Contract Negotiation Process: **90 days** (minimum, following hearing)
  4. Ordinance and Contract Approval: **90 days**
  5. Designation Goes into Effect (no sooner than): **60 days** after Ordinance Approval and Notice of Effective Date

# Designation Planning Timeline



-  Solid Waste Planning
-  Designation Planning

76821733.5

**115A.715 SOLID WASTE AUTHORITY.**

A district has all the authority of a county for solid waste management purposes that is given to counties under this chapter and chapters 400 and 473, except the authority to issue general obligation bonds or to levy property taxes. A district has the authority of a county to issue general obligation bonds and to levy property taxes only if and only to the extent that the governing body of each county that is a member of the district agrees to delegate the authority to the district. The delegation of the authority is irrevocable unless the governing body of each county that is a member of the district agrees to the revocation.

**History:** 1991 c 337 s 29

**115A.72 AUDIT.**

The board of directors, at the close of each year's business, shall cause an audit of the books, records, and financial affairs of the district to be made by a certified public accountant or the state auditor. Copies of a written report of the audit, certified to by the auditors, shall be placed and kept on file at the principal place of business of the district and shall be filed with the secretary of state and the commissioner.

**History:** 1980 c 564 art 8 s 11; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161

**DESIGNATION OF SOLID WASTE MANAGEMENT FACILITIES****115A.80 DESIGNATION OF SOLID WASTE MANAGEMENT FACILITIES; PURPOSE.**

In order to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by effective solid waste management, the legislature finds and declares that it may be necessary pursuant to sections 115A.80 to 115A.89 to authorize a qualifying solid waste management district or county to designate a solid waste processing or disposal facility.

**History:** 1984 c 644 s 35; 1989 c 325 s 9

**115A.81 DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in sections 115A.80 to 115A.893 have the meanings given them in this section.

Subd. 2. **Designation.** "Designation" means a requirement by a waste management district or county that all or any portion of the solid waste that is generated within its boundaries or any service area thereof be delivered to a processing or disposal facility identified by the district or county.

Subd. 3. [Repealed, 1995 c 247 art 2 s 55]

**History:** 1984 c 644 s 36; 1985 c 274 s 6; 1987 c 348 s 23; 1989 c 325 s 10; 1992 c 593 art 1 s 20

**115A.82 ELIGIBILITY.**

Facilities may be designated under sections 115A.80 to 115A.89 by (1) a solid waste management district established pursuant to sections 115A.62 to 115A.72 and possessing designation authority in its articles of incorporation; or (2) a county, but only for waste generated



outside of the boundaries of a district qualifying under clause (1) or the Western Lake Superior Sanitary District established under chapter 458D.

**History:** 1984 c 644 s 37; 1992 c 464 art 1 s 16

### 115A.83 WASTES SUBJECT TO DESIGNATION; EXEMPTIONS.

Subdivision 1. **Application.** Designation applies to the following wastes:

- (1) mixed municipal solid waste; and
- (2) other solid waste that prior to final processing or disposal:
  - (i) is not managed as a separate waste stream; or
  - (ii) is managed as a separate waste stream using a waste management practice that is ranked lower on the list of waste management practices in section 115A.02, paragraph (b), than the primary waste management practice that would be used on the waste at the designated facility.

Subd. 2. **Exemption.** The designation may not apply to or include:

- (1) materials that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes;
- (2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the commissioner;
- (3) materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if:
  - (i) the transfer station was in operation on January 1, 1991; or
  - (ii) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials; or
- (4) recyclable materials that are being recycled, and residuals from recycling if there is at least an 85 percent volume reduction in the solid waste processed at the recycling facility and the residuals are managed as separate waste streams.

For the purposes of this section, "manufacturing processes" does not include the treatment of waste after collection for the purpose of composting.

**History:** 1984 c 644 s 38; 1989 c 325 s 11; 1991 c 337 s 30; 1992 c 593 art 1 s 21; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161

### 115A.84 DESIGNATION PLAN.

Subdivision 1. **Requirement.** Before commencing the designation procedure under section 115A.85, the district or county shall adopt a comprehensive solid waste management plan or, under chapter 473, a master plan. The county or district shall then submit a plan for designation to be approved under this section. A county's or district's designation plan must be consistent with its solid waste management plan or master plan and with statewide and regional waste management goals.

Subd. 2. **Designation; plan contents.** (a) The designation plan must evaluate:

- (1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and

(2) the estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of indiscriminate land disposal;

(3) whether the designation is necessary for the financial support of the facility;

(4) whether less restrictive methods for ensuring an adequate solid waste supply are available;

(5) other feasible and prudent waste management alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators; and

(6) whether the designation takes into account and promotes local, regional, and state waste management goals.

(c) When the plan proposes designation to disposal facilities, the designation plan must also evaluate:

(1) whether the disposal facility is part of an integrated waste management system involving a processing facility and the designation is necessary for the financial support of the processing facility;

(2) whether the designation will better serve to protect public health and safety;

(3) the impacts on other disposal facilities inside and outside the area;

(4) whether the designation is necessary to promote regional waste management programs and cooperation; and

(5) the extent to which the design and operation of the disposal facility protects the environment including whether it is permitted under current agency rules and whether any portion of the facility's site is listed under section 115B.17, subdivision 13.

(d) When the plan proposes designation to a disposal facility, mixed municipal solid waste that is subject to a contract between a hauler and a different facility that is in effect on the date notice is given under section 115A.85, subdivision 2, is not subject to the designation during the contract period or for one year after the date notice is given, whichever period is shorter.

**Subd. 3. Plan approval.** (a) A district or county planning a designation shall submit the designation plan to the commissioner for review and approval or disapproval.

(b) The commissioner shall complete the review and make a decision within 120 days following submission of the plan for review. The commissioner shall approve the designation plan if the plan satisfies the requirements of subdivision 2 and, in the case of designation to disposal facilities, if the commissioner finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The commissioner may attach conditions to the approval that relate to matters required in a designation ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

Subd. 4. **Exclusion of certain materials.** (a) When the commissioner approves the designation plan, the commissioner shall exclude from the designation materials that the commissioner determines will be processed at a resource recovery facility separate from the designated facility if:

(1) the resource recovery facility requesting the exclusion is substantially completed or will be substantially completed within 18 months of the time that the designation plan is approved by the commissioner;

(2) the facility requesting the exclusion has or will have contracts for purchases of its product; and

(3) the materials are or will be under contract for delivery to the facility requesting the exclusion at the time that facility is completed.

(b) In order to qualify for the exclusion of materials under this subdivision, the operator or owner of the resource recovery facility requesting the exclusion shall file with the commissioner and the district or county or counties a written description of the facility, its intended location, its waste supply sources, purchasers of its products, its design capacity and other information that the commissioner and the district or county or counties may reasonably require. The information must be filed as soon as it becomes available but not later than 30 days following the date when the county or district submits its designation plan for approval.

(c) The commissioner may revoke the exclusion granted under this subdivision when the commissioner approves the designation ordinance under section 115A.86 if in the commissioner's judgment the excluded materials will not be processed at the other facility.

Subd. 5. **Exclusion of materials separated at certain facilities.** (a) A county or district shall exclude from the designation, subject to approval by the commissioner, materials that the county or district determines will be separated for recycling at a transfer station located outside of the area subject to designation if:

(1) the residual materials left after separation of the recyclable materials are delivered to a facility designated by the county or district;

(2) each waste collector who would otherwise be subject to the designation ordinance and who delivers waste to the transfer station has not been found in violation of the designation ordinance in the six months prior to filing for an exclusion;

(3) the materials separated at the transfer station are delivered to a recycler and are actually recycled; and

(4) the owner or operator of the transfer station agrees to report and actually reports to the county or district the quantities of materials, by categories to be specified by the county or district, that are recycled by the facility that otherwise would have been subject to designation.

(b) In order to qualify for the exclusion in this subdivision, the owner of a transfer station shall file with the county or district a written description of the transfer station, its operation, location, and waste supply sources, the quantity of waste delivered to the transfer station by the owner of the transfer station, the market for the materials separated for recycling, where the recyclable materials are delivered for recycling, and other information the county or district may reasonably require. Information received by the county or district is nonpublic data as defined in section 13.02, subdivision 9.

(c) A county or district that grants an exclusion under this subdivision may revoke the exclusion if any of the conditions of paragraph (a) are not being met.

**History:** 1984 c 644 s 39; 1985 c 274 s 7,8; 1989 c 325 s 12; 1989 c 335 art 1 s 269; 1991 c 337 s 31,32; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 18; 1Sp2005 c 1 art 2 s 161

### 115A.85 PROCEDURE.

Subdivision 1. **Requirement.** A district or county with an approved designation plan shall proceed as provided in this section when designating facilities. A district need not repeat the designation procedures in this section to the extent that the procedures have been completed by each county having territory in the district or by a joint powers board composed of each county having territory in the district.

Subd. 2. **Hearing.** (a) The district or county shall hold a public hearing to take testimony on the designation. Notice of the hearing must be:

(1) published in a newspaper of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing; and

(2) mailed to political subdivisions, processing and disposal facility operators, and licensed solid waste collectors who may be expected to use the facility.

(b) The notification must:

(1) describe the area in which the designation will apply and the plans for the use of the solid waste;

(2) specify the point or points of delivery of the solid waste;

(3) estimate the types and quantities of solid waste subject to the designation; and

(4) estimate the fee to be charged for the use of the facilities and for any products of the facilities.

(c) A designation or contract for use is not invalid by reason of the failure of the district or county to provide written notice to an entity listed in this subdivision.

Subd. 3. **Negotiated contracts for use.** During a period of 90 days following the hearing, the district or county shall negotiate with the persons entitled to written notice under subdivision 2 for the purpose of developing contractual agreements that will require use of the facilities proposed to be designated.

Subd. 4. **Designation decision.** At the end of the 90-day contract negotiation period, the district or county may proceed to secure approval for and implement the designation as provided in section 115A.86.

**History:** 1984 c 644 s 40; 1989 c 325 s 13

### 115A.86 IMPLEMENTATION OF DESIGNATION.

Subdivision 1. **Designation ordinance.** (a) The district or county shall prepare a designation ordinance to implement a designation. The designation ordinance must: (1) define the geographic area and the types and quantities of solid waste subject to designation; (2) specify the point or points of delivery of the solid waste; (3) require that the designated solid waste be delivered to the specified point or points of delivery; (4) require the designated facility to accept all designated solid waste delivered to the specified point or points of delivery, unless the facility has notified waste collectors in the designated area that the facility is inoperative; (5) set out the

procedures and principles to be followed by the county or district in establishing and amending any rates and charges at the designated facility; and (6) state any additional regulations governing waste collectors or other matters necessary to implement the designation.

(b) The designation ordinance must provide an exception for: (1) materials that are exempt or excluded from the designation under section 115A.83 or 115A.84, subdivision 4; and (2) materials otherwise subject to the designation for which negotiated contractual arrangements exist that will require and effect the delivery of the waste to the facility for the term of the contract.

Subd. 2. **Approval.** A district or county shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the commissioner for review and approval or disapproval. The commissioner shall complete the review and make a decision within 90 days following submission of the designation for review. The commissioner shall approve the designation if the commissioner determines that the designation procedure specified in section 115A.85 was followed and that the designation is based on a plan approved under section 115A.84. The commissioner may attach conditions to the approval.

Subd. 3. **Implementation.** The designation may not be placed into effect before 60 days after the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If the designation is not placed into effect within two years of approval, the designation must be resubmitted to the commissioner for approval or disapproval under subdivision 2, unless bonds have been issued to finance the facility to which the designation applies.

Subd. 4. **Effect.** The designation is binding on all political subdivisions, landfill operators, solid waste generators, and solid waste collectors in the designation area.

Subd. 5. **Amendments.** (a) Except for an amendment authorized under subdivision 6, amendments to a designation ordinance must be submitted to the commissioner for approval. The commissioner shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the commissioner finds that the proposed amendment is a substantive change from the existing designation plan, the commissioner may require that the county or solid waste management district submit a revised designation plan to the commissioner for approval. After receiving approval for the designation plan amendment from the commissioner, the county or district shall follow the procedure outlined in section 115A.85 prior to submitting the amended designation ordinance to the commissioner for approval. If the commissioner does not act within 90 days after receiving the proposed amendment to the designation ordinance, the amendment is approved.

(b) Except for an amendment authorized under subdivision 6, prior to amending an ordinance to designate solid waste to a disposal facility, a county or district shall submit an amended designation plan to the commissioner for approval, and shall follow the procedures outlined in section 115A.85.

Subd. 6. **Penalties.** (a) A county may include in its designation ordinance civil and misdemeanor penalties for violation of the ordinance. Subdivision 5 does not govern a designation ordinance amendment adopted under this paragraph.

(b) A county may by ordinance impose civil and misdemeanor penalties for delivery of mixed municipal solid waste to a processing or disposal facility in the county that is not a facility designated to receive the waste under a designation ordinance adopted by another county under this section.

(c) A civil penalty adopted under paragraph (a) or (b) must be payable to the county and may not exceed a fine of \$10,000 per day of violation plus the cost of mitigating any damages caused by the violation and the attorney fees and court costs incurred by the county to enforce the ordinance.

**History:** 1984 c 644 s 41; 1985 c 274 s 9; 1989 c 325 s 14,15; 1989 c 335 art 1 s 269; 1991 c 337 s 33,34; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 19; 1Sp2005 c 1 art 2 s 161

### **115A.87 JUDICIAL REVIEW; ATTORNEY GENERAL TO PROVIDE COUNSEL.**

An action challenging a designation must be brought within 60 days of the approval of the designation by the commissioner. The action is subject to section 562.02.

In any action challenging a designation ordinance or the implementation of a designation ordinance, the person bringing the challenge shall notify the attorney general. The attorney general may intervene in any administrative or court action to represent the state's interest in designation of solid waste, and, on request of a county whose designation ordinance has been challenged, provide legal representation for the county in any administrative or court action related to the challenge.

**History:** 1984 c 644 s 42; 1992 c 593 art 1 s 22; 1994 c 585 s 14; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161

### **115A.88 SERVICE GUARANTEE.**

The district or county may not arbitrarily terminate, suspend, or curtail services provided to any person required by contract or designation ordinance to use designated facilities without the consent of the person or without just cause.

**History:** 1984 c 644 s 43

### **115A.882 RECORDS; INSPECTION.**

Subdivision 1. **Definitions.** For the purposes of this section:

(1) "origin" means a general geographical description that at a minimum names the local governmental unit within a county from which waste was collected; and

(2) "type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

Subd. 2. **Records; collectors; facilities.** Each person who collects solid waste in a county in which a designation ordinance is in effect shall maintain records regarding the volume or weight, type, and origin of waste collected. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility at which that day's collected waste is deposited must be kept on the waste collection vehicle. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.

The owner or operator of a solid waste facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered to the facility; the date and time of delivery; and the name of the waste collector that delivered the waste to the facility.

Subd. 3. **Inspection.** A person authorized by a county in which a designation ordinance is effective may, anywhere in the state:

(1) upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subdivision 2 and inspect the waste on the vehicle at the time of deposit of the waste at a facility;

(2) when reasonable notice under the circumstances has been given, upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a solid waste facility that are required to be maintained under subdivision 2;

(3) request, in writing, copies of records of a solid waste collector that indicate the type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and

(4) upon presentation of identification and without a search warrant, inspect or copy that portion of the business records of a waste collector necessary to comply with clause (3) at the central record-keeping location of the waste collector only if the collector fails to provide copies of the records within 15 days of receipt of a written request for them, unless the time has been extended by agreement of the parties.

Records or information received, inspected, or copied by a county under this section are classified as nonpublic data as defined in section 13.02, subdivision 9, and may be used by the county solely for enforcement of a designation ordinance. A waste collector or the owner or operator of a waste facility shall maintain business records needed to comply with this section for two years.

Subd. 4. **Civil enforcement; venue.** (a) A person who fails to comply with this section is subject to:

(1) an action to compel performance or to restrain or enjoin any activity that interferes with the requirement to keep records in subdivision 2 or the requirement to allow timely entry and inspection in subdivision 3;

(2) damages caused by the failure to keep records or by refusal to allow timely entry or inspection;

(3) a civil penalty payable to the county seeking enforcement of up to \$10,000 per day for each day of refusal to allow timely entry or inspection; or

(4) any or all of the above.

(b) A county in which a designation ordinance is in effect may enforce this section by commencing an action in district court in the county in which the facility is located or in the county in which the designation ordinance is in effect. The court may compel performance in any manner deemed appropriate by the court, including, but not limited to, issuance of an order to show cause, a temporary restraining order, or an injunction. In addition, the court may order payment of damages or a civil penalty or both. In an action brought by a county to enforce this section in which the county substantially prevails, the court may order payment by the defendant of the county's costs and disbursements, including reasonable attorney fees.

**History:** 1988 c 521 s 1; 1991 c 337 s 35; 1994 c 585 s 15,16

#### **115A.89 SUPERVISION OF IMPLEMENTATION.**

The commissioner shall: (1) require regular reports on the implementation of each designation; (2) periodically evaluate whether each designation as implemented has accomplished its purposes and whether the designation is in the public interest and in furtherance of the state

policies and purposes expressed in section 115A.02; and (3) report periodically to the legislature on the commissioner's conclusions and recommendations.

**History:** 1984 c 644 s 44; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161

### 115A.893 PETITION FOR EXCLUSION.

Subdivision 1. **Petition for exclusion.** Any person proposing to own or operate a processing facility using waste materials subject to a designation ordinance may petition the waste district or county for exclusion of the materials from the designation ordinance. In order to qualify for the exclusion of materials under this section, the petitioner shall submit with the petition a written description of the proposed facility, its intended location, its waste supply sources, purchasers of its products, its design capacity, and other information that the district or county may reasonably require.

Subd. 2. **Decision.** The district or county, after appropriate notice and hearing, shall issue a written decision with findings of fact and conclusions on all material issues. The district or county shall grant the petition if it determines that:

(1) the materials will be processed at the facility; and

(2) the exclusion can be implemented without impairing the financial viability of the designated facility or impairing contractual obligations or preventing the performance of contracts by the facility owner or operator, the district or county, or users of the facility.

Subd. 3. **Appeal of decision.** A person aggrieved by the decision of the district or county may appeal to the commissioner. The review is confined to the record. The decision of the commissioner must be based on the standards stated in this section.

Subd. 4. **Conformance of designation ordinance.** If the commissioner approves the petition, the designation ordinance must be amended in conformance with the decision of the commissioner. The petition may be amended during the proceedings by agreement between the petitioner and the district or county.

**History:** 1985 c 274 s 10; 1989 c 325 s 16; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161

## WASTE TIRES, BATTERIES, AND USED OIL

### 115A.90 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 115A.90 to 115A.914.

Subd. 2. MS 1990 [Renumbered subd 3]

Subd. 2. **Collection site.** "Collection site" means a permitted site, or a site exempted from permit, used for the storage of waste tires.

Subd. 3. MS 1990 [Renumbered subd 2]

Subd. 3. MS 1994 [Repealed, 1995 c 247 art 2 s 55]

Subd. 4. [Repealed, 1988 c 685 s 44]

Subd. 5. **Person.** "Person" has the meaning given in section 116.06, subdivision 17.

Subd. 6. **Processing.** "Processing" means producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.



**473.803 METROPOLITAN COUNTY PLANNING.**

Subdivision 1. **County master plans; general requirements.** Each metropolitan county, following adoption or revision of the metropolitan policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the commissioner for approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the metropolitan policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste management requirements of section 115A.96, subdivision 6; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

Subd. 1a. [Repealed, 1991 c 337 s 90]

Subd. 1b. [Repealed, 1995 c 247 art 1 s 67]

Subd. 1c. **County abatement plan.** Each county shall revise its master plan to include a land disposal abatement element to implement the metropolitan land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised master plan to the commissioner for review under subdivision 2 within nine months after the adoption of the metropolitan abatement plan. The county plan must implement the local abatement objectives for the county and cities within the county as stated in the metropolitan abatement plan. The county abatement plan must include specific and quantifiable county objectives, based on the objectives in the metropolitan abatement plan, for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream generated in the county, stated in six-year increments for a period of at least 20 years from the date of metropolitan policy plan revisions. The plan must include measurable performance standards for local abatement of solid waste through resource recovery and waste reduction and separation programs and activities for the county as a whole and for statutory or home rule charter cities of the first, second, and third class, respectively, in the county, stated in six-year increments for a period of at least 20 years from the date of metropolitan policy plan revisions. The performance standards must implement the metropolitan and county

abatement objectives. The plan must include standards and procedures to be used by the county in determining annually under subdivision 3 whether a city within the county has implemented the plan and has satisfied the performance standards for local abatement. The master plan revision required by this subdivision must be prepared in consultation with the advisory committee established pursuant to subdivision 4.

Subd. 1d. **Plans for required use of resource recovery facilities.** Plans proposing designation of resource recovery facilities pursuant to section 473.811, subdivision 10, shall evaluate the benefits of the proposal, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local, district, or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02, and also the costs of the proposal, including not only the direct capital and operating costs of the facility but also any indirect costs and adverse long-term effects of the designation. In particular the plan shall evaluate:

- (a) whether the required use will result in the recovery of resources or energy from materials which would otherwise be wasted;
- (b) whether the required use will lessen the demand for and use of land disposal;
- (c) whether the required use is necessary for the financial support of the facility;
- (d) whether less restrictive methods for ensuring an adequate solid waste supply are available;
- (e) all other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

Subd. 1e. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2. **Commissioner review.** The commissioner shall review each master plan or revision thereof to determine whether it is consistent with the metropolitan policy plan. If it is not consistent, the commissioner shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for the commissioner's approval. Any county solid waste plan or report approved by the council prior to July 1, 1994, shall remain in effect until a new master plan is submitted to and approved by the commissioner in accordance with this section.

The commissioner shall review the household hazardous waste management portion of each county's plan.

Subd. 2a. **Waste abatement.** The commissioner may require any county that fails to meet the waste abatement objectives contained in the metropolitan policy plan to amend its master plan to address methods to achieve the objectives. The master plan amendment is subject to review and approval as provided in subdivision 2 and must consider at least:

- (1) minimum recycling service levels for solid waste generators;
- (2) mandatory generator participation in recycling programs including separation of recyclable material from mixed municipal solid waste;
- (3) use of organized solid waste collection under section 115A.94; and
- (4) waste abatement participation incentives including provision of storage bins, weekly collection of recyclable material, expansion of the types of recyclable material for collection,

collection of recyclable material on the same day as collection of solid waste, and financial incentives such as basing charges to generators for waste collection services on the volume of waste generated and discounting collection charges for generators who separate recyclable material for collection separate from their solid waste.

**Subd. 3. Annual report.** By April 1 of each year, each metropolitan county shall prepare and submit to the commissioner for approval a report containing information, as prescribed in the metropolitan policy plan, concerning solid waste generation and management within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives for the county and classes of cities in the county as stated in the metropolitan policy plan and county master plan. The report must list cities that have not satisfied the county performance standards for local abatement required by subdivision 1c. The report must include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

The report shall contain the recycling development grant report required by section 473.8441 and the annual certification report required by section 473.848.

**Subd. 4. Advisory committee.** Each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities. The commissioner or the commissioner's appointee is a nonvoting ex officio member of the committee.

**Subd. 5. Role of private sector; county oversight.** A county may include in its solid waste management master plan and in its plan for county land disposal abatement a determination that the private sector will achieve, either in part or in whole, the goals and requirements of sections 473.149 and 473.803, as long as the county:

(1) retains active oversight over the efforts of the private sector and monitors performance to ensure compliance with the law and the goals and standards in the metropolitan policy plan and the county master plan;

(2) continues to meet its responsibilities under the law for ensuring proper waste management, including, at a minimum, enforcing waste management law, providing waste education, promoting waste reduction, and providing its residents the opportunity to recycle waste materials; and

(3) continues to provide all required reports on the county's progress in meeting the waste management goals and standards of this chapter and chapter 115A.

**History:** 1975 c 13 s 140; 1976 c 179 s 14; 1980 c 564 art 10 s 8; 1981 c 352 s 41; 1982 c 424 s 130; 1982 c 569 s 26-28; 1983 c 373 s 57,58; 1984 c 455 s 1; 1984 c 640 s 32; 1984 c 644 s 63-65; 1985 c 274 s 23,24; 1987 c 348 s 41; 1988 c 685 s 30; 1989 c 325 s 54; 1Sp1989 c 1 art 20 s 28; 1991 c 337 s 66,67; 1993 c 249 s 40; 1994 c 585 s 41; 1995 c 247 art 1 s 52-54; art 2 s 31-34; 1997 c 45 s 2; 1Sp2005 c 1 art 2 s 161



## MEMORANDUM

September 17, 2014

TO: RAMSEY-WASHINGTON RESOURCE RECOVERY PROJECT BOARD

CC: ZACK HANSEN, RAMSEY COUNTY  
JUDY HUNTER, WASHINGTON COUNTY

FROM: KEVIN D. JOHNSON, 612-373-8803, KDJOHNSON@STOEL.COM; SARA BERGAN (612-373-8819; SEBERGAN@STOEL.COM)

RE: **MPCA Enforcement of Metropolitan Waste Processing Statute (Minn. Stat. § 473.848)**

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### I. Introduction

When the Minnesota Pollution Control Agency (“MPCA”) adopted its Revised Policy Plan for metropolitan waste management in early 2011, it addressed enforcement of Minn. Stat. § 473.848 (the “Statute”), a long-standing statute precluding the delivery of unprocessed mixed municipal solid waste (“MMSW”) to landfills, and adopted criteria for determining when waste is “unprocessible” for the purposes of enforcing the Statute.

In 2012, the Minnesota Legislature directed MPCA to prepare a report on how compliance with the Statute would be achieved. The MPCA report to the Legislature stated that the four Minnesota landfills receiving metropolitan waste were not in compliance with the restriction on disposal and proposed to amend landfill permits to restrict them from accepting unprocessed metropolitan MMSW unless it has been certified as unprocessible. On June 26, 2013 MPCA informed the landfill owners and other interested parties by letter that hundreds of thousands of tons of MMSW have gone directly to landfills contrary to state law and that MPCA intended to implement the strategy it had outlined in its report to the Legislature to reverse this trend.

Waste Management of Minnesota, Inc. (“Waste Management”) owns and operates three of the four landfills in Minnesota that have been receiving metropolitan MMSW. In response to the MPCA letter, Waste Management sought a declaratory order directing MPCA to cease its implementation of its strategy. So far Waste Management has not been successful in its litigation against MPCA. On September 10, 2014, Waste Management filed a petition seeking review by the Minnesota Supreme Court.

While MPCA enforcement of the Statute would affect Minnesota landfills, the Agency has stated that its reach does not extend beyond the Minnesota border. Waste already leaving

Minnesota would remain unaffected, and such enforcement could encourage additional waste to leave the state. While enforcement of the Statute could yield increases in waste delivered to the Facility at Newport, a significant amount of the waste from Ramsey and Washington Counties that is not processed at Newport is leaving the state and is thus unaffected by MPCA's recent enforcement efforts.

## **II. The Statute and MPCA Plan to Enforce It**

Minnesota Statutes Chapter 473 sets forth the framework for metropolitan solid waste management planning and implementation. It requires MPCA to develop a metropolitan waste management policy plan that includes goals for solid waste management as well as criteria and standards for solid waste facilities and solid waste facility sites. Minn. Stat. § 473.149. MPCA is to review and revise the plan every six years.

In MPCA's 2011 Revised Policy Plan (the "MPCA Plan"), the Agency set forth its goals to move management of waste up the state's hierarchy, including:

- (1) a 4% to 6% overall reduction of waste over the 20-year period,
- (2) a 54% to 60% recycling rate, and
- (3) a 9% to 15% organics recovery rate by 2030.

After source reduction, reuse, recycling and organics recovery, the remaining mixed waste would proceed to resource recovery at existing waste-to-energy facilities at a 24% to 28% rate. The remaining would go to landfills, the state's least-preferred method of waste management according to the hierarchy in Minn. Stat. § 115A.02(b). Specifically, the MPCA Plan requires the existing waste-to-energy facilities to be operating at full capacity before any unprocessed metropolitan MMSW can be land disposed.

In addition, the MPCA Plan addressed the requirements of the Metropolitan Landfill Abatement Act and outlined plans to begin enforcing the Statute. Despite the Statute being in place for nearly three decades, MPCA stated its rationale for newly enforcing the Statute and included standards for determining when waste is unprocessable, procedures for certification and reporting land disposal of waste.

The Statute is quite specific on many of these elements. For example, Minn. Stat. § 473.848, subd. 5 defines waste as unprocessed if it has not, after collection and before disposal, undergone separation of materials for resource recovery through recycling, incineration for energy production, production and use of refuse-derived fuel, or composting, or any combination of these processes so that the weight of the waste remaining that must be disposed of in a MMSW disposal facility is not more than 35% of the weight before processing, on an annual average. The Statute restricts disposal of unprocessed MMSW generated in the metropolitan area unless it has been either certified as unprocessable by a county or transferred from a resource recovery facility as unprocessable there, or at any other resource recovery facility serving the metropolitan area.

MPCA proposed to implement the landfill restriction by amending landfill and resource recovery facility permits to specify how facilities should operate to demonstrate compliance with the Statute. In the case of landfills, MPCA proposed to amend permits to prohibit landfills from accepting unprocessed metropolitan MMSW unless the waste has been certified by the county as unprocessable. The MPCA Plan contains the criteria for counties certifying when waste is unprocessable – namely when the reasonably available capacity of the metropolitan processing system is fully utilized. MPCA also amended reporting forms to include reporting requirements related to enforcement of the Statute.

### III. Litigation To Date

A few weeks after MPCA sent the letter describing its plans to enforce the Statute, Waste Management filed a petition with the Office of Administrative Hearings for an order prohibiting MPCA's implementation of the strategy (filed on August 16, 2013). Waste Management argued that the Agency was improperly implementing the strategy as though it were a duly adopted rule, or it was otherwise in violation of Minnesota's rulemaking provisions.<sup>1</sup> The matter was heard on August 30, 2013, and the administrative law judge ("ALJ") issued an order on December 20, 2013 dismissing the Petition. The ALJ found that the MPCA strategy met the definition of a rule under the state's administrative procedures act. The ALJ also determined, however, that each of its provisions were exempt from rulemaking because they were expressly authorized by the Statute or set forth in the MPCA Plan, which is also exempt from rulemaking.

Waste Management appealed the ALJ decision to the Minnesota Court of Appeals, agreeing with the ALJ's determination that the MPCA strategy was a rule, but that the ALJ had erred in finding the MPCA strategy exempt from rulemaking. In part, Waste Management argued that the pre-disposal certification strategy was inconsistent with the Statute and thus was not exempt from rulemaking, and also that MPCA could not use the regional planning process under Minn. Stat. § 473.149 to circumvent rulemaking procedures.

On June 25, 2014, the Minnesota Court of Appeals heard the appeal and on August 11, 2014 filed its judgment affirming both ALJ determinations: (1) that the strategy is a rule, and (2) that the provisions of the rule were exempt from rulemaking procedures. The MPCA strategy includes a statement of general applicability and future effect such that it constitutes rulemaking. The Court also agreed with the ALJ that the MPCA strategy interprets the Statute in accordance with its plain meaning. Moreover, it determined that the "provisions of the MPCA's 'strategy' are expressly authorized by Minn. Stat. § 473.848, Minn. R. 70001.0150, or set forth in the Revised Policy Plan, which is exempt from rulemaking."<sup>2</sup> In response to Waste Management's assertion that MPCA was using its authority under Minn. Stat. § 473.149 to circumvent rulemaking procedures, the Court found that because the "statutes seek the same policy

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<sup>1</sup> Embodied in the Minnesota Administrative Practices Act, Minnesota Statutes, Chapter 14.

<sup>2</sup> *Waste Mgmt. of Minn., Inc. v. Minn. Pollution Control Agency*, No. A14-0122, 2014 Minn. App. Unpub. LEXIS 874, at \*13 (Minn. Ct. App. Aug. 11, 2014) (unpublished).

objectives, address many overlapping aspects of waste disposal, and require certification or permits to achieve these objectives, the Revised Policy Plan is pertinent to section 473.848 as well as to section 473.149.”<sup>3</sup> A copy of the Court’s opinion is attached to this memo.

On September 10, 2014 Waste Management filed a petition with the Minnesota Supreme Court seeking review of the Minnesota Court of Appeals decision. The Minnesota Supreme Court could decide to accept or reject the petition.

#### **IV. Effect of MPCA Strategy on Ramsey and Washington Counties**

The Master Plans in both Ramsey and Washington Counties are consistent with the MPCA Plan and support MPCA’s strategy to enforce the Statute. To the extent MPCA remains successful against Waste Management’s or other legal challenges and pursues enforcement of the Statute, it could result in additional waste being delivered to the Newport Refuse-Derived Fuel Facility (“Newport Facility”). However, because MPCA has determined that it cannot enforce the Statute beyond the state’s boundaries without implicating constitutional dormant Commerce Clause concerns, it does not affect landfills located in other states that accept MMSW generated in the Metro Area.

In the case of Ramsey and Washington Counties, about 300,000 of the approximately 400,000 tons of available MMSW already is processed at the Newport Facility. Of the remaining unprocessed MMSW, roughly 36,000 tons is disposed at the Seven-Mile landfill near Eau Claire, Wisconsin, which is owned and operated by Advanced Disposal. Another 22,000 tons is disposed at Waste Management landfills in Minnesota, the majority of which is disposed at its Elk River landfill. Finally a similar amount (roughly 22,000 tons) is taken to Republic’s Pine Bend landfill in Minnesota.

As mentioned above, MPCA cannot enforce its rules on out-of-state landfills and thus MPCA enforcement would not reach the waste going to the Eau Claire landfill owned by Advanced. Furthermore MPCA enforcement could cause Waste Management and/or Republic to instead deliver this waste to their landfills in Iowa and Wisconsin, respectively, instead of their Elk River and Pine Bend landfills located in-state. Therefore, the Counties cannot rely on MPCA enforcement of the Statute to ensure that Ramsey and Washington County waste that is currently being landfilled is instead processed at the Newport Facility. Rather, MPCA enforcement could result in waste currently landfilled in-state being instead landfilled at facilities owned by the same entities out-of-state.

In theory MPCA’s plans to enforce the Statute could also lead to more waste from other metropolitan counties being processed at the Newport Facility. To the extent the Facility remains privately-owned, however, few (if any) benefits of additional delivered MMSW from other metropolitan counties would flow to Ramsey and Washington Counties. In fact those newly delivering to the Newport Facility may instead be the unintended beneficiaries of the Facility which has been made possible by Ramsey and Washington County financial support.

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<sup>3</sup> *Id.* at \*17-18.

## Waste Mgmt. of Minn. v. Minn. Pollution Control Agency

Court of Appeals of Minnesota  
August 11, 2014, Filed  
A14-0122

**Reporter:** 2014 Minn. App. Unpub. LEXIS 874; 2014 WL 3892576

Waste Management of Minnesota, Inc., Petitioner, vs. Minnesota Pollution Control Agency, Respondent.

**Notice:** THIS OPINION WILL BE UNPUBLISHED AND MAY NOT BE CITED EXCEPT AS PROVIDED BY MINNESOTA STATUTES.

**Prior History:** [\*1] Minnesota Pollution Control Agency File No. OAH 68-2200-30906.

**Disposition:** Affirmed.

### Core Terms

unprocessible, waste management, resource recovery, certification, disposal, rulemaking, facilities, requirements, Revised, landfills, processed, metropolitan area, permits, argues, solid waste, metropolitan, exempt, agency's action, waste disposal, amendments, counties, certify, mixed, disposal facility, procedures, municipal

**Counsel:** For Petitioner: Jack Y. Perry, Diane Bratvold, Matthew A. Slaven, Briggs & Morgan, P.A., Minneapolis, Minnesota.

For Respondent: Lori Swanson, Attorney General, Ann E. Cohen, Assistant Attorney General, St. Paul, Minnesota.

**Judges:** Considered and decided by Cleary, Chief Judge; Larkin, Judge; and Klaphake, Judge\*.

**Opinion by:** KLAPHAKE

### Opinion

#### UNPUBLISHED OPINION

KLAPHAKE, Judge

In this declaratory judgment action, petitioner Waste Management of Minnesota, Inc. (Waste Management), challenges an administrative law judge (ALJ) decision, that although respondent Minnesota Pollution Control Agency (MPCA) violated the rulemaking provisions of the Minnesota Administrative Procedure Act (MAPA) by informing Waste Management of its intent to implement a new strategy to enforce Minn. Stat. § 473.848 (2012), which imposes restrictions on disposal of unprocessed mixed municipal solid waste (MMSW), its strategy was exempt from rulemaking requirements.<sup>1</sup> In its related appeal, MPCA argues that the proposed strategy was not a rule. We conclude that MPCA's strategy is a rule, but [\*2] that it is not subject to MAPA's rulemaking procedures because MPCA's action merely enforces section 473.848, and is consequently exempt. We therefore affirm.

#### DECISION

A person may petition under MAPA for an ALJ determination "that an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule." Minn. Stat. § 14.381, subd. 1 (2012). When an agency "enforces a law or rule by applying the law or rule to specific facts on a case-by-case basis," the "agency determination is not considered an unadopted rule[.]" Minn. Stat. § 14.381, subd. 1(b) (2012). As with an action to challenge the validity of a rule under Minn. Stat. § 14.44 (2012), section 14.381 provides this court with jurisdiction in a declaratory [\*3] judgment action. See Minn. Chamber of Comm. v. Minn. Pollution Control Agency, 469 N.W.2d 100, 102 (Minn. App. 1991), review denied (Minn. July 24, 1991) ("This court has original jurisdiction to determine the validity of an agency's rules, including amendments."); Minn. Stat. § 14.381, subd. 2 (stating that the ALJ decision "may be appealed under

\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

<sup>1</sup> "Unprocessed waste" is defined as waste that "has not, after collection and before disposal, undergone separation of materials for resource recovery through recycling, incineration for energy production, production and use of refuse-derived fuel, composting, or any combination of these processes so that the weight of the waste remaining that must be disposed of in a mixed municipal solid waste disposal facility is not more than 35 percent of the weight before processing, on an annual average." Minn. Stat. § 473.848, subd. 5.



[sections 14.44](#) and [14.45](#),” which determine the validity of agency rules).<sup>2</sup>

### *Statutory language*

We must first decide whether the ALJ properly ruled that MPCA violated the rulemaking provisions of MAPA by informing Waste Management, among others, that it intended to enforce [Minn. Stat. § 473.848](#). The statute governs how unprocessed MMSW must be disposed of in the metropolitan area as part of the implementation of state statutory waste management and landfill abatement objectives. *Id.* The relevant portions of [section 473.848](#) provide:

Subd. 1. Restriction. (a) For the purposes of implementing the waste management policies in [section 115A.02](#) and [\*4] metropolitan area goals related to landfill abatement established under this chapter, a person may not dispose of unprocessed mixed municipal solid waste generated in the metropolitan area at a waste disposal facility unless the waste disposal facility meets the standards in [section 473.849](#) and:

(1) The waste has been certified as unprocessable by a county under subdivision 2; or

(2)(i) the waste has been transferred to the disposal facility from a resource recovery facility;

(ii) no other resource recovery facility serving the metropolitan area is capable of processing the waste; and

(iii) the waste has been certified as unprocessable by the operator of the resource recovery facility under subdivision 3.

...

Subd. 2. County certification; office approval.

(a) By April 1 of each year, each county shall submit an annual certification report to the office detailing:

(1) the quantity of waste generated in the county that was not

processed prior to transfer to a disposal facility during the year preceding the report; (2) the reasons the waste was not processed;

(3) a strategy for development of techniques to ensure processing of waste including a specific timeline for implementation of those techniques; [\*5] and

(4) any progress made by the county in reducing the amount of unprocessed waste.

...

Subd. 3. Facility certification. The operator of each resource recovery facility that receives waste from counties in the metropolitan area shall certify as unprocessable each load of mixed municipal solid waste it does not process. Certification must be made to each county that sends its waste to the facility at intervals specified by the county. Certification must include at least the number and size of loads certified as unprocessable and the reasons the waste is unprocessable. Loads certified as unprocessable must include the loads that would otherwise have been processed but were not processed because the facility was not in operation, but nothing in this section relieves the operator of its contractual obligations to process mixed municipal solid waste.

### *Legislative and regulatory history*

We necessarily recount a brief history of MPCA’s actions in the years preceding this declaratory judgment action. Three of the four landfills in [Minnesota](#) that receive MMSW from the metropolitan area are owned by Waste Management. Four resource recovery facilities in [Minnesota](#) accept MMSW from the metropolitan [\*6] area. By statute, MPCA was required to revise the metropolitan long range policy plan for solid waste management and to provide for public comment to proposed revisions and appellate review of standards adopted in the plan. [Minn. Stat. § 473.149, subd. 1, 3](#) (2012). In March 2011, MPCA adopted a “Revised Policy Plan” that includes “quantifiable goals for the amount of

<sup>2</sup> MPCA argues that [section 14.381, subdivision 2](#) does not provide Waste Management a right of appeal in this case. Because the statute specifically provides that the ALJ “decision” under this statute may be appealed “under [sections 14.44](#) and [14.45](#),” and those sections permit a declaratory judgment action in this court when agency action or threatened agency action impairs the rights of the petitioner, Waste Management has a specific right of appeal.

MMSW that is handled through recycling, source reduction, resource recovery, and landfilling, as provided for by [Minn. Stat. § 473.149, subd. 2d](#) [2012].” The Revised Policy Plan adopts criteria for determining when waste is “unprocessible” for purposes of [Minn. Stat. § 473.848](#). Under those criteria, MMSW is “unprocessible when all reasonably available capacity within the [metropolitan area resource recovery] processing system is fully utilized at 100 percent of its operating capacity.” The Revised Policy Plan requires counties to certify when MMSW is unprocessible because of inadequate processing capacity and to provide “at least” annual certifications of compliance with [Minn. Stat. § 473.848](#).

In 2012, the legislature directed MPCA to prepare a final report “on how compliance with [Minnesota Statutes, section 473.848](#) may be achieved” by October 1, 2012. 2012 [Minn. Laws, ch. 272, § 93](#) at 1125. See [Minn. Stat. § 473.149, subd. 6](#) (2012) (requiring MPCA to report to legislature in odd-numbered [\*7] years on “whether the objectives of the metropolitan abatement plan have been met and whether each county . . . [has] achieved objectives set for it in the plan.”). The report prepared by MPCA states that the four metropolitan landfills “are not in compliance with the restriction on disposal” included in [Minn. Stat. § 473.848, subd. 1\(a\)](#), and proposes amendment of landfill permits “to restrict landfills from accepting unprocessed metropolitan MMSW unless the waste has been certified by the county as unprocessible.”<sup>3</sup>

By letter dated June 26, 2013, MPCA notified Waste Management and other interested parties that “hundreds of thousands of tons of mixed waste has bypassed resource recovery facilities and [was] directed to land disposal, contrary to state law,” and that MPCA intended to reverse this trend by implementing the strategy contained in the 2012 legislative report, in order to “obtain[] compliance with [Minn. Stat. § 473.848](#).” MPCA also sent two emails to Waste Management indicating draft permit language and asking for comment.

In response, Waste Management filed a petition [\*8] with the office of administrative hearings (OAH) seeking a determination that MPCA was improperly implementing its “strategy for compliance with [Minn. Stat. § 473.848](#) as though it was a duly adopted rule” and requesting “an order directing that MPCA cease such implementation of its strategy.” (Quotations omitted.) The matter was heard before the ALJ on August 30, 2013. The ALJ issued an order on December 20, 2012 that dismissed the petition because MPCA was not “improperly implementing its ‘strategy’ for compliance with [Minn. Stat. § 473.848](#) as though it was a duly adopted rule,” and ordered Waste

Management to pay costs. In the memorandum attached to its order, the ALJ rejected both parties’ characterizations of the MPCA’s strategy and defined the strategy to include:

- (1) amendments to landfill permits to preclude disposal of unprocessed, metropolitan MMSW waste that has not been certified as unprocessible by a county or resource recovery facility prior to landfilling;
- (2) amendments to resource recovery facility permits to require that such facilities only certify waste that is unprocessible; and
- (3) monthly reporting by landfills and resource recovery facilities.

The ALJ also found that “[t]he determination of whether waste is [\*9] ‘unprocessible’ is to be made by the counties and resource recovery facilities according to the criteria established in the Revised Policy Plan.” The ALJ concluded that the strategy met the definition of a rule under [Minn. Stat. § 14.02, subd. 4](#) (2012), but determined that each of its provisions were exempt from rulemaking requirements because they were “expressly authorized by [Minn. Stat. § 473.848](#), [Minn. R. 7001.0150](#), or set forth in the Revised Policy Plan, which is exempt from rulemaking.” On appeal, MPCA characterizes its actions as merely proposing a strategy to enforce an existing statute, while Waste Management argues that MPCA’s actions amount to rulemaking.

#### *MPCA’s strategy is a rule*

An agency rule is “every agency statement of general applicability and future effect . . . adopted to implement or make specific the law enforced or administered by that agency.” [Minn. Stat. § 14.02, subd. 4](#) (2012). But when an agency interprets a statute and its interpretation is in accordance with the statute’s plain meaning, the agency is deemed not to have promulgated a rule. [Cable Commc’s Bd. v. Nor-West Cable Commc’s P’ship, 356 N.W.2d 658, 667 \(Minn. 1984\)](#); [Faribault Cnty. v. Minn. Dep’t of Transp., 472 N.W.2d 166, 170 \(Minn. App. 1991\)](#) (distinguishing between an agency’s “announcement of a clear statutory requirement,” which is not a rule, and an agency’s “interpretation of words within the statute that may be susceptible to more than one meaning,” [\*10] which is a rule and “may only be promulgated through the administrative rulemaking process), *review denied (Minn. Aug. 29, 1991)*; [In re Application of Crown CoCo, Inc.,](#)

<sup>3</sup> The report defines waste as “unprocessible” “when all reasonably available capacity within the Twin Cities Metropolitan Area processing system is fully utilized.”

[458 N.W.2d 132, 137 \(Minn. App. 1990\)](#) (recognizing that “the agency’s action is authorized by the statute itself” when an agency’s interpretation is consistent with the plain language of a statute). See, e.g., [Minn. Chamber of Comm., 469 N.W.2d at 105](#) (ruling that MPCA requirement for site-specific water quality criteria was not a rule). Further, formal rulemaking is required only when an agency action is intended to have the force and effect of law. [Wacha v. Kandiyohi Cnty. Welfare Bd., 308 Minn. 418, 421, 242 N.W.2d 837, 839 \(1976\)](#).

If an agency’s action constitutes rulemaking, adoption of the rule must be in accordance with the procedures provided for in MAPA. [Minn. Stat. § 14.05, subd. 1 \(2012\)](#). “[T]he failure to comply with necessary procedures results in invalidity of the rule.” [White Bear Lake Care Ctr., Inc. v. Minn. Dep’t of Pub. Welfare, 319 N.W.2d 7, 9 \(Minn. 1982\)](#); see [Minn. Stat. § 14.45 \(2012\)](#) (stating that this court must declare a rule invalid if it was adopted “without compliance with statutory rulemaking procedures”). This court applies de novo review to the question of whether an agency “has exceeded its statutory authority.” [In re Application of Minn. Power, 838 N.W.2d 747, 753 \(Minn. 2013\)](#).

We agree with the ALJ’s conclusion that MPCA’s strategy constituted rulemaking. MPCA’s strategy, as evidenced by the 2012 report, includes a statement of general applicability and future effect. The strategy applies [\*11] to all resource recovery facilities that accept MMSW and includes enforcement methods regarding the requirements of [Minn. Stat. § 473.848](#), particularly with reference to landfill abatement policies and conservation goals that apply to resource recovery facilities. The June 26, 2013 letter to Waste Management states that the purpose of the strategy is to “revers[e] the trend toward land disposal through use of [MPCA’s] permitting process.” Regarding the strategy’s future effect, the June 26, 2013 letter notifies recipients that MPCA intends to “begin the process of obtaining compliance with the restriction on disposal requirements in [Minn. Stat. § 473.848](#)” through the use of permitting, as outlined in the 2011 plan, and restrictions on disposal of metropolitan MMSW. Under these circumstances, the ALJ properly determined that MPCA’s action of including a new strategy in its 2012 report and its June 26, 2013 letter to interested persons meets the definition of rulemaking.

#### **MAPA rulemaking requirements do not apply**

We must next decide whether the rule is subject to the statutory exception for agency action that is in accordance with the plain language of a statute, in this case [Minn. Stat. § 473.848](#). We agree with the ALJ determination that it does. [Section 473.848](#) prohibits [\*12] a person from disposing of unprocessed MMSW unless “the waste has

been certified as unprocessable by a county under [subdivision 2](#)” or, if the waste has been transferred to a disposal facility from a resource recovery facility, no other area resource recovery facility can process the waste and “the waste has been certified as unprocessable by the operator of the resource recovery facility.” *Id.* at [subd. 1](#). [Subdivisions 2](#) and [3](#) set forth the certification procedures for counties and resource recovery facilities.

MPCA’s strategy is consistent with [Minn. Stat. § 473.848, subd. 1](#). As the ALJ reasoned: (1) the planned amendments to the permits, which the MPCA agreed would be subject to MAPA permitting requirements, merely reiterate the restrictions on disposal from [subdivision 1](#) and emanate from the plain language of the statute; (2) the strategy defines “unprocessable” with reference to the Revised Policy Plan, and under [Minn. Stat. § 473.149, subd. 3\(b\) \(2012\)](#), requirements of the Revised Policy Plan are exempt from rulemaking requirements; (3) MPCA’s plan to amend permits of resource recovery facilities to require them to certify waste as unprocessable if they meet the criteria of the Revised Policy Plan is consistent with the statute because the statute [\*13] mandates that facilities are to “certify as unprocessable” MMSW that it does not process and authorizes the MPCA to adopt standards for making this determination; and (4) MPCA’s plan to amend permits of landfills and resource recovery centers to require monthly reporting is consistent with the existing rule, [Minn. R. 7001.0150](#), which obligates the MPCA to require permittees to “submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit.” As summarized by the ALJ, “the provisions of the MPCA’s ‘strategy’ are expressly authorized by [Minn. Stat. § 473.848, Minn. R. 7001.0150](#), or set forth in the Revised Policy Plan, which is exempt from rulemaking. Thus, MPCA’s ‘strategy’ is authorized by existing law.”

Waste Management challenges each of these grounds for the ALJ’s decision. Waste Management argues that requiring certification of unprocessed MMSW under [Minn. Stat. § 473.848, subs. 2, 3](#), is “entirely inconsistent” with [Minn. Stat. § 473.848, subd. 1\(a\)](#). Waste Management relies on differences in the statutory language as to the timing of the statutory certifications. [Subdivision 1\(a\)](#) states [\*14] that unprocessed MMSW may not be disposed of at a waste disposal facility “unless” the waste “has been” properly “certified,” and waste management argues that use of the word “unless” “allowed for subsequent ratification of the disposal of [unprocessed] MMSW by the expressly-contemplated after-the fact” certifications under [subdivisions two and three](#). Waste Management suggests that there are

differences in the traditional meanings of "unless" and "until," that the legislature's use of "until" in the statute instead of "unless" does not fix the required action temporally, and that the statute therefore "fails to provide the agency any direct enforcement authority for an alleged violation of the restriction on [unprocessed] MMSW disposal."

We are unpersuaded by Waste Management's interpretation of the statutory language. The different subdivisions apply to different actions required of counties, waste disposal facilities, and resource recovery facilities. [Subdivision 1](#) includes a restriction on MMSW disposal that must be met before a *person* may dispose of waste; [subdivision 2](#) requires *counties* to report annually on the quantity of MMSW that was not processed before its transfer to [\*15] a disposal facility; and [subdivision 3](#) requires *resource recovery facilities* to certify as unprocessable the MMSW that they do not process and the reasons the waste was unprocessable. This statutory language, including its temporal requirements, is clear and consistent with the overall regulatory purpose of the statute.<sup>4</sup> See [State v. Jones, N.W.2d, 2014 Minn. LEXIS 317 \(Minn. July 2, 2014\)](#) (stating that "[t]he goal of statutory interpretation is to effectuate the intent of the Legislature" and "[w]hen the Legislature's intent is discernible from plain and unambiguous language, statutory construction is neither necessary nor permitted"). Further, as MPCA points out, in any event, Waste Management assumes that MPCA permits will require "certification in advance of disposal." Any such assumption is premature because permit implementation has not been decided at this time.

Waste Management also challenges the ALJ's reliance on [Minn. R. 7001.0150, subp. 3](#) which articulates certain conditions that must be included in permits. Among the rule conditions, "[u]nless specifically exempted by statute or rule," "each draft and final permit must include" a requirement that "[t]he permittee shall, when requested by the commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit." The ALJ ruled that the "requirement for monthly reporting is

fully consistent with this rule and does not add any additional requirements beyond that specified in the rule." Waste Management concedes that the MPCA has the authority to impose a reporting requirement, but "challenge[s] MPCA's new pre-disposal 'certification' requirement" and labels the "attendant" reporting requirement as "simply fruit of the poisonous tree." [\*17] We reject this argument because it is premised on the belief that MPCA will require pre-disposal certificates.

Waste Management next argues that MPCA "improperly attempted to utilize [§ 473.149](#) to circumvent the formal rulemaking requirements applicable to [§ 473.848, subd. 4.](#)" [Minn. Stat. § 473.149, subd. 1](#) (2012) mandates the creation of a comprehensive plan for *solid waste*, including revision of the metropolitan long range policy plan, which is to include "criteria and standards for *solid waste* facilities and *solid waste* facility sites respecting . . . general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability." This statute was the foundation of the 2011 Revised Policy Plan. [Section 473.848](#) places restrictions on waste disposal through regulation by certification. Waste Management asserts that "nothing in [§ 473.149](#) or [§ 473.848](#) provides for cross-fertilization of the two statutes to permit MPCA to utilize its Policy Plan as the device to adopt [standards] for application of [section 473.848](#). But to the degree that the statutes seek the same policy objectives, address many overlapping aspects of waste disposal, and require certification or permits to achieve [\*18] these objectives, the Revised Policy Plan is pertinent to [section 473.848](#) as well as to [section 473.149](#)."<sup>5</sup>

Finally, Waste Management argues that MPCA's interpretation of [section 473.848](#) will result in antitrust violations interfering with the free market, specifically, by resulting in "flow control" of waste from public to private landfills and facilities, and will result in violations of statutory rights to designate where waste will be managed. Waste Management also implies that the certification requirement of MPCA's strategy is unconstitutional because compliance is "impossible." These arguments were not raised before the ALJ or considered by the ALJ in reaching its decision, nor are they adequately briefed.

<sup>4</sup> As a separate argument, Waste Management also argues that the language of [section 473.848, subd. 3](#) is the only provision of the statute that provides for certification, and that other subdivisions of the statute envision a "per se" certification process. For this reason, Waste Management asserts, "there is no room for MPCA to redefine what is considered 'unprocessable' MMSW in connection with a metropolitan county 'certification' [\*16] . . . as the legislature has fully occupied the field." Again, Waste Management's reading of the statute is strained; a plain reading of the statute does not require the limitations urged by Waste Management.

<sup>5</sup> Waste Management also argues that MPCA's authority to make a rule under [section 473.848, subd. 4](#), lapsed by operation of [Minn. Stat. § 14.125](#) (2012). We reject this argument because this statute does not apply in the factual context presented here.

As such, we decline to consider them for the first time on appeal. See *State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address a question without adequate briefing); *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn.

1988) (stating that generally an appellate court will not consider matters not argued and considered below);.

**Affirmed.**



## MEMORANDUM

September 17, 2014

TO: RAMSEY-WASHINGTON RESOURCE RECOVERY PROJECT BOARD

CC: ZACK HANSEN, RAMSEY COUNTY  
JUDY HUNTER, WASHINGTON COUNTY

FROM: KEVIN D. JOHNSON. 612-373-8803, KDJOHNSON@STOEL.COM

RE: **Future Governance Approaches**

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### **I. Introduction**

This memorandum provides an overview of two governance approaches for the continued oversight and management of the joint solid waste management system between Ramsey and Washington Counties. The two governance approaches are:

- 1) A joint powers board, which is the governance form currently being used by the two Counties, and is authorized by Minn. Stat. Section 471.59; and
- 2) Establishment of a waste management district, which is an alternate governance option provided by Minn. Stat. Sections 115A.62 to .72.

### **II. Joint Powers Board**

The Joint Exercise of Powers Act (Act), Minn. Stat. Section 471.59, provides a flexible tool that government units can use to work cooperatively to provide services to their communities. Although the Act has undergone numerous changes since it was adopted in 1943, the primary purpose remains the same -- to allow governmental units to jointly or cooperatively undertake the exercise of a governmental power or powers.

The Act provides that two or more "governmental units" may enter into a joint powers agreement (JPA). The Act defines a "governmental unit" as all local units of government in Minnesota or any other state, state agencies, and federal agencies (including all instrumentalities of government).

The decision to enter into a JPA must be made through an action of the governing bodies of the governmental units. The JPA must state the purpose of the agreement or the powers to be exercised and it shall provide for the method by which the purpose sought shall be accomplished or the manner in which the powers shall be exercised.

Through the adoption of a JPA, two or more governmental units may establish a joint powers entity, along with a governing board. The governing board must be composed solely of members of the governing bodies of the governmental units that established the joint powers entity, and the members of the governing board must be representative of the parties to the JPA. A JPA may be continued for a definite term or until rescinded or terminated in accordance with its terms.

#### A. Authority of a Joint Powers Entity

1. **Property Acquisition** - A joint powers entity may acquire property, provided that the JPA includes a provision that sets forth the process for the disposition of any property acquired through the joint exercise of powers. The JPA must also provide for the return of any surplus funds upon the completion of the purpose of the JPA in proportion to contributions of the contracting parties.
2. **Issuance of Bonds** - A joint powers entity may issue bonds or obligations pursuant to any law allowing the governmental units to issue bonds or obligations independently. The bonds or obligations must be issued in the same manner, and are subject to the same conditions and limitations, that would apply if the individual governmental unit were to issue the bonds or obligations. Obligations or other forms of debt incurred are the obligations of the joint powers entity on behalf of the governmental units party to the JPA. The joint powers entity may use the proceeds to carry out the purpose of the law authorizing the issuance of the bonds or obligations. The governing bodies of the governmental units party to the JPA must expressly grant the authority to the joint powers entity to issue obligations or other forms of indebtedness. If a joint powers entity is given the authority to issue bonds or other obligations it must be composed solely of members of the governing bodies that established the joint powers entity.
3. **Collection and Disbursement of Funds** - The JPA may provide for the payment into and disbursement of public funds to carry out the purposes of the agreement. “[T]he method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement.” Contracts and purchases made “shall conform to the requirements applicable to contracts and purchases of any one of the parties, as specified in the agreement.” Also, the JPA must provide for strict accountability and reporting of all funds and receipts must be provided for.
4. **Employees** - The JPA may provide for the joint powers entity to hire and manage its own employees.

## B. Limits on Joint Powers

1. **Commonality of Powers** - The Act prohibits a joint powers entity from exercising any powers not held in common among the governmental units. In other words, each governmental unit that is a power to the JPA must have the independent authority to exercise the power that is the subject of the JPA.
2. **Liability for Obligations** - A joint powers entity may not pledge the full faith and credit or taxing power of any of the governmental units that established the joint powers entity.
3. **Taxation/Service Charges** - Joint powers entities do not have the power to impose taxes or collect fees unless the governmental units party to the JPA each have that authority. Relevant here is the application of this principle to solid waste service charges. Minnesota law gives counties the authority to “establish by ordinance, revise when deemed advisable, and collect just and reasonable rates and charges for solid waste management services provided by the county or by others under contract with the county.” Pursuant to this authority, a joint powers entity made up of two counties may establish and collect rates and charges for the solid waste management services they provide. The service charges may be collected from owners, lessees, or occupants of property.

## C. Potential Joint Powers Authority Liabilities

### **General Liability** -

Caselaw applicable in Minnesota has long maintained that injured parties can make claims against each of the individual governmental units for damages caused by the activities of a joint venture of the governmental units. *Reimer v. City of Crookston*, 421 F.3d 673 (8th Cir. 2005). The *Reimer* court also declined to apply the statutory limitations on government liability (municipal tort liability limits) for damages to the joint venture and instead allowed the plaintiffs to recover the maximum award allowable from each governmental unit participating in the joint venture.

In 2006, just following the disposition of the *Reimer* case, the Minnesota Legislature amended the joint powers statute to be explicit that one unit of government participating in a joint powers arrangement is not responsible for the acts or omissions of another, unless agreed to in writing. It now provides that a governmental unit participating in a joint venture or joint enterprise, including participation in a cooperative activity, is not liable for the acts or omissions of another governmental unit participating in the joint venture or joint enterprise, unless the participating governmental unit has agreed in writing to be responsible for the acts or omissions of another



participating governmental unit. Minn. Stat. §471.59, subd. 1a. The statute further provides that a joint powers entity formed under Minn. Stat. §471.59 and the participating units of government are considered a single unit of government for the purposes of municipal tort liability limits.

Governmental units party to the JPA cannot be held liable for the actions of the members of the governing board if the JPA did not expressly grant the members of the governing board the power to conduct such actions. *City of Geneseo v. Utilities Plus*, 533 F.3d 608 (8th Cir. 2008).

1. **Environmental Liability** - For the purposes of determining whether environmental liability may attach to the parties to a joint powers entity, the Minnesota Appeals Court opined some 25 years ago that:

“it is not clear whether a separate legal entity is created when governmental units act pursuant to the Joint Exercise of Powers Act, Minn. Stat. § 471.59. Neither is it clear, if an entity indeed is created, whether that entity has the attributes of a corporation or partnership, or is simply an agent acting on behalf of the principal member government units.” *In re Matter of Greater Morrison Sanitary Landfill, SW-15*, 435 N.W.2d 92, 96 (Minn. St. App. 1989), review denied (Minn. Mar. 29, 1989).

The *Morrison* court went on to determine that, unlike bonds where the full faith and credit of the counties may not attach to the debt issuance of a joint powers entity, the “public cannot risk its natural resources” and must be guaranteed funds necessary to safely and properly close the landfill in question. A guarantee from a joint powers board, that may or may not be adequately funded, is insufficient. As a result joint powers boards cannot be treated like a corporation in such a situation and the guaranty must come from the full faith and credit of the member governmental units. *Id.*

As mentioned above, the Legislature amended the joint powers statute to provide greater certainty than what was present when the *Morrison* court was reviewing the statute - at least with respect to how to look at a joint venture entity for the purposes of damage calculations. The courts do not appear to have taken up this issue directly since the 2006 amendments. Presumably, the *Morrison* proposition that the parties to a JPA essentially guaranty the environmental liabilities of the joint powers entity is still good law - only now potentially subject to a single, non-stackable tort liability limit.

#### D. Employment Issues

1. **Collective Bargaining.** In addition to having the authority to hire and fire employees, joint powers entities are able to enter into union contracts with employees. A recent amendment to the Minnesota Public Employee

Labor Relations Act sets forth new rules for joint powers entities that are formed after January 15, 2015. The new law establishes a specific process relating to employee unions for governmental units to follow when they form a joint powers entity. First, the continuing contract portion of the law guarantees that the employees that are assigned to a new joint powers entity would continue to be covered by the terms of collective bargaining agreement with their former employer until a new collective bargaining agreement can be reached. Second, the employees of the new joint powers entity will select an employee representative to negotiate a new collective bargaining agreement. Alternatively, if both sides agree, employees could be covered by the collective bargaining agreement that applies to the largest portion of the new employees who are assigned to the new entity.

Employees of the new joint powers entity could choose not to be unionized if the majority of employees transferred to the entity are not currently unionized. If the employees of the new joint powers entity are not unionized, the employer has no obligation to continue the terms of a previous collective bargaining agreement.

2. Employment Liability. When a governmental unit coordinates the human resource responsibilities for a joint powers entity, it may be liable for employment claims based on those actions. Further an individual unit of government may be sued by an employee of the joint powers entity if that unit of government plays some role in the employment decisions. Plaintiffs have an interest in naming as many defendants as possible and the courts may engage in an intensive analysis of the facts to determine the employee-employer relationships. For example, in *Bushard v. Independent School District #833*, 2001 WL 32805 (Minn. Ct. App. 2001), the school district, a party to an interagency collaborative agreement, also served as the fiscal agent for the collaborative. When the collaborative was sued by an employee for breach of employment contract and retaliatory discharge, the trial court and appellate court examined the roles and responsibilities of the school district and the collaborative to assess whether the primary employment relationship was with the district or the collaborative.

### **III. Waste Management District**

In the early 1980s, the Minnesota Legislature established procedures for the creation of solid waste management districts in Minnesota pursuant to Minn. Stat. §§ 115A.62 to 115A.72. More than three decades later, no waste management districts have been formed in Minnesota pursuant to the waste district statute. Thus the path forward to creation of a waste management district is uncharted in practice and laden with associated risks. The statute, however, is detailed and identifies the powers and authority of an established district. The statute also sets forth a fairly specific process. Because the statute is nearly the exclusive guidance on waste management districts in Minnesota, we articulate below the major elements of the statute and key issues related to each element.

## **A. MPCA Rules**

The Minnesota Pollution Control Agency (MPCA) has the authority to approve establishment of waste management districts. Minn. Stat. § 115A.63, subd. 2 directs the MPCA to promulgate rules governing the establishment, alteration, and termination of solid waste management districts. The MPCA has not promulgated such rules. The absence of MPCA rules presents a potential legal issue in that MPCA could choose to reject a petition for establishment of a waste management district due to the lack of required rules, or a party seeking to challenge the creation of a district could potentially bring a claim against the formation process due to the lack of rules. If the MPCA would need to first establish rules before entertaining a petition for a district, there could be significant time delays in moving forward this form of governance, depending upon the timeframe envisioned by Ramsey and Washington Counties. Another alternative would be to seek legislation eliminating the requirement for such rules, especially given that the statute is very detailed and likely could be implemented without rulemaking.

## **B. District Petition Process**

Pursuant to the statute, waste management districts must be established and their powers and boundaries defined by the MPCA only after a petition requesting the action is jointly submitted by the governing bodies comprising at least one-half of the counties partly or wholly within the proposed district (Minn. Stat. Section 115A.64). Note, then, that it would be possible for only one of two counties to submit a petition requesting establishment of a district, or that two counties could submit a petition including a third that is not participating in the petition development process.

Key elements of a petition include:

- the name of the proposed district;
- a description and map of the boundaries of the proposed district or alteration thereto;
- resolutions of support for the district from petitioning governing bodies;
- a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district; and
- articles of incorporation stating the powers of the district and provisions for representation and election of the board of directors of the district.

After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners for the district.

At least 60 days before submitting the petition to the MPCA, the petitioners shall publish notice of the petition in the proposed district and serve copies of the petition to affected parties as set forth in statute. Parties served have 60 days within which to comment on the proposed district.

Upon receipt of the petition, the MPCA determines whether the petition conforms in form and substance to the requirements of law and rule. If the petition does not conform to the requirements, the MPCA shall return it immediately to the petitioners with a statement describing the deficiencies and the amendments necessary to rectify them. If the petition does

conform to the requirements, and if comments have been received objecting to the establishment or alteration of the district as proposed, the MPCA shall request the Office of Administrative Hearings to conduct a hearing on the petition. The hearing shall be conducted in the proposed district in the manner provided for contested cases. If no comments have been received objecting to the establishment of the district as proposed, the MPCA may proceed to grant or deny the petition without the necessity of conducting a contested case hearing.

In the case of a conforming petition, MPCA must also prepare a report containing recommendations on the petition. This report must contain findings and conclusions on whether the proposed boundaries, purposes, powers, and management plans of the district serve the purposes of the proposed district, are appropriately related to the waste generation, collection, processing, and disposal patterns in the area, and are generally consistent with the purposes of the MPCA's regulatory program.

### **C. MPCA Order**

After considering the report of the administrative law judge, if a contested case hearing has been held, the MPCA will make a final decision on the petition. If the commissioner finds and determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest, the MPCA shall give notice to the petitioners of intent to deny the petition. If a contested case hearing has not already been held, the petitioners may then request a hearing within 30 days of the notice of intent to deny the petition.

Following the hearing and the report of the administrative law judge, the MPCA must make a final decision on the petition. If the MPCA finds and determines that the establishment or alteration of a district as proposed in the petition is in the public interest, the MPCA shall, by order, establish the district, define its boundaries, and give it a corporate name. The order shall include articles of incorporation stating the powers of the district and the location of its registered office. Upon the filing of a certified copy of the order of the commissioner with the secretary of state, the district will become a political subdivision of the state and a public corporation, with the authority, power, and duties prescribed in state statutes and the MPCA order.

### **D. Termination**

Once formed, a waste district has no set expiration, but rather a perpetual existence to the extent necessary to carry out its purpose. The procedure for termination of a district includes another petition process similar to the petition for creation and is subject to MPCA determination that its termination is in the public interest. Further, there are significant time and frequency restrictions on how often the MPCA can even entertain the prospect of termination of a district. The agency cannot entertain a petition within the first five years of the district's formation, nor can it entertain such a petition for the same district more often than once in five years.

In order to start a termination procedure, no less than one-half of the counties that are wholly or partly in the district must submit a petition to the MPCA stating the existence of the district is no longer in the public interest. If the petition is dismissed or denied, the petitioners must pay all costs and expenses of the proceeding. At the time of filing the petition, a bond shall be filed by

the petitioners with the MPCA in such sum as the MPCA determines to be necessary to ensure payment of costs.

If objection is made against the petition for termination, a contested case hearing on the petition will be held in the waste district. If the MPCA determines that the termination of the district as proposed in the petition would not be in the public interest, the MPCA will give notice to the petitioner of intent to deny the petition. Much like the petition to create a district, and if a contested case hearing has not already been held, the petitioner may request a hearing within 30 days of the notice of intent to deny the petition.

Following the hearing and the report of the administrative law judge, the MPCA will make a final decision. If the petition is dismissed, all costs of the proceeding shall be assessed against the petitioner(s). If the MPCA determines that the existence of the district is no longer in the public interest, the MPCA shall by findings and order terminate the district.

#### **E. District Organization**

1. **Board.** The chair shall be elected from outside the board of directors by majority vote of the board of directors. The first chair shall serve for a term of two years. Members of the board of directors shall be residents of the district.
2. **Bylaws.** The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote. The bylaws shall state:
  1. the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;
  2. the title, manner of selection, and term of office of officers of the district;
  3. the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;
  4. the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;
  5. the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;
  6. the compensation and reimbursement for expenses for members of the board of directors; and
  7. such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

## F. District Powers

1. **Acquisition of property** - The district may acquire real or personal property deemed necessary for the exercise of its powers or the accomplishment of its purposes. The district may hold the property for its purposes, and may lease or rent the property. The district may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.
2. **Property exempt from taxation** - Any real or personal property owned, used, or occupied by the district for any authorized purpose is declared to be owned and occupied for public purposes, and shall be exempted from taxation by the state, except to the extent that the property is subject to the sales and use tax, provided that those properties shall be subject to special assessments.
3. **Facilities and services** - The district may construct, equip, develop, enlarge, improve, and operate solid waste facilities and services as it deems necessary and may negotiate contracts for the use of public or private facilities and services. The district shall contract with private persons for the construction, maintenance, and operation of facilities and services where the facilities and services are adequate and available for use and competitive with other means of providing the same service.
4. **Rates and charges** - The district may establish and collect rates and charges for the facilities and services provided by the district and may negotiate and collect rates and charges for facilities and services contracted for by the district. Before establishing or raising any rates and charges, the board of directors shall hold a public hearing regarding the proposed rates and charges.
5. **Employees** - The district may employ persons or firms and contract for services to perform engineering, legal, or other services necessary to carry out its functions.
6. **Waste Designation Authority** - A waste management district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under the waste designation statutes.
7. **Waste Project Review** - The district may require that persons shall not acquire, construct, alter, reconstruct, or operate a solid waste facility within the district without prior consultation with and approval of the district.
8. **Solid Waste Authority and Bonding Powers** - A district has all the authority of a county for solid waste management purposes given to counties under chapters 400 and 473, except the authority to issue general

obligation bonds or to levy property taxes. The authority to issue general obligation bonds and to levy property taxes must be specifically delegated to the district by the governing body of each county that is a member of the district. This delegation of authority is irrevocable unless each member county agrees to the revocation.

A district may exercise the bonding powers provided to the extent the powers are authorized by the order of the MPCA in establishing the district and by its articles of incorporation. The district's bonds shall be sold, issued, and secured in the manner provided for revenue bonds and the district shall have the same powers and duties as a municipality and its governing body in issuing revenue bonds under that chapter. No election shall be required. The bonds may be sold at any price and at public or private sale as determined by the district and shall not be subject to any limitation as to rate.

A district may borrow money and incur indebtedness by issuing bonds and obligations which are payable solely:

1. from revenues, income, receipts, and profits derived by the district from its operation and management of solid waste facilities;
2. from the proceeds of warrants, notes, revenue bonds, debentures, or other evidences of indebtedness issued and sold by the district which are payable solely from such revenues, income, receipts, and profits;
3. from federal or state grants, gifts, or other moneys received by the district which are available therefor.

Every issue of revenue bonds by the district is payable out of any funds or revenues from any facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If any facility of the district is funded in whole or in part by Minnesota waste management bonds issued under sections [115A.58](#) and [115A.59](#), the state bonds take priority. The district may provide for priorities of liens in the revenues between the holders of district obligations issued at different times or under different resolutions. The district may provide for the refunding of any district obligation through the issuance of other district obligations entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

9. **Other Powers** - The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. It can enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes. The district may act under the provisions of the Joint Powers Act or any other law providing for joint or cooperative

action between government units. The district may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives. It may procure insurance in amounts it deems necessary to insure against liability of the board of directors and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

#### **IV. Comparison of Joint Powers and Waste Management Districts**

##### *A. Formation Process and Timeframe:*

From a timing and complexity perspective, a joint powers arrangement is much more favorable than a waste management district. Ramsey and Washington Counties already understand and operate under a joint powers agreement. A joint powers agreement is subject to a defined term and can be modified or terminated by the parties to the agreement without further process.

Establishment of a district, by comparison, is complex and time consuming and includes extensive involvement with the MPCA. A significant compounding factor is the fact that the MPCA has not promulgated the rules governing formation of a district as required by statute. Although the statute is very detailed regarding district formation, the fact that MPCA has not adopted rules could prove problematic from a legal perspective unless the requirement is deleted by the Minnesota Legislature or the MPCA acts to adopt such rules in the near future. Recent communication with the MPCA indicates the Agency has no current plans to adopt such rules in the near future.

Further, modification or termination of a district or revocation of its powers, once formed, appears similarly complex and ultimately dependent on a determination by the MPCA that such change is in the public interest. Thus, once the Counties would have ceded authority over waste management to a district, it could be very difficult to gain back.

##### *B. Organizational Structure*

Continuation of the joint powers model requires that the governing board be comprised of members of each county board. A waste management district, by comparison, is a separate and distinct governmental body apart from the Counties. If so desired, such separation would allow the Counties to remove themselves from involvement in and the oversight of solid waste management activities in the East Metro. The composition of the governing board of a waste management district is not dictated by statute and therefore could include county



representation, but such representation is not required. As a result County involvement and oversight of a district could be fairly minimal.

*C. General Powers and Solid Waste Authority*

With respect to general powers and solid waste authority, a comparison between joint powers and waste management districts shows that they are relatively equal in terms of the available powers that could be assigned by the Counties to either a joint powers board or to a district if the Counties were to prepare a petition for a district. Changing the authority once granted, however, would be much more difficult under a waste management district than through a joint powers agreement. The parties to the joint powers agreement can amend the agreement according to its terms, whereas to retract or change the authorities granted a waste management district would require going through the petition process.

*D. Revenue Authority and Debt Authority*

With respect to raising revenue, a joint powers entity and a district could be very similar, with both using service charges as the method to generate revenue. The same is true for debt issuance, in that the Counties would need to assign general obligation bonding power to either a joint powers board or a district in order for either to have such authority. A district would have separate statutory revenue bond authority if such authority was provided by the petitioning counties. A joint powers board could receive a delegation of county revenue bond authority as well.

*E. Employment*

With regard to employment issues, joint powers employees tend to be employed by the joint powers board but actually work through the employment system of one of the member counties. This could raise liability issues for member counties that would not be presented by a district, where employees would be directly employed by the district. However, such liability issues have not proven insurmountable with existing Minnesota joint powers arrangements.

*F. Liability*

In a joint powers arrangement, as noted above, it is possible for liabilities of the joint powers board, in some instances, to reach back and become liabilities of the member counties. For purposes of removing counties from liability relating to solid waste system management matters, a waste management district would be preferable in that all liability would reside with the district.

*G. Summary*

If the Counties choose to continue with the joint powers governance method but find the current arrangement somewhat lacking in light of the scope of the future

system and role of the Counties, the parties could reconsider the breadth of the powers and authorities granted to the joint powers board. Such powers and authorities could be strengthened and enhanced or, alternatively, more narrowly tailored depending on the desires of the two Counties.

Alternatively, and as discussed above, the Counties could consider forming a waste management district. While it may have some advantages in terms of liability mitigation and potentially being more removed from the political process, it is also potentially laden with complications and risks. The process to form, amend or terminate a district is complex and potentially long. This complexity is compounded by the lack of required MPCA rules governing districts, something that could further slow the process. Any decision by the Counties to move toward establishment of a district should seriously consider these challenges.

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<b>RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT REQUEST FOR BOARD ACTION</b>
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<b>PROJECT BOARD MEETING DATE:</b> <u>9/25/2014</u>	<b>AGENDA ITEM:</b> <u>VI. C. i.</u>
<b>SUBJECT:</b> <u>Policy Recommendation – Waste Diversion Goal</u>	
<b>TYPE OF ITEM:</b> <input type="checkbox"/> Information <input type="checkbox"/> Policy Discussion <input checked="" type="checkbox"/> Action	
<b>SUBMITTED BY:</b> <u>Joint Staff Committee</u>	

**PROJECT BOARD ACTION REQUESTED:**

Approve the position paper entitled “Moving to a Diversion Goal,” and direct that it be forwarded to the Solid Waste Management Coordinating Board with a recommendation that the SWMCB (1) develop a measurement system following this proposal in 2015, and use it for system measurement in 2016; and (2) consider legislative proposals to put such a measurement system into State law.

**EXECUTIVE SUMMARY:**

During its evaluation of the future of waste processing in the East Metro area, the Project Board has discussed challenges associated with measuring progress in meeting State waste management goals. The historic method of measuring progress in meeting State waste management goals in Minnesota has been to try to count tons of waste managed through a variety of different waste management methods and programs in the State waste management hierarchy. However, there has been a continual struggle to gather data, agree upon measurement methods, and draw meaningful conclusions from the gathered data. Looking ahead, a new, practical measurement system is proposed to more accurately track progress in meeting State goals: a measurement of what is landfilled or a landfill diversion goal coupled with other metrics.

