

EPA Region 5 Records Ctr.



305470

THIRD FIVE YEAR REVIEW REPORT
LAGRAND SANITARY LANDFILL SUPERFUND SITE

Douglas County, Minnesota

September 2008

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Table of Contents

List of Acronyms	iv
Executive Summary	v
Five Year Review Summary Form	vi
1.0 INTRODUCTION	1
2.0 SITE CHRONOLOGY	2
3.0 BACKGROUND	2
3.1 Physical Characteristics	2
3.2 Land and Resource Use	3
3.3 History of Contamination	3
3.4 Initial Response.....	3
3.5 Basis for Taking Action.....	3
4.0 REMEDIAL ACTIONS.....	4
4.1 Remedy Selection	4
4.2 Remedy Implementation.....	5
4.3 Institutional Controls	6
4.4 System Operations/Operation and Maintenance (O&M)	9
5.0 PROGRESS SINCE LAST FIVE YEAR REVIEW	10
6.0 FIVE YEAR REVIEW PROCESS.....	11
6.1 Administrative Components	11
6.2 Community Notification and Involvement	12
6.3 Document Review.....	12
6.4 Data Review.....	12
6.5 Site Inspection.....	13
7.0 TECHNICAL ASSESSMENT	14
7.1 Question A: Is the remedy functioning as intended by the decision documents?	14
7.2 Question B: Are the assumptions used at the time of remedy selection still valid?. ...	14
7.3 Question C: Has any other information come to light that could call into question the protectiveness of the remedy?	15
8.0 ISSUES	15
9.0 RECOMMENDATIONS AND FOLLOW-UP ACTIONS.....	16
10.0 PROTECTIVENESS STATEMENT(S).....	16
11.0 NEXT REVIEW	16

Attachments

Figure 1	Site Location Map
Figure 2	Site Property Boundary IC Map
Figure 3	Site Landfill Map
Attachment 1	List of Documents Reviewed
Attachment 2	Five Year Review Advertisement
Attachment 3	Landfill Cleanup Agreement

Tables

Table 1	Chronology of Site Events
Table 2	Institutional Controls Summary Table
Table 3	Annual System Operations/ O&M Costs
Table 4	Actions Taken Since Last Five Year Review
Table 5	Identified Issues that Impact Protectiveness
Table 6	Recommendations and Follow-up Actions

Acronyms

Agencies	MPCA and U.S. EPA	NOC	Notice of Compliance
ARARs	Applicable or Relevant and Appropriate Requirements	O&M	Operation and Maintenance
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act	ppb	parts per billion
CD	Consent Decree	ppm	parts per million
CLP	Closed Landfill Program	PRP	Potentially Responsible Party
CFR	Code of Federal Regulations	RA	Remedial Action
FS	Feasibility Study	RD	Remedial Design
HRL	Health Risk Limit	RI	Remedial Investigation
IC	Institutional Control	RI/FS	Remedial Investigation/ Feasibility Study
MCL	Maximum Contaminant Level	ROD	Record of Decision
MERLA	Minnesota Environmental Response & Liability Act	RPM	Remedial Project Manager
MLCA	Minnesota Landfill Cleanup Act	SARA	Superfund Amendments and Reauthorization Act
MPCA	Minnesota Pollution Control Agency	Site	LaGrand Sanitary Landfill Superfund Site
mg/kg	milligrams per kilogram	U.S. EPA	United States Environmental Protection Agency
NCP	National Contingency Plan	UU/UE	Unrestricted Use/ Unlimited Exposure
NPL	National Priorities List	µg/L	Micrograms per Liter
		VES	Vapor Extraction System
		VOCs	Volatile Organic Compounds

Executive Summary

The LaGrand Sanitary Landfill Site remedy is protective of human health and the environment, and the remedy is functioning as intended. The components of the remedy selected in the 1992 Site ROD have been implemented by the Minnesota Pollution Control Agency (MPCA). The LaGrand Sanitary Landfill Site Closeout Report was completed and signed in August 1995. The Closeout Report documents that United States Environmental Protection Agency (U.S. EPA) and MPCA completed all construction activities in accordance with procedures for National Priorities List (NPL) Sites. A notice of intent to delete the LaGrand Sanitary Landfill Site from the National Priorities List was completed in September 1997, and the deletion of the Site from the NPL was finalized in October 1997. A Landfill Cleanup Agreement between Douglas County and the State of Minnesota through MPCA was implemented and recorded in 1998. MPCA is planning to complete a Land Use Plan for the LaGrand Sanitary Landfill Site to supplement the already implemented Landfill Cleanup Agreement.

The Site landfill cap and gas vents were upgraded by MPCA, as recommended in the 2004 five year review, during an operation and maintenance project from July 2005 through June 2006 in order to provide ongoing assurance of protectiveness of the remedy. A topographic survey was completed at the Site. The landfill cap was upgraded with geomembrane, geocomposite drainage net and cover soils to promote surface water run-off. Storm water management was improved with the grading of the landfill slopes and sedimentation basins. Some of the existing trees and grubbing on the landfill footprint and sideslopes were also cleared. Eleven landfill gas vents were installed in 2005 and older less useful gas vents were abandoned. An East Cut-Off Trench was also graded on the landfill as an additional safeguard against any gas migration. The Site was seeded and fertilized in June 2006, and slopes on the upgraded landfill cover were protected with a straw erosion control blanket.

Ongoing MPCA operation and maintenance (O&M) Site monitoring continues to provide assurance that the remedy is functioning as intended and that institutional controls remain in place. The LaGrand Sanitary Landfill Site O&M monitoring includes inspections and landfill gas & groundwater sampling three times per year. Continued long term protectiveness requires compliance with Site institutional controls, and operation & maintenance of landfill property and monitoring systems.

Five Year Review Summary Form

SITE IDENTIFICATION		
Site name (from WasteLAN): LaGrand Sanitary Landfill Superfund Site		
EPA ID (from WasteLAN): EPA ID# MND981090483		
Region: 5	State: MN	City/County: N/A, Douglas
SITE STATUS		
NPL status: <input type="checkbox"/> Final <input checked="" type="checkbox"/> Deleted <input type="checkbox"/> Other (specify)		
Remediation status (choose all that apply): <input type="checkbox"/> Under Construction <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Complete		
Multiple OUs? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Construction completion date: 08/7/ 1995	
Has Site been put into reuse? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
REVIEW STATUS		
Lead agency: <input checked="" type="checkbox"/> EPA <input type="checkbox"/> State <input type="checkbox"/> Tribe <input type="checkbox"/> Other Federal Agency		
Author name: Jeff Gore		
Author title: Remedial Project Manager	Author affiliation: U.S.EPA, Region 5	
Review period: 4 / 17 / 2008 to September 2008		
Date(s) of Site inspection: 5 / 13 / 2008		
Type of review: <input checked="" type="checkbox"/> Post-SARA <input type="checkbox"/> Pre-SARA <input type="checkbox"/> NPL-Removal only <input type="checkbox"/> Non-NPL Remedial Action Site <input type="checkbox"/> NPL State/Tribe-lead <input type="checkbox"/> Regional Discretion		
Review number: <input type="checkbox"/> 1 (first) <input type="checkbox"/> 2 (second) <input checked="" type="checkbox"/> 3 (third) <input type="checkbox"/> Other (specify)		
Triggering action: <input type="checkbox"/> Actual RA Onsite Construction at OU # _____ <input type="checkbox"/> Actual RA Start at OU# <u>NA</u> <input type="checkbox"/> Construction Completion <input checked="" type="checkbox"/> Previous Five Year Review Report <input type="checkbox"/> Other (specify)		
Triggering action date (from WasteLAN): 02 / 24 / 2004		
Due date (five years after triggering action date): 02 / 24 / 2009		

Issues:

- Long term stewardship and monitoring of institutional controls through MPCA preparing a Site Land Use Plan in two years.

Recommendations and Follow-up Action

- MPCA shall prepare a Site Land Use Plan within two years of the signature date of this five year review to supplement the implemented Site Landfill Cleanup Agreement. The Land Use Plan will outline any restrictions of the land and groundwater at the Site, and assure the integrity of the landfill & other remedy components.

Protectiveness Statement:

The LaGrand Sanitary Landfill Site remedy is protective of human health and the environment, and the remedy is functioning as intended. Continued long term protectiveness requires compliance with Site institutional controls, and operation & maintenance of landfill property and monitoring systems.

1.0 INTRODUCTION

The United States Environmental Protection Agency (U.S. EPA) Region 5 has conducted a five year review of the remedial actions implemented at the LaGrand Sanitary Landfill Superfund Site in Douglas County, Minnesota. U.S. EPA conducted the review between April 2008 and September 2008. This report documents the results of the five year review. The purpose of five year reviews is to determine whether the remedy at a site is protective of human health and the environment. Five year review reports document the methods, findings, and conclusions of the review, as well as identifying issues found during the review, if any, and making recommendations to address them.

This review is required by Statute. U.S. EPA must implement five year reviews consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). CERCLA § 121(c), as amended, states:

If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each five years after the initiation of such remedial action to assure that human health and the environment are being protected by the remedial action being implemented.

The NCP at title 40, part 300, section 430(f)(4)(ii) of the Code of Federal Regulations (CFR) states:

If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, the lead agency shall review such action no less often than every five years after the initiation of the selected remedial action.

U.S. EPA , Region 5, along with Minnesota Pollution Control Agency (MPCA) completed the five year review of the remedy implemented at the LaGrand Sanitary Landfill Site. The review was conducted by Jeff Gore, U.S. EPA Remedial Project Manager; John Moeger, State Project Manager with the MPCA assisted in the review. This report documents the results of the review.

This is the third five year review for the LaGrand Sanitary Landfill Superfund Site. The second five year review report was completed and signed in February 2004. The five year review is required due to the fact that hazardous substances, pollutants, or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure.

2.0 SITE CHRONOLOGY

Table 1. Chronology of Site Events	
Date	Event
1983	Initial discovery of landfill management problems at the Site by the MPCA.
April 1985	LaGrand Sanitary Landfill closed with cover.
June 1986	Proposal to NPL for the LaGrand Landfill Site
April 1987	MPCA inspection noted Site landfill erosion.
July 1987	NPL final listing for the LaGrand Landfill Site.
July 1987	Remedial Investigation/ Feasibility Study initiated.
August 1992	Remedial Investigation/ Feasibility Study completed.
September 1992	Record of Decision signed.
February 1993	RD/RA start.
October 1993	Remedial Action construction activities begin.
September 1994	RD/RA completed.
August 1995	Close Out Report signed
October 1997	Deletion from the NPL.
January 1998	Landfill Cleanup Agreement implemented.
March 1999	First five year review completed.
February 2004	Second five year review completed
June 2006	Site landfill cap cover upgrade completed by MPCA.

3.0 BACKGROUND

3.1 Physical Characteristics

The LaGrand (also referred to as LaGrande) Sanitary Landfill Site is located in a rural setting in west-central Douglas County, Minnesota (Figure 1) approximately 5 miles west of the town of Alexandria and approximately 3 miles south of the town of Garfield. The Site consists of 80 acres of forest, uncultivated hills and low lying areas including a wetland. The main fill area occupies six acres in the northwestern portion of the Site. It is marked to the north, west and east by groups of large trees. The Site is located within an area of glacial deposits known as the

Alexandria Moraine Complex. This moraine complex is 10 to 20 miles wide and extends northward in an area through west-central Minnesota.

3.2 Land and Resource Use

The landfill was primarily formed by the placement of waste material into a north-trending gully excavation, which had previously been formed by excavation during gravel mining operations. The depth of fill according to Minnesota Pollution Control Agency (MPCA) records is approximately fifty feet. The uppermost 100 feet of sediments beneath the Site consist of glacial drift deposits in a moraine setting. A sand and gravel water table aquifer exists under a portion of the Site, and is overlain by a silty to sandy clay till layer which ranges in thickness from approximately 15 to 40 feet. The sand and gravel aquifer extends beneath the landfill waste. At other portions of the Site the till layer extends to a depth of a least 100 feet. The water table is found at depths ranging from approximately 20 to 70 feet below the surface of the hilly terrain.

3.3 History of Contamination

The LaGrand Sanitary Landfill operated from 1974 to April 1984 as a sanitary landfill accepting mixed municipal solid waste and nonhazardous industrial waste. In late 1982 and early 1983, groundwater sampling at the Site confirmed the presence of volatile organic compounds (VOCs) at low levels. In April 1983, the MPCA issued a Stipulation Agreement to the owner/operator, Valley Disposal Corp., to regain compliance with the solid waste permit for the landfill. From 1983 to 1984, various inspections by the MPCA found the landfill to be out of compliance with its operation permit. In December 1984, MPCA issued a draft amendment to the solid waste permit Stipulation Agreement to insure landfill closure by April 1985. In 1985, a final cover was placed on the landfill by the owner/operator. MPCA personnel inspected the cover in June and July of 1985 for proper slope, drainage, thickness and vegetation. The final cover ranged from 26 to over 36 inches in thickness and consisted mostly of clay with about four inches of topsoil.

3.4 Initial Response

Although formal closure plans were implemented by the facility operator between April 1985 and July 1986, an April 1987 MPCA Site inspection noted that portions of the landfill were eroding and that two PVC monitoring wells were not abandoned as part of site closure. Based upon the results of a Site Inspection Report prepared in August 1985, U.S. EPA and MPCA determined that organic compounds may have migrated from the landfill into the groundwater at the Site, and that the potential existed for uncontrolled releases of these substances from the landfill. Subsequently, the MPCA evaluated the Site for inclusion on the Federal Superfund National Priorities List (NPL) and the Minnesota Permanent List of Priorities (PLP).

3.5 Basis for Taking Action

Remedial planning began as the LaGrand Sanitary Landfill Site was proposed for the National Priorities List in June 1986. The Site became a final NPL listing in July 1987.

In July 1987, the MPCA issued a Request for Response Action to Francis C. Cosgrove, Marlin F. Torguson and Valley Disposal Corp., as owners and operators of the property, to perform a

Remedial Investigation/Feasibility Study (RI/FS) at the Site. In August 1987, the MPCA issued to the same three parties a Determination That Actions would Not Be Taken in the Time and Manner Requested.

Pursuant to a Multi-Site Cooperative Agreement between U.S. EPA Region 5 and the MPCA, the MPCA served as the lead agency for the performance of an RI/FS at the Site. In October 1987, MCA authorized Malcolm Pirnie, Inc. to proceed with the development of an RI/FS Workplan for the Site. The Final LaGrand RI/FS Workplan was approved in October 1990.

Remedial Investigation sampling and analytical work at the Site took place during the spring and summer of 1991, and the RI was completed in December 1991. The results of the RI showed either minimal or no measurable contamination in surface water, soil and air samples collected at the Site. The primary migration route for potential contaminants emanating from the Landfill was determined to be through groundwater.

The results of the groundwater sampling indicated minimal levels of VOCs, inorganic compounds, and semivolatile organic compounds bis (2-ethylhexyl) phthalate, butyl benzyl phthalate & di-n-octyl phthalate. The RI risk assessment indicated the overall remedial action objective of maintaining the integrity of the landfill, so that the current low risk potential associated specifically with the landfill according to MPCA and U.S. EPA did not increase.

On August 17, 1992, EPA and MPCA released the Feasibility Study (FS) and Proposed Plan for the Site and initiated the public comment period, which ended on September 15, 1992. The FS provided a summary and discussion of the sampling and analysis activities, nature and extent of contamination and the results of the baseline risk assessment performed during the RI. The FS also identified and evaluated the remedial action objectives for the Site, identified and screened applicable remedial technologies, developed and screened remedial alternatives and performed a comparative analysis of the retained alternatives.

U.S. EPA and the MPCA finalized a Record of Decision (ROD) in September 1992 that outlined long term monitoring of the groundwater and landfill gas, landfill slope stabilization and maintenance, and institutional controls.

4.0 REMEDIAL ACTIONS

4.1 Remedy Selection

The response actions outlined for the LaGrand Sanitary Landfill Site in the September 1992 ROD included the following remedial response:

1. Long-term monitoring of groundwater and combustible gas to verify that the low level of threat posed by the contaminants of concern remains low and the landfill does not generate potentially explosive levels of combustible gas;
2. The conversion of a combustible gas monitoring well to a gas vent to assure that combustible gas does not accumulate at the single point where the soil gas level was measured at greater than 100% of the lower explosive limit (LEL);

3. The permanent sealing and abandonment of the on-site Shop Well in conformance with the Minnesota Water Well Code, Minn. Rules, Chapter 4725.2700, to assure that this well will not be used as a potable water source.
4. The stabilization of the west slope of the Landfill and the covering of exposed waste on the northwest corner to assure that the existing landfill cover, which is providing an effective barrier to infiltration, remains effective;
5. The sloping and reconstruction of the borrow pit area adjacent to the west slope of the landfill to assure the long-term integrity of the cover system;
6. Institutional controls in the form of Site access restrictions, and the possible use of deed restrictions;
7. Maintenance of the existing final cover system so as to reduce the future potential for infiltration into the waste mass and the subsequent leaching of landfill contaminants;
8. Observance of Minnesota Environmental Response and Liability Act prohibitions against the disturbance of the Landfill final cover and monitoring systems; and
9. Observance of the Minnesota Water Well Construction Code, Minn. Rules Chapter 4725.2000, which regulates the location of future potable wells near the Landfill.

Remedial action objectives for the LaGrand Sanitary Landfill Site remedy are to contain and maintain waste material beneath the landfill cap, and monitor the groundwater and landfill gas vents. The groundwater is monitored to assure there are no off-site risks to human health and the environment.

4.2 Remedy Implementation

The Remedial Action Contract for the Site was awarded on September 16, 1993. Remedial construction activities took place at the Site from October 4, 1993 through early November 1993. These activities included restoring a borrow area west of the landfill, the use and restoration of a second borrow area, and the required closure and/or modification of on-site wells. In addition, two Site access control fences and gates were installed and three eroded areas of the landfill were repaired. Signs were posted at the gates along the south property line fence, and at the western border of the first borrow area.

The on-site shop well was abandoned according to the requirements specified in the ROD and the RD Work Plan, as well as certain groundwater monitoring wells. Gas monitoring probes which were used during the RI and required to be monitored on a regular basis were extended to facilitate placement of fill material in the first borrow area.

On November 3, 1993, EPA and MPCA performed a final inspection of the Site and determined that all required remedial construction activities had been completed. Minor punch-list items, such as minor modifications to one chain link fence, were noted and subsequently addressed, in a satisfactory manner. Because remedial construction included the seeding of the reconstructed borrow areas and the repaired portions of the landfill, the remedial action contract was not closed out until the spring of 1994, at which time a visual inspection of the Site showed that the grass seed that had been placed in the fall was developing according to design specifications.

In August 1994, Barr submitted a Remedial Action (RA) Report certifying that the construction activities at the Site were successfully completed. The report documents the construction

activities which occurred throughout the RA, the results of the final Site inspection and the approximate total costs of the RA through the completion of the RA Report. EPA reviewed the RA Report and requested several additional information items, which were provided as a letter update to the report on September 22, 1994. The RA Report was approved by EPA Region 5 on September 27, 1994.

The LaGrand Sanitary Landfill Site Closeout Report was completed and signed in August 1995. The Closeout Report documents that U.S. EPA and MPCA completed all construction activities in accordance with procedures for National Priorities List Sites.

A notice of intent to delete the LaGrand Sanitary Landfill Site from the National Priorities List was completed in September 1997, and the deletion of the Site from the NPL was finalized in October 1997.

4.3 Institutional Controls

Institutional Controls (“ICs”) are non-engineered instruments, such as administrative and legal controls, that help to minimize the potential for exposure to contamination and that protect the integrity of the remedy. ICs are required to assure the long term protectiveness for any areas which do not allow for unlimited use or unrestricted exposure (UU/UE). ICs are required by the ROD to maintain the integrity of the remedy. The Site 1992 ROD required Institutional Controls in the form of Site access restrictions, the possible use of deed restrictions, and reference to both the Minnesota Environmental Response and Liability Act and the Minnesota Water Well Construction Code. A Landfill Cleanup Agreement between Douglas County and the State of Minnesota through MPCA was implemented and recorded in 1998. MPCA plans on preparing a Land Use Plan to further detail future uses and restrictions of property on the Site.

Table 2. Institutional Controls Summary Table

Media, Engineered Controls & Areas that Do Not Support UU/UE on Current Conditions	IC Objective	IC Instrument Implemented or Planned
Soil/Waste/Groundwater-Site boundary/ Site area (~80 acres): On-site landfill cap (~6 acres), monitoring wells and adjacent surrounding on-site property.	Restricts use of property, protects remedy, and transfers interest in property from State of Minnesota in trust for Douglas County to State of Minn. through MPCA.	Landfill Cleanup Agreement recorded Doc. No. 172226 at Douglas County Recorder’s office on January 14, 1998; Minnesota Water Well Construction Code, Minn. Rules, Chapter 4725; Minnesota Environmental Response and Liability Act, Minn. Stat. 115B.16. (implemented)

Table 2. Institutional Controls Summary Table

Media, Engineered Controls & Areas that Do Not Support UU/UE on Current Conditions	IC Objective	IC Instrument Implemented or Planned
Soil/Waste/Groundwater-Site boundary/ Site area (~80 acres): On-site landfill cap (~6 acres) and adjacent surrounding on-site property.	Prohibits use of land, groundwater underlying Site remedy, and assures integrity of landfill & other RA components.	MPCA Land Use Plan for the LaGrand Sanitary Landfill Site (planned).

The Site map figures 1 and 2 attached to this document outline the Site property boundary, which is the area addressed by institutional controls at the Site.

CURRENT AND PLANNED INSTITUTIONAL CONTROLS

Landfill Cleanup Agreement: The LaGrand Sanitary Landfill Superfund Site is part of the MPCA Minnesota Closed Landfill Program (CLP). In 1994, Minnesota amended the Minnesota Environmental Response and Liability Act (MERLA), Minn. Stat. §115B.01 et seq., the Minnesota equivalent to CERCLA, with the Minnesota Landfill Cleanup Act (MLCA), Minn. Stat. § 115B.39-115B.445. Under the MLCA, owners/operators of "Qualified Facilities" (those landfills that stopped accepting waste prior to 1995), such as the LaGrand Sanitary Landfill Superfund Site, must initially complete a remedial action at the Site as directed by the MPCA. The purpose of the MLCA, among others, is to ensure the proper closure and post-closure care of qualified closed landfills. Based on this legislation, the MPCA created the CLP to administer the MLCA mandates.

The Owner/Operator of a Qualified Facility is required to enter into a "Binding Agreement" with the MPCA concerning the future of the Site. Minn. Stat. § 115B.40, Subd. 4(b)(2). Among other things, the Binding Agreement requires the Owner/Operator to cooperate with the MPCA in "taking additional environmental response actions necessary to address releases or threatened releases and to avoid any action that interferes with environmental response actions." Pursuant to Minn. Stat. § 115B.40, Subd. 4(d), the agreement must be in writing and must apply to and be binding upon the successors and assigns of the owner. Additionally, the owner is required to record the agreement, or a memorandum approved by the commissioner that summarizes the agreement, with the county recorder or registrar of titles of the county where the property is located.

After the landfill owners/operators enter into an agreement with the MPCA (referred to as a Binding Agreement) and complete the requirements set forth in that agreement, the owner/operators are issued a Notice of Compliance (NOC). Once the NOC has been issued, the MPCA assumes responsibility for any remaining cleanup work, closure construction, and long term care of the landfill. In some cases, past superfund cleanup costs were reimbursed to owner/operators or other responsible parties.

The landfill cap at the LaGrand Sanitary Landfill Superfund Site covers approximately six acres of the 80 acre Site. A Binding Agreement and NOC has been issued for the Site. The Binding Agreement, termed a Landfill Cleanup Agreement, was recorded on January 14, 1998, and restricts use of property and transfers interest in property from State of Minnesota in trust for Douglas County to the State of Minnesota through MPCA.

Minnesota Environmental Response and Liability Act: In 1983, the Legislature enacted the Minnesota Environmental Response and Liability Act (MERLA), creating the State Superfund Program. MERLA addresses sites in Minnesota seriously contaminated by hazardous waste. MERLA defines the parties who are responsible for cleaning up contaminated sites, and it authorizes the Minnesota Pollution Control Agency (MPCA) to identify those parties and obtain their cooperation in cleaning up the sites. MERLA also authorizes the MPCA to use public money to clean up the sites and to sue responsible parties to recover the costs. The authority of the MPCA to recover all of its cleanup costs creates a strong incentive for responsible parties to conduct and pay for cleanup, rather than shifting that burden to the State and its taxpayers. Among its many provision, MERLA states the following:

No person shall use any property on or in which hazardous waste remains after closure of a disposal facility as defined in section 115A.03, subdivision 10, in any way that disturbs the integrity of the final cover, liners, or any other components of any containment system, or the function of the disposal facility's monitoring systems, unless the agency finds that the disturbance:

- (1) is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or
- (2) is necessary to reduce a threat to human health or the environment.

Minn. Stat. § 115B.16.

Minnesota Water Well Construction Code: The Minnesota Water Well Construction Code is a set of regulations or standards to be followed and enforced for the construction of water wells. It includes requirements for notification for construction of water-supply wells and water-supply well distances from contamination.

Land Use Plan: The MLCA requires the MPCA to develop a Land Use Plan for each qualified landfill in the CLP. All local land-use plans, must be consistent with the MPCA's Land Use Plan for a given site. Land Use Plans compare land-use designations and zoning ordinances prescribed by the local unit of government and compare these to the MPCA's future land-use plans for the landfill. If these are in conflict, then the local government's land-use designations and ordinances will need to be modified to become compatible with the MPCA's land-use plans. Additionally, where there are significant changes at a landfill, the MPCA provides local units of government with a Site Annual Report. Site Annual Reports contain data about the landfill, including possible gas migration and/or ground water contamination that may be leaving the qualified facility. Site Annual Reports also contain important information local units of government should use to determine appropriate land-use designations for properties adjacent to the qualified facility to protect public health and safety. MPCA is planning to complete a Land

Use Plan for the LaGrand Sanitary Landfill Site to supplement the already implemented Landfill Cleanup Agreement. The Land Use Plan will outline any restrictions of the land and groundwater at the Site, and assure the integrity of the landfill & other remedy components.

LONG TERM STEWARDSHIP

Since compliance with ICs is necessary to assure the protectiveness of the remedy, planning for long term stewardship is required. Long term stewardship involves assuring effective procedures are in place to properly maintain and monitor the Site. Long term stewardship will ensure effective ICs are maintained and monitored and the remedy continues to function as intended with regard to ICs.

Long term stewardship procedures for the LaGrand Sanitary Landfill Superfund Site will be documented in a Land Use Plan which will be developed by MPCA. The Land Use Plan for the Site has not yet been developed and is planned for November 2010.

The Office of the Attorney General for the State of Minnesota conducts a title review when the State acquires a property interest. If any prior-in-time encumbrances affect the effectiveness of the Landfill Cleanup Agreement this should be addressed as part of the Land Use Plan for the Site.

CURRENT COMPLIANCE

Based on the Site inspection conducted by U.S. EPA and MPCA in May 2008, compliance with the use restrictions was observed. No Site uses inconsistent with the intended uses and restrictions as depicted in the ICs were observed. Further, there was no evidence of impairments of the remedial action components at the Site.

4.4 System Operations/Operation and Maintenance (O&M)

Site operation and maintenance activities performed at the LaGrand Sanitary Landfill include all of the elements outlined in the Site Post Closure Care Plan. Per the Minnesota Landfill Cleanup Act of 1994, the State has assumed all responsibility for O&M at the Site.

Significant activities in the Site O&M program include:

- Routine inspection of the Site.
- Mowing and maintenance of the landfill cover.
- Groundwater monitoring and inspection of 11 wells.
- Landfill gas vent monitoring of 11 locations.
- Landfill gas probe monitoring at 7 locations.
- Oversight of access restrictions and institutional controls.
- Landfill sedimentation basin & adjacent area monitoring and assessment.

The first Five Year Review Report for the LaGrand Sanitary Landfill Site was completed in March 1999, and a second Five Year Review Report was signed in February 2004.

Current annual O&M costs at the LaGrand Sanitary Landfill Site include the landfill operation and maintenance, sampling, lab analysis, reporting, and Site inspections by MPCA and U.S. EPA. Total annual O&M costs for the last three years are estimated to be approximately \$5,000 to \$10,000 per year.

Dates		Total Cost Estimate
From	To	
Jan. 1, 2005	Dec. 31, 2005	\$5,000-10,000
Jan. 1, 2006	Dec. 31, 2006	\$5,000-10,000
Jan. 1, 2007	Dec. 31, 2007	\$5,000-10,000

5.0 PROGRESS SINCE LAST FIVE YEAR REVIEW

This is the third five year review for the LaGrand Sanitary Landfill Site. U.S. EPA completed the second five year review in February 2004.

Issues from Previous Review	Recommendations/ Follow-up Actions	Party Responsible	Milestone Date	Action Taken and Outcome	Date of Action
Site operation, maintenance & inspection.	Grade cap settlement areas, upgrade landfill gas probes.	MPCA	2005	Upgrade of landfill cover and gas vents.	2005/ 2006
Analyze Site O&M monitoring program	Determine need to sample groundwater 3 times per year.	MPCA	2005	Groundwater still sampled 3 times per year, but not all locations.	2005

The 2004 review recommended the following:

All settlement areas should be filled and graded to promote surface water run-off. Gas probes should be sampled on a quarterly basis (four times per year). Because of the remote location of this Site, the Site poses little risk for landfill gas migration. The broken or damaged gas probe GW4S should be abandoned. In addition, gas probes GW- 4D, GW-8D and GW-GS, which are located too close to the landfill footprint, should also be abandoned. A new gas probe should be installed on the western side of the landfill near the property boundary by GW-8S. Thought should also be given to install a gas probe northeast of the landfill footprint. The Site should be

surveyed after this work has been completed to obtain an updated topographic map of the Site with all current monitoring points properly located. The final cover could be upgraded to current solid waste standards based on the risk posed by either groundwater or gas migration. At this time, the minimal gas migration at the Site would not warrant a final cover upgrade.

The majority of the wells are sampled 3 times per year and continued evaluation is being made to ascertain whether this frequency is necessary for all wells. No groundwater remediation system is operating at the Landfill nor is it needed. The area surrounding the landfill is rural at this time, but future development may necessitate sampling of more domestic wells if placed down gradient and in close proximity to the landfill.

Maintain Site in current condition including mowing of cover and repair of erosion as necessary. The MPCA will place an erosion mat on the south side of the Landfill.

Actions taken at the Site since the 2004 recommendations:

The Site landfill cap and gas vents were upgraded during an operation and maintenance construction project from July 2005 through June 2006. A topographic survey was completed at the Site. The landfill cap was upgraded with geomembrane, geocomposite drainage net and cover soils to promote surface water run-off. Storm water management was improved with the grading of the landfill slopes, working in graded sedimentation basins and reworking the surrounding area. Existing trees and grubbing on the landfill footprint and sideslopes were also cleared, and a wetland was relocated.

Eleven landfill gas vents were installed in 2005 and older less useful gas vents were abandoned. A cut-off trench along the east slope was also included on the landfill as an additional safeguard against any gas migration and associated erosion. The Site was seeded and fertilized in June 2006, and slopes on the upgraded landfill cover were protected with a straw erosion control blanket.

The operation and maintenance monitoring program by MPCA continues to sample groundwater at the LaGrand Sanitary Landfill three times each year, although not all sampling locations are monitored during each sampling event. Landfill gas sampling continues to be sampled three times during the year and not four, which provides adequate and consistent information for the Site.

6.0 FIVE YEAR REVIEW PROCESS

6.1 Administrative Components

The LaGrand Sanitary Landfill Site five year review report was prepared by Jeff Gore, U.S. EPA Remedial Project Manager. John Moeger, State Project Manager with the MPCA assisted in the review. The five year review consisted of a Site inspection and review of relevant documents. The notice letter to MPCA regarding initiation of the five year review was sent April 17, 2008.

6.2 Community Notification and Involvement

The completed third five year review report will be available in the Site information repository, and the U.S. EPA website for public view. An advertisement notice regarding the five year review process was placed in the Alexandria, MN Echo Press newspaper for public review on July 18, 2008 and is included as an attachment to this report. No questions, comments or requests regarding the Site five year review have been received regarding the advertisement.

Community relations ongoing at the Site includes providing information on the ongoing landfill gas and groundwater sampling program currently being carried out by MPCA to assure that human health and the environment are protected. The LaGrand Sanitary Landfill Site is located in a remote rural location, so no community residents were contacted during this Site review. The Site sits approximately 5 miles west of the town of Alexandria and approximately 3 miles south of the town of Garfield.

6.3 Document Review

In preparation for this five year review report, LaGrand Sanitary Landfill Site documents were reviewed including:

- Second Five Year Review Report, February 2004.
- First Five Year Review Report, March 1999.
- Site Landfill Cleanup Agreement, recorded January 1998
- Site Closeout Report, August, 1995.
- Record of Decision, September 1992.
- MPCA Site documents and reports.
- LaGrand Sanitary Landfill Site file, construction, operation & maintenance documents.

6.4 Data Review

Historical groundwater samples collected and analyzed at the LaGrand Sanitary Landfill Site by MPCA verify VOC and inorganic compound levels below Minnesota and U.S. EPA health based standards. Results from groundwater VOC and inorganic compound sampling in 2006 showed no exceedences of Minnesota Health Risk Limits (HRLs) and U.S. EPA Maximum Contaminant Levels (MCLs) for drinking water.

The Site has two sedimentation basins to the southeast of the landfill cap. 2006 monitoring results did produce an exceedence of the 10 microgram per liter (ug/L) MCL for arsenic in two of the four samples taken. The arsenic results for the sedimentation basin samples were 10.3 ug/L 12.4 ug/L, 4.8 ug/L and 4.9 ug/L respectively. These arsenic levels in the sedimentation

basins are probably occurring due to the recently graded surface of the landfill property. This does not impact protectiveness at the Site as these basins are well within the 80 acre Site property, and there has been no impact on groundwater results. Future sedimentation basin sample results will be monitored and compared to the current levels.

Gas probes have historically been monitored for the presence of landfill gas generated at the Site. In 1998 there were some low level detections of methane in monitoring probes adjacent to the fill, but no levels of concern were observed. These gas probes have been sampled three times a year with no methane migration detected at most of the monitoring points. The 2005 landfill cap maintenance program included the installation of 11 new landfill gas vents. The gas vents allow passive venting of landfill gas generated by the landfill. The vents are functioning as intended. There have been detections of methane in landfill gas vents, but no levels of concern have been reported by MPCA. Seven gas probes were monitored three times during 2006 and 0% methane by volume was detected during all sampling events.

6.5 Site Inspection

The Site inspection for this five year review was performed on May 13, 2008 by Jeff Gore of U.S. EPA and MPCA project manager John Moeger. Gary Zick and Marty Osborn of MPCA were also present at the Site on May 13 performing Site O&M landfill monitoring. The five year review site inspection checklist was used as a guideline for the Site inspection, and is available in the Site file and administrative record.

The Site was found to be in good condition during the inspection and free of debris. A sign was placed which located the Site and prohibited trespassing. The front gate for access to the Site from Douglas County Road 40 was unlocked and open, due to the ongoing landfill monitoring by MPCA and the scheduled five year review inspection. After driving through that gate along the Site access road approximately 100 yards, a second fenced gate was encountered. The second gate was also unlocked and open, due to the Site activities. One needed to then drive further along the access road to reach the landfill which was located to the right, as it only occupies approximately six acres of the 80 acre property.

The landfill, which is mowed once per year, was found to be well vegetated during the inspection. Walking over and around the perimeter of the landfill located two minor issues. There was minimal erosion on the west side of the landfill near the bottom of the slope, and no grass was present on a small area. There was also a small rut which was not significant along the southeast berm chute.

All groundwater monitoring wells and landfill gas probe wells inspected were locked and labeled. An additional groundwater monitoring well had been attempted to be placed northeast of the landfill, but no groundwater was reached after drilling 100 feet below the surface. There may be an additional attempt to place the monitoring well in 2008 or 2009, or the proposal may be abandoned.

Jeff Gore was informed when he left the Site inspection other MPCA staff would properly secure and lock the access gates after the ongoing monitoring event had been completed.

7.0 TECHNICAL ASSESSMENT

7.1 Question A: Is the remedy functioning as intended by the decision documents? Yes

RA Performance: The remedial action components included in the LaGrand Sanitary Landfill 1992 ROD have been implemented, and the Site remains in operation and maintenance as performed by MPCA. The Site was deleted from the NPL in October 1997. The landfill cap and gas vents were upgraded during the MPCA O&M program in 2005 to ensure that the remedy continues to function as intended. Ongoing groundwater and landfill gas vent sampling will provide data to monitor any trends in the sampling results. A Site Land Use Plan is scheduled to be completed by MPCA to also ensure the remedy continues to function as intended to ensure long term Site stewardship.

Cost of System Operations/O&M: Current annual O&M costs at the LaGrand Sanitary Landfill Site are primarily attributed to MPCA monitoring of the landfill property, gas vents and groundwater. Other costs involve MPCA and U.S. EPA project manager time and travel related to the Site. Total annual O&M costs are estimated to be between \$5000 and \$10,000 per year.

Opportunities for Optimization: The MPCA Land Use Plan planned for completion can outline any potential for optimization at the LaGrand Sanitary Landfill Site.

Early Indicators of Potential Remedy Problems: There are no known early indicators of potential remedy problems at the Site. The LaGrand Sanitary Landfill was deleted from the NPL in October 1997. The upgraded Site landfill cap and gas vents completed during the MPCA O&M program in 2005 provide additional assurance of protectiveness of the remedy.

Implementation of Institutional Controls and Other Measures: The 1992 ROD required Institutional controls in the form of Site access restrictions, the possible use of deed restrictions, and referred MERLA's prohibition against disturbance of the remedial action components and the Minn. water well construction code's restrictions on location of potable wells near the landfill. A Landfill Cleanup Agreement between Douglas County and the State of Minnesota through MPCA was implemented and recorded in 1998. MPCA plans on preparing a Land Use Plan to further detail future uses and restrictions of property on the Site.

Current Use Compatibility with Land and Groundwater Use Restriction: Site access and use of the land by property owners is detailed in the implemented and recorded Site Landfill Cleanup Agreement and the planned MPCA Land Use Plan.

7.2 Question B: Are the assumptions used at the time of remedy selection still valid? Yes.

Changes in Standards and To Be Considered: Standards outlined and updated in the Site 1992 ROD, 1999 and 2004 Five Year Review Reports are still valid at the LaGrand Sanitary

Landfill Site. There have been no known changes in standards to be considered since the 2004 Five Year Review Report.

Changes in Exposure Pathways: No new exposure pathways have been discovered at the LaGrand Sanitary Landfill Site since the last five year review in 2004.

Changes in Risk Assessment Methodologies: Risk assessment methodologies used at the LaGrand Sanitary Landfill since the second five year review in 2004 have not changed, and do not call into question the protectiveness of the remedy.

7.3 Question C: Has any other information come to light that could call into question the protectiveness of the remedy? No.

There has been no other known information that could call into question the protectiveness of the remedy.

Technical Assessment Summary

According to the data reviewed and the Site inspection, the remedy is substantially functioning as intended in the LaGrand Sanitary Landfill 1992 ROD. Ongoing MPCA O&M Site monitoring continues to provide assurance that the remedy is functioning as intended. There is no other additional information that has been identified which would call into question the protectiveness of the remedy.

8.0 ISSUES

Site maintenance of minimal landfill erosion and a small berm rut, and ongoing groundwater and landfill monitoring will continue in the operation and maintenance program.

The following issue in Table 5 was identified during the five year review process which impacts protectiveness under CERCLA.

Table 5. Issues that Impact Protectiveness		
Issue	Currently Affects Protectiveness (Y/N)	Affects Future Protectiveness (Y/N)
Long term stewardship and monitoring of institutional controls through MPCA preparing a Site Land Use Plan	N	Y

Y=yes; N=no

9.0 RECOMMENDATIONS AND FOLLOW-UP ACTION

Recommendations and follow-up actions in Table 6 for issues that impact protectiveness and were noted in Table 5:

- MPCA shall prepare a Site Land Use Plan within two years of the signature date of this five year review to supplement the implemented Site Landfill Cleanup Agreement. The Land Use Plan will outline any restrictions of the land and groundwater at the Site, and assure the integrity of the landfill & other remedy components.

Table 6. Recommendations and Follow-up Actions						
Issue	Recommendations/ Follow-up Actions	Party Responsible	Oversight Agency	Milestone Date	Affects Protectiveness(Y/N)	
					Current	Future
Site Land Use Plan	Prepare Land Use Plan	MPCA	USEPA	October 2010	N	Y

Y=yes; N=no

10.0 PROTECTIVENESS STATEMENT(S)

The LaGrand Sanitary Landfill Site remedy is protective of human health and the environment, and the remedy is functioning as intended. Continued long term protectiveness requires compliance with Site institutional controls, and operation & maintenance of landfill property and monitoring systems.

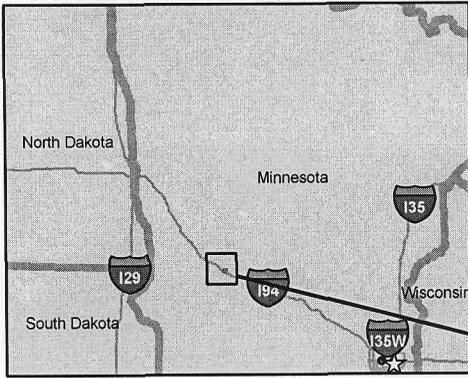
11.0 NEXT REVIEW

The five year review for the LaGrand Sanitary Landfill Site is a statutory review. U.S. EPA conducts statutory reviews at sites where the remedies selected result in hazardous substances, pollutants, or contaminants remaining at levels above those that allow for unlimited use and unrestricted exposure. Since the LaGrand Sanitary Landfill Site contains hazardous substances, pollutants or contaminants that will potentially remain above U.S. EPA and State of Minnesota regulatory standards in the future, the Site will require ongoing Five Year Reviews. Therefore, another report will be scheduled five years after this report is completed. The completion date of the current five year review is the signature date shown on the cover attached to this report.



**LaGrand Sanitary Landfill
Douglas County, MN**

EPA ID# MND981090483



State



County



Site

Figure 1



Produced by Julie Schilf
U.S. EPA Region 5 on July 1, 2008
Image Date: 2003





LaGrand Sanitary Landfill
Douglas County, MN

EPA ID# MND981090483



0 420 840 Feet

Legend

- LaGrand Sanitary Landfill Boundary
- Implemented IC - 1998 Landfill Cleanup Agreement Access, Land Use, and Groundwater use Restrictions

EPA Disclaimer: Please be advised that areas depicted in the map have been estimated. The map does not create any rights enforceable by any party. EPA may refine or change this data and map at any time.



RPM: Jeff Gore

Produced by Julie Schiff
U.S. EPA Region 5 on July 8, 2008
Image Date: 2003



Attachment 1

List of LaGrand Sanitary Landfill Site Documents Reviewed for Five Year Review Report

- Second Five Year Review Report, February 2004
- First Five Year Review Report, March 1999.
- Site Landfill Cleanup Agreement, recorded January 1998.
- Site Closeout Report, August 1995.
- Record of Decision, September 1992.
- MPCA Site documents and reports.
- LaGrand Sanitary Landfill Site file, construction, operation & maintenance documents.

305371

OFFICE OF COUNTY RECORDER } SS
County of Douglas, Minn.

I hereby certify that the within instrument
was filed in this office for record on the 14th
day of Jan. A.D. 19 98 at 10:00
o'clock A. M. and was duly recorded as

Doc. No. 172226

MICROFILMED

Barlene Chermak

County Recorder

LANDFILL CLEANUP AGREEMENT

BETWEEN

DOUGLAS COUNTY

AND

THE COMMISSIONER OF

THE MINNESOTA POLLUTION CONTROL AGENCY

PURSUANT TO MINN. STAT. §§ 115B.39-115B.46

PREAMBLE

*County Atty
NC*

The Commissioner of the Minnesota Pollution Control Agency (Commissioner) has the power and duty to administer and enforce the provisions of the Landfill Cleanup Act, Minn. Stat. §§ 115B.39-115B.46 (1994) (the Act), including the authority to enter into binding agreements necessary to achieve compliance with the requirements of the Act.

Minn. Stat. § 115B.40, subd. 4 requires owners or operators of qualified facilities not subject to a cleanup order to complete specified activities and enter into a binding agreement with the Commissioner before the Commissioner can issue a Notice of Compliance for the facility under Minn. Stat. § 115B.40, subd. 7.

LaGrand Sanitary Landfill (hereinafter "the Landfill") is a qualified facility within the meaning of Minn. Stat. § 115B.39, subd. 2(j) and is not subject to a cleanup order as that term is defined in the Act.

The United States Environmental Protection Agency and the Minnesota Pollution Control Agency (MPCA) in cooperation with Douglas County, the beneficiary of tax-forfeited land held in trust, has completed the closure activities at the Landfill, as required by Minn. Stat. § 115B.40, subd. 4(a)(1).

NOW, THEREFORE, it is hereby agreed as follows:

A. Parties to the Agreement.

The parties to this Agreement are:

- (1) Douglas County and
- (2) the Commissioner.

B. Purpose of the Agreement.

This Agreement sets forth the obligations which Douglas County must perform under Minn. Stat. § 115B.40, subd. 4 to obtain a Notice of Compliance for the Landfill from the Commissioner under Minn. Stat. § 115B.40, subd. 7.

C. Definitions.

Unless otherwise explicitly stated, the definitions provided in Minn. Stat. § 115B.39, subd. 2, shall control the meaning of terms used in this Agreement.

D. Factual Background.

1. The Landfill is a mixed municipal solid waste disposal facility that is located in Section 18, Township 128N, Range 38W, LaGrand Township, Douglas County, Minnesota. The Minnesota Pollution Control Agency issued Solid Waste Disposal Facility Permit SW-141 to Francis Cosgrove on March 15, 1974, to operate the Landfill. The Landfill ceased accepting solid waste on March 14, 1985. The Landfill is depicted on Attachment A, and is legally described as follows (hereinafter "the Landfill"):

80 acres, the South 1/2 of the Northeast 1/4 of Section 18, T 128 N, R 38 W, La Grand Township, Douglas County, Minnesota.

2. The Commissioner has determined that there has been a release or threatened release of hazardous substances or pollutants or contaminants from the Landfill to the ground water.

3. Francis Cosgrove, Marlin Torguson, John Stone, and Valley Disposal, Inc. were operators of the Landfill during the time of its operation. Francis Cosgrove, Marlin Torguson, John Stone,

and Valley Disposal, Inc. owned the property on which the Landfill is located and permitted the property to be used for the disposal of waste. The State of Minnesota currently owns the property on which the Landfill is located, in trust for Douglas County, the current operator.

E. Transfer of Title to Property.

1. Title to Response Action Equipment and Landfill Materials. Douglas County hereby transfers to the Commissioner, effective upon issuance of the Notice of Compliance by the Commissioner, all right, title and interest in all response action equipment and structures at the Landfill and the ownership of and the right to freely use, recover and sell, or contract for use, recovery and sale, any material disposed of at the Landfill, including landfill gas.

2. Description of the Real Property. Douglas County hereby agrees to transfer its interest in the following described real property to the State of Minnesota (State) acting through its Commissioner of the MPCA:

80 acres, the South 1/2 of the Northeast 1/4 of Section 18, T 128 N, R 38 W,
La Grand Township, Douglas County, Minnesota.

For purposes of paragraph E herein, the above-described property will be referred to as "the Property".

Douglas County agrees to execute an auditor's application for state deed for purchase of tax forfeited land (Attachment B) in order to transfer its interest to the MPCA. Douglas County agrees to sign this application at the same time as the signing of this agreement. Douglas County agrees that it will not request and the MPCA shall not pay monetary consideration for the transfer of Douglas County's interest in this property.

3. Real Estate Taxes and Special Assessments. All delinquent real estate taxes, all current real estate taxes, all Green Acres taxes and all levied assessments are the responsibility of Douglas County and shall be satisfied of record by Douglas County before conveyance of the Property to the Commissioner. The full amount of current real estate taxes due the year the deed is dated shall be paid by

Douglas County. Under no circumstances shall such current taxes be prorated but instead shall be the sole responsibility of Douglas County.

4. Condition of the Property. Douglas County shall not transfer, encumber, or grant any interest in the Property prior to conveyance to the Commissioner. Douglas County shall keep the Property in its current condition.

5. Right of Entry and Inspection. The Commissioner and employees, agents and contractors of the MPCA and the Commissioner shall have the right to enter upon the Property at reasonable times prior to transfer of the property for surveying and for other purposes related to this Agreement.

F. Liens.

The Commissioner reserves the right to file liens under Minn. Stat. § 115B.412, subd. 5 for all eligible costs incurred by the Commissioner in accordance with the procedures referenced therein.

G. Insurance.

1. Copies of Insurance Policies. The Commissioner has received copies of all comprehensive general liability insurance policies and other liability policies that provided coverage for property damage and were in force during the time when the Landfill was in operation or when a release or discharge of pollution occurred at or from the Landfill. Francis Cosgrove, Marlin Torguson, John Stone, and Valley Disposal, Inc. provided all such insurance policies and other evidence of insurance coverage in their possession or which they could have reasonably obtained, including certificates of insurance; canceled checks, invoices, and correspondence showing payment for or acknowledgment of such coverage or related to such coverage; and names of others, including insurance agents, who may have information on such insurance coverage.

H. Cooperation With Environmental Response Actions, Access to Property and Records, Assignments of Claims, and Other Matters.

1. Cooperation. Douglas County shall cooperate with the Commissioner and with employees, agents, and contractors of the MPCA and the Commissioner when the Commissioner takes any environmental response actions that the Commissioner deems necessary at the Landfill. Douglas County shall not take any action that interferes with such environmental response actions including any actions that disturb or impede the cover, monitoring system, or the gas venting or recovery system to be installed at the Landfill.

Douglas County agrees not to place, or allow others to place any materials, personal property, equipment or any other items either on or in the Landfill without the written consent of the MPCA Project Manager.

2. Access to Property. Douglas County hereby grants to the Commissioner and to employees, agents, and contractors of the MPCA and the Commissioner, access to the Landfill for the purpose of taking environmental response action and related actions as the Commissioner deems necessary to carry out this Agreement and his duties and authorities under the Act, including installation of structures and equipment deemed necessary by the Commissioner, sampling of ground water monitoring wells located hereon and installing additional ground water monitoring wells as the Commissioner deems necessary. The Commissioner shall obtain all necessary permits for installation and maintenance of ground water monitoring wells, and, upon completion of the environmental response actions including all required monitoring, shall seal the monitoring wells in accordance with State law. Douglas County shall allow such access conditioned only upon presentation of proper identification.

The Commissioner may install fences or other equipment or structures by which the Commissioner may control access to the Landfill by persons not authorized under this Agreement.

I. Claims Against the Commissioner Waived.

Notwithstanding any other provisions of this Agreement, Douglas County hereby waives any claims against the Commissioner or the State for any taking of property rights, including inverse condemnation, restriction of use, diminution of value, or loss of use or enjoyment of any property owned by Douglas County arising out of: (1) any work to be performed by or under the direction of the Commissioner to carry out his duties or authorities under the Act; (2) the presence of the Landfill or any releases or threatened releases of hazardous substances or pollutants or contaminants or methane gas from the Landfill; and (3) the installation, operation or maintenance of any associated structures and equipment at the Landfill or adjacent property.

J. Recording of the Agreement.

The Commissioner will record with the county recorder or registrar of titles of the county where the Landfill is located a copy of this Agreement and all attachments.

K. Issuance of Notice of Compliance (Attachment C).

The Commissioner agrees to issue to Douglas County a Notice of Compliance for the Landfill subject to the provisions of Minn. Stat. § 115B.40, subd. 7(a) at the time the Commissioner signs this Agreement. After issuance of the Notice of Compliance the Commissioner shall proceed with environmental response actions that he deems necessary and refrain from cost recovery related to the Landfill in accordance with Minn. Stat. § 115B.40, subd. 7(b).

L. Enforceability.

This Agreement is enforceable by the Parties. This Agreement shall be governed by and construed under the laws of the State of Minnesota. The venue of any action under this Agreement shall be in Ramsey County District Court.

The Commissioner retains the right to take any action, legal, equitable or administrative, that may be available to implement or enforce the terms of this Agreement or to take any other action under the Commissioner's authority in the event of any non-compliance with this Agreement.

M. Liability and Governmental Immunities.

Each party agrees that it shall be responsible for its own acts and omissions and the result thereof, and those of its officers, employees and agents, in carrying out its obligations under this Agreement, and shall not be responsible for the acts or omissions of the other party, its officers, employees or agents. The liability of the Commissioner shall be governed by the provisions of the Minnesota Tort Claims Act, Minn. Stat. § 3.732, et seq., and other applicable law. Nothing contained in this Agreement shall constitute a waiver by the Commissioner of any governmental immunity afforded by law.

The liability of Douglas County shall be governed by the provisions of the Municipal Tort Claims Act, Minn. Stat. §§ 466.01 et seq., and other applicable law. Nothing contained in this Agreement shall constitute a waiver by Douglas County of any governmental immunity afforded by law.

N. Amendments.

This Agreement may be amended only by written agreement among the parties to this Agreement.

O. Successors and Assigns.

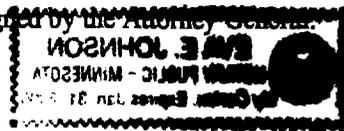
This Agreement is binding upon Douglas County and their heirs, successors and assigns, and upon the Commissioner and his successors and assigns.

P. Severability.

If any provision of this Agreement is held to be void, invalid, unenforceable, or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby, unless the Commissioner determines that the provisions rendered invalid are so necessary to the proper execution of the Agreement that it would be in the best interests of the State to rescind the Agreement. In that event, this Agreement may be canceled by the Commissioner upon 30 days written notice to Douglas County.

Q. Effective Date

This Agreement is effective upon the date that it is signed by the Attorney General.



BY THEIR SIGNATURES BELOW, THE UNDERSIGNED REPRESENT THAT THEY HAVE AUTHORITY TO BIND THE PARTIES THEY REPRESENT, THEIR AGENTS, SUCCESSORS AND ASSIGNS.

IT IS SO AGREED:

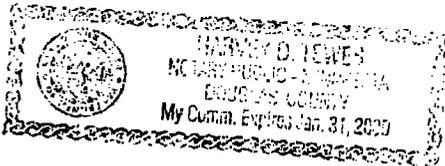
Douglas County Board of Commission
(Attach governing body resolution
authorizing signature)

By Jack Reznecker

Title CHAIR

Date APRIL 23, 1997

On this 23RD day of APRIL, 1997, before me a notary public within and for said County and State, personally appeared ~~<Name>~~ the CHAIR of DOUGLAS CO BOARD OF COMMISSIONERS to me personally known, who, being duly sworn by me on oath, did say that he/she is the person who signed the foregoing instrument and acknowledged that he/she signed the same as his/her free act and deed for the uses and purposes therein set forth.



Harvey D. Lewis
Notary Public, _____ County, MN
My commission expires: _____

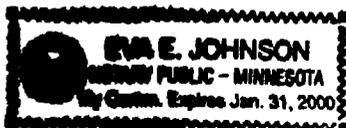
MINNESOTA POLLUTION CONTROL AGENCY
PEDER A. LARSON, COMMISSIONER

By Lanny Peissig

Title Supervisor, Laurel Landfill Proj.
Lanny Peissig or Douglas N. Day
Delegees of the Commissioner

Date _____

On this 23rd day of April, 1997, before me a notary public within and for said County and State, personally appeared Lanny Peissig, Delegee of the Commissioner of the Minnesota Pollution Control Agency, to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed said instrument as the free act and deed of the State of Minnesota.



Eva E. Johnson
Notary Public, Ramsey County, MN
My commission expires: 1/31/2000

FILED JAN 14 1998 AT 10 A.M.

172226

DARLENE CHERMAK, COUNTY RECORDER

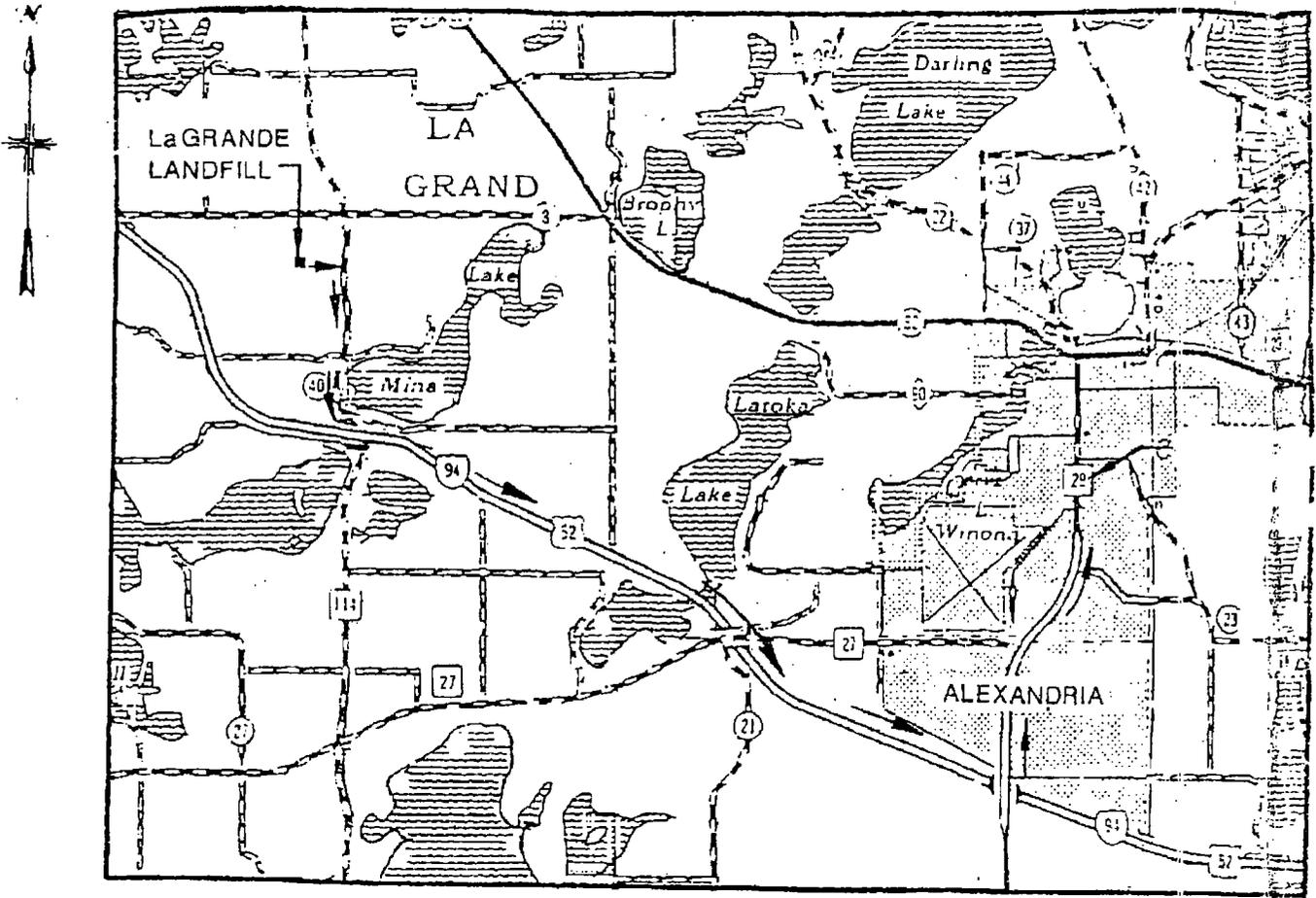
As to form and execution by the
ATTORNEY GENERAL

By Mehmet Konar-Steenberg
Mehmet Konar-Steenberg
Assistant Attorney General

Date 6/6/97

Landfill Cleanup Agreement between Douglas County and the Commissioner of the MPCA.

ATTACHMENT A



ALCOLM
'IRNIE

MINNESOTA Department of Revenue

SD-978

Conveyance of Forfeited Lands

1968

Issued Pursuant To Minnesota Statutes, Sections 282.01 to 282.12 inclusive, as amended.

THIS DEED, made this 20th day of June, 1997, between the State of Minnesota, as party of the first part, and State of Minnesota through the Minnesota Pollution Control Agency, a governmental subdivision, party of the second part, WITNESSETH:

WHEREAS, the land hereinafter described, having been duly forfeited to the State of Minnesota for the nonpayment of taxes, was sold under the provisions of Minnesota Statutes, Sections 282.01 to 282.12, inclusive, to the party of the second part, and,

WHEREAS, the said party of the second part has paid in full the purchase price of said land and has otherwise fully complied with the conditions of said sale and is entitled to an appropriate conveyance thereof,

NOW, THEREFORE, the State of Minnesota, pursuant to said statutes, and in consideration of the premises, does hereby grant, and convey unto the said party of the second part, its successors and assigns, Forever, the following described land lying and being in the County of Douglas, and State of Minnesota, to-wit:

The South One-half (1/2) of the Northeast One-fourth (1/4) of Section 18, Township 128N, Range 38W, LaGrande Township, Douglas County, Minnesota,

excepting and reserving to the said state, in trust for taxing districts concerned, all minerals and mineral rights, as provided by law. Further, the lands conveyed by this deed are not eligible for enrollment in a State of Minnesota funded program providing compensation for conservation of marginal land or wetlands.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever.

THE GRANTOR CERTIFIES that the Grantor knows of one or more wells located on the described real property. The State of Minnesota is issuing this deed for the county and other taxing jurisdictions and in reliance on the Auditor's certification stating that one or more wells are located on the above described property.

IN TESTIMONY WHEREOF, the State of Minnesota has caused this deed to be executed in its name in the City of St. Paul, County of Ramsey and State of Minnesota, the day and year first above written.

In presence of
Scott M. Johnson
[Signature]

STATE OF MINNESOTA
JAMES L. GIRARD
Commissioner of Revenue

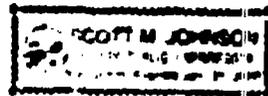
By: [Signature]

STATE OF MINNESOTA)
County of Ramsey)

OFFICE OF THE COUNTY RECORDER
DARLENE CHERMAK
100 WEST WASHINGTON STREET
ST. PAUL, MINNESOTA 55102

On this 20th day of June, 1997, before me personally appeared JAMES L. GIRARD the duly appointed representative of the Commissioner of Revenue of the State of Minnesota, to me known to be the person who executed the foregoing conveyance on behalf of the State of Minnesota, and acknowledged that he executed the same as the free act and deed of and that pursuant to the statutes in such case made and provided.

Scott M. Johnson



No. 0187025

STATE DEED



TO

No delinquent taxes and transfer entered this 25th day of June 1997

[Signature]
County Auditor

By Deputy Auditor

Office of County Recorder
State of Minnesota,

County of Douglas

I hereby certify that the within Deed was filed in this office for record on the 25th day of June A.D. 1997 at 8 o'clock A.M. and was duly recorded in Book

Development 166601

County Recorder

By

IMPORTANT

Notice to both Auditor and Purchaser: Check this deed carefully for errors before recording. Corrections should be made before that time.

Tax statements for the real property described in this instrument should be sent to:

Name: State of Minnesota through the Minnesota Pollution Control Agency
Address: 570 Lafayette Road North
St. Paul, MN 55155

RESOLUTION 97-35

WHEREAS, the Landfill Cleanup Program contained in Minnesota Statute 115B.39 - 115B.46 allows the Minnesota Pollution Control Agency to assume ownership of various landfills across the state; and

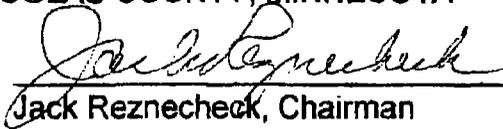
WHEREAS, Douglas County is the beneficiary of tax forfeited land held in trust by the State of Minnesota known specifically as the LaGrand Sanitary Landfill located in LaGrand Township, Douglas County, MN; and

WHEREAS, the transfer of this landfill to the Minnesota Pollution Control Agency would best serve the health, safety and welfare of the citizens of Douglas County and the citizens of Minnesota.

NOW, THEREFORE, BE IT RESOLVED, that Douglas County shall enter into a landfill cleanup agreement with the Minnesota Pollution Control Agency and that the Douglas County Chairman of the Board be authorized to sign that agreement on behalf of Douglas County and that the Auditor and other county officials be authorized to execute any further paperwork necessary to implement that landfill cleanup agreement.

Adopted at Alexandria, Minnesota, this 23rd day of April, 1997.

BOARD OF COMMISSIONERS
DOUGLAS COUNTY, MINNESOTA

By: 

Jack Reznecheck, Chairman

Attest:



Colleen L. Schultz, Coordinator
Clerk of the Board
Douglas County, Minnesota

Attachment C

**STATE OF MINNESOTA
COMMISSIONER
OF THE
MINNESOTA POLLUTION CONTROL AGENCY**

**NOTICE OF COMPLIANCE
FOR THE LA GRAND LANDFILL
UNDER MINN. STAT. § 115B.40, SUBD. 7**

WHEREAS, the La Grand Landfill is a qualified facility as that term is defined in Minn. Stat. § 115B.39, subd. 2(j); and

WHEREAS, the Commissioner of the Minnesota Pollution Control Agency (the Commissioner) has determined that the requirements of Minn. Stat. § 115B.40, subd. 4 have been met with respect to the La Grand Landfill; and

WHEREAS, the Commissioner has determined that the appropriate owner(s) or operator(s) of the La Grand Landfill has/have submitted written waivers of claims as required by Minn. Stat. § 115B.40, subd. 7(a)(2);

NOW THEREFORE, the Commissioner hereby issues this NOTICE OF COMPLIANCE under Minn. Stat. § 115B.40, subd. 7(a) for the La Grand Landfill as described in the Landfill Cleanup Agreement for the La Grand Landfill, which agreement became effective June 6, 1997

This NOTICE OF COMPLIANCE is issued to the following persons in accordance with Minn. Stat. § 115B.40, subd. 7(a) and the Landfill Cleanup Agreement for the La Grand Landfill:

Douglas County

Issued this 6th day of June, 1997.

By: Gary Pulford
for Gary Pulford
Delegee of the Commissioner
Minnesota Pollution Control Agency