LANDFILL SITING COMMITTEE
REPORT & RECOMMENDATIONS TO THE TOWN BOARD OF THE TOWN OF MERRIMAC.
Approved by the committee on November 18, 2010.
Presented to the Town Board on December 1, 2010.

The Landfill Siting Committee has conducted six meetings since being formed in July 2010. The committee toured the existing landfill and interviewed, or heard from, representatives of the Army, SpecPro, the engineers working for Badger Army Ammunition Plant (BAAP), the Wisconsin Department of Natural Resources (DNR), engineers from Ramaker and Associates, and Laura Olah, Citizens for Safe Water at Badger (CSWAB).

The committee also received extensive information from Paul Herr, the town's representative to the Restoration Advisory Board (RAB), a committee that makes recommendations regarding the cleanup process at the BAAP. They also consulted with the Town's Attorney, Richard Cross.

Wisconsin Statutes makes it very clear that anything is up for negotiation, however, should the parties reach a point where they cannot agree on certain items, there are only eight issues that can that can be arbitrated (Wis. Stat. 289.33 (8)). These issues are:

1. Any proposal to make the applicant's responsibilities under the approved feasibility report or plan of operation less stringent.
2. Reimbursement of reasonable costs, but not to exceed $20,000, incurred by the local committee relating to negotiations, mediation and arbitration activities under this section.
3. Screening and fencing related to the appearance of the facility. This item may not affect the design capacity of the facility.
4. Operational concerns including, but not limited to, noise, dust, debris, odors and hours of operation but excluding design capacity.
5. Traffic flows and patterns resulting from the facility.
6. Uses of the site where the facility is located after closing the facility.
7. Economically feasible methods to recycle or reduce the quantities of waste to the facility. At facilities for which the applicant will not provide or contract for collection and transportation services, this item is limited to methods provided at the facility.
8. The applicability or non-applicability of any pre-existing local approvals.

When there are cases of private corporations attempting to establish municipal landfills, the motive of profit can lead to negotiable items that expand outside the scope of these eight items that can be arbitrated.

The committee took into consideration the fact this facility is being constructed by another government entity. Because this is a government entity, there is not motive of profit. This entity is working with taxpayer dollars. The motive should be a collaboration to save taxpayer dollars. This

committee does understand that the impact of the BAAP facility benefitted the entire nation and any costs associated with the dismantling of this facility should be shared unilaterally and not entirely by the citizens of the Town of Merrimac.

The focus of this committee was to work toward developing an understanding of the facility and its impacts on the town and its residents.

Jim Kralick, a hydro-geologist with the DNR told the committee about the landfill siting process, the construction of landfills, and the potential waste that would be coming from Badger. Kralick reported that the landfill sited at the BAAP is smaller than the standard landfill that accepts waste from residential consumers. He also reported that the leachate that would come from a landfill used for construction demolition, such as the use in the BAAP application, would be much lower. Leachate is the liquid that results from decomposition and rainfall that drains through the landfill. Leachate contains undesirable material derived from the waste that the water has passed through.

The leachate system that is currently in operation, and will continue to be in operation for the expansion area, extracts the leachate and processes it through the wastewater facility on the southwest corner of the BAAP in the Town of Sumpter. It is currently being proposed that the wastewater facility be transferred to the Town of Sumpter as a part of the BAAP transfer plan. The committee was concerned that Sumpter might discontinue accepting leachate into the wastewater facility. Kralick informed the committee that should Sumpter ever decide to reject the leachate, the owner of the landfill would be required to capture the leachate into holding tanks and transport the waste to another facility.

The other concern is the life span of the landfill. Kralick said that while there is currently a 40-year maintenance agreement as part of the approval process. The current policy is for the DNR to automatically renew the agreement for another 40 years. Ultimately, the rule exists to address the financial stability of the owner of the landfill to assure they can afford the long-term costs associated with the maintenance of the property. Because the current and future owners are government entities, the financial concern that is associated with corporate or private ownership, is significantly different.

The representatives from Ramaker & Associates generally agreed with Kralick's assessment.

RECOMMENDATION ITEM: The DNR has clearly outlined that the leachate removal is addressed, however, the committee believes it would be in the best interest of the Town to request that the Government Services Agency (GSA), responsible for processing all federal government title transfers, include language into the title of the wastewater facility that would prevent the rejection of leachate from the landfill (referred to as Landfill #3646). This item would not be subject to arbitration based on the conclusion the leachate is addressed by Wisconsin Administrative Code.

The Army is planning to utilize a composite liner in the expansion area. The current landfill utilizes a clay liner. Kralick reported that it was once believed that Volatile Organic Compounds (VOC's) were hazardous in a clay lined landfill, however, that theory has been disproven. VOC's are organic chemicals that have high amounts of vapor pressures, meaning they emit high amounts of gas. All liquids and solids tend to evaporate into a gaseous form; the Environmental Protection Agency (EPA) identifies several VOC's that should be monitored in drinking water.

Ramaker & Associates further described the differences in construction and performance of a clay liner vs. a composite liner. The potential for failure with either system would be the result of poor construction. Ramaker did not know which liner would actually perform better in this application.

Revisiting Kralick's comments regarding VOC's, the committee learned that the VOC's which will be associated with this landfill are significantly fewer than those found in standard municipal landfills, not only in the number of potential VOC's, but the actual quantity. The vapor pressures in a municipal landfill are so high, resulting from the combination of VOC's and biomass degradation, they are typically captured by the facility. These conditions, particularly the lack of biomass, will not exist in this application. The proposed use will not produce enough vapors to capture at a productive level.

RECOMMENDATION ITEM: The committee found that the DNR is responsible under state statute for the engineering review and construction oversight of the landfill. The DNR's responsibility should assure the engineering and construction process are performed in such a manner as to limit the potential for failure in the liner and will assure proper extraction of the leachate. The statutes are intended to prevent the contamination of ground water or the surrounding land area and will not remediate existing conditions. The theory VOC's were once considered potentially hazardous when place in clay liners warrants the town's requiring the proposed use of a composite liner as a condition for construction.

Ramaker & Associates did suggest that they could offer third-party review of the engineering design and construction of the landfill. The committee did like this recommendation; however, this is not an expense that is recoverable under Wis. Stats. 289.33(8)1m (reimbursement of reasonable costs, but not to exceed $20,000, incurred by the local committee relating to negotiations, mediation and arbitration).

RECOMMENDATION ITEM: The DNR is responsible for engineering review and construction oversight. Under existing state law, the DNR is responsible for assuring that the environmental impacts of the facility are self-contained and any potential environmental hazards are limited within the scope of Wis. Statutes Chapter 289. It is a recommendation of the committee not to pursue engaging its own engineering firm.

This landfill is currently owned by the United States Army and will ultimately be transferred to the DNR. At present, the Army maintains security around the perimeter of the plant and access to the

site will not be available until demolition and transfer of ownership is complete. The need to negotiate operational concerns relative to the hours of operation or other site concerns relative to fencing and screening and traffic flows are non-factors. The committee believes that the site, when capped, should be seeded with vegetative cover rather than allow for the natural overtaking of the site by weeds or other invasive plants.

Under current town ordinance, this area is zoned Governmental and falls exclusively under the jurisdiction of the Federal government. As a result, there are no applicable rules or pre-existing local approvals for consideration.

As a part of the dismantling of the BAAP, the Army already utilizes recycling methods that not only limit the amount of waste entering the landfill, but helps them recover expenses associated with removing all of the infrastructure and facilities.

After viewing the site, the committee is concerned about the approved overall height of the existing landfill in relationship to the general landscape. The current landfill is a six-celled system, with each cell adding to the overall height of the landfill. The committee also believes that the expansion area should be adequate enough to require the Army to cap the current landfill without expanding into the final (or sixth) cell.

RECOMMENDATION ITEM: The town should seek agreements from either the Army and/or the DNR to prohibit utilizing the third cell of the currently approved landfill as a condition of expanding into the proposed area. The town should also seek from either the Army and/or the DNR to have conditions placed on the landfill to prohibit any waste materials from outside the boundaries of current BAAP boundaries. The town should also seek agreements from either the Army and/or the DNR to seed the current and proposed sites with vegetative cover when the sites are capped (closed).

The final topic of discussion is regarding reimbursement of reasonable costs incurred by the committee. The committee spoke with several people, but only engaged the committee members (per diems) and the town's legal counsel on a fee basis. Ramaker's counsel was advisory on the hopes of the potential to secure a contract, but the committee did not engage them. At present, it is estimated these costs exceed $1,500, but are most likely less than $7,500. The town has yet to be billed for attorney's fees.

RECOMMENDATION ITEM: The town should seek reimbursement of these expenses and pursue arbitration should there be a lack of agreement on this item. Federal rules may dictate how this occurs, but the town should be reimbursed.