Staff have prepared a policy paper and recommendations that suggest an alternate method of measuring progress in meeting State goals. The Project Board is requested to discuss this paper and consider action to forward it to the SWMCB for action at the regional level. Staff wish to make it clear that proposing a diversion goal is not an effort to diminish efforts to recycle and manage organics, nor simply to focus on processing. The purpose of the concept outlined in the position paper is to assure that we best measure progress in meeting state policy goals in a practical manner, and taking into account new and emerging technologies, such as anaerobic digestion.



**SUBJECT: Policy Recommendation – Waste Diversion Goal**

**ATTACHMENTS:**

- 1. Policy Paper: "Moving Toward a Diversion Goal"
- 2. Resolution

**FINANCIAL IMPLICATIONS:** None

**AUTHORIZED SIGNATURES**

Joint Staff Committee	Date
	9/16/14
Ramsey County Attorney	Date
Washington County Attorney	Date
Ramsey County Department of Finance	Date
	9/16/14
Other	Date

## **Moving to a Landfill Diversion Goal**

### **A recommendation from Ramsey and Washington Counties**

#### **Action Requested**

A new practical measurement system is proposed to more accurately track progress in meeting State waste management goals. It is recommended that

1. The Solid Waste Management Coordinating Board (SWMCB) develop a measurement system following this proposal in 2015, and use it for system measurement in 2016; and
2. That the SWMCB consider legislative proposals to put such a measurement system into State law.

#### **Introduction**

The historic method of measuring progress in meeting State waste management goals in Minnesota has been to try to count tons of waste managed through a variety of different waste management methods and programs in the State waste management hierarchy. However, there has been a continual struggle to gather data, agree upon measurement methods, and draw meaningful conclusions from the gathered data. Looking ahead, a new, practical measurement system is proposed to more accurately track progress in meeting State goals: a measurement of what is landfilled or a landfill diversion goal coupled with other metrics

Trying to measure tons of material managed in accordance with the waste hierarchy has always been a challenge because the State is trying to measure a wide variety of commodities and materials that are handled by many public and private entities in a confusing system. A change in the focus of measurement to a landfill diversion goal would focus on progress in meeting state policy, and not on measuring every ton of material.

The argument for a landfill diversion goal is strengthened by making it clear that *any* landfill diversion goal, designed as a practical metric for tracking progress over time, should be coupled with strong policy statements to support what the purposes of the waste management hierarchy were, are, and have become-- instead of focusing on the specific waste hierarchy elements themselves. Minnesota has such policy statements, and the overall statements found in the Waste Management Act (Minn. Stat. Section 115A.02):

- *Protect the state's land, air, water, and other natural resources and the public health;*
- *Reduction in the amount and toxicity of waste generated;*
- *Separation and recovery of materials and energy from waste;*
- *Reduction in indiscriminate dependence on disposal of waste;*
- *Coordination of solid waste management among political subdivisions; and*
- *Orderly and deliberate development and financial security of waste facilities including disposal facilities.*

#### **Background**

In 1989 Minn. Stat. Section 115.02 was amended to include the prioritized set of preferences for solid waste management practices now commonly referred to as the "solid waste hierarchy." Since then, state agencies have been directed to "improve" solid waste management by reducing overall waste generation, increasing programmatic "separation and recovery" of materials from the waste stream, and

reducing “indiscriminate dependence” on landfill disposal. State, regional and local government agencies have been directed to establish programs and measurement strategies related to specific elements of the waste hierarchy, including source reduction, recycling, organics, and resource recovery.

State law holds the MPCA and counties accountable to implement state policy, achieve state goals, and measure and report progress. In the metropolitan area the majority of waste related services are provided by the private sector. Industry holds most of the ability to achieve state goals, *and* holds the data to measure progress as well.

Consequently, measurement of key components of the waste system has proven difficult, because government does not control much of the waste stream. For example, the ability to obtain reasonably reliable overall recycling quantities for over 75,000 businesses and other commercial accounts in the metro area has been notoriously elusive, even though it has long been suspected that quantities of recycling from commercial sources are considerably greater than from residential sources. Despite considerable effort over the past 20 years to improve commercial and multi-family recycling data, this key element of the data submitted for the SCORE report remains highly estimated. Tonnages reported for landfill facilities, processing facilities, single-family curbside recycling, and source-separated organics are generally considered to be reasonably good overall for the metropolitan area, but not necessarily by community – especially in areas with open trash coupled with open recycling collection (i.e., individual residents subscribing to trash/recycling service vs. a community contracting for service).

Further, the emphasis on historic measurement has been on elements of the waste management hierarchy instead of being focused on other policy goals of the state, as outlined above. The question we should be asking is “how do we best measure progress in meeting state policy goals?”-- not “how do we best measure recycling?” Some other states appear to be moving away from measurements by waste management method to a landfill diversion goal. For example, several years ago California adopted a system focused on landfill diversion instead of Minnesota’s approach of measuring objectives on a program-by-program basis.

### **Recommended: A Landfill Diversion Goal**

A landfill diversion goal has several parts: the definition of the type(s) of waste covered by the goal; the amount of waste managed by land disposal, and the character of the waste being landfilled. Steps include: First, establish a baseline year. Second, establish the percentage of the waste stream that is expected to be diverted from land disposal into waste management methods (such as recycling and processing) that are consistent with State policy. Third, monitor two things: (1) the amount of waste managed by land disposal and (2) the character of the waste being landfilled. (It should be noted here that resource recovery facilities in the State already monitor these two elements, by conducting periodic waste composition data, and measuring inputs and outputs.)

Included in this is an annual measure of two things:

- The volume of waste directly landfilled. For purposes of measuring progress in meeting the goal, residue from recycling facilities and waste processing facilities would be measured but would not count toward the goal.
- Periodic assessment of the composition of the waste landfilled with the intent to identify resources and energy not recovered. The waste composition data would be an indicator of materials that need specific attention for recovery and separate management, and would be useful for targeting outreach and promotion, as well as market development.

In measuring the amount of waste landfilled, it is assumed that reductions in disposal are from source reduction, reuse, recycling, separate management of organics, and composting and resource recovery. The percentage of MSW diverted from landfill is the ultimate indicator of progress.

### **Recommended: Measure Progress in Meeting State Goals**

A landfill diversion goal does not stand alone, because such a metric addresses primarily the state goal of reducing dependence on land disposal of waste. Other policy goals, such as reducing the toxicity of waste, separating materials and energy, reducing greenhouse gases and orderly development of the system, should be accounted for as well.

Metrics: To assure that State policy goals other than landfill abatement are being met, there should be indicators to measure progress. Specifically:

- *Protect the state's land, air, water, and other natural resources and the public health*
  - Environmental outcomes, such as greenhouse gas emissions, as measured directly or estimated using models.
  - Evaluation of the resource value of discarded materials recovered through recycling and processing, as well as the lost resource value for materials that are land-disposed.
- *Reducing risk to health and the environment*
  - Progress in reducing the hazardous character of waste, including data from:
    - MPCA and metropolitan county hazardous waste regulation,
    - Household hazardous waste programs, and
    - Industry product stewardship efforts for items such as oil and oil filters, and batteries.
  - Data from waste composition studies at landfills and resource recovery facilities identifying types and volumes of hazardous material that have not been separately managed.
- *Separation and recovery of materials and energy from waste*
  - Data about recycling gathered from municipalities, recycling collectors processing facilities, and markets; with the intent being to indicate the strength of recycling activities, especially the strength of local markets.
  - Availability, quality and resilience of markets for the resources recovered from waste
  - Fuel and energy
    - From a production perspective, to assess the quality and quantity of the use of carbon found in waste and conversion of that material into renewable fuels or energy; and
    - From an energy-balance perspective, to link State energy policy with State waste policy.
- *Orderly and deliberate development and financial security of waste facilities including disposal facilities*
  - Data about the economics of managing waste destined for landfills.

The difference in these measures, compared to the current methodology, is that the focus would be on progress in meeting policy, and not focused on measuring every ton of material.

### **Evaluation of this Proposal**

- This approach adheres to State policy as outlined in the Waste Management Act, and clarifies the distinction between data and analysis needed to measure progress in meeting State goals.
- This approach uses measures based on actual data from reasonably accurate sources, compared to current practices which include a significant amount of estimating.
- This approach is less complicated for local and State governments to implement, and data would be gathered from a limited number of sources, places, facilities or haulers.
- This approach accommodates advancing technology that are challenging traditional waste categories, such as anaerobic digestions, which has elements of recycling, composting and waste-to-energy.
- There would still be a need to collect some detailed data for program management (such as recycling performance among certain sectors, such as residential recycling, or for certain materials, such as certain plastics), but that would be gathered based on need.
- Creates a new requirement for land disposal facilities to report volumes and conduct periodic waste sorts, similar to requirements for waste-to-energy facilities.
- Results could be significantly affected by changes in economic conditions, and also changes in demographics (e.g., changing consumer habits, amount of household formation).



**RESOLUTION 2014-RR-**

**WHEREAS**, Ramsey and Washington Counties have committed to continue to protect and ensure the public health, safety, welfare and environment of each County's residents and businesses through sound management of solid and hazardous waste generated in the County's; and

**WHEREAS**, it is the stated policy of the State of Minnesota, under the Waste Management Act of 1980, to manage solid waste in an environmentally sound manner, and Ramsey and Washington Counties have approved County Solid Waste Master Plans; and

**WHEREAS**, since 1982 Ramsey and Washington Counties, have implemented a joint program for researching, developing, and implementing the "Ramsey/Washington Waste-to-Energy Project" also known as "Ramsey/Washington County Resource Recovery Project" (the "Project"), and have a joint powers agreement to work together on waste processing and other waste management issues; and

**WHEREAS**, on behalf of the Counties, the Project is evaluating the future of waste processing in the two counties, including an evaluation of technologies, and policy issues related to waste assurance, governance, and facility ownership; and

**WHEREAS**, State law holds the MPCA and counties accountable to implement state policy, achieve state goals, and measure and report progress, but over time measurement of key components of the waste system has proven difficult, because government does not control much of the waste stream; and

**WHEREAS**, the emphasis on historic measurement has been on elements of the waste management hierarchy instead of being focused on other policy goals of the state, as stated in the Waste Management Act; and

**WHEREAS**, because there has been a continual struggle by state and local government to gather data of good quality, agree upon measurement methods, and draw meaningful conclusions about progress achieved from the gathered data, a new measurement system using a landfill diversion goal coupled with other metrics is proposed to more accurately measure progress in meeting State goals.

**NOW THEREFORE, BE IT RESOLVED**, the Ramsey/Washington County Resource Recovery Project Board hereby approves the Policy Paper entitled "Moving to a Landfill Diversion Goal." **BE IT FURTHER**

**RESOLVED**, The Project Board hereby directs the Policy Paper "Moving to a Landfill Diversion Goal" be forwarded to the Solid Waste Management Coordinating Board (SWMCB) with a recommendation that the SWMCB (1) develop a measurement system following this proposal in 2015, and use it for system measurement in 2016; and (2) consider legislative proposals to put such a measurement system into State law.

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Commissioner Victoria Reinhardt

September 25, 2014



**RAMSEY/WASHINGTON COUNTY RESOURCE RECOVERY PROJECT  
REQUEST FOR BOARD ACTION**

<b>PROJECT BOARD MEETING DATE:</b> <u>9/25/2014</u>	<b>AGENDA ITEM:</b> <u>VI. C. ii.</u>
<b>SUBJECT:</b> <u>Policy Recommendation – Recycling Market Development</u>	
<b>TYPE OF ITEM:</b> <input type="checkbox"/> Information <input type="checkbox"/> Policy Discussion <input checked="" type="checkbox"/> Action	
<b>SUBMITTED BY:</b> <u>Joint Staff Committee</u>	

**PROJECT BOARD ACTION REQUESTED:**

Approve the position paper entitled “More Recycling Requires More Markets” and direct that it be forwarded to the Solid Waste Management Coordinating Board (SWMCB) with a recommendation that the SWMCB adopt this position paper and legislative recommendation, include it in its 2015 legislative platform, and pursue legislation to enact the recommendation in State law.

**EXECUTIVE SUMMARY:**

Metropolitan Counties in Minnesota are now required by State law to achieve a 75% recycling goal by 2030. Using 2013 numbers that means hundreds of thousands of tons of additional metal, glass, plastic and paper would need to be separated from trash, processed, and delivered to end markets. The economics of, resilient markets for, these commodities are necessary to achieving and sustaining this goal. Development of recycling markets is an absolute priority to the success of a robust recycling system in the State. Further, local markets can help the local economy prosper, creating and sustaining jobs.

Staff have prepared a policy paper and recommendations that recommend that Minnesota develop and implement a comprehensive strategic plan for recycling market development. The Project Board is requested to discuss this paper and consider action to forward it to the SWMCB for action at the regional level.


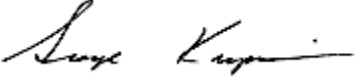

**SUBJECT: Policy Recommendation – Recycling Market Development**

**ATTACHMENTS:**

- 1. Policy Paper: “More Recycling Requires More Markets”
- 2. Resolution

**FINANCIAL IMPLICATIONS:** None

**AUTHORIZED SIGNATURES**

Joint Staff Committee	Date
	9/16/14
Ramsey County Attorney	Date
Washington County Attorney	Date
	9/16/14
Ramsey County Department of Finance	Date
	9/16/14
Other	Date

## More Recycling Requires More Markets

### A recommendation from Ramsey and Washington Counties

**Action Requested:** It is recommended that the Solid Waste Management Coordinating Board (SWMCB) adopt this position paper and legislative recommendation, include it in its 2015 legislative platform, and pursue legislation to enact the recommendation in State law.

