

WASTE FACILITY SITING BOARD
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NEGOTIATED SETTLEMENT AGREEMENT
BETWEEN LINCOLN COUNTY AND THE
TOWN OF MERRILL - COUNTY LANDFILL SITE

DEC 03 1987

This Agreement executed between Lincoln County, a Wisconsin Municipal corporation (herein after called the "County") and the Town of Merrill, a municipality in Lincoln County (herein after called the "Town") on this 18th day of November, 1987. For purposes of this Agreement, the term "County" shall mean Lincoln County, a municipal corporation and its servants, agents, employees, and successors in interest to this Agreement.

This Agreement is made pursuant to Section 144.445, Wis. Stats., and shall run with that certain parcel of land known as the Lincoln County Landfill Site (formerly known as the Nelson property), more specifically described as follows:

The Northwest $\frac{1}{4}$ of Section 3, Township 32 North, Range 7 East, Town of Merrill, Lincoln County, Wisconsin, consisting of 160 acres.

In consideration of the mutual covenants and agreements continued herein, the parties contract as follows:

A. TERM OF CONTRACT. This agreement shall be binding on all parties, their heirs, successors, and assigns for the period of landfill operations and twenty (20) years after the site closure, except as noted to the contrary within this agreement.

B. HOLD HARMLESS CLAUSE. The County agrees to indemnify and save harmless the Town of Merrill from any and all liability, loss or damage that the Town of Merrill, as a Wisconsin Municipality, or its agents or employees, suffer as a result of any proceeding or action against it arising in any way out of the operation or use of the landfill site. The County's agreement to indemnify shall run with the site and be perpetual. In the event the Town of Merrill is made a party to any lawsuit alleging liability, loss or damage, that the Town of Merrill, as a Wisconsin Municipality, or its agents or employees may be responsible for, it is agreed that Lincoln County shall represent the Town of Merrill, its agents or employees, furnish counsel, and control the defense of said action. It is agreed by the parties the County shall be responsible to pay any costs of representation of the Town upon being incurred and not on reimbursement basis after the completion of a lawsuit.

This hold harmless shall also apply to the town's obligations under Section 144.265 Wis. Stats. in the following respect: in the event the Department of Natural Resources makes a finding that the landfill has rendered a private water supply, contaminated or polluted for unfit consumption by human, livestock or poultry, and that necessary repair was caused by an occurrence anticipated in the plan of operation or is not covered by the environmental repair fund, the County will stipulate that the order to be entered by the department shall provide for the reimbursement by Lincoln County to the Town for the costs of treating the water, providing any water to substitute for the contaminated private water supply or repair or replacement of the water supply as incurred by the Town of Merrill. The County may assume the position and responsibility of the Town under Section 144.265 Wis. Stats. at any time a claim is made under this procedure.

C. ACCETANCE OF WASTE. The County shall not intentionally or knowingly allow and shall in fact use affirmative reasonable measures to prevent the deposing of toxic and/or hazardous waste, as those terms are defined by the Wisconsin Department of Natural Resources in Chapter 181 of the Natural Resources Code or any successor thereto, in said landfill.

D. PREVENTION OF ROAD SIDE DEBRIS. It is the desire of both the County and the Town of Merrill to prevent and limit to the fullest extent possible, debris from materials being transported to the landfill from becoming dislodged from the load and becoming refuse along the roadside or adjacent properties. To that end, the County of Lincoln shall enact ordinances with sufficient penalties to discourage such occurrences, including a requirement that all refuse being transported into the landfill shall either be enclosed in containers (bags, cans, or other similar containers) or shall be in enclosed vehicles sufficiently protecting the waste and rubbish from the wind to prevent it from becoming dislodged from the load.

E. DISPOSAL OF TOWN OF MERRILL GOVERNMENTAL WASTE. During the period of operation (prior to closure) of the proposed landfill, the County agrees that it shall accept the waste actually generated by the Town of Merrill governmental bodies and agencies, provided such waste is of the type and character that is normally accepted by the County at the landfill station and can be legally so accepted. This shall apply solely to the waste of the present nature and type accumulated by the Town of Merrill and it shall not apply to the future waste accumulated through the provision of additional government services. (i.e. garbage pick-up green box system, road side waysides, etc.) It is the express intent that such waste will be of the nature of the town highway equipment waste and other governmental entities waste, but shall not include wayside waste or residential waste.