**Position Statement:** *Minnesota needs comprehensive, long-range plan for market development.* Metropolitan Counties in Minnesota are now required by State law to achieve a 75% recycling goal by 2030. Using 2013 numbers that means an over 800,000 tons of additional organics, metal, glass, plastic and paper would need to be separated from trash, processed, and delivered to end markets. The economics of, resilient markets for, these commodities are necessary to achieving and sustaining this goal. Development of recycling markets is an absolute priority to the success of a robust recycling system in the State.

**Market development** is the creation and development of markets for products made in part from postconsumer waste materials diverted from the waste stream. When these diverted materials are used to produce new products, the products are referred to as recycled-content products. The US EPA says that “market development means fostering businesses that manufacture and market recycled-content products and strengthening consumer demand for those products. Market development includes expanding the processing and remanufacturing capacity of recycling businesses to handle the increasing volume of collected recyclables.”

#### **Making the Case for Improved Market Development**

- *Pivot our thinking from “waste” to “resource.”* When a material is discarded by someone, it is a waste. When that material is used by someone else, it is a resource. Recycling in Minnesota harvests resources by accumulating discarded materials and processing them into new products. Recycling activity in Minnesota captures these resources, and generates economic activity in the State. In 2013 about 400,000 tons of mixed municipal solid waste was discarded in Ramsey and Washington Counties; this waste includes a lot of recyclables. Had recyclable materials been separated from the trash and delivered to recycling markets, it would have garnered around \$25 Million in revenue. Instead, it was delivered for processing or landfilling, and a tipping fee was paid to manage it.
- *Recycling is important in local economies.* In Ramsey County alone, for example, there are at least 1,050 recycling jobs directly associated with recycling markets, and an additional 6,400 jobs indirectly associated with recycling markets. as a result in Ramsey County alone. The total estimated gross economic activity from recycling in Ramsey County is \$4.95 Billion each year.
- *Up to now, we’ve done a pretty good job.* Arguably the State has done a fair to good job of market development over the past 30 years, and current recycling volumes of most products are being handled. We currently have a good recycling economy in Minnesota, which includes

export of some materials to other parts of the United States and overseas. A share of the credit for the current Minnesota markets should go to State and local recycling programs, but also to private firms involved in recycling activities. However, there are a lot of questions to ask and answer about recycled materials and recycling markets (see attachment). And, self-congratulation and current markets should not impede honest, constructive and critical self-reflection on opportunities for continuous improvement. Finally, marketing of products from organic waste management has been largely non-existent, but the region will rely significantly on managing organic waste to meet State goals.

- *Market development is currently stuck in the past.* Market development has been a task assigned to various state agencies since the original Minnesota Waste Management Act (e.g., Waste Management Board, Office of Environmental Assistance, and Minnesota Pollution Control Agency, Minnesota Dept. of Administration, Metropolitan Council, and the Department of Economic Development). Currently it resides at the MPCA, with one employee assigned to work on it. Other states have moved forward with comprehensive resource plans, developed local recycling development zones, and have looked ahead at how to capture the economic value of recycling. Minnesota has no such plan. Our resources are outdated\*.
- *We have a strong base to build on:* Minnesota has been blessed with a strong base of existing end markets for traditional recyclables, such as Anchor Glass, Rock-Tenn Paper, and Gerdau Ameristeel. However, Minnesota is competing with other states for new end markets and intermediate processors to locate here. Further, our local markets need to be expanded and strengthened.
- *We need to move beyond cans, glass, paper, and plastic.* Recent waste composition studies for Minnesota, Ramsey/Washington, and other facilities show substantial quantities of various materials in MSW that are not considered “traditionally recycled” materials. This includes items such as clean wood, pallets, wooden crates, textiles, leather and carpet, padding, plastic films, and bulky materials such as furniture and mattresses. Plastics, in particular have a sizeable environmental impact, and have significant potential market value.
- To approach 75% recycling by 2030, it is necessary to address these materials the barriers that prevent them from being recyclable.
- *Market development is more than just State government.* Importantly, the private sector handles most recyclables and organics – they have a significant stake in strong markets. The State of Minnesota has a primary role, but local governments have also have a role (e.g., in continued development of supply and procurement of recycled content products). Any new initiative should have local government representation in scoping and implementation. The University of Minnesota has a stake – it puts a lot of resources into evaluating Minnesota resources – those resources should include commodities recovered by recycling.

### **A Call to Action for Recycling Market Development in Minnesota**

Minnesota needs comprehensive, long-range plan for market development. Preparation of such a plan needs to call on a variety of expertise. Working on markets for commodities from recycling requires an in-depth understanding of the unique recycling markets, material engineering, economic drivers and commodity pricing that occur in the State of Minnesota. The diverse background needed to do this requires the skills of economists, materials engineers, waste/recycling planners and commodity pricing experts. These diverse skills are not currently housed within one State Agency or any one organization. At the State level, market development will require expertise from at least the Minnesota Pollution Control Agency, Department of Commerce, Minnesota Department of Employment and Economic Development, Department of Agriculture and the Department of Natural Resources. The University of Minnesota's research and policy expertise is also a valuable asset. Local governments and economic development agencies are familiar with collections systems and waste systems.

### **Recommendation**

***The Legislature should create a recycling markets development task force, accountable to the Legislature, to prepare a comprehensive long range plan for recycling market development in Minnesota.***

It is recommended that:

1. The Recycling Markets Development Task Force include representatives of the following:
  - Industry representatives in these categories
    - Minnesota Chamber of Commerce
    - Recycling/materials trade associations
    - Recycling collectors/processors
    - Recycling brokers
    - Existing end market for paper, glass, metal
  - State Departments/Agencies:
    - Pollution Control Agency
    - Commerce
    - Employment and Economic Development
    - Natural Resources
    - Agriculture
  - University of Minnesota
  - Local economic development authorities
  - Metropolitan counties
  - Association of Minnesota Counties
  - League of Cities
  - Financial industry
2. A “third party” convene the Task Force. The key job of the convener selected is to assure a sense of urgency, assure all parties have a voice, create an implementable plan, and to move the plan to completion. A governmental entity, such as the Minnesota Environmental Quality Board,

which includes Commissioners from the State agencies listed above, could convene the Task Force and be responsible to complete the Plan and report to the Legislature. Alternately, a non-governmental entity, such as Environmental Initiative, could serve as convener.

3. The Plan be developed and reported to the Legislature by January 2017.
4. The Task Force develop a comprehensive, long-ranged plan for market development that meets these key objectives:
  - Creation of sustainable, Minnesota-based jobs;
  - Expand on the strong base of existing end markets in Minnesota;
  - Identification of market development efforts in other States, and what has succeeded there;
  - A process for targeting specific materials and prioritizing market development efforts;
  - An institutional structure to forecast recycling needs based on emerging trends in product and packaging design;
  - Identification of specific effective and efficient tools for use in market development, such as tax incentives, grant and loan programs and other funding mechanisms to drive economic development;
  - Creation of a business assistance function, to assist in locating manufacturing materials (feedstock), finding markets for products, providing current market conditions/trends, evaluating technology and equipment, and creating relationships with and among industry and recyclers;
  - A regular communications protocol for sharing results, trends and emerging projects with all interested parties; and
  - A mechanism for ongoing funding of market development activities and research on recycling and/or testing emerging technologies.
5. That the Legislature appropriate \$750,000 to complete the plan, which would include technical research conducted by agencies, the University of Minnesota and consultants. It would be appropriate to use as a funding sources proceeds from the Solid Waste Management Tax.

## **Attachment – Examples of questions of value to evaluate recycling markets serving Minnesota.**

### **Questions about monitoring recycling markets in the State of Minnesota**

1. How many tons of recyclables are now being separated and marketed? What is their composition?
2. How many more tons will need to be marketed by 2030? What is the projected composition of those recyclables?
3. How many direct employment jobs are associated with recycling markets, and how many more are estimated to be created as a result of the 75% goal?
4. Where are most material (by material) currently marketed: What proportion is in Minnesota? In US? Foreign?
5. Which materials have the greatest dollar value at this time?
6. Who is monitoring market trends and commodity pricing: past and future? Is that data available to the public?
7. How many facilities and how many direct employment jobs in Minnesota process or use recovered materials?
8. Is the current processing capacity sufficient to handle the additional tons to be recycled in order to meet the State's 2030 goals?
9. Who is evaluating the quality and resiliency of existing markets?
10. Who is evaluating changes in products and the effect of product design on recyclability, and what that may mean for markets?
11. Do we have access to sustainable and robust markets for all materials currently collected for recycling in Minnesota?
12. What materials currently collected for recycling have a negative market value requiring collectors to pay to dispose of them and what could be done to improve the economics of this situation?
13. What new markets will need to be developed and expanded to absorb the increases in recycling required to meet the State's 2030 75% recycling goals?

### **Questions about market development in Minnesota**

Market development is the creation and development of markets for products made in part from postconsumer waste materials diverted from the waste stream. When these diverted materials are used to produce new products, the products are referred to as recycled-content products.

1. What studies have been completed on market development to date, and when were they last completed? By whom?
2. Is the University of Minnesota engaged in evaluating recycling materials and/or markets? How are they funded? How are their priorities established?
3. Have any efforts been made to identify/engage businesses and manufacturers that utilize products that would normally end up in a landfill?
4. Have any efforts been made to link recycling markets development with development of markets for other resources in the State?
5. How are priorities established for work on market development?



6. How are financial institutions engaged in market development?
7. How are the following engaged in market development?
  - a. Local economic development agencies
  - b. Chambers of Commerce
  - c. Development corporations
8. Are there any private sector firms in Minnesota that specialize in market development? How and when has the Minnesota Pollution Control Agency or others worked with them?
9. Who is the best agency/government resource to refine and further develop expertise and experience in market development?
10. What resources are available to assist in start-up funding for new companies? Tax incentives? Funding support? Technical assistance? Fast tracked or Stream-lined permitting?
11. What resources will be required to meet State's 2030 recycling goal of 75%?

## 115A.48 MARKET DEVELOPMENT FOR RECYCLABLE MATERIALS AND COMPOST.

Subdivision 1. **Authority.** The commissioner shall assist and encourage the development of specific facilities, services, and uses needed to provide adequate, stable, and reliable markets for recyclable materials, solid waste suitable for land application, and compost generated in the state. In carrying out this duty, the commissioner shall coordinate and cooperate with the solid waste management efforts of other public agencies and political subdivisions.

Subd. 2. [Repealed, 1996 c 470 s 29]

Subd. 3. **Public procurement.** The commissioner shall provide technical assistance and advice to political subdivisions and other public agencies to encourage solid waste reduction and development of markets for recyclable materials and compost through procurement policies and practices. Political subdivisions, educational institutions, and other public agencies shall aggressively pursue procurement practices that encourage solid waste reduction, recycling, and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

Subd. 4. **Land application of solid waste.** The commissioner shall provide technical assistance and advice to political subdivisions on separating portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and for use in agricultural practices.

Subd. 5. [Repealed, 1996 c 470 s 29]

**History:** 1987 c 348 s 17; 1988 c 685 s 11; 1989 c 131 s 4-6; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 18 s 10,11; 1994 c 639 art 5 s 3; 1Sp2005 c 1 art 2 s 161

**RESOLUTION 2014-RR-**

**WHEREAS**, Ramsey and Washington Counties have committed to continue to protect and ensure the public health, safety, welfare and environment of each County's residents and businesses through sound management of solid and hazardous waste generated in the County's; and

**WHEREAS**, it is the stated policy of the State of Minnesota, under the Waste Management Act of 1980, to manage solid waste in an environmentally sound manner, and Ramsey and Washington Counties have approved County Solid Waste Master Plans; and

**WHEREAS**, since 1982 Ramsey and Washington Counties, have implemented a joint program for researching, developing, and implementing the "Ramsey/Washington Waste-to-Energy Project" also known as "Ramsey/Washington County Resource Recovery Project" (the "Project"), and have a joint powers agreement to work together on waste processing and other waste management issues; and

**WHEREAS**, on behalf of the Counties, the Project is evaluating the future of waste processing in the two counties, including an evaluation of technologies, and policy issues related to waste assurance, governance, and facility ownership; and

**WHEREAS**, The 2014 Minnesota Legislature increased the recycling goal for metropolitan counties from 50% to 75%, which means hundreds of thousands of tons of additional metal, glass, plastic and paper will need to be separated from trash, processed, and delivered to end markets.; and

**WHEREAS**, resilient markets for these commodities are necessary to achieving and sustaining this goal and development of recycling markets is an absolute priority to the success of a robust recycling system in the State.

**NOW THEREFORE, BE IT RESOLVED**, the Ramsey/Washington County Resource Recovery Project Board hereby approves the Policy Paper entitled "More Recycling Requires More Markets." **BE IT FURTHER**

**RESOLVED**, The Project Board hereby directs the Policy Paper "More Recycling Requires More Markets" be forwarded to the Solid Waste Management Coordinating Board (SWMCB) with a recommendation that the SWMCB adopt this position paper and legislative recommendation, include it in its 2015 legislative platform, and pursue legislation to enact the recommendation in State law.

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Commissioner Victoria Reinhardt

September 25, 2014