F. DIRECT PAYMENT TO TOWN OF MERRILL. The County agrees to make in the manner set out below, annual payments to the Town of Merrill in the sum of \$600 per each year that the County is actively accepting waste for disposal at the proposed landfill. These payments shall commence on the date that the landfill first accepts waste for disposal after that anniversary date of any given year.

G. FIRE PROTECTION. For purposes of fire protection, the County of Lincoln as owner and operator of the landfill shall be treated as any other land owner or resident of the Town of Merrill. Any charges for fire calls or other fire protection services provided to the landfill shall be billed to Lincoln County in the same manner and in the same amount as said services would be billed to any other resident of said town. The Town of Merrill shall document such charges and the same will be promptly paid by Lincoln County.

The County is free to individually contract for such fire protection or fire monitoring services as it deems fit and necessary, at its own expense.

H. FOR REIMBURSEMENT OF NEGOTIATING EXPENSE. The County shall reimburse the local committee of the Town of Merrill responsible for the negotiations/arbitration of this agreement for costs, including legal fees, but not to exceed the statutory limit upon said amount, incurred by the local committee relating to the negotiation/mediation and/or arbitration activities of said committee under Section 144.445(8) of the Wisconsin Statutes.

I. WAIVER OF LOCAL APPROVALS. It is recognized by both the County of Lincoln and the Town of Merrill that the Town of Merrill had a pre-existing local approval being Ordinance No. 1-81 at the time that the Nelson Site was chosen as a landfill; said ordinance requires a permit to deposit litter, garbage and other waste within the Town of Merrill and to deposit such matters without such a permit is unlawful. In part, this agreement is entered into by the County in consideration of the Town of Merrill's waiver of this ordinance or at its option the granting of such a permit, as to the proposed landfill on the Nelson property to be constructed by Lincoln County. The Town of Merrill does by this Agreement waive the applicability of said ordinance to the proposed landfill at the Nelson Site. Additionally, through this Agreement, the Town of Merrill relinquishes its rights to:

- (a) Negotiate and/or arbitrate any and all items or issues relating to the siting of the landfill on the Nelson Site which are not covered by this Agreement and as to the items covered by this Agreement, the Agreement shall be binding.
- (b) Enforce any existing town ordinances and/or regulations impacting upon the location of and siting of the landfill at the Walter Nelson Site.
- (c) Pass any rules, ordinances or regulations relating to the siting location or operation of the landfill on the Nelson property by Lincoln County.

J. DESIGNATED ACCESS. The designated access to the landfill site shall be from U.S. Highway 51 Easterly, Northerly, and Easterly on Wayside Drive to Oak Lake Road; thence continuing Easterly on Oak Lake Road to an access road to be constructed Northerly from Oak Lake Road to the proposed landfill. Wayside Drive and Oak Lake Road to the Township's eastern boundary are town roads that shall be dedicated to or transferred to Lincoln County by the Town of Merrill and be made Lincoln County Trunk Highways. Wayside Drive, Oak Lake Road to the landfill access road, and the landfill access road shall be of hard surface construction and shall be all weather roads. The continuation of Oak Lake Road from the landfill access road Easterly to the Township line shall be constructed of comparable surface as the direct access road to the site in such a manner as to meet at least minimum standards of a county highway. The cost of construction and maintenance shall be the responsibility of the County. Said construction and maintenance of the designated access will be in conformance with Lincoln County's feasibility report filed with the DNR on the Nelson Site previously hereto. The Town of Merrill reserves the right to place restricted weight limits on Spring Lake Road. The surfacing of Oak Lake Road from the site to the Town line shall be completed prior to opening of the landfill unless an extension of time is agreed upon in writing.

K. SEVERABILITY CLAUSE. If any provision, term or covenant of this Agreement is held unenforceable by a court of law, then it is expressly understood by the parties that all remaining portions of this Agreement shall remain in full force and effect and binding upon them.

Dated November 18, 1987.

LINCOLN COUNTY:

TOWN OF MERRILL:

Neil L. May
Chairman
Lincoln County Board

Elmer Swanson
Chairman

Elizabeth A. McHenry
Clerk, Lincoln County

Maarai Fisher
Town Clerk

James T. Tuck
Chairman, Lincoln County Board
Solid Waste Committee

Les Fahlberg
Town Supervisor

John A. Schaefer
Committee Member

William Hornum
Town Supervisor

Robert Lammert
Committee Member

John Davis
Negotiating Committee Member

Don Quenick
Committee Member

Douglas Bessy
Negotiating Committee Member

Jane F. Paris
Committee Member

Earl L. Wood
Negotiating Committee Member

Attest:

Attest:

